



On the Job Training Employer Handbook



WEST KENTUCKY WORKFORCE INVESTMENT BOARD
WIA TITLE I – On the Job Training (OJT)
INTRODUCTION

Among the variety of services offered to employers seeking a mature and stable workforce is Employer-based training, more commonly called On-the-Job Training (OJT).

The West Kentucky Workforce Investment Board (WKWIB) recognizes that while a job seeker may be quickly moved to a “job ready” status in all senses of the definition, he or she may lack the entry-level skills necessary to succeed in a demand occupational area. On-the-Job Training contracts with willing employers can take up the slack, providing the employer with a mature individual who is ready and willing to work while compensating the employer for lost production time and other extraordinary training costs. At the same time, the trainee learns and becomes proficient at the new skills required at the work site.

Job seekers often lack the entry-level skills that are necessary to make them marketable and employable in demand occupations. Long-term classroom training is not an option for many job seekers, especially single parents and others who may need to return to the workforce as soon as possible. On-the-Job Training makes this goal easier to achieve.

Not all WIA job seekers are viable candidates for OJT, nor are all employers’ viable training sites for this hiring option. The Career Center staff will review assessment findings, including basic skills testing, career goals, and work history, before approving OJT as an appropriate training option for the client.

Those whose assessment validates OJT as an appropriate training option can be referred to employers in various ways. Job development initiated by the Career Center staff is often the first step and works this way: staff, in contact with the various employers, in surrounding counties, can refer specific OJT-appropriate clients to the employer, if the employer has agreed that the work site can indeed be a training site. That is, the employer must guarantee that training in specific skills is actually available on site, and that new employee, in need of job-specific training, are provided that training.

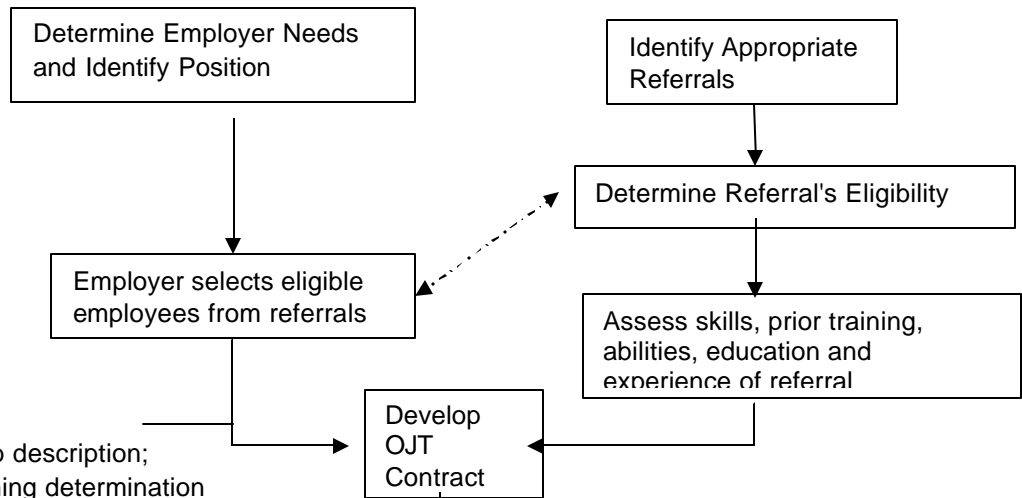
The Career Center staff should have appropriate clients in mind when contacting these employers-clients who have been thoroughly assessed as appropriate for OJT. Employers can then decide whether or not to interview the candidate. When the client’s work history documents a lack of skills necessary to meet the employer’s job requirements, OJT may be offered to the employer.

Area employers can also indicate an interest in hiring and training a WKWIB client when the client presents a brief letter of explanation of the OJT process. This letter serves as an introduction of the client to the employer, as well as an explanation that the client may be in need of training in order to meet the employer’s job expectations. The letter instructs the employer to contact the WKWIB representative if he/she wants to learn more about the OJT process.

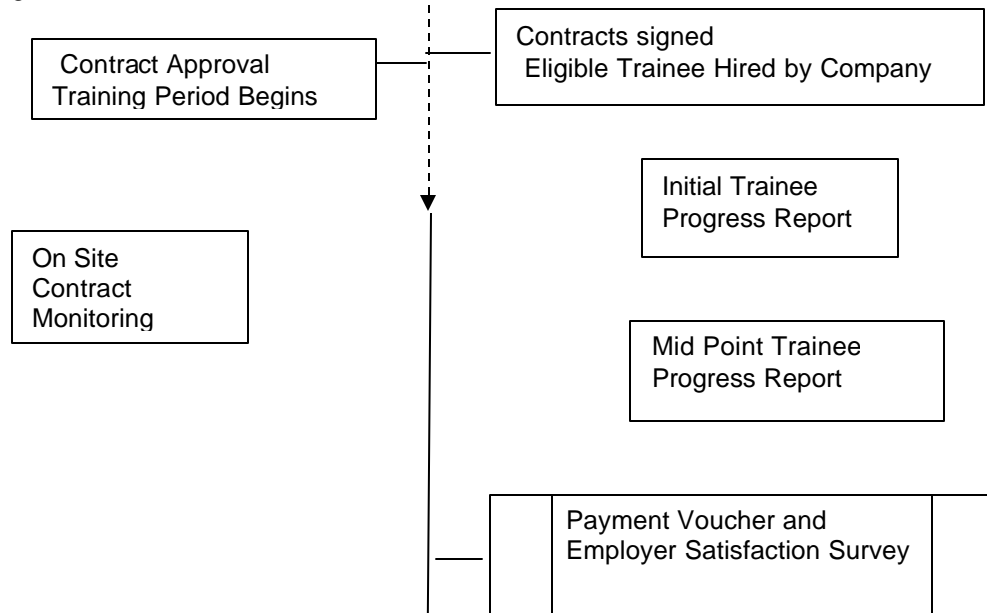
OJT Agreement Development



**Contract Negotiation and Referrals



**OJT Progress Report & Payment Process



**Final Payment and Customer Satisfaction Survey



West Kentucky Workforce Investment Board



On-the-Job Training Program

POLICIES AND PROCEDURES

APPROVED REVISION
04/22/2005

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HOPKINSVILLE, KY 42240
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Section 1. Purpose

- 1.1 **Purpose** - The WIA On-the-Job Training Program is administered under, Public Law 105-220, Workforce Investment Act of 1998 and the Rules and Regulations governing the OJT program that are defined in Sections 663.700 through 663.730 of 20 CFR, Part 652 (Part II).

Training may be provided to eligible WIA and Trade customers who are assessed as "in need" of training services. The customer must demonstrate a need for training through the counseling and assessment phase of the Core and Intensive Service tiers of the Career Center operations. The customer must be in need of training services to obtain or retain self-sufficient employment.

Section 2. Agreements

- 2.1 Each training agreement (at a minimum) will specify the following:
- Job for which training is to be provided
 - The number of participants to be trained
 - The duration of the training
 - Wages to be paid
 - Reimbursement rate % / Maximum amount of reimbursement
 - Job description or training plan
 - An approximate timetable for training
- 2.2 The agreement shall also provide that the employer will furnish payroll and any other records as needed to support the amounts reimbursed under the OJT contract. No training agreement may be negotiated with a payment that exceeds 50% of the hourly wages paid to the customer. Usual and customary wage increases are between the employee and the employer and should occur outside of this contract. Standard shift differentials will be allowed as noted in the agreement.
- 2.3 OJT contracts may be written for WIA - eligible *employed* workers when:
1. The employee is not earning a self-sufficient wage as determined by the West Kentucky Workforce Investment Board (refer to either adult or dislocated worker policy for specifics)
 2. The requirements in Section 663.700 of the WIA Rules and Regulations are met; and...
 3. The OJT 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 identified by the West Kentucky Workforce Investment Board.

- 2.4 The LWIA staff shall execute three original copies of the negotiated OJT contract. One copy of the bilaterally - signed agreement shall be transmitted to the employer with procedures for requesting payment, evaluation of employee and general rules of administration of the OJT program for the employer in the form of an employer handbook containing all assurances, certifications, rules and governance of the OJT agreement. The second copy shall be maintained in LWIA files. The third copy will go to the Purchase ADD for their files, as needed.
- 2.5 An OJT contract must not be written with an employer who has previously exhibited a pattern of failing to provide OJT or Customized Training customers with proper training and continued long-term employment with wages, benefits, and working conditions equal to those of regular employees. Certification that neither the employing company nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or excluded from participation in the OJT or Customized training program by any Federal Department or Agency should be included.
- 2.6 OJT Contract Approval Process
- Staff meets with business and generates Master Agreement.
 - Master agreement is sent to WKWIB Director for approval/signature.
 - After WKWIB Director's approval, Master Agreement goes to appropriate Area Development District Director(s) for signature.
 - Staff meets with WIA participant to review their experience/career goals.
 - Staff contacts business to negotiate individual position hours and develops Individual Agreement for participant.
 - Agreement is sent to WKWIB Director for Approval.
 - List of approved contracts are taken to the WKWIB Executive Committee for ratification.

Section 3. Training

- 7.1 3.1 Need-to-Train Policy – Customers will be considered for this type of training if the customer's current eligibility for WIA Title I training services **and** it is determined that there is a need to train based on the following six (6) criteria:
- Suitable employment is not available
 - Worker will benefit from appropriate training;
 - A reasonable expectation for employment following training exists;
 - Training is reasonably available;
 - The worker is qualified to undertake and complete this training; **AND**
 - The training is suitable and available at a reasonable cost.

- 3.2 The training must provide the customer with a competency or skill that the customer does not already possess and must be limited to that period of time required for a customer to become proficient in a skill that is recognized by employers.
- 3.3 The training plan will identify what must be learned to perform the various job tasks, the estimated number of hours it will take to learn the tasks, and the methods the employer will use to measure the new employee's learned skills. The length of OJT will also be determined in negotiations based upon needed skill improvements. The length of the OJT shall not exceed two years.
- 3.4 The length of OJT training time is determined by considering the difference between the skill level required for the job and the OJT customer's current skill level. The average length of training will be determined by working closely with employers to develop a job description and using a comparable occupational reference such as O'NET SVP code or other classification. The training time will be individualized for the customer, taking into consideration the customer's prior education, training, work experience, barriers to employment, physical/mental capacities and limitations, literacy functional level, and duration of prior training and / or experience in the same or related occupations. Consideration must be given to the academic and occupational skill level of the customer, prior work experience, and the customer's training plan as explained in Section 101(31)(C) of the Workforce Investment Act.
- 3.5 The training contract must be written for skills the customer does not currently possess. Care must be given to check that the skills to be learned are unique to the new job and are therefore necessary to perform the new job tasks. The contract will outline the type of credential the customer will obtain from the training.
- 3.6 Contract training jobs should be for no less than full time employment and at a wage rate preparing the customer for an occupation with an earnings potential leading to 90% of the layoff wage (for dislocated workers), but not less than 200% of the Lower Living Standard Income Level (LLSIL) upon training completion for all adults and dislocated workers by the designated LWIA staff member. Individuals with disabilities, special needs, older youth and older workers (age 55 and older) may be exempt from this general rule with prior written approval from the WKWIB Director and/or his/her designee. In no case shall a contract be written for less than the prevailing wage for the specified job.
- 3.7 The training occupation must not involve payment of commission wages as the primary source of wage payments to the customer and must not advocate political or religious activity.
- The occupation must be one in which specific occupational training is a prerequisite for employment or upgrade in employment and should have career advancement potential and must be in accord with the customer's training plan.
 - The OJT training occupation cannot be seasonal, intermittent, or temporary in duration without prior approval by the designated LWIA staff member.
 - Training in occupations requiring a license to perform certain work shall not be allowed unless the training employer certifies that it is the firm's intention to continue employment and further occupational training for the customer/trainee until all license requirements are met.

Section 4. Employer Eligibility

- 4.1 Contracts can be written with employers from the public, private non-profit or private for-profit business sectors as long as the training employer complies with all applicable health and safety policies and standards required by Federal and State law.
- The employer must not utilize an OJT contract to displace currently employed workers or to reduce the hours of those employed workers below their normal work schedule.
 - Additionally, a contract cannot be written for a position in which another worker is currently on layoff, or for a position which will deny a current worker promotional opportunities
- 4.2 There must be a permanent position available at the end of the training period for the customer, in an "in-demand" occupation in the local WIA area.
- 4.3 No employer/contractor may hire a WIA customer to train under the program if a member of the participant's immediate family is engaged in an administrative capacity for that contractor.
- 4.4 Initial and subsequent Training Provider Eligibility of on-the-job training and customized training shall not be subject to the same eligible provider requirements as post-secondary and other WIA training providers.
- Initial provider eligibility shall be determined by the West Kentucky Workforce Investment Board in accordance with guidelines contained in Sections 122 in the Workforce Investment Act.
 - The potential training employer must furnish information on the company's Federal identification number (EIN), State Unemployment Insurance Account Number, and information proving coverage for the trainee under Worker's Compensation Insurance for the duration of the training.
 - Stability, solvency, and potential growth of the employing / training company must be considered prior to entering into the training contract with respect to prior layoffs, shut downs and/or labor disputes.
- 4.5 Number of OJT training positions allowed per employer:
- Companies with 1 to 9 employees - WIA-OJT contracted positions not to exceed one (1) at any given time.
 - Companies with 10 or more employees - WIA-OJT contracted positions will not exceed a ratio of 25% of the training employer's total number of employees at any given time.

- New and/or expanding businesses – WIA-OJT contracted positions may include up to 100% of the training employer's total number of employees needed to meet the start-up and/or expansion workforce goals.

**A waiver may be requested of the WKWIB Director for consideration and review of these limits for new and expanding businesses in the WKWIB workforce investment area.

- 4.6 The training must be conducted at or out of the employer's place of business and may not be subcontracted with prior approval.
- 4.7 Reverse referral of potential customers for skill upgrades of present employees to the WIA training programs, by employers will be accepted if the customers so referred are eligible for the WIA program.
- 4.8 The training retention rate for employers who have had OJT/ Customized Training contracts within one (1) year of the date of the current application for a new contract must meet the current LWIA performance standards on retention of trainee employees applicable for that program year. The employer's success in training will be considered in awarding subsequent contracts. Prospective training employers who have had prior contracts that do not meet the LWIA trainee retention standards will be disqualified from participating in the program for a period of one (1) year from the date of the disqualification determination. Two (2) disqualification determinations will render an employer ineligible for the OJT or Customized training programs.
- 4.9 An employer deemed to be abusing the program shall be examined by the following process:
- LWIA staff contract representative (CR) will notify designated LWIA manager in writing of the problem(s) encountered with employer and recommendations suggested.
 - A management decision will be made whether to monitor the observation further and if investigation and or action is needed.

Section 5. Customer Eligibility

- 5.1 The customer must be determined eligible for the WIA Program in accordance with requirements specified in Section 663.105 and 663.120 of the rules and regulations of the Workforce Investment Act of 1998 prior to being hired and participating in the On-the-Job Training component. A WIA staff member, prior to the beginning of the contract, must develop an individual training plan that documents the customer's need for training.
- 5.2 The referral of the eligible customer to a training employer for an employment interview shall occur when a WIA staff member has determined that the customer will benefit from training services and has identified from employment vacancies, suitable on-the-job or customized training opportunities for the customer. Job development activities with employers should be performed for those customers planning to enter training in the absence of suitable job openings.

- 5.3 No customer shall be placed on more than two on-the-job or customized training situations within a given WIA program year (July 1- June 30). The second one is permissible only with prior management approval from the designated LWIA staff. The reason for requesting the second OJT must be specifically documented (laid-off, fired, inappropriate job training match, company closes, etc.) The situation determined on an individual basis.
- 5.4 Contracts may be written for WIA eligible employed workers when: The employee is not earning a self-sufficient wage as determined by the West Kentucky Workforce Investment Board (i.e., earning at least the lower living standard income level).

Section 6. Reporting and Record Keeping

- 6.1 Billing for the LWIA Fiscal unit shall handle reimbursement in one of two ways (to be determined at the time of the contract), depending upon the time of year as it relates to billing and the end of fiscal years:

(A) Payroll record for LWIA customer for contract period will be submitted at conclusion of contract,

OR

(B). Monthly employer records will be submitted for training reimbursement.

Any discovery of inconsistencies in attendance, validity of training, pay, or failure to pay the employee properly shall be handled immediately by the WIA staff assigned to the customer and such findings and recommended solutions shall be reported to the designated LWIA staff member.

- 6.2 Reimbursement to employers shall be made only for actual training time and shall not include reimbursement for wages paid to customer trainees for holidays, sick leave, vacation time, etc. The LWIA staff assigned to case manage the contract, shall make contact with the customer and employer a minimum of ONE time per month during the training. The staff member will record the observations in case notes in the customer's file, concerning the progress of training and achievement of the training objectives defined in the contract. Concerns and corrective action necessary to accomplish the objective shall be recorded and appropriate action and follow-up shall be documented.
- 6.3 Changes in the status of a training customer must be appropriately reported to MIS. In special cases, with management approval based upon customer assessment from the designated LWIA staff member, a customer may be eligible for limited classroom training in conjunction with On-the-Job or Customized Training. Such cases will be allowed with approval and justification that the training to be acquired in Classroom Related Training cannot be acquired on the job.

Section 7. Waivers

7.1 Waivers

The West Kentucky Workforce Investment Board (WKWIB) reserves the right to grant a waiver for any and all local criteria stated within the WIA Policies and Procedures in order to assist individual customers in completing their career and training goals to meet the labor demands of business and industry within the local workforce area. The WKWIB Director and/or his/her designee may grant waivers as needed.

Section 8. Grievance Procedures

8.1 The West Kentucky Workforce Investment Board (WKWIB) Grievance Procedures shall apply to alleged violations of the Workforce Investment Act and/or the regulations thereof, and the contract under which the individual is participating. Except for complaints alleging fraud, criminal activity, or Equal Employment Opportunity (EEO) discrimination (which would be filed within one hundred eighty (180) days), customers have one year from the alleged occurrence to file a grievance. The customer's recourse shall be as follows:

- a. Submit a written request to the WKWIB office and complete a grievance procedure form.
- b. Request a hearing with the agency to attempt to resolve the complaint.
- c. After the hearing, the customer will receive a written decision within ten (10) days.
- d. If the customer does not agree with the decision issued and wishes to appeal, the customer must file a written request for a formal hearing within ten (10) days of receiving the decision. Written appeals must be addressed to:

**West Kentucky Workforce Investment Board
300 Hammond Drive
Hopkinsville, KY 42240**

- e. Failure to follow these steps and time frames may result in the complaint being dismissed.

Section 9. Terms and Definitions

- **Adverse Conditions** – Adverse conditions are those situations or circumstances that cause Unemployment Insurance to determine the ex-service member ineligible for an UCX claim. (Military discharges).

- **Attachment to the Workforce** – Being employed for a duration of twelve (12) calendar weeks for an employer from whom an individual has received a termination or layoff notice.
- **Central Records Unit (CRU)** – The CRU is the official participant file kept in the local WIA office. These files must contain all documentation necessary to establish eligibility. Such documentation is required to be available for review by auditors or designated state and federal staff.
- **Contract Representative (CR)** -- Local Workforce Investment Area staff member acting as a contract representative that will negotiate and execute the contract for training
- **Customized Training** -- means training (A) that is designed to meet the special requirement of an employer (including a group of employers) (B) that is conducted with a commitment by the employer to employ an individual on successful completion of the training; and (C) for the employer pays for not less than 50 percent of the cost of the training.
- **Economic Conditions Resulting in Dislocation of Self-Employed Individual** – Economic conditions resulting in the dislocation of a self-employed individual include:
 - Failure of one or more businesses to which the self-employed individual supplied or obtained substantial proportion of products or services; **or**
 - Substantial layoff(s) from or permanent closure(s) of one or more plants or facilities that support a significant portion of the state or local economy.
- **Full-Time Employment** – Full-time employment means work is normally scheduled for at least thirty (30) hours per week.
- **High-Demand Occupations** – Occupations identified to be in high demand include (1) occupations that have posted employment opportunities; (2) occupations in which a letter of intent to hire pending completion of training is obtained; or (3) occupations listed as hard-to-fill/high-demand positions identified by the WKWIB.
- **Immediate Family** – is defined as follows: any individual related by blood, marriage, or decree of court and whose relation to the employer or customer is included in one of the following categories:

▪ Husband / wife / child	▪ Step-child
▪ Brother / sister	▪ Step-brother / step-sister
▪ Father / mother	▪ Step-father / step-mother
- **Long-Term Unemployment** – Long-term unemployment means the individual has been unemployed at least fifteen (15) out of the past twenty-six (26) weeks. In addition, an unemployed individual is one who did not work during the seven (7) consecutive days prior to application; who made specific efforts to find a job within the past four (4) weeks prior to application; and who was available for work during the seven (7) consecutive days prior to application.

- **Natural Disasters** – Natural disasters include, but are not limited to, hurricanes, tornadoes, storms, floods, high water, wind-driven water, tidal waves, tsunamis, earthquakes, volcanic eruptions, mudslides, droughts, fires, explosions, or other catastrophes.
- **Occupational Information Network (O*Net)** – The O*Net is a required tool for individuals to use to access information about present occupations or explore future career options.
- **On-the-Job Training** – On-the-job training is a WIA training activity provided by an employer in the public, non-profit, or private sector.
- **Self-Sufficient/Suitable Employment - (DW)** – Full-time employment with benefits which has earning potential leading to 90% of the previous wage, but not less than two hundred (200%) of the Lower Living Standard Income Level (LLSIL).
- **Self-Sufficient/Suitable Employment - (Adult)** – Full-time employment with benefits which has earning potential of not less than two hundred (200%) of the Lower Living Standard Income Level (LLSIL).
- **Self-Sufficient Wage** – the current WKWIB self-sufficiency policy sets the level of self-sufficiency at 200% of the State's economically disadvantaged level in determining self-sufficiency for the adult population. The level of self-sufficiency for eligible dislocated workers is equal to 90% of the layoff wage in determining the need for Title I funded intensive and training services.
- **Temporary Employment** (Employment related requirements) – Temporary employment is defined as employment, which, by its nature is not considered permanent such as tobacco work, seasonal work, or a job with a defined ending date; or employment which is only for income maintenance purposes and the dislocated worker's intention is to end such employment upon completion of participation.
- **Terminated** – Terminated means separated from employment. It may also mean quit for good cause or fired for non-disqualifying reasons as determined by UI.
- **Underemployed** – An underemployed individual is one whose job is considered below their skill level (based on education and experience) **or** whose employment wage is below the local level of self-sufficiency.
- **Unemployed** – An unemployed individual is one who did not work during the seven (7) consecutive days prior to application, who made specific efforts to find a job within the past four (4) weeks prior to application and who was available for work during the seven (7) consecutive days prior to application.

Disclaimer:

The West Kentucky Workforce Investment Board reserves the rights to establish, modify and/or interpret any and all program policies and procedures in accordance with Public Law 105-220, Workforce Investment Act of 1998. Program policies and procedures are subject to change and all program services are dependent upon the availability of funding. WIA programs administered by the West Kentucky Workforce Investment Board are not entitlement programs and therefore require an assessment of individual needs prior to the provision of said services.

Section 10. References from the Act and Regulations

ON-THE-JOB TRAINING

Workforce Investment Act of 1998 References

SEC.101. DEFINITIONS.

In this title:

(31) ON-THE-JOB TRAINING. —The term “on-the-job training” means training by an employer that is 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) Provides reimbursement to the employer of up to 50 percent of the wage rate of the participant, 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.

SEC. 112. STATE PLAN.

(b) CONTENTS.—The State plan shall include—

(17)(A) A description of—

- (iii) The procedures the local boards in the State will use to identify eligible providers of training services described in section 134(d)(4) (other than on-the-job training or customized training), as required under section 122; and

SEC. 122. IDENTIFICATION OF ELIGIBLE PROVIDERS OF TRAINING SERVICES.

(h) ON-THE-JOB TRAINING OR CUSTOMIZED TRAINING EXCEPTION. —

(1) IN GENERAL. —Providers of on-the-job training or customized training shall not be subject to the requirements of subsection (a) through (e). (Provides exemption to certain eligible training provider requirements in SEC 122 except those relating to Enforcement and Appeal.)

(2) COLLECTION AND DISSEMINATION OF INFORMATION. —A one-stop operator in a local area shall collect such performance information from on-the-job training and customized training providers as the Governor may require, determine whether the providers meet such performance criteria as the Governor may require, and disseminate information identifying providers that meet the criteria as eligible providers, and the performance information, through the one-stop delivery system. Providers determined to meet the criteria shall be considered to be identified as eligible providers for training services.

SEC. 134. USE OF FUNDS FOR EMPLOYMENT AND TRAINING ACTIVITIES.

- (a) STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES. —
 - (2) REQUIRED STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES. —
 - (B) OTHER REQUIRED STATEWIDE EMPLOYMENT AND TRAINING ACTIVITIES. —A State shall use funds reserved as described in sections 128(a) and 133(a)(1) (regardless of whether the funds were allotted to the State under section 127(b)(1) or paragraph (1) or (2) of section 132(b)) to carry out other statewide employment and training activities, which shall include—
 - (i) Disseminating the State list of eligible providers of training services, including eligible providers of nontraditional training services, information identifying eligible providers of on-the-job training and customized training, and performance information and program cost information, as described in subsections (e) and (h) of section 122;
- (d) REQUIRED LOCAL EMPLOYMENT AND TRAINING ACTIVITIES. —
 - (4) TRAINING SERVICES. —Training services may include—
 - (D) (ii) on-the-job training
 - (F) CONSUMER CHOICE REQUIREMENTS. —
 - (ii) ELIGIBLE PROVIDERS. —Each local board, through one-stop centers referred to in sub-section (C), shall make available—
 - (I) The State list of eligible providers of training services required under section 122(e), with a description of the programs through which the providers may offer the training services, and the information identifying eligible providers of on-the-job training and customized training required under section 122(h); and
 - (G) USE OF INDIVIDUAL TRAINING ACCOUNTS. —
 - (ii) EXCEPTIONS. —Training services authorized under this paragraph may be provided pursuant to a contract for services in lieu of an individual training account if the requirements of subparagraph (F) are met and if—
 - (I) Such services are on-the-job training provided by an employer or customized training;

SEC. 181. REQUIREMENTS AND RESTRICTIONS.

- (a) BENEFITS. —
 - (1) WAGES. —
 - (A) IN GENERAL. —Individuals in on-the-job training or individuals employed in activities under this title shall 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, and such rates shall be in accordance with applicable law, but in no event 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.
- (b) LABOR STANDARDS. —
 - (2) DISPLACEMENT. —
 - (A) PROHIBITION. —A participant in a program or activity authorized under this title (referred to in this section as a "specified activity") shall 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).

(B) PROHIBITION ON IMPAIRMENT OF CONTRACTS. —A specified activity shall not impair an existing contract for services or collective bargaining agreement, and no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization and employer concerned.

(3) OTHER PROHIBITIONS. —A participant in a specified activity shall not be employed in 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 employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created with the participant; or

(C) The job is created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals (as of the date of the participation).

(4) HEALTH AND SAFETY. —Health and safety standards established under Federal and State law otherwise applicable to working conditions of employees shall be equally applicable to working conditions of participants engaged in specified activities. To the extent that State workers' compensation law applies, workers' compensation shall be provided to participants on the same basis as the compensation is provided to other individuals in the State in similar employment.

(5) EMPLOYMENT CONDITIONS. —Individuals in on-the-job training or individuals employed in programs and activities under this title, shall be provided benefits 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.

(7) NO IMPACT ON UNION ORGANIZING. —Each recipient of funds under this title shall provide to the Secretary assurance that none of such funds will be used to assist, promote, or deter union organizing.

(c) GRIEVANCE PROCEDURE. —

(1) IN GENERAL. —Each state and local area receiving an allotment under this title shall establish and maintain a procedure for grievances or complaints alleging violations of the requirements of this title from participants and other interested or affected parties. Such procedure shall include an opportunity for a hearing and be completed within 60 days after the filing of the grievance or complaint.

(d) RELOCATION. —

(1) PROHIBITION ON USE OF FUNDS TO ENCOURAGE OR INDUCE RELOCATION. —No funds provided under this title shall be used, or proposed for use, to encourage or induce the relocation of a business or part of a business if such relocation would result in a loss of employment for any employee of such business at the original location and such original location is within the United States.

(2) PROHIBITION ON USE OF FUNDS FOR CUSTOMIZED OR SKILL TRAINING AND RELATED ACTIVITIES AFTER RELOCATION. —No funds provided under this title for an employment and training activity shall be used for customized or skill training, on-the-job training, or company-specific assessments of job applicants or employees, for any business or part of a business that has relocated, until the date that is 120 days after the date on which such business commences operations at the new location, if the relocation of such business or part of a business results in a loss of employment for any employee of such business at the original location and such original location is within the United States.

(3) REPAYMENT—If the Secretary determines that a violation of paragraph (1) or (2) has occurred, the Secretary shall require the State that has violated such paragraph to repay to the United States an amount equal to the amount expended in violation of such paragraph.

(e) LIMITATION ON USE OF FUNDS. — No funds available under this title shall be used for employment generating activities, economic development activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, and similar activities that are not directly related to training for eligible individuals under this title. No funds available under subtitle B shall be used for foreign travel.

SEC. 195. GENERAL PROGRAM REQUIREMENTS.

Except as otherwise provided in this title, the following conditions are applicable to all programs under this title:

(4) On-the-job training contracts under this title shall not be entered into with employers who have received payments under previous contracts and have exhibited a pattern of failing to provide on-the-job training 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.

Federal Register References

Preamble

Part 663—Adult and Dislocated Worker Activities under Title I of the Workforce
Investment Act
Subpart A — One-Stop System

(p. # 49317, column 3)

Another commenter suggested that we amend the regulations to require One-Stop operators to consult with the appropriate labor organizations whose members have skills in the area in which the OJT or customized training is proposed in the development of the training contract. The comment does not limit this consultation to circumstances where a collective bargaining agreement is in effect.

Response: WIA section 181(b)(2)(B) requires consultation, and written concurrence of the labor organization and employer, where the proposed training would impair an existing collective bargaining agreement. It does not address consultation in other circumstances. We believe, however, that informal consultation with organized labor on the nature and scope of proposed OJT or customized training can help to ensure its quality and relevance. The labor representative(s) on the Local Board is in an ideal position to establish policies about the consultation role of organized labor and to help identify situations where appropriate labor organization should be consulted in the development of an OJT contract.

Preamble

Part 663—Adult and Dislocated Worker Activities under Title I of the Workforce
Investment Act

Subpart D – Individual Training Accounts

(p. # 49332, column 1)

Exceptions to ITAs:

The Act, at §134(d)(4)(G)(ii), and the regulations at §663.430, provides that, under certain limited circumstances, contracts for training rather than ITAs may be used. Specifically, on-the-job training contracts with employers and customized training contracts are authorized.

(p. #49333, column 1)

Response: ...WIA section 122 requires that all training providers meet the requirements for inclusion on the eligible provider list. Section 122(f) lists two exceptions to the requirement that deliverers of training services be eligible training providers: on-the-job training and customized training. We interpret these exceptions to be exclusive; providers of all other training services must go through the eligible provider process.

Preamble

Part 663—Adult and Dislocated Worker Activities under Title I of the Workforce Investment Act

Subpart E – Eligible Training Providers

(p. # 49335, column 1)

In §663.505, the regulations clarify that all training providers, including those operating under the ITA exceptions, must qualify as eligible providers, except for those engaged in on-the-job and customized training (for which the Governor may establish qualifying procedures, as discussed in §663.595).

(p. # 49336, column 3)

Section 663.505—What are Eligible Providers

Response: The definition of a program of training services was intended to ensure that individuals using ITA's have access to a broad array of training options, and that no arbitrary limits would be established as the length, nature, location or outcomes of the training, unless required under other parts of the Act or regulations (such as requirements for on-the-job training and customized training at §§663.700—663.720).

(p. #49343, column 1)

Section 663.595—Requirements for Providers of OJT and Customized Training—One commenter recommended that the Governor solicit comments from business and labor organization on the development of performance information for OJT and customized training while another commenter suggested that it was inadvisable to disseminate information on the performance of employers, since many employers would be unwilling to participate if their identity was to be made known to the general public.

Response: There is nothing to preclude Governors from soliciting comments from business and labor in developing these performance requirements and learning if disseminating performance information would be a deterrent to other employers and it would be consistent with both the process for developing provider and program eligibility procedures and the general intent of WIA to promote openness and consultation to do so. Governors need to consider the impact of requiring performance information in terms of employer participation, particularly since employer-provided training has, in the past, been an effective method for providing training. However, if the Governor determines that performance information must be collected and the criteria to be met, One-Stop operators must collect such information, determine if

Performance criteria are met, and disseminate information on employers that meet the criteria. We note that information does not have to be disseminated on employers that do not meet Governor's criteria under the current regulation.

One commenter noted that the Preamble to the Interim Final rule, page 18673, column three, lines 8-11, should have said that the Governor has the option to require performance information of providers of OJT and customized training.

Response: We agree that the Preamble was in error. It should have said that Governors might require performance information.

Preamble

Part 663—Adult and Dislocated Worker Activities under Title I of the Workforce Investment Act

Subpart G—On-the-Job Training and Customized Training

(p. #49345, column 1)

Sections 663.700 through 663.720 are the regulatory provisions for conducting on-the-job (OJT) and customized training activities. They include specific information regarding general, contract, and employer payment requirements. Unlike JTPA, WIA does not limit OJT to six months. However, as specified in WIA § 101(31)(C), it is limited in duration as appropriate for the occupation being trained for. Section 663.705 establishes requirements that permit OJT contracts for employed workers.

(p. #49345, column 2)

Response: The language in § 663.700(a) has been changed to clarify that OJT must be provided through a contractual arrangement as an exception to the ITA requirement under WIA section 134(d)(4)(G)(ii)(I). We believe that written agreements are necessary to ensure that the requirements of OJT are met. The regulations, in § 663.700 (b) and (c), establish minimal requirements for OJT contracts. OJT contracts must ensure that participants are provided a structured training opportunity in which to gain the knowledge and competencies necessary to be successful in the occupation in which they receive training.

(p. #49345, column 2)

Response: Generally, we believe that States and local areas should have the flexibility to determine the information needed for inclusion in the required OJT contracts. Therefore, we have not mandated that the contracts contain documentation that the competencies are acquired. However, in order to ensure that workers and employers have a common understanding of the goals and purpose of the OJT assignment, we believe that certain general terms should be reduced to writing. Accordingly, we have amended §663.700(c) to require that the OJT contract identify the occupation, the skills and competencies to be learned and the length of time the training will be provided.

(p. #49345, column 2)

We received comments which recommended that the regulations require local programs, in entering into OJT contracts or undertaking customized training, give priority to employers who: offer wages and benefits that lead to family self sufficiency; ensure long term self sufficiency for their employees; exhibit a strong pattern of union management cooperation; and after upgrading existing employees through OJT, backfill vacancies with public assistance recipients and other low income persons.

Response: We have chosen not to limit local options by specifically identifying priorities for the selection of such employers. However, Local Boards may consider these and other factors

in selecting employers to provide training opportunities that will assist in their efforts to provide services that meet or exceed the performance objectives regarding employment leading to self sufficiency and job retention.

(p. #49345, column 3)

Commenter recommended that the regulations be revised to eliminate from consideration for an OJT contract or for customized training any employer which has violated: anti-discrimination statutes; labor and employment laws; environmental laws; or health and safety laws.

Response: We concur that Federal grant funds should not be used to engage employers that have violated Federal law. Such information should be available under information requirements at 20 CFR 37.38(b). We encourage States and Local Boards to require a written assurance by a potential employer that no such violations have occurred within some reasonable period of time. It would also be appropriate to obtain written assurance from the employer that the training to be provided will be in accordance with WIA §181(a)(1)(A) and §667.272 for wage and labor standards, and WIA §181(a)(2) and §667.274(a) for health and safety standards.

29 CFR 37.20(a)(1) contains an assurance regarding nondiscrimination and equal opportunity. Under 29 CFR 37.20(a)(2), this assurance is considered incorporated by operation of law, and may be incorporated by reference, in documents that make WIA Title I financial assistance available, such as OJT contracts.

(p. # 49345, column 3)

A commenter recommended that we add a requirement that employers be required to retain, or transition to new upgraded jobs with wages and benefits commensurate with their new skills, those workers who receive customized retraining.

Response: WIA §181(b)(2) and 20 CFR 667.270 establish safeguards for workers to ensure that participants in WIA employment and training activities do not displace other employees. These protections may affect immediate opportunities for workers receiving customized training to “transition to new upgraded jobs.” However, Local Boards may establish policies concerning the selection and non-selection of employers for the OJT and customized training programs.

We encourage the development of policies that maximize the opportunities presented by funding upgrade skill training on-site, which, upon completion of the training, will result not only in a more highly skilled workforce, but also in new entry level jobs for additional program participants.

(p. #49346, column 1))

Response: Performance information on providers of OJT and customized training is collected and disseminated under the eligible provider requirements of §663.595.

(p. #49346, column 1)

A commenter recommended that we modify the regulations to require that local programs conduct retention services with individuals placed in OJT to determine whether the OJT requirements and nondiscrimination and other employment rights are satisfied.

Response: As discussed above, all OJT contracts are subject to the worker protection requirements set forth in WIA sections 181(a)(1)(A) and (B), (b)(2), (3), (4) and (5), and 188. In addition, we believe that monitoring of OJT contractors must include review of selection patterns and other areas of potential concern regarding trainees' civil and other employment rights (consistent with the requirements of 29 CFR 37.54(d)(2)(ii)) to ensure the quality of the One-Stop operator's selection of training opportunities. No change has been made to the regulations.

(p. #49346, column 1)

A commenter suggested that to assure compliance with WIA section 181(b)(7), OJT and customized training contracts be required to include a provision guarantees that customized training funds or subsidies will not be used directly or indirectly to assist, promote or deter union organizing.

Response: We don't believe it is appropriate to mandate the inclusion of a particular provision in these contracts. However, we have specifically identified this prohibition in new §663.730 to ensure that this information is readily available to practitioners.

(p. # 49346, column 2)

Several commenters urged that we drop the requirements in §663.705 and 663.720, that in order for employed workers to be determined eligible for OJT and for customized training they must not be earning a self-sufficient wage as determined by the Local Board. The commenters observed that there is no specific wage criterion on OJT and customized training eligibility in WIA, and that it would limit customized training available for skill upgrading for new technology and new job skills noted in §663.720(c). The commenters believed that such a limitation on customized training could also affect the linkages with employers and economic development efforts.

Response: The Act, in sections 134(d)(3)(A)(ii) and (d)(4)(A)(i), provides that one of the eligibility criteria for intensive and training services for employed individuals is that they need such services in order to obtain or retain employment that allows for self-sufficiency. These criteria enable employed adults in entry level jobs to receive those services to initiate the steps toward a career or to obtain those skills necessary to improve their earning capacity in another job to assist them in attaining self-sufficiency. Therefore, no change has been made to the Final rule. However, this eligibility requirement does not apply to training provided as part of the Statewide workforce investment activities under 20 CFR 665.210(d), which provides for establishing and implementing innovative incumbent workers training programs.

Part 663—Adult and Dislocated Worker Activities Under Title I of the Workforce Investment Act

Subpart D—Individual Training Accounts

§663.430 Under what circumstances may mechanisms other than ITAs be used to provide training services?

(p. # 49405, column 2)

(a) Contracts for services may be used instead of ITAs only when one of the following three exceptions applies:

(1) When the services provided are on-the-job training (OJT) or customized training;

§663.440 What are the requirements for consumer choice?

(p. #49405, column 3)

(a) Training services, whether under ITAs or under contract, must be provided in a manner that maximizes informed consumer choice in selecting an eligible provider.

(b) Each Local Board, through the One-Stop center, must make available to customers the State list of eligible providers required in WIA section 122 (e). The list includes a description of the programs through which the providers may offer the training services, the information identifying eligible providers of on-the-job training and customized training required under WIA

section 122 (h) (where applicable), and the performance and cost information about eligible providers of training services described in WIA sections 122 (e) and (h).

Part 663—Adult and Dislocated Worker Activities Under Title I of the Workforce Investment Act

Subpart E—Eligible Training Providers

§663.595 What requirements apply to providers of OJT and customized training?

(p. #49409, column 1)

For OJT and customized training providers, One-Stop operators in a local area must collect such performance information as the Governor may require, determine whether the providers meet such performance criteria as the Governor may require, and disseminate a list of providers that have met such criteria, along with the relevant performance information about them, through the One-Stop delivery system. Providers determined to meet the criteria are considered to be identified as eligible providers of training services. These providers are not subject to the other requirements of WIA section 122 or this subpart.

NOTE: Governor has elected, at this time, to waive the requirements of collecting performance information and disseminating a list of eligible OJT and customized training providers

Part 663—Adult and Dislocated Worker Activities Under Title I of the Workforce Investment Act

Subpart G—On-the-Job Training (OJT) and Customized Training

§663.700 What are the requirements for on-the-job training (OJT)?

(p. # 49409, column 3)

(a) On-the-job training (OJT) is defined at WIA section 101(31). OJT is provided under a contract with an employer in the public, private non-profit, or private sector. Through the OJT contract, occupational training is provided for the WIA participant in exchange for the reimbursement of up to 50 percent of the wage rate to compensate for the employer's extraordinary costs. (WIA sec. 101(31)(B).)

(b) The local program must not contract with an employer who has previously exhibited a pattern of failing to provide OJT participants with continued long-term employment with wages, benefits, and working conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work. (WIA sec. 195(4).)

(c) An OJT contract must be limited to the period of time required for a participant to become proficient in the occupation for which the training is being provided. In determining the appropriate length of the contract, consideration should be given to the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's individual employment plan. (WIA sec. 101(31)C.)

§663.705 What are the requirements for OJT contracts for employed workers?

(p. # 49410, column 1)

OJT contracts may be written for eligible employed workers when:

(a) The employee is not earning a self-sufficient wage as determined by Local Board policy;

(b) The requirements in §663.700 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, workplace literacy, or other appropriate purposes identified by the Local Board.

§663.710 What conditions govern OJT payments to employers?

(p. # 49410, column 1)

(a) On-the-job training payments to employers are deemed to be compensation for the extraordinary costs associated with training participants and the costs associated with the lower productivity of the participants.

(b) Employers may be reimbursed up to 50 percent of the wage rate of an OJT participant for the extraordinary costs of providing the training and additional supervision related to the OJT. (WIA sec. 101(31)(B).)

(c) Employers are not required to document such extraordinary costs.

§663.730 May funds provided to employers for OJT of customized training be used to assist, promote, or deter union organizing?

(p. # 49410, column 2)

No, funds provided to employers for OJT or customized training must not be used to directly or indirectly assist, promote or deter union organizing.

Part 664—Youth Activities Under Title I Of The Workforce Investment Act

Subpart D—Youth Program Design, Elements, and Parameters

§664.460 What are work experiences for youth?

(p. # 49414, column 2)

(d) In most cases, on-the-job training is not an appropriate work experiences activity for youth participants under age 18. Local program operators may choose, however, to use this service strategy for eligible youth when it is appropriate based on the needs identified by the objective assessment of an individual youth participant. (WIA sec.129(c)(2)(D).)

Part 665—Statewide Workforce Investment Activities Under Title I of the Workforce Investment Act

Subpart B—Required and Allowable Statewide Workforce Investment Activities

§665.200 What are required statewide workforce investment activities?

(p. #49416, column 1)

Required Statewide workforce investment activities are:

(b) Disseminating:

(1) The State list of eligible providers of training services (including those providing non-traditional training services), for adults and dislocated workers;

(2) Information identifying eligible providers of on-the-job training (OJT) and customized training;

Part 667—Administrative Provisions Under Title I of the Workforce Investment Act

Subpart B—Administrative Rules, Costs and Limitations

§667.262 Are employment generating activities, or similar activities, allowable under WIA title I?

(p. #49427, column 2)

(a) Under WIA section 181(e), WIA title I funds may not be spent on employment generating activities, economic development, and other similar activities, unless they are directly related to

training for eligible individuals. For purposes of this section, employer outreach and job development activities are directly related to training for eligible individuals.

(b) These employer outreach and job development activities include:

- (1) Contacts with potential employers for the purpose of placement of WIA participants;
- (2) Participation in business associations (such as chambers of commerce); joint labor management committees, labor associations, and resource centers;
- (3) WIA staff participation on economic development boards and commissions, and work with economic development agencies, to:
 - (i) Provide information about WIA programs,
 - (ii) Assist in making informed decisions about community job training needs, and
 - (iii) Promote the use of first source hiring agreements and enterprise zone vouchering services,
- (4) Active participation in local business resource centers (incubators) to provide technical assistance to small and new business to reduce the rate of business failure;
- (5) Subscriptions to relevant publications;
- (6) General dissemination of information on WIA programs and activities;
- (7) The conduct of labor market surveys;
- (8) The development of on-the-job training opportunities; and
- (9) Other allowable WIA activities in the private sector. (WIA sec. 181(e).)

§667.268 What prohibitions apply to the use of WIA title I funds to encourage business relocation?

(p. #49428, column 1)

- (a) WIA funds may not be used or proposed to be used for:
 - (2) Customized training, skill training, or on-the-job training or company specific assessments of job applicants or employees of a business or a part of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation has resulted in any employee losing his or her jobs at the original location.

§667.270 What safeguards are there to ensure that participants in Workforce Investment Act employment and training activities do not displace other employees?

(p. #49428, column 2)

(a) A participant in a program or activity authorized under title I of WIA 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).

(b) A program or activity authorized under title I of WIA must not impair existing contracts for services or collective bargaining agreements. When a program or activity authorized under title I of WIA would be inconsistent with a collective bargaining agreement, the appropriate labor organization and employer must provide written concurrence before the program or activity begins.

(c) A participant in a program or activity under title I of WIA may not be employed in or assigned to a job if:

- (1) Any other individual is on layoff from the same or any substantially equivalent job;
- (2) 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 WIA participant; or
- (3) The job is created in a promotional line that infringes in any way on the promotional opportunities of currently employed workers.

(d) Regular employees and program participants alleging displacement may file a complaint under the applicable grievance procedures found at §667.600. (WIA sec.181.)

§667.272 What wage and labor standards apply to participants in activities under title I of WIA?

(p. # 49428, column 3)

(a) Individuals in on-the-job training or individuals employed in activities under title I of WIA 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.

(b) Individuals in on-the-job training or individuals employed in programs and activities under Title I of WIA must be provided benefits 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) Allowances, earnings, and payments to individuals participating in programs under Title I of WIA are not considered as income for purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or Federally assisted program based on need other than as provided under the Social Security Act (42 U.S.C. 301 et seq.). (WIA sec. 181(a)(2).)

Part 667—Administrative Provisions Under Title I of the Workforce Investment Act

Subpart F—Grievance Procedures, Complaints, and State Appeals Processes

§667.640 What additional appeal processes or systems must a State have for WIA program?

(p. #49432, column 1)

(b) Denial or termination of eligibility as a training provider. (1) A state must establish procedures which allow providers of training services the opportunity to appeal:

(iii) Denial of eligibility as a provider of on-the-job training (OJT) or customized training by a One-Stop operator under WIA section 122(h).

(2) Such procedures must provide an opportunity for a hearing and prescribe appropriate time limits to ensure prompt resolution of the appeal.

(3) A decision under this State appeal process may not be appealed to the Secretary.

(c) Testing and sanctioning for use of controlled substances. (1) A state must establish due process procedures which provide due process procedures which provide expeditious appeal for:

(i) WIA participants subject to testing for use of controlled substances, imposed under a State policy established under WIA section 181(f); and

(ii) WIA participants who are sanctioned after testing positive for use of controlled substances, under the policy describe in paragraph (c)(1)(i) of this section.

(2) A decision under this State appeal process may not be appealed to the Secretary.



WEST KENTUCKY WORKFORCE INVESTMENT BOARD
WIA TITLE I – On the Job Training (OJT)
CONTRACT OPERATIONS NOTICES AND REQUIREMENTS

Now, therefore, it is hereby and herewith mutually agreed by and between the parties hereto as follows:

1. The Second Party agrees to perform the services as hereinafter described with particularity as follows:
 - (1) Comply with the contents of the Employer handbook and contents of the signed agreements which are made a part hereof as if fully incorporated herein.
 - (2) Work to meet Program Performance Standards according to the proposal activities outlined in the signed agreements.
 - (3) Perform the function described with particularity in the approved Employer Master Agreement and Individual agreements with attached training outline. The approved training budget may only be modified within the limits of the prior written approval of the WKWIB board in conformity with the policies of the WKWIB/PeADD.
 - (4) Comply with the cost principles, definitions, rules and/or reporting requirements contained in any WKWIB Policy/Procedure Manual and with the administrative requirements of section 667.200 of the WIA regulations, as adopted into the State's administrative regulations, and referenced herein as if fully incorporated. Any copy shall be made available to all second party providers.
 - (5) Ensure that appropriate certification of eligibility forms have been completed by the WIA staff prior to the customer's entry into the program. Enrollment of a customer without proper eligibility certification may result in the immediate termination of the customer and repayment of all funds expended on the customer due to illegal participation.
 - (6) Submit training progress reports, financial status reports, employee payroll records and Invoices where applicable. Second Party shall, further, file any and all reporting forms on a periodic basis as detailed in the agreement with the WKWIB-PeADD, including but not limited to closeout information in a format approved and/or requested by WKWIB- PeADD. It is the further understanding of the parties, herein, that the Program Contract, herein, may be modified and amended by the WKWIB-PeADD.
 - (7) Maintain files of all supporting documentation and other written materials which relate to the delivery of service for a period of three (3) years after the termination date of this contract, such period to be automatically extended if the U.S. Department of Labor and/or WKWIB-PeADD audit findings pursuant to this

contract remain unsolved. Such records shall be made available upon request of the WKWIB-PeADD or its designee. The periods of access to and the examination of the records shall continue until all appeals, litigations, claims, or exceptions have been resolved.

- (8) Provide adequate training and supervision of the customers enrolled in the program.
- (9) Provide the WKWIB staff and the respective West Kentucky WIB area program office and/or one-stop office with information regarding any customer status change, possible terminations, project openings, or vacancies.
- (10) Assure that customers shall not be employed or trained on the construction, operation, or maintenance of so much of any facility as is to be used for sectarian instruction or as a place of religious worship.
- (11) Immediately report all job or training-related injuries and medical information to WKWIB-PeADD.
- (12) Not subcontract for any function described in the contract/nor assign hereunder, without express written approval of the WKWIB-PeADD.
- (13) Each party agrees and covenants it will be responsible for any and all losses, claims, expenses, actions, causes of action, costs, damages, and any obligations, final or otherwise, arising from any and all acts of its agents, employees or licensees hereunder that results in injury to persons, damage to property, or loss arising from performance of this contract, including negligence in the performance of any duties or responsibilities that each party has under this contract. The Second Party is subject to the limitations and conditions in KRS 44.070 (board of claims) et. seq. as it relates to state agencies.
- (14) Accept responsibility for any audit exception arising from its failure to comply with the terms of the contract including all regulations applicable to federally funded activities.
- (15) Submit the final invoice for services rendered under the contract no later than fifteen (15) days following the expiration date of the contract, unless a request for waiver of this deadline is submitted by the Second Party and approved by the WKWIB-PeADD thirty (30) days prior to the expiration date of the contract, accompanied by a signed statement from the Second Party that it is the final invoice and that no further billings will be sent to the WKWIB-PeADD relative to any cost for services under this Agreement.
- (16) Assure that the Second Party is responsible for the fulfillment of this contract with the WKWIB-PeADD whether or not subcontractors are used. Any use of subcontractors must have prior written approval of the WKWIB and the second party assures that the terms of the contract are binding upon all subcontractors; and

- (17) Assure that a grievance procedure is established and maintained for grievances or complaints about programs and activities from customers, sub-grantees, subcontractors, and other interested persons. Comply with grievance procedures as adopted by the WKWIB and established under the Workforce Investment Act of 1998, P.L.105-220 (29 USC 2801).
 - (18) Assure that all media releases and publicity concerning any funded program must clearly identify that such project is funded by the west Kentucky Workforce Investment Board with Workforce Investment Act (WIA) monies. Assure that all printed or audiovisual materials or presentations used for the promotion of programs paid wholly or in part with WIA funds must identify the enabling legislation (Workforce Investment Act), the Workforce Development Cabinet and West Kentucky Workforce Investment Board. Material used for the promotion of or the recruitment for programs paid wholly or in part with WIA funds must have prior approval of the WKWIB-PeADD.
 - (19) Agree to comply with the procedures as established by the WKWIB/PeADD, Workforce Development Cabinet, Department of Training and Reemployment
 - (20) Provide WIA customers with Worker's Compensation coverage in accordance with State Law, where applicable. Where customers are not required to be covered under State Worker's Compensation Law, they shall be provided with adequate on-site accident insurance. This customer's accident insurance coverage must be obtained prior to or at enrollment by the subcontractor. The WKWIB-PeADD may provide this upon request of the Second Party.
2. For the Second Party's performance of the function described hereinbefore, the WKWIB-PeADD agrees that payment shall be made as follows: Reimbursement of 50% of actual training wages in accordance with details of training documented in the Individual training agreement. Reimbursement shall be payable upon receipt of appropriate billing with documentation at the completion of the training period.

The Second Party shall maintain accounting records that are supported by source documentation.

3. In relation to this Agreement, WKWIB-PeADD agrees to perform the following functions:
- (1) Provide information, consultation and technical assistance to the Second Party.
 - (2) Monitor the activities of the Second Party for compliance with the provisions of this contract.
 - (3) Receive and review the Second Party's progress/activity reports and financial expenditures reports.
 - (4) Receiving, approving or disapproving and processing Second Party's invoices and/or inter-account forms for payment.
 - (5) Modifying the contract, as necessary, in accordance with the requirements contained in future legislation and regulations, Kentucky policy or WKWIB policy.

- (6) Providing appropriate forms to be used by Second Party in reporting any and all activities required by this contract or which may be required in the future of the Second Party by WKWIB-PeADD.
4. The Second Party's fee and expenses relative to the performance of the services described herein shall not exceed the total determined and noted in the Individual OJT Training agreement attached to the Employer Based Training (OJT) Master Agreement and the period within the current fiscal year in which the subject services are to be performed is noted in that document as well, being understood that this Agreement is not effective and binding until approved by the WKWIB-PeADD. Furthermore, the WKWIB-PeADD specifically reserves the right to modify and amend the contract in accordance with the "rate of expenditure" of Workforce Investment Area funds by the Second Party in accordance with fiscally responsible and accepted standards.
5. Payment by the WKWIB-PeADD to the Second Party shall be made by the method indicated in the detail portion of the individual training agreement, unless otherwise noted in the master agreement.
6. The parties of this Agreement are cognizant that the WKWIB-PeADD is not liable for Social Security contributions pursuant to Section 418, 42 U.S. Code, relative to the compensation of the Second Party during the period of this Agreement.
7. Either party shall have the right to terminate this Agreement for convenience at any time upon 30 days written notice served upon the other party by certified or registered mail with return receipt requested; provided, however, that the WKWIB-PeADD may terminate this Agreement immediately for cause upon written notice served upon the Second Party by registered or certified mail with return receipt requested.
8. If, through any cause, the Second Party shall fail to fulfill in a timely and proper manner his obligations under this contract, or if the Second Party shall violate any of the covenants, agreements, or stipulations of the contract, which might constitute a "failed contract", the WKWIB-PeADD shall thereupon have the right to terminate this contract, by giving written notice to the Second Party of such termination and specifying the effective date thereof, at least five days before the effective date of such termination.

In such event, all finished or unfinished documents prepared by the Second Party under this contract shall at the option of the WKWIB-PeADD become its property and the Second Party shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Failure to fulfill, in a proper manner, obligations under this contract shall extend with specifically to, but shall not be limited to, slots/service levels of WIA customers and performance requirements. Failure of fulfillment in these and other covenants, agreements, or stipulations of the contract may result in reduced payments of expenditures to the provider if not executed as described above.

Notwithstanding the above, the Second Party shall not be relieved of liability to the WKWIB-PeADD for damages sustained by the WKWIB-PeADD by virtue of any breach of the Contract by the Second Party, and the WKWIB-PeADD may withhold any

payments to the Second Party for the purpose of setoff until such time as the exact amount of damages due the WKWIB-PeADD from the Second Party is determined.

Any necessary debt collection shall be pursued through reimbursement, and in accordance with the Workforce Investment Act.

9. FINANCIAL MANAGEMENT SYSTEM (APPLICABLE ONLY TO CONTRACTS WHERE REIMBURSEMENT IS BASED UPON ACTUAL, ALLOWABLE COSTS)

The Second Party agrees to establish and/or maintain a financial management system, which shall provide for:

- (a) Accurate, current, and complete disclosure of the financial results of the functions/services performed under this contract in accordance with any WIA Financial Management Guides.
- (b) Records that identify the source and application of funds for activities/functions/services performed pursuant to this contract. These records shall contain information pertaining to federal and/or state funds received, obligations and expenditures;
- (c) Procedures for determining reasonableness, allowability, and allocability of costs in accordance with provisions of Public Law 105-220, (29 USC 2801 et. seq. 12 Stat. 936), the Workforce Investment Act of 1998; and OMB Circulars A-87, A-102, A-110 and A-122; and, the official registration once promulgated; and,
- (d) Accounting records that are supported by source documentation.

The Second Party agrees that these requirements shall also be applicable to subcontractors and that subcontractors (if applicable) shall be required to report to the Second Party in a manner that will meet the Second Party's reporting requirements to WKWIB-PeADD.

10. MISCELLANEOUS PROVISIONS

- a. The Agreement between WKWIB/PeADD and Second Party may not be altered, changed, amended or rescinded, in whole or in part, except by subsequent written instrument properly signed and executed by the duly authorized representatives of the parties hereto.
- b. All program functions, program techniques, goals, and expectations of the program that is the subject of this agreement shall be defined and measured in terms of those definitions set out in the employer handbook attached hereto and/or incorporated by reference as though fully set out herein.
- c. This agreement is contractual in nature, is not unconscionable, and is legally binding on and shall inure" to the benefit of the respective parties including their legal representatives, successors and assigns.



WEST KENTUCKY WORKFORCE INVESTMENT BOARD
WIA TITLE I – On the Job Training (OJT)

WORKFORCE INVESTMENT ACT OF 1998
ASSURANCES AND CERTIFICATIONS

1. Use of funds provided through this grant will be in accordance with the Act, applicable regulations and any amendments thereto as approved by the Secretary, U.S Department of Labor.
2. Training services under this grant will be provided only to eligible youth, adults and dislocated workers.
3. Services will not be denied on the basis of residence to eligible participants.
4. The project design will reflect full consultation with each local labor organization(s) representing 20% or more of the workers affected by the layoff(s) covered by this Act.
5. Training will only occur in occupations with a demand for workers.
6. Each contract for on-the-job training will comply with the provisions of the Act.
7. The Second Party will conduct at least once annually a comprehensive review and verification of financial management, procurement systems, participant data, and sub-recipient monitoring procedures and systems for the project operator.
8. Assures all participants a safe work place and assures that where participants are engaged in activities, not covered under the Occupational Safety and Health Act of 1970, as amended, they shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions in which are unsanitary, hazardous, or dangerous to the participants health and safety.
9. Assures compliance with the Nondiscrimination and Equal Opportunity Requirements of the Act as follows:
 - a. Agrees not to discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, or age.
Will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, or age. Such action shall include, but is not limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
Agrees to post in a conspicuous place, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

- b. Will, in all solicitations or advertisements for employees placed by or on behalf of the Second Party, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, or age.
- c. Will send to each labor union or representative of workers with which he collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Second Party's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Second Party will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.
- d. Will comply with all provisions of Executive Order No. 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60), and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to the books, records, and accounts by the administering agency and the Secretary of Labor for the purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- e. In the event of the Second Party's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the Second Party may be declared ineligible for further government contracts or federally-assisted construction agreements in accordance with procedures authorized in Executive Order No. 11246 of 24 September 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60), and such other sanctions may be imposed and remedies invoked as provided in said Executive Order or by rule regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- f. The Second Party will include the provisions of paragraphs (1) through (7) of Section 202 of Executive Order No. 11246 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor, issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60) as amended, so that such provisions will be binding upon each subcontractor or vendor. The Second Party will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

- g. Agrees to comply with all applicable federal and state laws and regulations pertaining to the recognition and protection of the civil rights of persons to whom services are rendered and to applicants for such services during the performance of this contract.
- h. Agrees to comply with the provisions of Section 504 of the Rehabilitation Act of 1973, P.L. 93-112, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified individuals with disabilities under any program or activity receiving federal financial assistance.
- i. Agrees to comply with the provisions of the Americans with Disabilities Act of 1990, P.L. 1010-336.
 - As a condition to the award of financial assistance under WIA from the Department of Labor, the grant applicant assures, with respect to operation of the WIA-funded program or activity and all agreements or arrangements to carry out the WIA-funded program or activity, that It will comply fully with the nondiscrimination and equal opportunity provisions of the Workforce Investment Act of 1998, as amended, including the Nontraditional Employment for Women Act of 1991; Title VI of the Civil Rights Act 1964, as amended; the Age Discrimination Act of 1975, as amended; and with all applicable requirements imposed by or pursuant to regulations implementing those laws. The United States has the right to seek judicial enforcement of this assurance.
- j. As a condition to the award of financial assistance from the Department of Labor under Title 1 of WIA, the Second Party assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following Laws:
 - Section 188 of the Workforce Investment act of 1998 (WIA), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work In the United States or participation in any WIA Title 1—financially assisted Program or activity;
 - Title VI of the Civil Rights act of 1964, as amended, which prohibits discrimination on the basis of race, color and national origin;
 - Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
 - The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
 - Title IX of the Education amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The Second Party also assures that it will comply with 29 CFR part 37 and all other regulations implementing the laws listed above. This assurance applies to the Second Party's operation of the WIA Title 1-financially assisted program or activity, and to all agreements The Second Party, makes to carry out the WIA Title 1-financially assisted program or activity. The Second Party understands that the United States has the right to seek judicial enforcement of this assurance.

The Second Party agrees to require each subcontractor to include the above assurances in applications for sub-grants and to include the assurances in all sub-grant agreements under this MOA.

10. Certification on Lobbying: The Second Party certifies, to the best of his or her knowledge and belief, that for the preceding contract period, if any, and for this current contract period:
 - a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement
 - b. If any funds, other than federally appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL- "disclosure Form to Report Lobbying," In accordance with its instructions.
 - c. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.
 - d. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed under section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for such failure.
11. The Second Party hereby certifies the following regarding debarment, suspension, ineligibility, and voluntary exclusion, lower tier covered transactions:

- a. That neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this transaction by any federal department or agency.
 - b. Where the prospective recipient of federal assistance funds is unable to certify to any of the statements in this certification, such prospective participant shall submit an explanation to the Cabinet.
12. The Second Party agrees to comply with provisions of Public Law 100-690, Title V, Section D in providing a drug-free workplace. (41 USC §701).
13. The Second Party agrees to establish and/or maintain a financial management system which complies with 29 CFR Part 97, Uniform Administrative Requirements for Grants and Cooperative Agreements.
14. Access to and Maintenance of Records:
 - a. The Second Party agrees that the Cabinet and/or the federal grantor agency, the Comptroller General of the United States and/or the Kentucky Auditor of Public Accounts, and/or any of their duly authorized representatives or agents including independent auditors, shall have access to any books, documents, papers, and records of the Second Party which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcriptions and for monitoring end evaluation purposes.
 - b. The Second Party agrees to permit staff of the Cabinet, persons acting for the Cabinet, and/or staff designated by appropriate federal agencies, to monitor and evaluate services being performed. The Second Party also agrees to submit all records and documentation of service provisions in regard to subcontracted services when requested for monitoring purposes.
 - c. The Second Party agrees to assure the confidentiality of all information, whether written or verbal, provided by or about any client seeking or receiving services under this agreement except as approved and authorized in writing by the client, or as otherwise authorized by law in accordance with the provisions of the Privacy Act of 1974, P.L. 93-579 (5 USC 552a). The cabinet and all other State agencies will comply with Kentucky Revised Statutes, KRS 61.870-61.884, regarding the release of public records in their possession.
 - d. The Second Party agrees to maintain all records pertaining to this contract for a period of not less than three (3) years after all matters pertaining to this contract (I.e.. audit settlement of audit exceptions, disputes) are resolved in accordance with applicable federal and/or state laws, regulations, and policies (except as may otherwise be specified in this contract).
 - e. The Second Party agrees to maintain written personnel procedures and policies including salary, conditions of employment, and job descriptions relative to all personnel including those whose services are contracted for or otherwise secured by process other than direct employment. Time sheets are required for all staff and participants.

- f. The Second party agrees to maintain records sufficient to identify the results of the service provided each individual and for use in evaluating the effectiveness of the total program.
 - g. The Second party agrees to maintain a management information system in accordance with guidelines prescribed by the Governor, designed to facilitate the uniform compilation and reporting, monitoring, and evaluating purposes.
15. Conflict-of-Interest Laws and Principles: The Second Party hereby certifies by his signature hereinafter that he is legally entitled to enter into the subject CONTRACT with the Commonwealth of Kentucky and certifies that he is not and will not be violating either directly or indirectly any conflict of interest statute (KRS 45A.330—45A.340, 45A.990, 164.390, 210.110, 210.990(1), or any other applicable statute) or principle by the performance of this contract.
16. Choice of Law and Forum Provisions: All questions as to the execution, validity, interpretation, and performance of this contract shall be governed by the laws of the Commonwealth of Kentucky. Furthermore, the parties hereto agree that any legal action which is brought on the basis of this contract shall be filed in the Franklin County Circuit Court of the Commonwealth of Kentucky.
17. WIA Marketing/Media Releases: The Second Party attests to and agrees to comply with the Act and the policies of the Cabinet regarding all WIA Marketing/Media Releases. All media releases must be submitted to the Department for Training and ReEmployment (DTR) prior to release.
18. Extensions/Amendments: The terms and conditions of this agreement may be extended or amended at any time by mutual contract of the parties in writing.
19. Termination:
- a. Either party shall have the right to terminate this agreement for convenience at any time upon thirty (30) days written notice. Either party may terminate this agreement immediately for cause upon written notice.
A final Invoice or cash report must be submitted within forty-five (45) days of the written notice.
 - b. For the duration of this contract, the Second Party shall be in continuous compliance with the provisions of KRS Chapters 136 (corporation and Utility Taxes), 139 (Sales and use Taxes), 141 (income Taxes), 337 (Wages and Hours), 338 (Occupational Safety and health of Employees), 341(unemployment compensation) and 342 (Workers' Compensation), which apply to the Second Party's operations. Pursuant to KRS 45A.485, the Second Party's failure to reveal a final determination of a violation of KRS Chapters 136,139, 141, 337, 338, 341 and 342, or failure to comply with the above cited statutes for the duration of this contact, shall be grounds for The 'West Kentucky Workforce Investment Board's' (WKWIB) cancellation of this contract, and the Second Party's disqualification from eligibility to bid or submit proposals to the WKWIB for a period of two (2) years.

20. The official name for the nationwide system of providing employment and training through the Workforce Investment Act partnerships and various other federally-sponsored programs is "America's Workforce Network". To achieve the goals of this grant, it is important that the public has a quick and easy method of identifying that the projects or programs they are taking part in are part of "Americas Workforce Network." To provide this information to the public, the Grantee agrees to place the "Americas Workforce Network" logo, in accordance with the Departments guidelines for such use, on all public materials such as statements, press releases, brochures, advertisements, reports, and other documents describing projects or programs funded in whole or in part with Federal money, pursuant to DOL guidance on the usage of the AWN logo. The Grantee shall not use the "Americas Workforce Network" logo in any manner that would imply that the Department of Labor endorses a commercial product, service, or activity or that material of a nonofficial nature represents the Department of Labor.
21. The parties hereto agree that performance of this contract shall comply with:
- a. Executive order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 6C).
 - b. The Copeland "Anti-Kickback Act (18 U.S.C. 274) as supplemented in Department of Labor regulations (20 CFR Part 3).
 - c. The Davis-Bacon Act (40 U.S.C. 276A-7) as supplemented by Department of Labor recruitment regulations (20 CFR Part 5).
 - d. Sections 103 and 107 of the Contract work Hours and Safety Standard Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5).
 - e. Notice of awarding agency requirement and regulations pertaining to reporting.
 - f. All applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368) Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).
 - g. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and conservation Act (Pub. L. 94—163, 89 Stat 8710).
22. The Parties hereto further agree to:
- a. Adhere to the awarding agency's requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of, or under, this contract.

- b. Assure that if any copyright material is developed In the course of or under this contract, the Second Party is free to copy right the material or permit other to do so and the agency shall have a royalty free, non-exclusive, and irrevocable right to reproduce, publish or otherwise use, and to authorize other to use the work for its purposes.
- c. Grant access by the grantee, the sub grantee, the Federal grantor agency, the Comptroller General of the United States or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to this specific contract for the purpose of making audit, examination, excerpts and transcriptions.
- d. Retain all required records for three (3) years after grantees or sub grantees make final payments and the pending matters are closed.

23. Considerations

- a. Payments on personal service contracts and memorandum of agreements shall not be authorized for services rendered after government Contract Review Committee disapproval, unless the decision of the committee is overridden by the Secretary Of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the Secretary.

24. In the event the Second Party is legally prohibited from entering into an indemnity agreement, the Second Party shall hold the Pennyriple Area Development District harmless from and all loss, claims, expenses, actions, causes of action, costs, damages and obligations arising from any and all acts of the Second Party, its agents, employees, licensees, invitees, or participants that result in injury to persons, damage to property or loss arising from performance of this sub grant agreement, as those injuries, damages or losses related to any persons, corporations, partnerships, or another entity; from any and all liability, loss or damage.

25. Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract: The Contractor as defined in KRS 45A.030(7) agrees that the contracting agency, the Finance end Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence provided to the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, or the Legislative Research Commission which are directly pertinent to the contract shall be subject to public disclosure regardless of the proprietary nature of the information, unless specified information is identified and exempted and agreed to by the Secretary of the Finance and Administration Cabinet as meeting the provisions of KRS 61.878(1) prior to the execution of the contract. The Secretary of the Finance and Administration Cabinet shall not restrict the public release of any information which would otherwise be subject to public release if a state government agency was providing the services.



WEST KENTUCKY WORKFORCE INVESTMENT BOARD
WIA TITLE I – On the Job Training (OJT)
CONTRACT MONITORING CHECKLIST

Employer _____

Master Contract #: _____

Contractor Documentation

Fiscal Monitoring Review

Check that the Contractor maintains records, documents and other evidence of accounting procedures and practices to validate invoices for payment which, at a minimum, include:

		Yes	No	NA
1.	Hours worked per day during trainee's training period (Time/Attendance Records).			
2.	Gross net wages paid trainee for negotiated training period (Payroll Registers).			
3.	Trainee's receipt of wages paid.			
4.	Documentation of Trainee's written consent, or proof of garnishment, for all withholdings or deductions from wages.			
5.	Proper deposit of federal and state income taxes and Social Security withholding as well as other withholdings.			
6.	Coverage by State Worker's Compensation, or approved liability insurance, for injuries suffered by trainee on the work/training site or in the execution of Contractor training and work-related activities off site.			
7.	The reimbursement requested is only for actual hours of training, excluding Holiday, vacation, and sick leave (verification against the time/attendance records and payroll registers).			

Trainee Records Review

		Yes	No	NA
8.	The hourly rate of \$_____ paid to trainee is not less than agreed to in contract.			
9.	The training outline is properly documented as to the skills needed to perform the job and the training is consistent with the training outline.			
10.	Is the trainee given a report of progress of training outline? At what points in training is progress report given. _____			
11.	If lack of performance or conduct, is the trainee given reasonable opportunity to improve?			
12.	If trainee has been terminated is there a Reason for Termination in the trainee's file? If for cause, what? _____			

Collective Bargaining Review

		Yes	No	NA
13.	Does the Contractor have a collective bargaining agreement?			
14.	If 13, yes, was labor consulted prior to executing the OJT contract?			
15.	If 13, yes, does the contract have written concurrences of labor organizations?			
16.	Is there any evidence that the contract might impair collective bargaining agreements?			

Other Monitoring Areas

		Yes	No	NA
17.	Davis-Bacon—If Contractor’s project is federally assisted, are employer’s “paid wages at rates not less than those prevailing or similar construction in the locality?”			
18.	Benefit Working Conditions—Does the Contractor provide trainee(s) with benefits and working conditions at the same level and to the same extent as other employees of the Contractor working a similar length of time and doing the same type of work as trainee(s)?			
19.	Non Discrimination—Has any individual been excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of race, color, religion, sex, national origin, age, handicap, or political affiliation, or belief? That with respect to terms and conditions affecting, or rights provided to trainee(s) are not discriminated against solely because of their status as a trainee(s).			
20.	Impairment of Existing Employment—No current employee of Contractor has been displaced by the employment of trainee(s), including partial displacement such as a reduction in the hours of non-overtime work wages or employment benefits. Contractor warrants, covenants, and affirms that no other individual is on layoff from the same or any substantially equivalent job as that filled by trainee(s) and that Contractor has not eliminated the employment of any regular employee or otherwise reduced its work force with the intention of filling the vacancy so created by hiring trainee(s).			
21.	Health and Safety Standards—The conditions of employment and training meet all applicable health and safety standards established under state and federal laws regarding working conditions of employees.			

Employer

Name of Trainee(s) _____

(If needed attach a listing of trainees)

Monitored On Site by Staff _____

Signature _____ Date _____