



DATE: August 28, 2020

DIRECTIVE NO: 56-09

RECISSION: La Cooperativa Directive No. 17-09

TO: All La Cooperativa Subrecipients

SUBJECT: On-the-Job Training (OJT) Policy

REFERENCES:

- Workforce Innovation and Opportunity Act (WIOA) (Public Law 113-128) Regulations at 20 CFR, parts 680.200, 700, 710, 720, 730
- Training and Employment Guidance Letter (TEGL) No. 12-19: Subject: Operating Guidance for The Workforce Innovation and Opportunity Act (March 18, 2020)
- TEGL No. 19-16, Subject: Operating Guidance for The Workforce Innovation and Opportunity Act (March 1, 2017)

PURPOSE:

To define the parameters for using an on the job training option for WIOA eligible participants.

BACKGROUND:

WIOA was signed into law in July 2014 and strengthens existing workforce development and adult education programs by serving low-income adults, dislocated workers, and youth who are most in need and face barriers to employment. Additionally, WIOA expands on the education and training options that are available to job seekers and businesses, with the goal of increasing access to better careers and professional advancement. These programs also help unemployed adults while learning through support services and effective employment-based activities.

Work-based learning activities involve building worker skills and establishing pathways to higher wages and career opportunities. Work-based learning strategies emphasize business engagement, incorporate training objectives while job-seeking participants are

1107 9th Street, Suite 420, Sacramento, CA 95814 - (916) 388-2220 - Fax (916) 388-2425



working, and lead to unsubsidized employment. A key advantage of work-based learning is that job seekers and participants can “earn while they learn” and achieve improved employment and earnings outcomes.

POLICIES AND PROCEDURES:

On the Job Training (OJT) is a type of training that is provided by an employer to a participant (job seeker). During the training, the participant is engaged in productive work in a job for which the participant is paid and the training provides the knowledge or skills essential to the full and adequate performance of the job. OJT may be provided by an employer in the public, private non-profit or private sectors.

The following sections list the requirements for a subrecipient to provide OJTs.

A. Eligibility for OJT Participant

Under the WIOA there are two levels of services: Basic and Individualized services. A determination that a participant needs individualized and/or training services can be made without regard to how long the individual has been receiving services at each level. Participants in Adult programs must meet eligibility requirements, before being provided training services.

Training services are available to those participants who are unable to find employment. Need and ability to benefit from WIOA funds must be established and the participant must have the skills and qualifications to successfully complete the training program. An individual’s need for training shall be determined through an assessment. Participants with marketable skills within an in-demand occupation shall not be deemed eligible for WIOA funded training.

B. Employer Pre-Screening

Prior to entering into an OJT agreement, a pre-screening should be conducted to ensure that the employer meets the minimum standards and can provide both training and employment to an OJT participant. OJT contracts shall not be entered into in the following circumstances:

1. OJT contracts shall not be entered into with employers who have received payments under previous contracts and have exhibited a pattern of failing to provide OJT participants with continued long-term employment as regular employees with wages and employment benefits (including health benefits) and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

2. OJT contracts shall not be entered into with employers of a business or part of a business that has relocated from any location in the United States, until such company has operated at the new location for 120 days, if the relocation resulted in any employee losing her/his job at the original location.
3. No funds provided to employers for OJT may be used to directly or indirectly assist, promote or deter union organizing.
4. No funds provided to employers for OJT may be used to employ the participant/trainee in a position involving political activities.
5. No funds provided to employers for OJT may be used in the employment or training of participants/trainees involved in the construction, operation, or maintenance of that part of a facility which is used for religious instruction or worship (sectarian activities).
6. No contract shall be entered into with an employer who has hired an individual **prior** to the registration date of the WIOA participant.
7. No contract shall be entered into with an employer who is a relative of the OJT employer or participant.
8. No contract shall be entered into with an employer who is an employment agency that provides only temporary or intermittent employment.
9. No contract shall be entered into with an employer who has laid off a WIOA participant and subsequently recalled or rehired the individual.
10. No contract shall be entered into with an employer who will not provide a WIOA participant with a Performance Review and Certificate of Completion.
11. No contract shall be entered into with an employer who will not provide the required WIOA-mandated wage gain or wage replacement upon a WIOA participant's successful completion.
12. No contract shall be entered into with an employer who cannot provide documentation of valid workers' compensation, general liability or auto insurance (if applicable) policy(ies).

C. OJT Requirements

1. An employer orientation must be completed with each employer and/or employer representative to discuss the contract provisions and training plans. The contract process sets the ground-rules for OJT with an employer and ensures there is a legally binding agreement between the employer and the subrecipient.
2. OJT duration must be limited to the time necessary for a participant to become proficient in the occupation for which the participant is receiving OJT.
 - Duration of training shall be no more than 26 weeks (1,040 hours maximum).
 - Length of training should be based on individual assessments of the participant's background, skills, and barriers to employment.
 - Reimbursement Example: 1,040 hours x hourly wage x reimbursement rate = amount of reimbursement
 - Subrecipient should consult with the employer(s) and use the Occupational Information Network's (ONET) Specific Vocational Preparation Range (SVP) to determine the appropriate occupational training needed. Using the SVP provided by ONET, the following duration times are recommended in addition to the participant's past skill and experience.

Level	Timeframe
Level 1	< 1 month
Level 2	1 month
Level 3	< 1month – 3 months
Level 4	>3 months – 6 months
Level 5 - 9	>6 Months

3. OJT must be full-time, regular employment (minimum of 32 hours per week).
4. The subrecipient shall verify that an OJT employer has not been debarred prior to entering into an OJT agreement.
5. Reimbursement shall not exceed 50% of the participant wages.

The employer must comply with requirements of the Civil Rights Act with respect to equal opportunity in employment for the OJT position as well as comply with all federal, state, and local laws.

Trainees hired under this program will be subject to the same personnel policies, rules and regulations, and accorded the same benefits as the other employees of the

company.

Employers must carry Workers' Compensation insurance and make Federal and State Tax withholdings as required by law. In addition, the individual trainee payroll tax records and receipts for services (if applicable) must be maintained and available for review for a minimum period of three years after the end of the training period.

Conditions of employment and training will be in full compliance with all applicable federal, state, local laws (including but not limited to health and safety laws), and be appropriate and reasonable regard to the type of work undertaken and the proficiency of the participant.

All employers are required to have a grievance process in place, and shall follow the grievance process in all matters related to the OJT trainee.

The OJT must be conducted at the employer's place of business or another site, and may not be subcontracted.

Employment Agencies

The terms "employment agency" and "employee leasing agency" means an employer that provides regular, on-going employment, (not probationary, temporary or intermittent employment) in a specific occupation and, for a fee, places employees at the work site of another employer to perform work for such employer.

Employment and employee leasing agencies can meet eligibility for OJT agreements when the agreement specifies the location of training, qualifies as a responsible employer and that the leasing agency provides Federal ID information and an authorization to contract with site location employer as the recipient of training reimbursement funds.

OJT CONTRACT:

The OJT Training Plan must be written for skills that the trainee does not already possess.

Care must be given to check the trainee's work history, and to document that the new skills to be learned are different, more difficult, and/or unique to the new job, and are therefore necessary to perform the new job tasks.

Waivers can be submitted on either minimum wage criteria or total cost of an OJT when special cases/situation warrants consideration through LCCDC.

Training positions for commission salespersons, bartenders, seasonal workers, occupations requiring licensing as a prerequisite for hiring, and for those employed on a piece-work basis are usually not appropriate for OJT.

The OJT agreement will provide that the employer will maintain and make available time and attendance, payroll, and other records to support amounts invoiced and reimbursed under OJT contracts.

Modifications to the OJT contract can be made as needed through mutual agreement of the employer and the subrecipient.

The contract documents are as follows:

- Cover sheet
- Signature Agreement
- Training Outline
- Trainee Evaluation
- Participant Agreement Form

TOOLS:

Tools may be purchased for trainee in order to enter into an OJT program when:

- The tools are a specific requirement of the occupation to be trained in and will enhance the training potential of the trainee.
- The employer does not normally provide workers tools for new hires/incumbent.
- Trainee does not possess the tools to be purchased.
- Trainee cannot participate in the OJT without the purchase of these tools.

Tools are the property of LCCDC during OJT training; and upon successful completion of the OJT, the tools purchased will become the property of the trainee.

A tool request will be submitted in accordance with Support Services Policy and Procedures. In addition, an itemized list of tools with unit price and total cost will be attached to appropriate authorization form as explained in the policy.

1. Tool request form completed by employer and trainee.
2. Itemized list of tools with unit price and total cost.

OJT DISCONTINUATIONS

Participants, at their right, may discontinue training at any point during the program. It is the responsibility of the subrecipient and employer to work with each participant and ensure their training needs are met. However, a participant may not switch to a different training and/or employer under the same OJT Agreement and may not be eligible for another OJT if they discontinue.

PROGRESS REPORT AND ATTENDANCE


Case files must include a report on the participant's progress and attendance and any issues that arise during the period of participation.

ACTION:

LCCDC and its subrecipient shall follow this policy. This policy will remain in effect from the date of issue until such time that a revision is required.

INQUIRIES:

Inquiries should be addressed to Marina Tapia at 916-388-2224.

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Marco Lizarraga
Executive Director