Missouri Division of Workforce Development **Issued: April 11, 2016**
DWD Issuance 17-2015 **Effective: April 11, 2016**

Subject: **Statewide On-the-Job Training Policy and Guidelines**

1. Purpose: This Issuance contains the operational guidelines for the Division of Workforce Development's (DWD) On-the-Job Training (OJT) program. It establishes the practices and procedures in the OJT program manual as DWD policy.

2. Background: OJT is a training option under the Missouri workforce system's Next Generation Career Center (NGCC) Products and Services.[1] OJT participants use it to achieve training and placement goals. The Workforce Innovation Opportunity Act (WIOA)[2] defines OJT as:

> ***On-the-job training***
> *The term "on-the-job training" means training, by an employer, provided to a paid participant while engaged in productive work in a job that—*
> *(A) provides knowledge or skills essential to the full and adequate performance of the job;*
> *(B) is made available through a program that provides reimbursement to the employer of up to 50 percent of the wage rate of the participant, except as provided in section 3174(c)(3)(H) of this title, for the extraordinary costs of providing the training and additional supervision related to the training; and*
> *(C) is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.*[3]

3. Substance: DWD's *On-the-Job Training Practices and Procedures Manual* provides operational guidance and forms for participation in the program.

Changes to the OJT Practices and Procedures include:

- Language referencing the Workforce Investment Act of 1998 (WIA)[4] now refers to the corresponding or new sections of WIOA. References to OJT sections in the *Code of Federal Regulations* now cite the new proposed regulations implementing WIOA.[5]
- New language under "Participant Requirements" addresses short-term and long-term goals in individual Employment Plans (EP).[6]

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[1] See DWD Issuance 10-2014: Strategic Framework for Missouri's Next Generation Career Centers (March 3, 2015); and DWD Issuance 27-2009, Change 3: Next Generation Career Center Products and Services, (October 7, 2011).
[2] Pub. Law 113-128; 29 U.S.C. 3101 et seq.
[3] WIOA Section 3(44); 29 U.S.C. 3102(44).
[4] Pub. Law 105-220.
[5] 20 CFR Parts 680–683, as proposed.
[6] Attachment 1, page 5.

- New language under "Reverse Referral" clarifies that any individual hired prior to an eligibility determination is not eligible to be a federally funded OJT participant.[7]
- New language under "Determining Employer Eligibility"[8]:
  - Requires a pre-award review to verify that the employer is not relocating.
  - Prohibits entering an OJT program agreement with a State agency or any other unit of government that operates WIOA programs.
- "Program Agreement Minimum Requirements" clarify that the OJT Program Agreement must have beginning and ending dates, and conclude within one year.[9]
- New language under "Training Plans Minimum Requirements"[10] establishes:
  - Documentation of the Skills Gap Analysis must be sufficient to justify expenditure of federal OJT funds.
  - Variance in the Training Plan's start and end dates requires a Supplemental Agreement.
  - The Training Plan, and the participant's EP in the case management system, must document:
    - Short-term and long-term goals,
    - The skills gap between participant and occupation, and
    - The employer is not in layoff status.
- New language under "Monitoring"[11] prescribes documentation of the attainment of skills and competencies.
- A new "Outcomes" section[12] describes the case management system procedure for recording outcomes.

The Practices and Procedures Manual (Attachment 1) includes fillable PDF versions of the following forms used to administer the OJT program:

- On-the-Job Training Program Agreement (DWD-PO-213).
- On-the-Job Training Outline and Job Description (DWD-PO-214).
- On-the-Job Training Supplemental Agreement (DWD-PO-215).
- On-the-Job Training Eligibility Notification (DWD-PO-217).
- On-the-Job Training Monitoring Report (DWD-PO-219).
- On-the-Job Training Monthly Progress Report/Invoice (DWD-PO-220).

The forms also will be available on jobs.mo.gov.

4. Action: As of the effective date of this Issuance, all Local Workforce Development Board staffs and DWD staff must fully comply with this guidance and use the *On-the-Job Training Practices and Procedures Manual* and associated forms to operate the OJT program. Distribute this Issuance to all appropriate staff.

[7] Attachment 1, page 6.
[8] Attachment 1, page 7.
[9] Attachment 1, page 6.
[10] Attachment 1, page 10.
[11] Attachment 1, page 14.
[12] Attachment 1, page 16.

5. Contact: For technical assistance, contact Anita Dixson, OJT Coordinator, at anita.dixson@ded.mo.gov.

6. References: 20 CFR 680.210.
20 CFR 680.700(a) as proposed.
20 CFR 683.260(b) as proposed.
DWD Issuance 05-2015, "Statewide Individual Employment Plan Development Policy," August 25, 2015.
WIOA Section 134 (c)(3)(A); 29 U.S.C. 3174(c)(3)(A).

7. Rescissions: This Issuance supersedes and replaces DWD Issuance 03-2014 dated July 28, 2014.

8. Attachments: On-the Job Training Practices and Procedures Manual, effective date April 2016.

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On-the-Job Training

Practices and Procedures

Manual

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PURPOSE

On-the-Job Training (OJT) is work-based training using federal funds. It operates under the auspices of the Workforce Innovation and Opportunity Act (WIOA). OJT's primary purpose is to provide participants with knowledge- and skills-upgrade training necessary for the full performance of a job. Target participants must meet eligibility requirements and be unable to obtain or retain employment without such services. OJT reimburses employers for the extraordinary costs of providing training and additional supervision. The program:

1. Provides Local Workforce Development Boards (LWDBs) with an excellent tool to assist in achieving training and placement goals for WIOA customers.
2. Establishes minimum Missouri standards for federally funded OJT Programs.
3. Encourage LWDBs to develop local protocols and policies for outreach.
4. Supports efforts by LWDBs to establish minimum standards, such as wages and industry types, for company eligibility while avoiding unnecessary or cumbersome restrictions.

CRITERIA

The following criteria determine appropriateness for participation in OJT. Under WIOA sections 134(c)(3)(A) and (B) [29 U.S.C. 3174(c)(3)(A) and (B)] and the rules at 29 CFR 680.210, as proposed, training services may be provided to adults and dislocated workers who:

- After an interview, evaluation or assessment, and career planning by workforce system staff are seen as:
    - Unlikely or unable to obtain employment that leads to self-sufficiency (or comparable or higher wages than previous employment) through career services;
    - Needing training to obtain employment that leads to self-sufficiency (or comparable or higher wages than previous employment); and
    - Possessing the skills and qualifications to complete the selected training program successfully.
- Have selected a program of training services that is directly linked to the employment opportunities either in the Local Workforce Development Area (LWDA) or in another area to which the individual is willing to relocate.
- Are unable to obtain assistance from other sources (including State-funded training funds and Trade Adjustment Assistance) to pay the costs of such training, or who require WIOA assistance to supplement other sources of assistance.
- Are determined eligible under the State and local priority system, [WIOA sec. 134(c)(3)(E)], if services are provided through the Adult funding stream.

PARTICIPANT REQUIREMENTS

In certain instances, an OJT placement is the most appropriate method to secure employment for a participant. Staff must complete an appropriate assessment of participants chosen to participate in an OJT opportunity. Consider the skill requirements of the occupation, the academic and occupational skill level of the participant, and the participant's prior work experience prior to execution of the training plan. These factors determine the length of the training plan.

Place the participant in an OJT opportunity that is consistent with the occupational goal of the participant's Employment Plan (EP). The frontline workforce staff is responsible for updating the EP as necessary.

The participant and the frontline workforce staff will jointly develop the EP. It should include the specific requirements addressing short-term and long-term goals as well as the required documentation addressing the identified skills gap (DWD Issuance 05-2015, "Statewide Individual Employment Plan Development Policy," August 25, 2015).

The EP also must include:

- The occupational goal;
- The identified need for training;
- Any identified barriers to successful completion of an OJT opportunity;
- The identified resources to alleviate barriers to completion of an OJT opportunity;
- The participant's name and case management system Applicant ID (AppID), or the last four digits of the Social Security Number; and
- Any post-placement follow-up service needs.

Post the frontline workforce staff assessment of the participant for an OJT assignment on the Appropriateness Tab of the EP in the case management system. Service Notes in the case management system should document contacts with the participant or employer, report changes of a participant's circumstances, and document the provision of Supportive Services.

After the EP and Participant Assessment are completed, the frontline workforce staff also must consider:

- Will the participant need to learn new skills for the OJT position, or does the participant currently possess those skills?
- Is OJT the best strategy for the participant to learn these new skills, or is occupational-skills training more suitable for the participant?

- Can the participant obtain the position without reimbursement to the employer? If so, a direct job placement is appropriate, and OJT is *not* allowable.

Reverse Referral

Many times a company identifies a potential OJT participant first. In these cases, the individual lacks skills the employer requires and is in need of OJT. The company must first refer the individual to the Job Center for eligibility determination **prior to beginning the hiring process.** Any individual hired prior to the eligibility determination is not eligible for the federally funded OJT program.

OJT EMPLOYER OUTREACH AND ELIGIBILITY

Outreach

A sound outreach plan should be based on the premise that businesses will use an organization that serves their interests. Outreach efforts should begin with the Business Services Team and avoid duplicative efforts and administrative waste. Define outreach objectives locally to suit the area's employment conditions. Research labor market information using online resources, such as the Missouri Economic Research and Information Center (MERIC), O∗NET OnLine, and the North American Industry Classification System (NAICS).

OJT outreach can be a mix of direct and indirect methods. This can include face-to-face contacts with employers, mail-outs (introductory letters, notes of appreciation, newsletters), involvement with the Chamber of Commerce, press releases, networking with other agencies, and speaking to civic organizations.

Outreach strategies include:

- Researching companies before contact, and noting previous labor needs.
- Targeting high-growth and in-demand industries in the LWDA.
- Educating employers about how OJT can enhance their businesses, cut waste, skill up the workforce, reduce turnover, and increase profits.
- Projecting how OJT can save the company money.
- Offering the employer assistance with completing the required paperwork.

Determining Employer Eligibility

OJT Training Agreements are not entitlements. LWDBs should use OJT to develop long-term employment opportunities by identifying priority employers.

Every OJT employer must affirm enrollment and participation in the E-Verify federal work authorization program. A pre-agreement evaluation of the employer's performance must be completed using the criteria listed below:

- The employer must not be relocating from another labor-market area. [20 CFR 683.260(a), as proposed]. If so, the positions must be in place 120 days prior to consideration for an OJT position. A pre-award review is required to verify that a business which is new or expanding is not relocating. Pre-award reviews shall be

documented and include names under which the company does business; the name, title, and address of the company official certifying the information; whether assistance is sought in connection with past or impending job losses at other facilities, including a review of WARN notices; and consultation with labor organizations, if applicable. [20 CFR 683.260(b), as proposed]

- The employer must have: 1) recalled or attempted to recall all employees who entered active layoff or participated in the Shared Work Program within the past 365 days in the local labor market area; and 2) not given notice of layoff to any employees from the same position or any substantially equivalent position.
- The training must not displace current employees.
- The company must have regulations that address safety and health issues.
- Appropriate supervision and training must be provided for all participants.
- Training must not duplicate a service already provided by other sources such as through the Department of Economic Development or Missouri Works Training.
- WIOA stipulates,[1] and the regulations reinforce,[2] that the local OJT coordinator should **discard employers that consistently fail to retain** OJT participants. The local OJT coordinator must not create an OJT agreement with an employer who has previously exhibited a pattern[3] of failing to provide OJT participants with continued long-term employment as regular employees with wages, benefits, and working conditions. A participant's situation must be equivalent to that of regular employees who have worked a similar length of time and are doing the same type of work.
- The position must not be seasonal employment.
- The wages and benefits should be appropriate based on O∗NET State and National Wage Tables.
- The employer must pay its employer wage taxes.
- The position must be a full-time position, defined as 32 or more hours per week.
- Training must not impair any existing contracts for services or collective bargaining agreements.
- Training Agreements cannot be for temporary or intermittent employment, or for employment in an occupation for a fee.
- It is prohibited to enter an OJT agreement with a State Agency.
- It is prohibited for any local governmental WIOA operator to enter an OJT agreement with any other unit of that same government.

[1] WIOA sec. 194(4); 29 U.S.C. 3254(4).
[2] 20 CFR 680.700(b), as proposed.
[3] The law specifically includes past OJT performance under the Workforce Investment Act of 1998 as well as contemporary performance under WIOA.

REQUIRED PAPERWORK

OJT Program Agreement

OJT is provided under an agreement with an employer in the public, private non-profit, or private sector.

- Complete an employer orientation with each employer and/or employer representative to discuss the training provisions, general assurances, training plans (including the attainment of skills), program monitoring, and invoicing procedures.
- Cover WIOA nondiscrimination requirements[4] in the employer orientation. Participants cannot be employed in the construction, operation, or maintenance of a facility primarily devoted to sectarian instruction or religious worship. Equal Opportunity for all participants is without regard to race, color, religion, sex, national origin, age, disability, political affiliation, belief, or status as a participant in the OJT program.
- The LWDB must have a policy in place to handle employer disputes, nepotism, and agreement modification requests.
- Program Agreement assurances must include:
    - E-Verify confirmation;
    - References to labor standards;
    - Grievance procedures;
    - Compliance with all applicable business licensing and taxation;
    - Provisions covering liability, sanctions, and debt repayment; and
    - The employer's commitment to retain the participant(s) upon training completion.
- The LWDB must have established due-process procedures which provide expeditious appeal for WIOA participants:
    - Subject to testing for the use of controlled substances; and
    - Who are sanctioned after testing positive for the use of controlled substances [20 CFR 683.630(c), as proposed].

[4] WIOA sec. 188; 29 U.S.C. 3248.

OJT Program Agreement Minimum Requirements

At a minimum, an OJT Program Agreement must include:

- Employer contact information, including FEIN or UI account number;
- Training operator contact information;
- Beginning and ending date of the OJT Program Agreement (the agreement; not the duration of a participant's training), which may not exceed one year. The Program Agreement also may require an OJT Supplemental Agreement if the participant is still participating in the OJT that extends outside the agreement dates. Reimbursement will not be made for those hours unless a supplemental agreement is previously in place;
- Number of participants to be provided full-time employment under the OJT Program Agreement;
- The total fixed price of the OJT Program Training Agreement;
- Employer Attestation of Workforce Status and Electronic Time Management System;
- Concurrence of the Collective Bargaining Agent, if applicable;
- Authorized, dated signatures of the employer and the training operator;
- E-Verify enrollment documentation with an affidavit of work authorization;
- Legal Certifications regarding Debarment and Suspension in accordance with 29 CFR Part 98; and
- OJT Program Agreement General Assurances.

Training Plan Minimum Requirements

The OJT Plan must identify the occupation, the skills, and the competencies for which the participant is training, as well as the length of time the training will be provided. The Plan also must establish the period of time required for a participant to become proficient in the occupation for which the training is being provided. To determine the length of the training outline, consider the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's EP [20 CFR 680.700(c), as proposed]. Thoroughly document the Skills Gap Analysis at a level sufficient to justify expenditure of federal OJT funds.

Determine the position for which the participant will train, and then develop a Training Plan.

The Plan will be a formal, written outline of structured job training. That training is to combine instruction in general employment competencies with occupationally specific skills that will enable the participant to work toward self-sufficiency. Use O∗NET and/or the company's job description as a basis to list skills or tasks. Keep each skill description concise and comprehensive, and make sure the individual tasks are measurable and observable.

The Training Plan (On-the-Job Training Outline and Job Description, Form DWD-PO-214) must include:

- Name of participant;
- The case management system AppID and last four digits of Social Security number;
- Occupation for which training will be given;
- O∗NET Code;
- Specific Vocational Preparation (SVP) Level;
- Starting and ending dates of training (not the Program Agreement; any variance requires an OJT Supplemental Agreement.);
- Number of hours per week participant will work;
- Initial wage rate and scheduled raises (if any);
- OJT wage and the percentage of reimbursement;
- Maximum OJT-obligation amount;
- Name or job title of person responsible for training;
- A job description and training outline that clearly reflects what the participant will learn and the length of the purposed training;
- A list of specific skills or tasks the employer agrees to provide to the participant;
- Signature of participant and date; and
- Signature of employer/trainer and date.

OJT agreements with a participant's former employer are discouraged and **only allowable with prior approval** of the Business Services Team Lead and the DWD OJT Program Coordinator. The Training Plan and participant's case management system EP must additionally document that the OJT participant is training in an upgraded position.

The Training Plan and participant's case management system EP must additionally document short-term and long-term goals, and identify the skills gap between the participant and the occupation.

Training Plan reimbursement rates must not exceed 50 percent of the wage rate of the participant.

In determining the appropriate length of the Training Agreement, consider the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's EP. Base the participant's length of training on the skills gap between the position and the OJT participant. Training must not exceed 1,040 hours.

The following is the conversion between the SVP Level of the occupation and the maximum weeks of training allowed for an OJT participant. (An explanation of the various levels of SVP is available at O∗NET OnLine.)

SVP Level	Maximum Duration of OJT
1	Short demonstration only
2	Up to 1 month
3	Up to 3 months
4 and over	Up to 6 months = 1040 maximum hours of training

As mentioned on page 8, OJT participants' compensation must be at the same rates, including periodic increases, as that of trainees or employees in similar occupations for the same employer who possess similar training, experience, and skills. Such rates shall be in accordance with applicable law, but in no event less than the higher of the rate specified in sec. 6(a)(1) of the Fair Labor Standards Act of 1938 [29 U.S.C. 206(a)(1)] or the applicable State or local minimum wage law. [WIOA sec. 181(a)(1)(A)]. Rates shall not be less than the higher of the federal, State, or local minimum wage.

Invoicing

Payments to employers for the OJT must comply with WIOA program guidelines and the LWDB's policies.

LWDBs must ensure that payments to employers compensate for the extraordinary costs associated with training and the costs associated with the lower productivity of participants. Employers are not required to document these extraordinary costs.

DWD requires, however, that employers establish record keeping and record retention systems that adequately support OJT invoices. All records associated with payment to employers must be available to DWD monitors.

The invoice system that determines reimbursement must clearly document the number of hours worked each day by the participant and the rate of pay for the time period. Both the participant and the employer must sign the invoice, unless the participant signs documentation (timesheet/timecard) that the employers attaches and reconciles it to the invoice**.** In the event the participant is unable to sign a timesheet, outline attempts to secure a signature in the case management system Service Notes. If a company uses an electronic time management system to capture attendance, and attests to its use in the Program Agreement, the participant's signature is not necessary.

Base payments to employers on scheduled raises and regular pay increases, if they occur. Any such raises must be documented on the original Training Outline or Supplemental Agreement and must be in place prior to the reimbursement of the wage increase. Payments to employers cannot be made on higher wages due to overtime, shift differential, premium pay, other non-regular wages paid by the employer, or periods of time in which no training occurs (illness, holidays, plant downtime, or other events).

The form DWD-PO-220, "OJT Monthly Progress Report/Invoice," serves as an example of a report/invoice. Employers cannot pay OJT participants in cash.

Documentation Requirements

Job descriptions contained in OJT Training Plans must be consistent with the training. LWDBs must document that the participant's training is in the contracted occupation.

LWDBs are responsible for monitoring training, invoicing, and reimbursement systems on a pre-determined, systematic, and documented basis. LWDBs should verify and document progress, and they should provide technical assistance, as needed, to the employer and participant.

All employers are required to maintain their own internal supporting documentation in accordance with the record retention requirements in Article 6 of the Program Agreement General Assurances.

MONITORING

The monitoring of Training Agreements is the responsibility of the Training Operator (DWD or the LWDB). The duty may be assigned to another designated entity or individual. The monitoring will include participant training and corresponding employer payroll records. To ensure validity and propriety of the reimbursement amounts claimed, onsite monitoring of OJT employers and other subcontractors is required. For program compliance, onsite monitoring of each participant must occur, at a minimum, at mid-training and upon completion. During onsite monitoring, attainment of the skills documented in the Training Plan must be noted on the Monitoring Form (DWD-PO-219) and on the Training Plan (the percentage of competencies completed; DWD-PO-220). You also may include documentation in Service Notes.

To evaluate employer performance for re-contracting purposes, ascertain the following:

- Did the employer retain the completed OJT participants?
- Did monitoring identify training as poor or incomplete?
- Was there an increase or decrease in wages after training?
- Was the participant dismissed after training or during the follow-up period?
- Were there any participant grievances?

The LWDB or its designee must conduct sub-state monitoring of its programs, including employer fiscal records, as outlined in Sub-state Monitoring Policy (DWD Issuance 15-2010, or subsequent revisions). DWD will monitor for program compliance through the case management system and LWDB financial records during the annual Programmatic/Financial Monitoring.

REPORTING

LWDBs should report OJT as a program cost on their monthly Financial Online Contract Progress Report (CPR). Additionally, report OJT on a quarterly basis as a line item on the separate reporting tool provided by Financial Management. Program compliance will be reviewed and included as part of the sub-state monitoring report.

OUTCOMES

When a participant completes the OJT activity, use one of the following 3002 OJT Training Service outcomes and definitions ***in the participant's case management record:***

- Retained by OJT Employer (Employed by the OJT employer).
- OJT-Related Employment (Employed in the same occupation and/or industry as the OJT; however, not with the OJT employer).
- Non-OJT-Related Employment (Employed in a different occupation and/or industry as the OJT).
- Service in Error (Service not provided).
- Did not Complete (Quit or terminated from the OJT).

FORMS

(ATTACHED TO THE PDF VERSION OF THIS DOCUMENT [USE PAPERCLIP ICON])

DWD-PO-213	On-the-Job Training Program Agreement
DWD-PO-214	On-the-Job Training Outline and Job Description
DWD-PO-215	On-the-Job Training Supplemental Agreement
DWD-PO-217	On-the-Job Training Eligibility Notification
DWD-PO-219	On-the-Job Training Monitoring Report
DWD-PO-220	On-the-Job Training Monthly Progress Report/Invoice