

CWP Policy and Procedure Manual

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A. General Provision

On-the-Job Training (OJT): OJT is occupational training provided by an employer to a participant hired to do productive work. OJT is provided under a contract with the employer in exchange for reimbursement for the extraordinary costs of providing the training and supervision related to the training and for potentially lower productivity of the participant and trainer during OJT.

The intent of the H-1B One Workforce Grant Program (H-1B) OJT activity is to bridge the divide between unemployment and employment by addressing the gap between an individual's skills and what is required for an occupation. Employers are reimbursed for a percentage of the participant's wages during the period of training and lower productivity and must agree to hire the participant prior to the start of training. The duration of the training varies based on the complexity of the work required for the occupation and the participant's prior education, training and work experience.

B. Policy and Procedures

The following policy and procedures apply to OJT activities funded by the USDOL, Employment and Training, H-1B grant.

1. Employer Contract

An OJT contract with the employer must be executed prior to the start of any OJT activity. Contract provisions are discussed with the employer or the employer representative prior to execution to ensure agreement and a successful OJT experience. Contract provisions for discussion include:

- a. Number of participants to be trained
- b. Position or job title of the participant
- c. Number of hours of training per participant
- d. Wage rate
- e. Reimbursement rate
- f. Training plan
- g. Maximum contract amount
- h. Beginning and end dates of the contract
- i. Beginning and end dates of the OJT
- j. Record-keeping and reporting requirements including attendance and payroll records
- k. Invoicing procedures
- l. Compliance requirements

An OJT contract contains the following elements:

- a. A completed On-the-Job Training (OJT) Contract template signed by the employer and Workforce Development Board (WDB) signatory
- b. Employer Information Form
- c. Financial and Billing Requirements and General Conditions of On-the-Job Training Contracts

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- d. Training Plan¹ developed by the employer (See section B.7 of this policy for basic components of a training plan)
- e. Participant Agreement (See section B.8 of this policy for basic components of a participant agreement)
- f. Hiring Projection (when participant agreements are not available prior to contract execution)

The number of OJT positions included in a contract may vary depending on the employer's needs. An OJT contract with an employer may be written for one or for multiple participants in various types of training for various time periods. An OJT contract may be modified after execution to add positions and participants.

2. Eligibility and Suitability of Employers

Employers are to be determined eligible and suitable for OJT prior to the execution of a contract and the start of an OJT activity. Employers must meet the following criteria to be considered eligible and suitable for an OJT contract.

- a. The employer must meet all the requirements of the specific program and/or funding source (e.g., an employer in an industry specified by the funder).
- b. The employer agrees to the OJT contract terms and is willing to sign the OJT contract before OJT begins.
- c. The employer has a minimum of five (5) employees prior to the execution of the contract.
- d. The employer maintains sufficient workers compensation and liability insurance coverage.
- e. The employer proposes training that is appropriate for employees newly hired for the position.
- f. The employer agrees that participant will be retained as a regular, permanent employee at no less than the same level of hours and pay upon completion of the training.
- g. The employer agrees to compensate OJT participants at the same rate (including periodic increases) as similarly situated employees.
- h. The employer complies with safeguards to ensure that participants of OJT do not displace other employees (see section B.9.a of this policy).
- i. The employer complies with wage and labor and health and safety standards as described in sections B.9.b and c of this policy.
- j. The employer is not currently in a labor dispute with a labor organization.
- k. The employer is not a prohibited employer as described in section B.4 of this policy.

3. Eligibility and Suitability of Applicants

In order to participate in an OJT activity, an applicant is to be determined eligible and suitable for OJT. Applicants must meet the following criteria to be considered eligible and suitable for OJT. The determination of eligibility and suitability is documented in the applicant's record.

- a. The applicant meets all the eligibility requirements of the specific program and/or funding source (see program specific policy).

¹ Training plans and participant agreements may be included with the initial contract or may be added as eligible participants are identified and hired by the employer.

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- b. The applicant needs the training offered in the OJT to perform the job.
- c. The applicant does not already possess the knowledge, experience and/or skills necessary to perform the job.
- d. The applicant is available, suitable and ready for OJT as determined by the WDB. The following questions for the applicant will facilitate the determination of the applicant's eligibility and suitability.
 - i. Is the applicant interested in the occupation offered by the OJT?
 - ii. Does the applicant already possess the occupational skills and/or experience necessary to perform the specific job so that the training being proposed in the OJT unnecessary?
 - iii. Is the applicant currently available to participate in the OJT?
 - iv. Is the applicant free from barriers such as the lack of transportation or reliable child care that would interfere with successful participation?
 - v. Does the applicant have the prerequisite skills necessary to begin the OJT in the specific occupation?
 - vi. Is the applicant work-ready with knowledge of the importance of attendance, punctuality and job performance, acceptable work attire and grooming, effectively working with others and a positive attitude toward employment?

4. Prohibited Employers

OJT contracts are not to be entered into with employers who meet any of the following conditions.

- a. Under previous WDB contracts, the employer exhibited a pattern of failing to provide OJT participants with continued long-term employment as regular employees with wages and employment 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. (Exceptions which will not necessarily result in the disqualification of employer's eligibility are short-term layoffs due to: seasonal conditions, upgrade of equipment, or other reasonably acceptable reasons; or situations that include the OJT participant quitting, being fired for cause, or being released due to unforeseen changes in business conditions.)
- b. Employer relocation within the last 120 days that resulted in lay-off of an existing employee or employees due to the relocation. The 120 days commences with the first day of operations in the new location.
- c. The employer is in violation of local, state or federal labor laws.
- d. Employment agencies, except at the discretion of the WDB CEO under specific circumstances such as employment agencies who acts as an employer's human resource department.

5. Reimbursement

Reimbursements to employers are provided for the extraordinary costs of providing the training and supervision related to the training and for potentially lower productivity of the participant and trainer during the training period.

- a. Reimbursement is based on a percentage of actual wages or salary paid for the total hours of training. The standard reimbursement rate for an OJT contract is 50% but may be increased based on employer size, as follows:

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- i. 50 percent for employers with more than 250 employees
- ii. Up to 75 percent for employers with 51-250 employees
- iii. Up to 90 percent for employers with 50 or fewer employees
- b. A reimbursement rate greater than 50% is subject to fund availability.
- c. Reimbursement rate is stipulated in the OJT contract with the employer.
- d. Accrued payments (such as vacation time) that are paid upon termination of employment are not reimbursed.
- e. For salaried positions, a wage rate for reimbursement purposes is calculated by converting the salary to an hourly rate using the following method. The gross monthly salary is multiplied by 12 to determine an annual amount. The annual amount is divided by 2080 hours (hours in a year at 40 hr/week) to arrive at the hour wage rate. (e.g., monthly salary = \$2,600 x 12 mos. = \$31,200 ÷ 2080 = \$15 per hour).

6. Duration of Training

- a. The duration of the OJT training is limited to the period of time required for the typical worker to become proficient in the position identified in the OJT contract. The time period required to become proficient in a position varies due to the:
 - i. skill required for the position,
 - ii. participant’s academic and skill level,
 - iii. participant’s prior work history, and
 - iv. complexity of employer’s equipment and workflow.
- b. Unless the specific program or funding source stipulates a different time limit or methodology, OJT training is generally limited to no more than six (6) months.
- c. If the employer presents a training plan that exceeds six (6) months, consult the Occupational Information Network (O*NET) and labor market information to determine if training beyond six (6) months is reasonable. If reasonable, use the following O*NET methodology to determine the approximate number of hours that would be needed for training in the occupation.
 - i. Using the O*NET, locate the title of the occupation find the occupation’s 5 or 6-digit occupational code. For example, Receptionist and Information Clerks code is 43-4171.
 - ii. Using the O*Net code, find the Job Zone level in the O*NET. For example, 43-4171 is Job Zone 2.
 - iii. Use the following conversion chart for the O*NET Zone levels as a reference.

Job Zone Training Conversion Chart

<u>Job Zone Level</u>	<u>Recommended # of Hours</u>	<u>FTE (40 hrs) Weeks</u>
1	400	10
2	800	20
3	1,200	30
4	1,600	40
5	2,080	52

- iv. Document the process for determining the duration of training in the participant’s OJT record.

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7. Training Plan

The employer is required to develop a training plan for each of its OJT participants. The plan is a formal, written document that includes a description of the position and the training needs or skills gap and the recommended training elements. At minimum, the training plan contains the following elements:

- a. Statement of need or skills gap.
- b. A brief description of position.
- c. A brief description of the recommended training.
- d. List of specific learning objectives with start and end dates.
- e. List of tools and technology to be mastered with start and end dates.

8. Participant Agreement

The employer is required to complete and enter into an agreement with the participant that identifies the participant (trainee), the program, the employer contact information for purposes of this OJT, the WDB representative contact information and the following information about the training:

- a. O*NET Job Title and Code
- b. Training start and end date
- c. Weekly hours
- d. Total training hours
- e. OJT hourly wage
- f. Total contract amount
- g. Trainer and participant signature and date signed

9. Safeguards and Standards

- a. Safeguards to Ensure that Participants do not Displace Other Employees
 - i. A participant in a program or activity must not displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).
 - ii. A program or activity must not impair existing contracts for services or collective bargaining agreements. When a program or activity would be inconsistent with a collective bargaining agreement, the appropriate labor organization and employer must provide written concurrence before the program or activity begins.
 - iii. A participant in a program or activity may not be employed in or assigned to a job if:
 - a) Any other individual is on layoff from the same or any substantially equivalent job;
 - b) The employer has terminated the employment of any regular, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy so created with the participant; or
 - c) The job is created in a promotional line that infringes in any way on the promotional opportunities of currently employed workers.
- b. Wage and Labor Standards

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- i. Individuals participating in On-the-Job Training must be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience and skills. Such rates must be in accordance with applicable law, but may not be less than the higher of the rate specified in section 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.
- ii. Individuals in On-the-Job Training must be provided benefits (excluding benefits currently provided through the granted state assistance) and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.
- c. Health and Safety Standards
 - i. Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees are equally applicable to working conditions of participants engaged in On-the-Job Training activities.
 - ii. Workers' compensation must be provided to participants in On-the-Job Training activities on the same basis as the compensation is provided to other individuals in the State in similar employment. Workers' compensation benefits must be available for injuries suffered by the participant in such On-the-Job Training activities.

C. Monitoring

WDB staff provide on-going, workplace monitoring of the participant during the OJT. The purpose of the monitoring is to assist the participant with workplace adjustment, to troubleshoot and to provide technical assistance to the employer. At minimum, WDB staff check in with the participant within the first week, half-way through, and at the end of the OJT time period. The observations and results of the monitoring are documented in the participant's file.