

<b>Policy # 11</b>	
<b>SUBJECT:</b>	WIOA Employer Services
<b>DATE ISSUED:</b>	April 22, 2021
<b>DATE EFFECTIVE:</b>	April 22, 2021
<b>REVISION DATE:</b>	September 17, 2021

**REFERENCES:** 20 CFR 678.435, 683.270, 683.260, 678.435, 680.150, 680.190, 680.195, 680.830, 680.840, WIOA Section 134

**PURPOSE:** To outline the requirements for providing services to employers to meet their needs, as part of the One Stop service delivery network.

**BACKGROUND:** WIOA establishes a comprehensive workforce development system that emphasizes the role of employers as a primary customer. The provision of employer services assists in meeting the needs of employers in overcoming recruiting and retaining challenges, as well as increasing the global competitiveness of the business by developing talent for the regional economy. WIOA envisions an integrated system that is results oriented, flexible, and continuously improving. Resources that support employer services are maximized through shared service delivery, non-duplication, and leveraging of funds across partner programs.

**ACTION:** WDB-KC will strive to meet the needs of Employers and Job Seekers by implementing Employer Services through our One Stop Network. Support for Employers will include, but will not be limited to, Incumbent Worker Training, On-the-Job Training, and other Wage-Reimbursement or Employer-Related Programs. Support for Job Seekers will be provided through Career Services including, but not limited to, Individual Training Accounts, Work Experience Programs, and Supportive Services.

All Services and Contracts funded by WIOA must adhere to the related WIOA program and funding regulations, as well as Uniform Guidance principles. WDB-KC will offer employment programs, based upon the availability of funding.

**QUALIFYING THE BUSINESS:**

Employer Services may be provided for business that are in the public, non-profit, or private sectors. To receive services from WDB-KC, the Employer must:

1. Be an Employer in Kanawha County or
2. Have a worksite in Kanawha County.

If the Employer is outside of Kanawha County, WDB-KC will work in collaboration with other regional Workforce Development Boards to provide Employer and/or Jobseeker Services, as needed.



The Employer must provide to WDB-KC:

1. Federal Tax ID Number (“FEIN”), and
2. Unemployment Compensation Insurance Account Number
3. Completed WDB-KC Employer Services application (*Attachment A*)
4. Roster of all current employees.

WDB-KC will verify Unemployment and Workers’ Compensation coverage.

ASSURANCES AND CERTIFICATIONS:

Employers must comply with the following:

- Be in compliance with all appropriate state and federal tax requirements (WC, UI, etc.)
- Comply with the regulations defined in the Fair Labor Standards Act, as well as any other pertinent federal, state, and local employment laws.
- Adhere to all regulations relating to anti-discrimination and equal opportunity.
- Adhere to provisions related to the avoidance of sexual harassment
- Ensure the safety for all parties involved, as it relates to the work activities and the overall work experience opportunity.
- Program participants engaged in a paid work experience through WIOA services should not unfavorably impact current employees from employment opportunities.
- Participants in a paid work experience must not be employed to carry out the construction, operation, or maintenance of any part of a facility that is intended for sectarian instruction or as a place for religious worship.

EMPLOYER SERVICES PROGRAMS:

A. INCUMBENT WORKER TRAINING (IWT):

Incumbent Worker training provides both workers and employers with the opportunity to build and maintain a quality workforce. Incumbent worker training can be used to help avert potential layoffs of employees, or to increase the skill levels of employees so they can be promoted within the company and create backfill opportunities for the employers. For purposes of WIOA Section 134(d)(4)(B), incumbent worker training is training:

- a. Designed to meet the special requirements of an employer (including a group of employers) to retain a skilled workforce or avert the need to lay off employees by assisting the workers in obtaining the skills necessary to retain employment.
- b. Conducted with a commitment by the employer to retain or avert the layoffs of the incumbent worker(s) trained.

WDB-KC will reserve no more than 20% of total Adult and Dislocated Worker program funding per program year towards IWT.

For an Individual to qualify as an incumbent worker, the incumbent worker needs to:

- a. be employed,
- b. meet the Fair Labor Standards Act requirements for an employer-employee relationship, and
- c. have an established employment history with the employer for 6 months or more, with the following exception:
  - In the event that the incumbent worker training is being provided to a cohort of employees, not every employee in the cohort must have an established employment history with the employer for 6 months or more as long as a majority of those employees being trained do meet the employment history requirement. An incumbent worker does not have to meet the eligibility requirements for career and training services for adults and dislocated workers under WIOA, unless they also are enrolled as a participant in the WIOA adult or dislocated worker program.

Under WIOA secs. 134(d)(4)(C) and 134(d)(4)(D)(i)-(iii), employers participating in incumbent worker training are required to pay the non-Federal share of the cost of providing training to their incumbent workers. Employers will be reimbursed the WIOA (federal) share. The employer share is based on the size of the workforce (wages paid to the trainee while in training can be included a part of that share) as follows:

- At least 10% of the cost for employers with 50 or fewer employees
- At least 25% of the cost for employers with 51 to 100 employees
- At least 50% of the cost for employers with more than 100 employees

**B. CUSTOMIZED TRAINING (CT):**

Per CFR 680.760, Customized Training is training:

- a. That is designed to meet the special requirements of an employer (including a group of employers);
- b. That is conducted with a commitment by the employer to employ an individual upon successful completion of the training; and
- c. For which the employer pays for a significant cost of the training.

Customized training of an eligible employed individual may be provided for an employer or a group of employers when:

- a. The employee is not earning a self-sufficient wage or wages comparable to or higher than wages from previous employment;
- b. The requirements in § 680.760 are met; and
- c. The customized training relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, workplace literacy, or other appropriate purposes.

C. TRANSITIONAL JOBS (TJs):

A transitional job is one that provides a limited, subsidized work experience for those individuals with barriers to employment because of chronic unemployment or inconsistent work history. These jobs are designed to enable an individual to establish a work history, demonstrate work success, and develop the skills that lead to unsubsidized employment.

Transitional Jobs program should have at a minimum the following 3 components:

1. Paid work experience (i.e., 3 days per week)
2. Classroom or Occupational Skills training (i.e., soft skills, occupational skills, etc.)
3. Supportive services

WDB-KC will reserve no more than 10% of total Adult and Dislocated Worker program funding per program year towards TJs.

WDB-KC Transitional Jobs Contract Requirements & Limitations:

1. Individuals participating in TJs must be enrolled with WFWV as a Jobseeker
2. Individuals must meet WIOA Adult or Dislocated Worker eligibility guidelines, and have barriers to employment, such as:
  - a. History of chronic unemployment or inconsistent work history
  - b. Ex-Offenders
  - c. Persons in recovery from substance use disorders, or
  - d. Enrolled in alternative sentencing arrangements like drug courts
3. Individual has an Individual Employment Plan (IEP) that documents evaluation of skills, abilities and barriers to employment, and outlines the individual's goals for employment
4. TJ contracts are limited to no more than 26 weeks.
5. Employers who have been in business 6 months or less, WDB-KC will provide funding based upon a 3 to 1 ratio of employees to participants. Employers who have been in business longer than 6 months will not be restricted to the employee-participant ratio.

#### D. ON-THE-JOB TRAINING (OJT):

On-the-Job is a type of training that is provided by an employer to a participant (Jobseeker). During the training, the participant is engaged in productive work in a job for which the customer is paid, and the training provides the knowledge or skills essential to the full and adequate performance of the job.

The following factors must be considered when writing an OJT contract:

1. The characteristics of the participant(s) with an emphasis on barriers to employed as defined in WIOA Section 3(24).
2. The quality of the employer-provided training (an industry recognized credential, advancement opportunities, etc.).
3. The number of participants the employer agrees to sponsor.
4. The wage and benefit level of the participant (both during and after completion of the OJT).
5. The OJT position is an in-demand occupation as defined by WIOA Section 3(23) and determined by WorkForce WV labor market information.

OJTs may be written concurrently or consecutively with Individual Training Accounts (ITAs) and must be limited to the time necessary for a participant to become proficient in the occupation for which the participant is receiving training.

#### WDB-KC On-the-Job Training Guidelines:

1. Individuals participating in OJTs must be enrolled with WFWV as a Jobseeker
2. Individuals must meet WIOA Adult or Dislocated Worker eligibility guidelines
3. Duration of training shall be no more than 6 months (1,040 hours maximum) and should be based on individual assessments of the participant's background, skills, and barriers to employment.
4. If the individual is employed, the OJT contract may be written if:
  - a. The employee is not earning a self-sufficient wage (WDB-KC Policy #1, Att. A)
  - b. WIOA eligibility guidelines are met; and
  - c. The OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, or workplace literacy.
5. OJTs must not be written with an employer who has previously exhibited a pattern of failing to provide OJT Trainees with continued long-term employment. (20 CFR 680.700(b)).
6. Employers who have been in business 6 months or less, WDB-KC will provide funding based upon a 3 to 1 ratio of employees to participants. Employers who have been in business longer than 6 months will not be restricted to the employee-participant ratio.

#### Determining Training Duration – Specific Vocational Preparation (SVP):

Training will be limited to a period of time required for a Trainee to become proficient in the position related to the training plan. Training duration is negotiated with the Employer on the basis of the



skills that need to be learned to perform the job at a level comparable to an employee who would be hired without the need for OJT. An upper limit for training duration is established using the Specific Vocational Preparation (SVP) estimates for occupations in the U.S. Department of Labor at [http://www.occupationalinfo.org/appendixc\\_1.html#II](http://www.occupationalinfo.org/appendixc_1.html#II).

WDB-KC will allow up to 50% wage reimbursement for On-the-Job Training contracts.

E. APPRENTICESHIPS:

Apprenticeships are a proven model of job preparation that combines paid on-the-job training (OJT) with related instruction to progressively increase workers' skill levels and wages.

WDB-KC supports Registered Apprenticeships and Industry-Recognized Apprenticeships through:

1. Individual Training Accounts (ITAs),
2. Incumbent Worker Training (IWT),
3. Customized Training (CT), and
4. On-the-Job Training (OJT)

USE OF FUNDS FOR EMPLOYER SERVICES:

The following Employer Services must be made available to employers through the One Stop Network:

- A. Labor exchange activities including appropriate recruitment and other business services on behalf of employers.
- B. Provision of workforce and Labor Market Employment Statistical Information, including:
  - Job vacancy listings in labor market areas.
  - Information on job skills necessary to obtain the vacant jobs listed.
  - Information relating to local in demand occupations and the earnings, skill requirements, and opportunities for advancement in those jobs.
- C. Customized Services: Customized employer services are services that may be provided to employers, employer associations, or other such organizations. Customized services are not required to be provided but may be provided based upon the local area's financial and administrative ability to provide or procure such services. These services should be tailored for specific employers and may include:
  - Customized screening and referral of qualified participants in training services to employers.
  - Customized services to employers, employer associations, or other such organizations, on employment-related issues.
  - Customized recruitment events and related services for employers including targeted job fairs.
  - Human resource consultation services, including but not limited to assistance with:

- a. Writing/reviewing job descriptions and employee handbooks.
  - b. Developing performance evaluation and personnel policies.
  - c. Creating orientation sessions for new employees.
  - d. Honing job interview techniques for efficiency and compliance.
  - e. Analyzing employee turnover.
  - f. Creating job accommodations and using assistive technologies; and/or
  - g. Explaining labor and employment laws to help employers comply with discrimination, wage/hour, and health/safety regulations.
- Customized labor market information for specific employers, sectors, industries, or clusters.

Additional Services may include, but are not limited to:

- Developing and implementing industry sector strategies.
- Customized assistance or referral for assistance in the development of a registered apprenticeship program.
- Developing and delivering innovative workforce investment services and strategies for area employers, which may include career pathways, skills upgrading, skill standard development and certification for recognized postsecondary credential or other employer use, and other effective initiatives for meeting the workforce investment needs of area employers and workers.
- Assistance to area employers for managing reductions in force in coordination with rapid response activities and with strategies for the aversion of layoffs.
- The marketing of employer services to appropriate area employers, including small and mid-sized employers; and
- Assisting employers with accessing local, State, and Federal tax credits.

EMPLOYER REIMBURSEMENT/PAYMENT:

1. Wage Reimbursement (TJ, OJT):

Reimbursement to employers will occur twice per month. Employers must submit adequate pay stubs showing hours worked as proper documentation, signed by the Employer and Employee. WDB-KC will only reimburse for hours worked and will not reimburse for holidays, overtime, vacation or sick leave.

2. Payment (IWT, CT):

Employers participating in IWT or CT programs must submit an itemized invoice and proof of payment(s) made to third parties.

MONITORING:

Periodic monitoring of Employer-Related contracts will be subject to required. Employers must agree to the monitoring schedule as set forth in the related contract. Failure to participate in monitoring may result in cancellation of contract and prohibition to participate in future contracts.