

WORKFORCE INVESTMENT BOARD OF TULARE COUNTY  
AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)  
NATIONAL EMERGENCY GRANT (NEG)

DATE: 11/14/12

**SUBJECT:**  
On-the-Job Training (OJT)  
National Emergency Grant  
NEG Project

**TUL 12-04**

**TO:** One-Stop Operators  
WIB Staff

**SUBJECT:** ON-THE-JOB TRAINING NATIONAL EMERGENCY GRANTS REQUIREMENTS

**EXECUTIVE SUMMARY:**

**Purpose:**

The Workforce Investment Act (WIA) requires local Workforce Investment Boards to transmit State policy and procedures applicable to the development and management of On-the-Job Training (OJT) activities. This directive sets forth the local policy and procedures that govern NEG OJT activities.

**Scope:**

This directive applies to all recipients who were awarded American Recovery and Reinvestment Act (ARRA) funded OJT NEG grant.

**Effective Date:**

This directive is effective on the date of issuance.

**REFERENCES:**

- Workforce Investment Act (WIA) Sections 101(9) and (31), 173, 181(a)(1)(A), and 189(i)
- ARRA of 2009 (Public Law 111-5)
- Title 20 Code of Federal Regulations Parts 661, 663, 667.270, and 671
- Department of Labor (DOL) Training and Guidance Letter (TEGL) 4-10, OJT NEGs Funded with ARRA Resources (August 6, 2010)
- TEGL 1-09, Reporting Requirements under Section 1512 of ARRA, Changes 1 and 2 (August 14, 2009)
- TEGL 24-08, WIA and Wagner-Peyser Act Performance Accountability Reporting for ARRA (May 21, 2009) TEGL 19-08, NEGs Funded with ARRA Resources (April 30, 2009)
- Training and Employment Notice 38-09, ARRA OJT NEGs (April 12, 2010)
- Grant Officer's Participant Eligibility Clarification Memo (August 13, 2010)
- On-the-Job Training NEG WSD10-12 (December 16, 2010) 69:52:ab:14050
- Workforce Investment Board of Tulare County Directive TULWIBD-10-06

**STATE-IMPOSED REQUIREMENTS:**

This document contains one State-imposed requirement. This requirement is indicated by ***bold italic*** type and locally imposed requirements are in **bold type only**.

**FILING INSTRUCTIONS:**

This directive supersedes WIB Directive TULWIBD 10-11 dated February 16, 2011.

## **BACKGROUND:**

National Emergency Grants are discretionary grants awarded by the Secretary of Labor under WIA Section 173 to provide employment-related services for dislocated workers. They are intended to temporarily expand service capacity at the state and local levels by providing time-limited funding assistance in response to significant dislocation events. Significant events include plant closures and mass layoffs which create a sudden need for assistance that cannot be accommodated within the ongoing operations of the dislocated worker program, including statewide activities and Rapid Response funds. The Secretary of Labor has recognized the impact of the current recession on the national workforce as a significant dislocation event for purposes of authorizing one-time ARRA-funded assistance.

On June 25, 2010, Secretary of Labor Hilda Solis announced \$75 million in ARRA funded OJT NEGs to 41 states to provide workers affected by layoffs with OJT opportunities. California received nearly \$10 million of the \$75 million. The funds were provided to those areas of the country most severely impacted by the recession, with a focus on creating OJT opportunities for dislocated workers. The following 20 local areas were awarded OJT NEG funds:

Merced County, North Central Counties Consortium, Tulare County, Stanislaus County, Richmond City, Kern/Inyo/Mono Counties, Oakland City, Madera County, Monterey County, NoRTEC Consortium, Santa Cruz County, San Bernardino County, Los Angeles County, Sacramento City/County, San Jose City, Solano County, Anaheim City, Golden Sierra Consortium, Los Angeles City, and Long Beach City.

## **POLICY AND PROCEDURES:**

**In addition to OJT NEG ARRA statewide policy, One-Stop Operators must apply the local Workforce Investment Board of Tulare County OJT Directive TUL 1207 to NEG OJT's.**

### **Participant Eligibility Criteria**

In order to qualify for program participation with OJT NEG funds, a person must meet the following requirements:

1. Meet the definition of a dislocated worker as defined at WIA Section 101(9),
2. Must have been laid off after January 1, 2008, and
3. Must meet the definition of "prolonged unemployed." For the purposes of California's OJT NEG Project, "prolonged unemployed" refers to those dislocated workers who have been unemployed beyond California's average Unemployment Insurance (UI) duration of 21.5 weeks. (Note: The number of weeks unemployed is the important indicator, not the UI status. Therefore, an individual not covered by UI may still be considered prolonged unemployed if the period of unemployment exceeds the State's average UI duration.)

### **Participant Priority of Service** (State)

**Grant priority of service to OJT NEG eligible participants as follows:**

- ***First priority: Individuals not covered by UI and unemployed for 99 weeks or longer after January 1, 2008. Participants with the greatest barriers to employment receive priority of service.***
- ***Second priority: Individuals who have been unemployed and/or receiving UI benefits and meet the definition of prolonged unemployed (i.e., have been unemployed for 21.5 weeks or longer).***

(Note: Veterans are to receive the highest priority of service among all OJT NEG eligible participants.)

### Veteran Priority of Service

**Priority of service for veterans and eligible spouses requires program operators to give first consideration for participation in a program to those veterans and eligible spouses who meet the eligibility criteria for the program TEGL 4-10 Sec. 7.**

- a) **Dislocated Worker eligibility criteria (WIA Section 101 (9) defines the term dislocated worker as meets one of the four dislocated worker categories)**
- b) **Unemployed on or after Recession Date: 1/1/08**
- c) **Prolonged Unemployment (21.5 weeks)**

### Employer Eligibility Criteria

OJT positions cannot be developed with employers in the following circumstances:

- Casinos or other gambling establishments, swimming pools, aquariums, zoos, or golf courses (ARRA requirement),
- Public sector employers,
- Employers that have relocated all or part of their business within the previous 120 days where the relocation action has resulted in the loss of employment of any employee at the original location

Additionally, a participant may not be placed in an OJT slot if:

- (1) Any other individual is on layoff from the same or any substantially equivalent job;
- (2) The employer has terminated the employment of a regular employee with the intention of filling the vacancy with an OJT participant; or
- (3) The OJT position infringes on the promotional opportunities of currently employed workers.

Note: The prohibition on displacement may also include a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits of any current employee.

Safeguards to prevent the displacement of incumbent workers must also be in place ensuring the appropriate ratio of current employees to trainees, and ensuring that employers have not reduced their workforce via lay-offs during the six months prior to program participation.

Employers selected to provide OJT's must:

- **On-the-Job Training must be within the six high growth industry sectors adopted by the Workforce Investment Board of Tulare County.**
- Have an identifiable job with necessary equipment, materials, and supervision to perform the training
- Be an official business with appropriate licenses
- Have insurance coverage (**verified workers compensation insurance**)
- Have federal and state tax identification numbers
- Sign a contract with the respective local area which commits them to remain in compliance with training plans and monitoring guidelines
- Have an accounting system that allows for the tracking of OJT employee salaries and invoicing procedures
- Be looking to expand and hire the employee full-time after the training term is completed

- Provide training at prevailing wages

Reverse referrals (when an employer with a hiring need sends an individual to the One-Stop Career Center for an eligibility determination and then hires the individual on an OJT contract) are allowable. However, all of the conditions of this OJT NEG directive must be met.

### **OJT Contract Requirements**

**OJT NEG contracts will be developed on the OJT Contract Form WIB-6 (07/10/12), which meets the requirements below.**

At a minimum, OJT contracts must include the following information:

- A description of the occupations for which training is to be provided
- The length of time the training will be provided (limited to six months)
- The wage rate to be paid to the trainee
- The rate of reimbursement to the employer and the maximum amount of reimbursement to be paid
- A training outline that includes the work skills and competencies to be learned and describes any separate classroom training that may be provided
- Employer's agreement to maintain and make available accurate and complete time and attendance, payroll and other records to support amounts claimed by the employer for reimbursement under the contract
- Employers agreement to document skills gained during the training period

### **OJT Duration Limit**

**The duration of an OJT contract may be expressed as a number of hours, days, or weeks the participant is expected to work during the contract period, if the participant is expected to work full-time. "Full-time" should be based on standards/definitions for the job or industry. If such standard definition does not exist or cannot be found, you may use the federal Bureau of Labor Statistics (OES) code, taking into consideration the employer's training plans.**

**The One-Stop Operator (OSO) shall base the average training time needed for various occupations on the appropriate Occupational Information Network (O\*NET), a standardized resource of occupational information. The OSO will take into consideration the employer's training plans and the participant's skills gap. 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 occupational skill level of the participant, prior work experience, and the participant's individual employment plan §663.700 [101(31)(C)]. In no case shall an individual who is fully skilled in an occupation be placed in an OJT in that occupation. The type(s) and length, as well as the basis or rationale for the OJT, will be recorded on each customer IEP. OJT contracts may not be developed for fewer than 160 hours.**

Employers participating in the OJT NEG project may be reimbursed a percentage of an individual's wage rate for no longer than six months. Additionally, individuals may not be co-enrolled in other DOL Employment and Training Administration programs (such as WIA formula funds, WIA 15 Percent and 25 Percent funds) for the purpose of extending their OJT beyond six months. Employers who require less time to train OJT participants should be encouraged to transition participants to permanent employment as soon as possible.

## Training Reimbursement

**If it is determined through the objective assessment that an individual needs an extended training period beyond the suggested Specific Vocational Preparation (SVP) level, training hours may be extended to meet the trainee and employers' skill requirement.**

Local areas may use the OJT NEG grant funds to reimburse employers for the extraordinary cost of training OJT participants. The negotiated reimbursement percentage may be as high as 90 percent of the participant's hourly wage (subject to the wage cap) based on the following employer size:

**However, the Workforce Investment Board of Tulare County will utilize up to 75 percent reimbursement rate for ALL employers to serve participants where the employer pays an hourly wage of \$10 per hour or higher and has 250 employees or less at the participants' training site within the WIB's industry sectors. Because funding is limited, the 90 percent rate described below for employers with 50 or fewer employees will not be used in Tulare County.**

1. Up to 90 percent of the participant's wage rate for employers with 50 or fewer employees;
2. Up to 75 percent of the participant's wage rate for employers with 51-250 employees; and
3. Up to 50 percent of the participant's wage rate for employers with more than 250 employees. [Note: This flexibility is independent of California's waiver of WIA Section 101(31) (B) approved for PY 2010-11.] See WIA WSD10-10, WIA Statewide Waivers and Extension of State Plan for PY 2010-11, for more information.

(Note: Employer size is based on the employment at the company's local operation where the OJT placements will be made. For instance, a hotel chain that employs thousands nationwide, but only 40 at its company in the targeted region, may be eligible for reimbursement up to 90 percent. In addition, the percentage of reimbursement for OJT participants is based on the employer size prior to the hiring of any OJT NEG participants.)

If the results of the skills gap analysis indicate a large gap between the skills needed by the employer and the skills of the individual which would require extraordinary training, local areas may use the skills gap reimbursement method. A sliding scale up to 90 percent may be used to reflect the degree of the individual participant's skills gap. Local areas will need to ensure proper documentation of the exceptional need for this type of reimbursement rather than the employer size.

The training reimbursement percentage is applied against the participant's wage rate, unless the wage rate exceeds California's average hourly rate of \$23.82. In that case, the training reimbursement cannot exceed California's average hourly rate of \$23.82 per hour. In establishing the hourly rate, employers are required to compensate OJT participants at the same rate as trainees or employees who are in similar occupations with the same employer and who have similar training, experience and skills [WIA 181(a)(1)(A)].

## Wage Cap

- **Employers may elect to pay participants more than the California State Average Wage \$23.82, however, the employer cannot receive a reimbursement rate that exceeds 75 percent of the state's average hourly rate \$23.82.**
- **If the job pays less than the capped level for similar work, the OJT wages and training reimbursement should be based on this lesser level.**

- The OJT employee should not be paid more simply because the California State Average Wage makes available a higher reimbursement threshold.

### **Skills Gap Analysis**

The Task Oriented Training Plan NEG OJT Curriculum (See Exhibit A) shall be developed in coordination with the objective assessment, interview with participants to determine transferable skills and skills gap, O'NET, SVP matrix, and employer's requirements.

Section B of the TOTP must identify individual's skills gap to determine length of training required. If the participant is determined not to possess skills gap for the occupation, an OJT is not warranted, and therefore will not be necessary. Individual duration of training must be based on the participant's need to gain the necessary skills required by the employer.

Before a participant is considered for on-the-job training, the WorkKeys assessment must be completed and the individual must meet the scores for the occupation for which the individual is to be trained. WorkKeys levels for the occupation and the individual's scores are to be included in the OJT justification.

The job developer will conduct a skills gap analysis of the participant based on the employer requirements necessary to perform the required job duties utilizing the following career guidance tools and skills inventories to develop a training plan with the employer.

- Before a participant is considered for On-the-Job training, a WorkKeys assessment must be completed and the individual must meet the scores for the occupation for which the individual is to be trained. If the individual does not meet the required WorkKeys levels for the desired occupation, staff will offer Key Train to assist the individual in raising their scores prior to entering training.
- Career Explorer/ Employment Connect ([www.employmentconnect.org](http://www.employmentconnect.org)) Participants must complete the Match Your Skills Inventory to identify skills he/she possesses and match them with a career or occupation. Career Explorer will provide a list of occupations which match the participant's skills they possess and provide a detailed summary report for each occupation from O\*NET. In addition to a side-by-side list of skills the individual has and list of skills needed for occupations matching some or all of their skills
- O\*NET program is the nation's primary source of occupational information. Central to the project is the O\*NET database, containing information on hundreds of standardized and occupation-specific descriptors. The database also provides the basis for Career Exploration Tools, a set of valuable assessment instruments for workers and students looking to find or change careers. The Occupational Information Network (O\*NET) is being developed under the sponsorship of the US Department of Labor/Employment and Training Administration (USDOL/ETA) through a grant to the North Carolina Employment Security Commission.
- Prove It! - is an additional online resource, which provides specific data on the skill level of the participant for a specific job or task, which identifies participant knowledge and skills gap. Prove It! - is available online for One-Stop Operator staff and should be marketed to employers and used to measure participant skills as needed.

### **Skills Attainment**

Local areas should track the progress of the OJT participants through scheduled performance reviews. The reviews, scheduled monthly, should be conducted to ensure that the participant is making progress during the training phase of the OJT. **One-Stop Operators will track participant's progress at a minimum of once a month and case note participant progress in EmploymentConnect.org case management system. If issues or concerns arise during the training period, staff shall indicate in the case notes the steps taken to resolve issues or concerns with the employer and participant. If the participant is not retained, OSO staff will continue to make every effort to assist the participant to obtain training related employment.** A variety of tools to monitor the progress should be used including, but not limited to, onsite visits, employer evaluation, and employee self evaluation. Employers should complete a survey upon completion of the OJT for the client which will further measure if the client has attained the necessary skill and experience as stated in their training plans to be successful in the workplace and potentially be hired in unsubsidized positions with the employer.

**First, OJT training opportunities must be developed where there is a job opening and the participant is retained when he/she successfully completes and meets the employer's expectations. However, it is understood that on occasion, a participant may not be retained due to unexpected circumstances not related to performance. Upon completion of the OJT, OSO staff must document participant progress in the case notes and whether he/she was retained by the employer. The Task Oriented Training Plan NEG OJT curriculum established for the position lists the skills required by the position, skills attained, training hours and follow-up rating. Upon completion of the OJT, the Employer shall sign the TOTP NEG OJT Curriculum to certify that the OJT participant has achieved the training elements.**

Certificates of attainment should be issued to OJT participants who successfully complete the curriculum established for their position. The **TOTP NEG OJT Curriculum** should be negotiated between the OJT agent/contractor, employer, and at times the employee. Additionally, it should align with the skills, abilities, and knowledge identified in the Occupational Information Network (O\*NET) Classification Directory. Each curriculum should be incorporated into and made a part of the OJT agreement with the employer. The employer should certify that the OJT participant has achieved the elements of the curriculum. Employer certification may be either a signed standardized form listing the elements of the curriculum, a letter, or a written statement indicating that the elements of the curriculum have been achieved. Most of the OJT certificates of attainment are recognized by the local areas as credentials for purposes of the WIA.

**Performance Goals**

Local areas participating in this OJT NEG are expected to meet or exceed the State's targeted performance goals. The Program Year (PY) 2009 target performance goals agreed upon for California's WIA dislocated worker (DW) program and for this OJT NEG project are as follows:

<b>Performance Goal</b>	<b>WIA DW PY 2009</b>	<b>ARRA OJT NEG</b>
Entered Employment Rate	67.3%	75%
Employment Retention Rate	83%	90%
Average Earnings	\$15,900	\$15,900

**OJT NEG Project – Special Reporting Requirements**

In January 2011, the WIB received special participant exit requirements from the Department Labor for the OJT NEG program. These special reporting requirements are to be used upon completion of the OJT as follows:

- Entered OJT Employment at Exit - Participant completed his/her NEG-funded OJT and continued to be employed by OJT Employer. (Exit code 01 Entered Employment, Planned Services Completed 06, and Training Related Employment code 09).
- Entered OJT-Related Employment at Exit – Participant did not continue to be employed by the OJT employer but entered employment with another employer within the industry or occupation of the OJT in which employment the participant is using a substantial portion of the skills s/he acquired via the OJT.
- Entered Employment (exit code 01) – The individual becomes employed at any time after beginning to receive WIA services through completion of WIA Services (Exit code 01). OJT NEG participants who enter an OJT , complete it or do not complete, and then become employed in a job which is not within the industry or occupation of their OJT should be reported as Entered Employment (exit code 01) and also as “NO” Training Related upon entering such a job.

One-Stop Operator staff will exit OJT NEG participants in the Employment Connect online system upon successful completion of OJT services.

**ACTION:**

Bring this directive to the attention of all the affected staff.

**INQUIRIES:**

Please direct inquiries about this directive to the Workforce Investment Board office at (559) 713-5200.

Adam Peck



Executive Director

AP:DM:CMR

ATTACHMENT



## Summary of Comments

### Draft Directive “On-the-Job-Training National Emergency Grant Requirements”

There were 2 commenters to the draft version of this directive.

Commenter #1 requested that the section of the directive entitled “Participant Priority of Service” clarify that veterans are to be given the “highest” priority of service among all OJT NEG eligible participants, thereby superseding the first and second priorities as written in the section.

Resolution: The EDD recognizes that the language contained in the directive did not make it clear that veterans receive the highest priority of service. As a result, the EDD inserted the following sentence on page 3: Note: Veterans are to receive the highest priority of service among all OJT NEG eligible participants.

Commenter #1 also asked that the EDD provide clarification regarding the last bullet, written assurances, in the section entitled “OJT Contract Requirements.” The commenter noted this bullet did not specify what written assurances should be included in OJT contracts. The commenter recommended that the EDD elaborate on what written assurances should be included in the OJT contract, or remove the bullet from the directive.

Resolution: The EDD agrees that the preceding bullets suffice as OJT contract requirements. To help alleviate any confusion, the EDD deleted the last bullet, written assurances; under the section “OJT Contract Requirements.”

Commenter #2 expressed an issue with the section of the directive “Employer Eligibility Criteria” that reads: “Safeguards to prevent the displacement of incumbent workers must also be in place ensuring the appropriate ratio of current employees to trainees (typically no less than 7:1), and ensuring that employers have not reduced their workforce via lay-offs during the six months prior to program participation.”

Specifically, the commenter’s concern was that the ratio “typically no less than 7:1” could be interpreted to be a mandatory requirement, and therefore stop some local areas from writing any OJTs under this grant with the small business community.

Resolution: The EDD intended the ratio just to be an example. However the EDD acknowledges that the ratio could be interpreted as a mandatory requirement, and therefore, removed the reference in order to eliminate any confusion



Contract Number:  
 Participant Name:  
 Job Title:  
 O\*NET Code:  
 Employer:

**NEG OJT Curriculum**

**RATING SCALE**

- 1 - Participant has not made satisfactory progress.
- 2 - Participant is making progress, but less than satisfactory level.
- 3 - Participant is making progress at satisfactory level.
- 4 - Participant has achieved proficiency in this skill.

Skills Curriculum (A)	Skilled (B)		Training Method (C)	# Trainin g Hours (D)	Measurement Method (E)	Follow-up Visit Date/Rating (F)			
	Y	N							

(G) Total Hours Projected: \_\_\_\_\_  
 Total Hours completed: \_\_\_\_\_

(H) Total Score: \_\_\_\_\_  
 Possible Score: \_\_\_\_\_  
 % Attained: \_\_\_\_\_

This certificate of attainment is presented to \_\_\_\_\_  
 for successfully completing the curriculum established in this Task Oriented Training Plan.

\_\_\_\_\_  
 Signature (Employer/Supervisor)

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Signature (Employment Specialist)

\_\_\_\_\_  
 Date