



CENTRAL OKLAHOMA WORKFORCE INNOVATION BOARD

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COWIB Transitional Jobs

Pursuant to TEGL 19-16, OWDI #22-2017 & OWDI #04-2018

Approved and Published: Draft

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PURPOSE: To establish a local policy on the use of Transitional Jobs activities as a service strategy in the WIOA program of the Central Oklahoma Workforce Investment Board.

The Central Oklahoma Workforce Innovation Board (COWIB) is the policy and guidance board for the Workforce Oklahoma system in Central Oklahoma. We are business leaders with a goal to establish a highly skilled, productive workforce in our 9-county area.

The Central Oklahoma Workforce Innovation Board (COWIB) complies with WIOA's Equal Opportunity and Nondiscrimination provisions which prohibit discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, or, the basis of citizenship status or participation in a WIOA Title-1 financially assisted program or activity.

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COWIB Transitional Jobs Policy

Purpose

To establish a local policy on the use of Transitional Jobs activities as a service strategy in the WIOA programs of the Central Oklahoma Workforce Investment Board.

Authority

The authority for this policy is derived from the following:

- WIOA 134 (d)(2) & (3)
- 20 CFR Section 680.900 – 970
- TEGL 19-16
- OWDI #22-2017
- OWDI #04-2018

Background

Transitional Jobs are a type of “Permissible Local Employment and Training Activities” as described in Section 134(d) of the Workforce Innovation and Opportunity Act.

State and Federal Policy

Federal Policy: Per WIOA Sec. 134(d)(5) Transitional Jobs – The local board may use not more than 10 percent of the funds allocated to the local area involved under section 133(b) to provide transitional jobs under subsection (c)(3) that--

- (A) Are time-limited work experiences that are subsidized and are in the public, private, or nonprofit sectors for individuals with barriers to employment who are chronically unemployed or have inconsistent work history;
- (B) Are combined with comprehensive employment and supportive services; and
- (C) Are designed to assist the individuals to establish a work history, demonstrate success in the workplace, and develop the skills that lead to entry into and retention in unsubsidized employment.

The 10% limitation refers to “funds allocated to the local area involved under section 133(b).” Section 133(b) of WIOA is the section of law that describes the “Within State Allocation” of funds that are allotted to the State for:

1. Adult employment and training activities and statewide workforce investment activities; and
2. Dislocated worker employment and training activities and statewide workforce investment activities.

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The limitation also refers to § 134(c)(3). This is the part of the WIOA law that describes, “Training Services.” Transitional Jobs are listed in this portion of the law at Section 134(c)(3)(D)(viii).

NOTE: Training Service or Career Service - - Although Section 134(c)(3)(D) of the WIOA law includes “transitional jobs” in a list of Training Services, the listing is not definitive. Elsewhere in the law – in Section 134(d)(5) – transitional jobs are described as, “time-limited work experiences.” To resolve this ambiguity, the U.S. Department of Labor states in TEGL 19-16 that, **“Transitional jobs are a type of work-experience Local WDBs may provide under WIOA and are considered an individualized career service.”**

TEGL 19-16 further explains that Transitional Jobs are time-limited and wage-paid work experiences that are subsidized up to 100 percent. They are designed to provide an individual with work experience that takes place within the context of an employee-employer relationship, in which the program provider generally acts as the employer, and with an opportunity to develop important workplace skills.

Unlike on-the-job training (OJT), there is no requirement that the employer retains the individual upon completion of the transitional job; however, retention, where appropriate, is preferred for the benefit of the worker and employer.

State Policy: The Oklahoma Office of Workforce Development has issued OWDI 22-2017 to offer guidance on the use of WIOA funds for Transitional Jobs.

“These jobs can be in the public, private, or non-profit sectors and are only available for individuals with barriers to employment who are “chronically unemployed” or who have an “inconsistent work history”, as determined by the LWDB. Transitional jobs provide individuals with work experience and an opportunity to develop important workplace skills, including “soft skills...”

OWDI 22-2017 states that:

Potential target groups for transitional jobs may include:

- Long-term unemployed;
- Ex-offenders;
- Individuals who are currently receiving or have exhausted Temporary Assistance for Needy Families (TANF) or Supplemental Nutrition Assistance Program (SNAP) benefits;
- Individuals with disabilities; and
- Other individuals with barriers to employment, per 29 USC § 3102 (24)

To utilize transitional jobs as a service delivery strategy, LWDB’s must adopt policies to:

- Identify employers
- Include the planned reimbursement amount for the jobs
- Identify the supportive services which must be included
- Identify the limits on the duration of transitional jobs

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- Define and identify individuals who are chronically unemployed or have an inconsistent work history
- Reflect the use of job readiness training and other career services, as determined by the local board;
- Ensure safeguards against the displacement of employees (20 CFR § 683.270); and
- Ensure funds for transitional jobs are not used to fill openings that resulted from a labor dispute (20 CFR § 680.840)

Local Policy

Transitional jobs are not appropriate for all Adults and Dislocated Workers. The law allows only a small fraction of Adult and Dislocated Worker program funds to be used for transitional activities.

Consequently, it is important to carefully define the general characteristics of participants who are eligible to participate in the Transitional Jobs component.

The main criterion for deciding which participants may be referred to a Transitional Job is this: As stated in §680.190, the participant must have a Barrier to Employment. In particular, Transitional Jobs are reserved for workers who ***are chronically unemployed or have an inconsistent work history***.

Chronically Unemployed

The term “chronically unemployed” is not defined in the WIOA law or the WIOA Final Rule. Further, neither the Department Of Labor, nor the Oklahoma Office of Workforce Development provide a definition, but leave this to the LWDBs.

COWIB, for the purpose of determining eligibility for Transitional Jobs, will consider that a “Chronically Unemployed” individual is a worker who:

- Is unemployed at the time of service delivery – that is, at the time of referral to a Transitional Job; and
- Has been without work for 15 or more of the last 26 weeks.

The phrase “has been without work” is used intentionally. It includes participants who have suffered from long periods of unemployment. It also includes displaced homemakers, recently-released ex-offenders, and participants who are discouraged workers. (See the Bureau of Labor Statistics definition of “discouraged worker” at www.bls.gov/cps/lfcharacteristics.htm#discouraged .

Inconsistent Work History

The term “inconsistent work history” is not defined in the WIOA law or in the WIOA Final Rule.

COWIB interprets this term to mean a worker who, in the 12 months prior to program registration, has lacked steady, full-time, permanent employment.

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For the purpose of determining eligibility for Transitional Jobs, we will consider that an “Inconsistent Work History” includes:

- Work that is seasonal;
- Work that is temporary;
- Work that is part-time (less than 32 hours / week); or
- Other periods of employment of less than 10 consecutive weeks.

Examples of a participant with an Inconsistent Work History would include—

- An individual who had only seasonal employment in the 12 months prior to program registration;
- An individual who had only temporary employment in the same period;
- An individual who had one or more part-time jobs; or
- An individual who had short period(s) of full-time, permanent employment – less than 10 consecutive weeks in any single job.

An Inconsistent Work History may include a combination of seasonal, temporary, part-time, and short-term employment.

Individual Assessment

Before being referred to any Transitional Jobs activity, the WIOA participant must be assessed to determine if s/he meets the eligibility criteria described in the **Chronically Unemployed -OR- Inconsistent Work History** sections above.

The assessment of the participant’s skills and qualifications will be directed by the Service Provider, and it may include formal and informal evaluation(s) of the participant’s interests, abilities, aptitudes, and basic skills. The assessment may also include a pre-hire interview by the worksite supervisor of the Transitional Job assignment.

Participants should only be referred to Transitional Job assignments in which there is a reasonable expectation of success.

As stated in Section 134(d)(5) of the WIOA law, Transitional Jobs:

“...are designed to assist the [eligible] individuals...to establish a work history, demonstrate success in the workplace, and develop the skills that lead to entry into and retention in unsubsidized employment.”

Priority of Service

When referring eligible participants to Transitional Job activities, the requirement of Section 134(c)(3)(E) of WIOA shall be honored:

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PRIORITY. – With respect to funds allocated to a local area for adult employment and training activities..., priority shall be given to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient...

General Requirements for Transitional Jobs

By definition, Transitional Jobs are work experience activities. They are time-limited. They may be offered in the public, private, or nonprofit sectors. As with any work experience activity, there are general program requirements that pertain to Transitional Jobs.

Labor Standards / Wages

Labor standards apply in any work experience activity where an employee / employer relationship exists, as defined by the Fair Labor Standards Act (FLSA). Therefore, our policy defines a Transitional Job as a paid activity since a COWIB Service Provider is, by definition, acting as an employer of record. All standards of the FLSA must be observed when a Transitional Jobs activity is being conducted, including the wage and hour provisions.

Additionally, Section 181 of WIOA includes a requirement regarding the wage rate paid to Transitional Job participants:

“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.”

The COWIB and its Service Provider will establish Transitional Job wage rates based upon a reasonable review of the training, experience and skills required for the positions that are being filled. Since the Transitional Job positions will be filled by individuals who generally lack exposure to good work habits, job skills, and/or the working environment, it is assumed that the compensation for each position will be equivalent to an entry-level wage – that is, at or near the minimum wage level.

Health and Safety Standards

Health and safety standards established under Federal and State law apply to the working conditions of participants engaged in programs and activities under Title I of WIOA. (Reference: Section 683.280 of the WIOA Final Rule) The following requirement appears in Section 181(b) of the WIOA law:

“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 a 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.”

COWIB and its Service Providers must take necessary steps to ensure that:

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- Worksites are safe and well supervised;
- To the extent that a State workers' compensation law applies, the requirements of the law are being met; and
- If a State worker' compensation law does not apply to a participant in work experience, insurance coverage must be secured for injuries suffered by the participant in the course of such work experience.

Non-Displacement of Employees

Under Section 181(b) of WIOA, Transitional Job activities must be designed and implemented so that no employee suffers a loss of work, wages, or employment benefits:

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).

Additionally, if the worksite has a union contract or collective bargaining agreement, the Transitional Jobs activity must not negatively impact any such contract. The following excerpt is also from Section 181(b)(2) of WIOA:

"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."

Where a collective bargaining agreement exists, the Worksite Agreement for the Transitional Jobs activity must include a sign-off by the labor organization as well as the employer.

Other Prohibitions

As if to reiterate the point about non-displacement, the WIOA law includes the following explicit prohibitions:

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)

Employment Conditions

Section 181(b) of WIOA also assures that participants working in Transitional Jobs will enjoy the same employment conditions as their peers in the workplace:

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.

Measuring the Cost of Transitional Job Activities

The following guidance from the WIOA Final Rule is relevant to Transitional Job activities:

§680.195 What funds may be used for transitional jobs?

The local area may use up to 10 percent of their combined total of adult and dislocated worker allocations for transitional jobs as described in §680.190. Transitional Jobs must be combined with comprehensive career services (See §680.150) and supportive services (see §680.900).

With regard to the 10 percent limit on expenditures for Transitional Jobs, an immediate question arises: What is included in the cost of Transitional Jobs?

There are two potential sources of guidance on this question. First, the U.S. DOL ETA Financial Report (ETA-9130) provides instructions for reporting “Transitional Jobs Expenditures.” Additionally, the Preamble portion of the WIOA Final Rule offers some useful, relevant guidance.

The instructions on the ETA-9130 Report are simple, straightforward:

Enter the cumulative amount of expenditures charged to the Local Adult grants for transitional jobs costs. This line item should represent the total accrued transitional jobs contract expenditures for all local areas and it is a portion of the amount reported in 10e (Federal Share of Expenditures).

WIOA Sec. 134 (d)(5) sets a transitional jobs expenditure cap of ten percent of the amount of Federal funds allocated to local areas to carry out the Adult program for a program year.

The instructions do not provide more detail on what is included in the meaning of the phrase, “total accrued transitional jobs contract expenditures.

A second source of information is the discussion of Section 680.195 in the Preamble portion of the WIOA Final Rule. The Department of Labor offers this comment:

“The Department considers transitional jobs to be a targeted service that includes comprehensive career and supportive services.”

The reference to “comprehensive career and supportive services” is significant. These services are included in the Department’s interpretation of a Transitional Jobs activity. However, the DOL interpretation does not imply that the associated costs of these services are included in the meaning of the phrase, “total accrued transitional jobs expenditures.”

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In fact, the Preamble makes clear that the cost of “*comprehensive career and supportive services*” are not included in the cost of Transitional Job activities. This comment appears later in the same discussion of the WIOA Final Rule:

“Comprehensive career services and supportive services, which are required to be provided as part of any transitional jobs strategy, are not subject to the 10 percent cap described at § 680.195.”

So the costs of career services that are associated with supporting Transitional Job activities – services such as assessment, counseling, career guidance, etc. – are not included in the meaning of “*total accrued transitional jobs expenditures*.”

It is COWIB’s interpretation that Transitional Jobs expenditures shall encompass the following items:

- The staff costs of developing a Transitional Jobs worksite;
- Wages paid to participants in Transitional Jobs; and
- Fringe Benefits associated with those wages.

We generally consider that the staff cost of developing a Transitional Jobs worksite is a programmatic function that should properly be included as a Transitional Jobs expenditure. We regard the development of the worksites to be a programmatic – rather than an administrative function – because the negotiation of a worksite agreement does not involve any form of payment. The agreement is non-financial. Consequently, the function of developing a worksite is not the same as a procurement activity.

COWIB’s interpretation, in this regard, is consistent with DOL’s discussion of Transitional Jobs expenditures in the Preamble portion of the WIOA Final Rule. Commenting on Section 680.140 of the WIOA Final Rule, the Department of Labor says:

“WIOA allows Local WDBs to set aside and use up to 10 percent of their adult and dislocated worker funds... on transitional jobs (see WIOA sec. 134(d)(5)).... Administrative activities necessary to initiate or procure... transitional jobs must be consistent with § 683.215, which discusses how to determine whether an activity is administrative or programmatic for purposes of WIOA. If the activity would be considered programmatic under § 683.215, then the cost would be subject to the caps discussed above. If the activity would be considered administrative under § 683.215, it may be paid for out of the Boards’ usual administrative funds, and it is not subject to the caps. Therefore, the Board would not need to specifically account how much of the administrative funds are spent on these particular programs.”

Providing Comprehensive Career Services and Supportive Services

By definition, Transitional Jobs are work experiences that “...are combined with comprehensive employment and supportive services.”

In the WIOA Final Rule, DOL uses the phrase, “Comprehensive career and supportive services.”

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Asked for a clarification of the phrase, “comprehensive career services,” the Department of Labor provided the following response in the Preamble portion of the Final Rule:

*“Department Response: Comprehensive career services may include both basic and individualized career services and are based on the needs of the participant. Comprehensive career services and supportive services, which are required to be provided as part of any transitional jobs strategy, are not subject to the 10 percent cap described at § 680.195. However, the Department is providing flexibility to allow for these services to be provided with the funds set-aside for transitional jobs. **Local areas determine which comprehensive and supportive services are appropriate for each individual.** There is no sequence of service required.”*

(Emphasis added)

Other Requirements and Limitations

Beyond the general programmatic requirements that appear in the WIOA law, this policy embraces the following requirements and limitations.

Nepotism

As provided in Section 683.200(g) of the WIOA Final Rule:

(g) Nepotism. (1) No individual may be placed in a WIOA employment activity if a member of that person's immediate family is directly supervised by or directly supervises that individual.

(2) To the extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, such State or local requirement must be followed.

For the purpose of this policy, the term “immediate family” includes a spouse, son, son-in-law, daughter, daughter-in-law, mother, mother-in-law, father, father-in-law, brother, brother-in-law, sister, sister-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, and grandchild.

Limited Duration

As given in Section 136(d)(5) of WIOA, Transitional Jobs are, by definition, time-limited.

For eligible Adult and Dislocated Worker participants, the duration of a Transitional Jobs activity in Central Oklahoma shall be limited to 480 hours.

In the event that a Transitional Job assignment ends early for any reason, the participant may be assigned to a subsequent Transitional Job activity – provided that the cumulative hours in both assignments combined does not exceed 480 hours.

Demand Skills

One of the purposes of a Transitional Jobs activity is to provide WIOA participants with exposure to good work habits and skills. Within this context, the COWIB recognizes that there are many different types of “skills” – including problem solving skills, social skills, technical skills, etc. Each of these may be a determinant of a participant’s long-term success in the labor market.

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To more fully describe the types of skills that are required for success in the workplace, the COWIB has defined a list of Demand Skills for the Central Oklahoma area. “Demand Skills” are a set of traits, aptitudes, abilities, attributes, and work habits that are essential to the productivity of business in the 21st century.

As defined by the COWIB, the “Demand Skills” for the Central Oklahoma workforce development area include:

- Ethical Standards and Integrity;
- Work Ethic;
- Self-Direction and Initiative;
- Interpersonal Skills (communications);
- Dependability and Attendance;
- Listening Skills;
- Teamwork;
- Ability to Work with Others;
- Critical Thinking Skills; and
- Accountability

As a matter of policy, the COWIB is committed to using our energy, resources, and influence to persuade job-seekers to acknowledge, understand, and embrace the value of possessing these skills.

Consequently, it is expected that every Transitional Jobs activity will be designed to support the development of these Demand Skills in each individual participant.

Worksite Agreement

For every participant who is referred to a Transitional Jobs worksite, the COWIB’s Service Provider will maintain a signed Worksite Agreement.

Worksite Agreement

The WIOA Worksite Agreement is designed to establish certain assurances and conditions that must be mutually agreed upon between the COWIB’s Service Provider and the Transitional Jobs worksite.

A Worksite Agreement must be executed prior to the start date of any Transitional Jobs activity. A properly completed Worksite Agreement will carry the signature of: (a) A representative of the COWIB’s Service Provider; and (b) The signature of the Worksite Representative. The Worksite Representative must be someone who is authorized to enter into contracts on behalf of the worksite.

A single Worksite Agreement may be written for more than one Transitional Jobs participant. However, the agreement must include a unique Trainee Work Plan for each participant.

A model Worksite Agreement is given in Attachment B

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Worksite Development and Outreach

Worksite development will begin through an outreach process in which potential qualified businesses (including non-profit organizations, governmental agencies, etc.) are identified and Worksite Agreements are written.

The COWIB's Service Provider will assure that properly-trained staff members are assigned to the task of engaging qualified businesses, non-profit organizations, governmental agencies, etc. The Service Provider will develop effective outreach tools and protocols that are appropriate to the needs of Central Oklahoma businesses. To the extent possible, all outreach methods and materials will be designed from a business perspective. Outreach activities should be delivered in a manner that highlights the benefits of properly-designed Transitional Job activities.

The COWIB's Chief Executive Officer will have the ultimate authority to approve all outreach methods, materials, and tools. Members of the COWIB's Business Services Unit may be assigned to help identify potential worksites.

The goal of these Worksite Development and Outreach activities is to develop a set of eligible worksites that reflect the following objectives:

- Eligible worksites should represent a cross-section of governmental, non-profit, and for-profit businesses in the Central Oklahoma labor market.
- Eligible worksites should encompass business activities involving a variety of occupations and potential career tracks.
- Eligible worksites should have a business model that is successful and can stand on its own merits – regardless of whether a Worksite Agreement is approved or not. Participation in a Worksite Agreement should be inconsequential to the success of the business.
- Eligible worksites should include businesses, agencies, and organizations that are motivated by a sense of civic engagement and an opportunity to participate in the betterment of their community.

There is not a requirement or an expectation for a Transitional Jobs activity to culminate in the worksite's hiring of the WIOA participant. To be eligible to participate as a Worksite, it is not necessary for the business to have available job openings. Even so, worksite development and outreach activities should be designed so that a cross-section of businesses are engaged. Optimally, these worksite development activities will result in the identification of one or more businesses where potential future employment opportunities will exist.

Worksite Eligibility

Worksite Agreements may be written with businesses (including governmental agencies, etc.) from the public, private non-profit, or private for-profit sectors.

In general, businesses are eligible to participate in a Worksite Agreement if they are willing to meet the following program guidelines:

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- The worksite must assure that each Transitional Jobs participant will be supervised on a full-time basis by a qualified supervisor.
- The worksite must assure that all work will be conducted in a safe and sanitary drug-free environment.
- The worksite shall provide sufficient work to occupy the trainee's work hours and shall provide sufficient equipment and/or materials to enable the trainee to carry out the work assignments.
- The worksite will provide job orientation to all Transitional Job participants as related to work policies, job safety, and job expectations. The work policies and job expectations for WIOA participants must be the same as for non-WIOA workers at the site.
- Each worksite supervisor shall maintain an accurate record of time and attendance of each trainee to be recorded on the Time and Attendance Record.
- The worksite supervisor for each trainee shall conduct evaluations of the Transitional Jobs participant.
- The worksite shall adhere to all applicable Federal, State, and local labor laws.
- The worksite shall, upon request of the COWIB's Service Provider, release the trainee for attendance at labor market orientations, career orientations, job readiness training, or other WIOA program activities.
- The worksite must assure that any Transitional Jobs participant will not displace currently employed workers.
- Each worksite must provide information such as an IRS Employer Identification number to demonstrate that they are a legitimate business, having full-time employees, and conducting their trade or business at an appropriate worksite.
- The Transitional Job activities must be conducted at the worksite's place of business (as described on the Worksite Agreement), and may not be subcontracted.
- The duties of the Transitional Jobs participant must not involve religious or political activity.
- A Worksite Agreement cannot be written for job duties or a job position in which a worker is currently on layoff or for a position which will deny a current worker promotional opportunities.
- The worksite must not utilize a Worksite Agreement to displace currently employed workers or to reduce the hours of those employed workers below their normal schedule.
- The worksite must not be involved in a current labor dispute and must not have a history of frequent layoffs.
- No individual may be placed into a Transitional Jobs position if a member of his / her family is engaged in an administrative capacity with the worksite, including any person involved with the supervision responsibilities for the WIA trainee.

Worksite Survey

To document that a business or organization qualifies as an eligible worksite, the COWIB's WIOA Service Provider must complete a Worksite Survey. The survey is an interview / review to verify that the business meets the minimum criteria to function as an approved site for a Work Experience activity.

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A Worksite Survey review form, with instructions, is provided as an attachment to this Policy. See Attachment A.

Parts of the WIOA Worksite Agreement

The WIOA Worksite Agreement is a three-part agreement containing:

- The Worksite Terms and Conditions;
- The Trainee Work Plan; and
- The Trainee Time Sheet.

Part I: The Worksite Terms and Conditions

Each WIOA Worksite Agreement must be numbered. The WIOA Grantee and/or Service Provider must develop a written policy and procedure for the numbering system that will be utilized.

COWIB will utilize the following numbering system: (County, Local Area, Service Provider, Agreement Number, Program Year) ex. **PO-COK-DWFS-001-18**

Section 1 of the Worksite Terms and Conditions identifies the parties to the Worksite Agreement. Also, the Start and End dates of the Agreement are defined.

Section 2 includes a complete description of worksite responsibilities as well as responsibilities of the Service Provider.

Section 3 provides that, "Accurate time and attendance records will be kept by the Worksite supervisor on each Trainee." Additional provisions are given.

The process for modifying the Worksite Agreement is given in Section 4. Amendments to the agreement are limited: "The Worksite Terms and Conditions may only be modified two times and if additional changes need to be made after the second modification, the Worksite and... Service Provider must enter into a new WIOA Worksite Agreement."

Section 5 authorizes on-site monitoring to be conducted by the COWIB as well as by any state or federal agencies that administer funds under the Workforce Innovation and Opportunity Act.

Provisions for termination of the Agreement are described in Section 6. Then, in Section 7, Equal Opportunity and Nondiscrimination is covered.

By signing the WIOA Worksite Terms and Conditions, the Worksite and the WIOA Grantee and/or Service Provider agree to uphold the conditions listed in the document. The Worksite Representative must have the authority to enter into contracts on the Worksite's behalf.

Part II: The Trainee Work Plan

The Worksite Agreement is structured so that several Trainee Work Plans may be encompassed within a single Worksite Agreement. The Trainee Work Plan requires signatures from the Trainee, the Worksite Supervisor, and a representative of the COWIB service provider.

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In the “General Training Information” section of the Trainee Work Plan, there is a space to record the hourly wage that will be paid to the trainee. Enter the hourly rate of pay that is proposed. The Service Provider will establish the Transitional Job wage rate based upon a reasonable review of the training, experience and skills required for the Work Experience position that is being filled. Since each position will be filled by individuals who lack exposure to good work habits, job skills, and/or the working environment, it is assumed that the compensation for each position will be equivalent to an entry-level wage – that is, at or near the minimum wage level.

NOTE: Pursuant to Section 181(a)(1)(A) of WIOA, individuals in Transitional Job activities “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.”

The “Duties and Responsibilities” described in the Trainee Work Plan must provide sufficient work to occupy the trainee’s work hours. The job tasks described in the statement may include routine duties that are regularly performed by other employees at the worksite. Alternatively, they may represent special assignments that are performed on an occasional, seasonal, intermittent, or temporary basis.

The duties of the Work Experience participant must not involve religious or political activities.

It is expected that the duties of the Work Experience position will be generally equivalent to the tasks assigned to an entry-level employee of the worksite.

The Trainee Time Sheet

Accurate time and attendance records will be kept by the Worksite supervisor on each Trainee. “Under no circumstances should any Trainee work more than 40 hours in one week.”

Orientation for Worksite Supervisors

Before the placement of the first trainee at the worksite, an orientation must be provided to the front-line worksite supervisor(s) who will provide guidance and direction to the Transitional Jobs participant. The purpose of the orientation is to make sure that each worksite supervisor understands the purpose of the Transitional Jobs program, program guidelines, and responsibilities of the Worksite.

The orientation may be provided in the form of a group session or an individual briefing. Each COWIB Service Provider shall prepare an orientation packet in the form of a hard copy and/or online document which may be used as a reference tool by the worksite supervisor.

As provided in OWDI #04-2018:

“The Worksite Supervisor(s) must sign an acknowledgement of receipt to document that orientation has been given. The receipt is then attached to the WIOA Worksite Terms and Conditions. A copy of the orientation packet must be given to the Worksite.”

In the Central Oklahoma area, the COWIB’s Service Providers must utilize the Worksite Orientation Acknowledgement of Receipt form that is provided in OWDI #04-2018. (See Attachment E).

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At a minimum, the topics to be covered in the orientation must include the following:

- The purpose of the Work Experience activity;
- The content and requirements of the Worksite Agreement;
- Role / duties of the Worksite Supervisor;
- Safety;
- Accidents, On-the-Job Injuries, and Incident Reporting;
- Sexual Harassment;
- Discrimination;
- Prohibited Activities;
- Attendance and Timesheets;
- Pay and Wage Information;
- The Payroll Calendar;
- A discussion of steps to be taken when a participant fails to perform properly at the worksite;
- A discussion of conditions that may result in the termination of a Worksite Agreement;
- Termination;
- Trainee Evaluations; and
- Trainee Orientation at Worksite.

Incident Reporting

Worksite Supervisors must document all incidents occurring at the Worksite that involve participants. An incident may include but is not limited to:

- Trainee involvement in fighting;
- Trainee leaving the Worksite without permission or notice;
- Any inappropriate behavior by a Trainee towards the Worksite Supervisor or Worksite staff, such as the usage of profanity, threats or assault;
- Drug use by the Trainee at the Worksite;
- Property theft or damage by a Trainee;
- Suspected incidents of abuse – including physical, sexual, emotional or verbal abuse, or any other mistreatment of a Trainee at the Worksite; or
- Accidents involving the Trainee that occur at the Worksite, even if no injuries were sustained.”

These Incident Reporting procedures are stated in the COWIB’s Model Worksite Orientation packet.

In the Central Oklahoma area, the COWIB’s Service Providers must utilize the WIOA Work Experience Incident Report form that is provided in OWDI #04-2018. (See Attachment F).

Time and Attendance Record

From OWDI #04-2018:

Time, Attendance, and Compensation:

Accurate time and attendance records for each trainee must be kept by the Worksite supervisor on each Trainee. The WIOA Grantee and/or Service Provider must complete the Trainee Information and Pay Period sections of the WIOA Trainee Time Sheet. Trainees will be paid only for actual hours worked. No pay will be given for lunch breaks, holidays, or absences. Under no circumstances should any Trainee work more than 40 hours in one week. Time and attendance may be recorded on time sheets provided in this policy or by the Worksite's method such as a punch time clock, computer check-in, or badge scanning system (referred to as a Worksite Time Report). If the Worksite Time Report is utilized, the WIOA Grantee and/or Service Provider must secure a copy of the report containing the following information at the end of each pay period:

- Worksite Name – for tracking purposes, the time sheet must identify the worksite. If the electronic time recording system does not generate the name of the business, a label must be attached to the time sheet identifying the worksite prior to upload in OKJobMatch.com;
- Worksite Address and Telephone;
- Trainee Name;
- Time In, Time Out & Total Hours Worked per Pay Period;
- Record of lunch break / rest periods 30 minutes or longer, and
- Worksite Supervisor signature, Trainee signature and Date. The state allows electronic signatures and dates to meet the requirement as long as the local area has processes in place to ensure the authenticity of the signee(s)

Time and attendance records will be signed at the end of the pay period by the Trainee and the Worksite Supervisor, whose signatures will certify accuracy.

Errors on the WIOA Trainee Time Sheet:

In certain circumstances it might be necessary to make changes to the... Trainee Time Sheet. There are two main categories of errors that can be associated with the... Trainee Time Sheet.

Errors in Recording Time Worked

Corrections made to timesheets regarding this type of error must be initialed by both the Worksite supervisor and the Trainee.

Other Errors

Corrections made regarding other errors, such as incorrect calculation of hours worked, must be initialed by the party responsible for payment. If a correction is made, the party responsible for payment must notify the Service Provider so

that the Trainee can be informed of the correction. The case manager must document in case notes in OKJobMatch Case or Program Notes that the Trainee has been notified of the correction.

Rounding of Hours

The duration of the daily time worked by the trainee must be recorded accurately. To account for extra minutes worked (beyond an exact number of hours), the following conversion table may be used:

Total Minutes Daily Over Exact Hours	Conversion to Fraction of an Hour
0 to 7 Minutes	No Extra Time
8 to 22 Minutes	¼ Hour = .25
23 to 37 Minutes	½ Hour = .50
38 to 52 Minutes	¾ Hour = .75
53 to 59 Minutes	1 Hour – 1.00

NOTE: A similar conversion table may be utilized by the Service Provider if it provides a reasonably precise record of the daily time worked by each trainee. Any such conversion methodology must be applied uniformly to each trainee employed by the Service Provider.

Before signing the Time & Attendance Record, the COWIB Service Provider representative will examine the signatures of the Trainee and the Worksite Supervisor, respectively. Before accepting the timesheet as a true and accurate record of the time worked by the participant, the COWIB Service Provider will check to make sure that:

- Trainee and Worksite Supervisor have signed their names in ink;
- The signature of the Trainee closely resembles other samples of the Trainee’s signature as it appears in the Participant file (including the Trainee Work Plan);
- The signature of the Worksite Supervisor closely resembles the Worksite Supervisor’s signature as it appears on the Trainee Work Plan; and
- Proper names are spelled correctly.

Evaluation of Skills Being Developed

From OWDI #04-2018:

“Trainee Evaluations:

“The Worksite supervisor must schedule evaluations throughout the duration of the Trainee’s work experience, according to local policy. Local areas may choose to require worksites to complete additional evaluations for the purpose of monitoring Trainee performance. If such additional evaluations are requested of the Worksite, it is the WIOA Grantee and/or Service Providers responsibility to notify the Worksite Supervisor during the Worksite orientation.

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Attachment G, WIOA Work Experience Trainee Evaluation, has been provided as an example. The WIOA Grantee and/or Service Provider may utilize Attachment H or create their own evaluation.”

In the Central Oklahoma area, our local standard will consist of:

- At least three trainee evaluations must be scheduled by the worksite supervisor during the course of the trainee’s work experience assignment;
- The WIOA Work Experience Trainee Evaluation should be utilized. (See Attachment G)

Participant Payroll Procedures

For Transitional Job activities, the COWIB’s WIOA Service Provider is authorized to act as the employer of record and pay a wage to the program participant. Each Transitional Jobs participant will be treated as a temporary employee of the Service Provider.

The WIOA Service Provider and the Worksite must adhere to current workplace safety guidelines and applicable federal / state wage laws. Provisions for wages under the amendments to the FLSA apply to all Transitional Jobs participants.

In addition, all provisions for employment eligibility verification must be followed. The Form I-9, Employment Eligibility Verification, must be filled out according to instructions with all appropriate documentation on file. To access the form and instructions, consult <http://www.uscis.gov/files/form/i-9.pdf>

Equal Opportunity and Nondiscrimination Statement

All Recipients, and Sub-recipients / Sub-grantees must comply with WIOA’s Equal Opportunity and Nondiscrimination provisions which prohibit discrimination on the basis of race, color, religion, sex (including pregnancy, childbirth, and related medical conditions, transgender status, and gender identity), national origin (including limited English proficiency), age, disability, political affiliation or belief, or, for beneficiaries, applicants, and participants only, on the basis of citizenship status or participation in a WIOA Title-I financially assisted program or activity.

Addenda / Revisions

The COWIB Chief Executive Officer is authorized to issue additional instructions, guidance, forms, etc., to further implement these procedures.

Questions about these procedures may be directed to the COWIB’s Policy Analyst at (405) 622-2026.

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Worksite Survey

(for determining Worksite Eligibility)

This survey should be used in the process of identifying potential worksites for Transitional Jobs activities. After a potentially suitable worksite has been identified, a Worksite Survey must be conducted prior to the execution of a Worksite Agreement in order to verify that the worksite is eligible to participate in a Transitional Jobs activity. The review must be completed before any WIOA Trainees are referred to the worksite.

The survey should be conducted by an independent evaluator. That is, it must be completed by a staff person other than the individual who was responsible for the initial outreach to the worksite. For example, if the worksite outreach was performed by an individual in the Staffing Unit, then the independent review may be completed by:

- A workforce professional in a different unit – e.g., Skills Development; or
- Any functional unit supervisor.

The review will be completed using the Worksite Survey form shown on the following page.

The survey will cover questions such as:

- Does the worksite represent a safe, sanitary, and drug-free environment?
- Have there been any wage and hour, or child labor law violations in the past twelve (12) months?
- Does the worksite have a skilled worker available who is able to function in the role of a full-time Worksite Supervisor?
- Is the worksite capable of providing sufficient work to occupy the trainee's work hours?
- Will the duties of the Transitional Jobs participant involve religious or political activity?
- Is the worksite involved in a current labor dispute?
- Do any managers or supervisors at this worksite (that is, anyone engaged in an administrative capacity with the worksite) have a familial relationship with the WIA trainee who is being considered for this Transitional Jobs activity?

If any problematic answers are discovered as the result of this review, the evaluator will make a note of the particular problem(s) and attach a description of the circumstances to the completed survey.

Following the completion of the Worksite Survey, the original will be maintained by the COWIB Service Provider.

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Worksite Survey Review Form

For Potential Participant Referrals to Transitional Job Activities

Name of Business or Organization: _____

IRS Employer Identification Number: _____

Worksite Address: _____ City / Zip: _____

Worksite Representative: _____ Telephone: _____

Type of Business / Industry: _____

Number of Employees (this location): _____

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	1. Will the Transitional Jobs activity be conducted at this location?
<input type="checkbox"/>	<input type="checkbox"/>	2. Will the worksite provide sufficient equipment and/or materials to enable the trainee to carry out his/her work assignments?
<input type="checkbox"/>	<input type="checkbox"/>	3. Can the worksite assure that any WIOA trainee will not displace currently employed workers?
<input type="checkbox"/>	<input type="checkbox"/>	4. Is this worksite currently involved in a labor dispute (strike, work slowdown, picketing, etc.)?
<input type="checkbox"/>	<input type="checkbox"/>	5. Are any workers currently on layoff at this location?
<input type="checkbox"/>	<input type="checkbox"/>	6. Will the presence of the WIOA Trainee result in the reduction of work hours for employed workers below their normal schedule?
<input type="checkbox"/>	<input type="checkbox"/>	7. Will the presence of the WIOA Trainee result in the denial of a promotional opportunity for any employee?
<input type="checkbox"/>	<input type="checkbox"/>	8. Does the worksite represent a safe, sanitary, and drug-free environment?
<input type="checkbox"/>	<input type="checkbox"/>	9. Have there been any wage and hour, or child labor law violations in the past twelve (12) months?
<input type="checkbox"/>	<input type="checkbox"/>	10. Does the worksite have a skilled worker available who is able to function in the role of a full-time Worksite Supervisor?
<input type="checkbox"/>	<input type="checkbox"/>	11. Is the Worksite Supervisor capable of maintaining an accurate record of time and attendance of the trainee?
<input type="checkbox"/>	<input type="checkbox"/>	12. Is the Worksite Supervisor capable of conducting an objective evaluation of the WIOA trainee's worksite performance?
<input type="checkbox"/>	<input type="checkbox"/>	13. Does the worksite agree to provide a job orientation to each WIOA trainee as related to work policies, job safety, and job expectations?
<input type="checkbox"/>	<input type="checkbox"/>	14. Will the duties of the Transitional Jobs participant involve any religious, sectarian, or political activity?
<input type="checkbox"/>	<input type="checkbox"/>	15. Do any managers or supervisors at this worksite (that is, anyone engaged in an administrative capacity with the worksite) have a familial relationship with any WIOA trainee who is being considered for this Transitional Job activity?

Certification

Survey Conducted by (Signature): _____

Name / Title / Date: _____