

COMMONWEALTH OF PUERTO RICO
SOUTHWEST LOCAL WORKFORCE DEVELOPMENT BOARD, INC.

**PUBLIC POLICY FOR ON-THE-JOB TRAINING ACTIVITY (OJT), BASED ON THE
APPROVED WAIVER OF REIMBURSEMENT OF UP TO 90% OF THE COSTS OF SALARY
CONTRACTS**

Section 1. The Southwest Local Workforce Development Board, Inc. based on Public Law 113-128, Workforce Innovation and Opportunity Act (WIOA), creates the Public Policy for On-the-Job Training (OJT) Activity, based on the approved waiver of reimbursement of up to 90% of the costs of wage contracts.

Section 2. On-the-Job Training is defined in Section 3(44) of WIOA. On-the-Job Training is offered under contract in the private sector (for-profit or not-for-profit) and in the public sector. Through the OJT contract the occupational training is provided by the WIOA participant and the employer in return will receive reimbursement typically up to 50% of a participant's wages for the extra costs of providing the training. In limited circumstances the reimbursement may be up to 75% as provided in Sections 134(c)(3)(H)(i) and 680.730.

Section 3. In the approved waiver as per letter dated February 17, 2021 sent to all Local Boards, it is authorized to implement a waiver issued by the Labor Development Program (PDL) for reimbursement of up to 90% of the participant's salary.

Section 4. On-the-Job Training Contracts will not be awarded to employers, whether in WIA or WIOA, who have demonstrated a pattern of failure to retain participants in long-term employment, provide them with the same benefits and conditions as other employees who perform the same function and have the same length of time.

The contract must be limited to a period of time required for the participant to become effective in the occupation for which he or she is being trained. In determining the length of the contract, consideration will be given to the requirements of the occupation, academic level, occupational skill level, previous experience, and the individual employment plan (WIOA, Section 3(44)(c)).

Section 5. Requirements for Contracting under the OJT Activity

Contracts may be issued to employ eligible employees when:

1. The employee is not generating a salary that makes him/her self-supporting, as determined by the Local Board.
2. Meets the requirements set forth in Section 680.700 of the Federal Register.
3. The OJT relates to the introduction of new technology, introduction to new production and service procedures, upgrading to new jobs, requiring additional skills, workplace literacy, or other appropriate purpose identified by the Local Board.

Section 6. Payment to Employers under the OJT Activity

Stipulations of payments payments to employers under the OJT Activity:

1. The payment to employers is considered as compensation for the extra costs associated with training participants and for the low productivity of participants while they are training in the OJT activity.
2. Employers may be reimbursed up to 50% of a participant's wages under the activity and up to 75% using the criteria in Section 680.730 for the extraordinary costs of providing additional training and supervision related to the OJT activity (Sections WIOA 3(44) and 134 (c)(3)(H)(i)).
3. The Local Board based on the waiver will increase the reimbursement rate for OJT contracts described in Section 680.700 up to 90%.
4. Employers are not required to document such extraordinary costs.

Section 7. Reimbursement to the Employers

The following scale will be used by the Local Board in reimbursing employers:

- For employers with 50 employees or less - up to 90% reimbursement;
- For employers with 51-250 employees - up to 75% reimbursement;
- For employers with more than 250 employees - the statutory 50% reimbursement.

The Local Board establishes an increase in the reimbursement to employers according to the following factors:

1. Participant characteristics (e.g., length of unemployment, current skill level, and barriers to employment (WIOA Section 3(24)));
2. Employer size (e.g., small and medium-sized businesses often have higher barriers to participation with low reimbursement rates);
3. The quality of training opportunities offered by the employer and opportunities for advancement;
4. Other factors that the State or Local Boards determine appropriate (e.g., the number of employees participating in training levels, employee wages and benefits (pre- and post-participation benefits), and the relationship of the training to the participant's competitiveness);
5. Placement and retention agreement;
6. Comply with all requirements of State and Federal Laws and with all documents requested for the feasibility and approval of the project;
7. It shall be the Public Policy of this Local Board to give priority to the micro, small and medium-sized businesses of the Region, so that we may increase their participation in the On-the-Job Training Activity. For the purposes of this policy, and pursuant to Act No. 62 of June 11, 2014 known as the Micro, Small and Medium-Sized Business and Small and Medium-Sized Merchant Support Act, businesses and businesses are defined as follows:

- Microenterprise: Business or enterprise that generates a gross income of less than \$500,000.00 each year, and has 7 or fewer employees;
- Small Business: Business or enterprise that generates a gross income of less than \$3,000,000.00 each year, and has 25 or fewer employees;
- Medium Merchants: Business or enterprise that generates a gross income of less than \$10,000,000.00 each year, and has 50 or fewer employees.

By definition of terms in Section 7, Item #5, Micro, Small and Medium Businesses that are employers with 50 employees or less will be reimbursed up to 90% of the participant's salary. When a business has 51 to 250 employees in its organization it will be reimbursed up to 75% of the participant's salary. When a company has more than 250 employees it has the statutory reimbursement of 50% of the participant's salary.

When a company or business with more than 250 employees and with a gross income greater than \$10,000,000.00 has the statutory reimbursement of 50% of the participant's salary. The Local Board must consider the number of participants the employer will be hosting as part of the activity, the salary and benefits they are receiving, the degree of difficulty of the training, and the employer must demonstrate that participating in the on-the-job training activity with a 50% reimbursement makes it burdensome to operate. Having considered these factors, the Local Board may, on a case-by-case basis, grant a greater than 50% reimbursement as an exception.

Section 8. General Provisions

Employers who hire persons with employable disabilities and persons with **criminal records** will be reimbursed 90% of the salary of the participant who meets these criteria. Reimbursement for the remaining participants in the proposal will be based on the size of the company as outlined above.

Section 9. Disclaimer Clause

If any subsection or section of this Public Policy is declared unconstitutional or void by a Court, such declaration shall not affect, impair or invalidate the remaining provisions of this Public Policy. As a result the only effect shall be limited to the subsection, article, section or aspect declared unconstitutional or void.

Section 10. This public policy will be effective from February 12, 2021 through June 30, 2022 as approved by the Labor Development Program (LDP).

In San Germán, Puerto Rico, this 17th day of February, 2021.



Roque Abad Ramírez Palermo

WDB Local Board Chairman