

Eastern Area Workforce Development Board
Workforce Innovation and Opportunity Act
4-18 Policy Transitional Jobs

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REFERENCES:

Workforce Innovation and Opportunity Act (WIOA), July 22, 2014: §108, §122, §134, §181 and §194; 2 CFR §200, et al, 20 CFR §80.760, §680.830, §680.840(n) and §683.200(g), TEN 17-16 .

1. PURPOSE:

To provide clarification for the Eastern Area Workforce Development Board's (EAWDB) WIOA subrecipients regarding classroom and work-based training options to eligible participants and employers. WIOA requires the local public workforce system to identify and promote evidence-based strategies for meeting needs of jobseekers facing barriers to employment. Transitional Jobs (TJ) is one evidence-based strategy for helping to meet this requirement. Under WIOA, the EAWDB can utilize up to 10 percent of Title I Adult and Dislocated Worker funds to implement Transitional Jobs programs for jobseekers who face barriers to employment and who are at-risk of experiencing chronic unemployment.

2. BACKGROUND:

WIOA statute defines Transitional Jobs as 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.

Transitional Jobs are combined with comprehensive career services and supportive services and are designed to assist the individuals in establishing a work history that will show success in the workplace and develop the skills that lead to entry into and retention in unsubsidized employment. Eligible participants will be paid at the same entry level rate paid to trainees or employees in the same or similar positions at the worksite.

3. DEFINITIONS:

- Transitional Job (TJ) – A type of work-experience offered as an individualized career service under WIOA. They are time-limited, wage-paid work experiences that are subsidized up to 100 percent. These jobs can be public, private, or nonprofit sector jobs and are only available for individuals with barriers to employment who are chronically unemployed or who have inconsistent work history, as determined by the EAWDB.
- Chronically unemployed – An individual is determined chronically unemployed when a pattern of long term unemployment (9 weeks or more) 3 or more times in a 2 year period or the individual has exhausted unemployment benefits.
- Inconsistent work history – An individual is determined to have an inconsistent work history when there are gaps in employment of three (3) months or more or exhibits a pattern of changing jobs as demonstrated by four (4) or more jobs in a two (2) year period.
- High Priority Occupation (HPO) – An in-demand occupation that has higher than entry level skill needs and is likely to provide self-sufficient wage. Statistical data, regional expertise, and workforce development area inputs are combined to determine whether an occupation meets the high priority criteria.
- Individual Employment Plan/Individualized Service Strategy (IEP/ISS)- An individualized career service that is developed jointly by the participant and the Career Development Specialist (CDS) or Career Coach. The plan is an ongoing strategy to identify employment goals, achievement objectives, and an appropriate combination of services for the participant to achieve employment and training goals.

4. TARGET POPULATIONS

Potential targeted populations for the appropriate use of transitional jobs include but are not limited to:

- Long-term unemployed as defined above
- Ex-offenders
- Individuals who are currently receiving or have exhausted TANF benefits
- Individuals with disabilities

5. GENERAL WIOA PROGRAM REQUIREMENTS

Transitional jobs are designed to assist an individual in gaining skills and experience that leads to stable long-term employment and is provided as an individualized career service.

- Transitional Jobs must be combined with comprehensive career services and supportive services.
- Work- based training opportunities must be identified as an appropriate activity for program participants on their IEP/ISS Plan.
- IEP/ISS Plans will specify goals of the work-based training activity by:
 - a. Identifying purpose of the activity and
 - b. Expected outcomes
- Take place in a workplace for a limited period of a minimum of 8 weeks up to 26 weeks. The exact duration will be set as appropriate for the participant's employment goals, background and skill level as reflected in the individual employment plan.
- Provide at least 20 hours a week but no more than 40 hours a week.
- Help the participant gain the competencies and experience to meet local employer demands.
- Be related to a career choice and provide learning through work-based projects.
- Must be designed to establish a work history for the individual, demonstrate success in the workplace, and develop the skills that lead to entry and retention in unsubsidized employment.
- Pay at an hourly wage at the same rates as similarly situated employees or trainees, subject to the Fair Labor Standards Act, but must exceed the federal or state minimum wage whichever is higher.
- Per WIOA regulations (20 CFR 683.200(g)), "no individual may be placed in an employment activity if a member of that person's immediate family is directly supervised by or directly supervises that individual."

The Transitional Job will be guided by a Training Agreement, an agreement between the local New Mexico Workforce Connection office, the host employer, and the eligible WIOA participant, which will specify the occupational and employability competencies the participant will achieve in the transitional job, the relationship and responsibilities of all parties, the evaluation process that will outline the progress of the participant, and other necessary requirements.

A. Restrictions

Title I subrecipients must be familiar with the limitations and prohibitions on the use of funds allocated to the local area under WIOA title I-B §181 and Part 680 of federal regulations, as follows:

- WIOA funds cannot be used to pay the wages of employees during their participation in an economic development activity provided through a statewide workforce development system.
- WIOA title I funds must not be spent on:
 - i. Construction, purchase of facilities or buildings, or other capital expenditures for improvements to land or buildings;
 - ii. Sectarian activities;

- When a relocation of a business results in the loss of employment of any employee of such business, no funds provided for employment training can be used for transitional jobs until after 120 days has passed since the relocation that caused the loss of employment at an original business location in the United States.
- WIOA work-based training funds must not be used to directly or indirectly assist, promote, or deter union organizing.
- WIOA work-based training funds may not be used to directly or indirectly aid in the filling of a job opening which is vacant because the former occupant is on strike or is being locked out in the course of a labor dispute, or the filling of which is otherwise an issue in a labor dispute involving a work stoppage or layoff.
- Transitional jobs are not intended to impair any existing contracts for services or collective bargaining agreements. When a program or activity authorized under Title I of WIOA would be inconsistent with a collective bargaining agreement, the appropriate labor organization and employer must provide written concurrence before the program or activity begins.
- WIOA work-based training funds must not be used to directly or indirectly provide supportive services described in §680.900 or §681.570.
- A participant in a transitional job will not be employed in or assigned to a job if:
 - i. Any other individual is on layoff from the same or substantially equivalent job;
 - ii. 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 with the participant; or
 - iii. The job is created in a promotional line that infringes in any way on the promotional opportunities of currently employed workers.

B. Criteria:

The following items must be considered when determining the appropriateness of the training:

1. The training must be in alignment with the goals and strategies of the local area as described in the local plan.
2. The quality of the training should result in positive outcomes (e.g., industry-recognized credentials, advancement opportunities, etc.).
3. The characteristics of the workers to be trained (i.e., the extent to which these individuals historically represent individuals with barriers to employment as defined in WIOA Section 3(24), and how such individuals would benefit from a skills gain that results in retention or advancement).
4. The wage and benefit levels of participants (before and after training).
5. The occupation(s) for which transitional jobs is being provided must be in-demand as defined by WIOA Section 3(23) and local board policy.
6. Employer's industry status. Is the employer in:
 - a. An in-demand industry as defined by WIOA Section 3(23) and determined by labor market information or local board policy; or
 - b. A stable industry as determined by labor market information; or
 - c. A declining industry, but there are compelling reasons (e.g., evidence of long-term viability of the employer) justifying investment in customized training?

C. Employer Eligibility

A transitional job may be within the private for-profit sector, the non-profit sector or the public sector ideally within an identified high priority industry.

Because transitional jobs must be planned, structured learning experiences, the entity hosting the transitional job must designate an appropriate supervisor to provide oversight and feedback to the participant at regular intervals during the program.

The employer is under no obligation to offer regular employment to the participant after the conclusion of the transitional job program, although the transitional job can provide employers with a pool of candidates from which to fill future positions and reduce recruitment costs.

Participating employers must agree to cooperate with monitoring requirements as required by WIOA and adhere to all applicable local, state and federal rules, regulations and administrative guidance. Labor standards apply in any work experience setting where an employer/employee relationship, as defined by the Fair Labor Standards Act, exists.

Participating employers must be current on and in good standing with New Mexico tax requirements.

Staff must document the employer eligibility factors and upload to the participant's file.

D. Trainee Eligibility Criteria:

In order to be eligible to receive assistance with WIOA TJ funds a trainee must:

- Be determined to be in need of work experience related services to obtain skills and/or experience necessary to obtain or retain employment. Subrecipient staff must document the participant's need for a transitional job experience and may use recent previous assessments by partner programs to determine if transitional jobs services would be appropriate.
- Be an individual with a barrier (or barriers) to employment or a priority of service participant who is chronically unemployed and/or has an inconsistent work history and is seeking long-term employment in a particular industry or occupation. Transitional jobs are designed to enable an individual to establish a work history, demonstrate work success, and develop the skills that lead to unsubsidized employment.
- Be an individual considered to be "chronically unemployed" or to "have inconsistent work history" as defined above.

E. Transitional Jobs processes:

The transitional job process shall follow all the regular requirements for providing individualized career services and for the development of the training plan. All required TJ documentation shall be kept on file in the participants' electronic file in the New Mexico Workforce Connection Online System (NMWCOS).

- A. Eligibility shall be determined and eligibility documents shall be compiled and maintained in the electronic file within the NMWCOS.
- B. Office staff will send AE staff the pertinent information to create a TJ contract number and enter the provider information into the NMWCOS.
- C. An individual employment plan (IEP) shall be completed for each participant identifying the goal/purpose of the training and maintained in the participants' electronic file.

F. Transitional Jobs documentation:

The TJ agreement, related information and documentation must be kept by the Title I service provider. The service provider is responsible for ensuring the information and documentation is uploaded and available for monitoring and review as required.

- A. Transitional jobs agreement/contract
- B. Assurances
- C. Transitional jobs training plan
- D. Transitional jobs training plan modification (if applicable)
- E. Case notes to track customer interaction (recorded in NMWCOS).