

Workforce Innovation and Opportunity Act References

BUY AMERICAN REQUIREMENTS

SEC. 502. BUY-AMERICAN REQUIREMENTS.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—None of the funds made available under title I or II or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.) may be expended by an entity unless the entity agrees that in expending the funds the entity will comply with sections 8301 through 8303 of title 41, United States Code (commonly known as the “Buy American Act”).

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.— In the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available under title I or II or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), it is the sense of Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance using funds made available under title I or II or under the Wagner-Peyser Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by Congress.

(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.— If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available under title I or II or under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations, as such sections were in effect on August 7, 1998, or pursuant to any successor regulations.

ON-THE-JOB TRAINING REQUIREMENTS

Sec. 680.530 What requirements apply to providers of OJT, customized training, incumbent worker training, and other training exceptions?

Providers of on-the-job training (OJT), customized training, incumbent worker training, internships, paid or unpaid work experience, or transitional employment are not subject to the same requirements as entities listed on the eligible training provider list. For these training programs, one-stop operators in a local area must collect such performance information as the Governor may require and determine whether the providers meet the Governor’s performance criteria. The Governor may require one-stop operators to disseminate a list of providers that have met the performance criteria, along with the relevant performance information about

them, through the one-stop delivery system. Providers that meet the criteria are considered eligible providers of training services. These providers are not subject to the other requirements of WIOA sec. 122 or this part.

Sec. 680.700 What are the requirements for on-the-job training (OJT)?

(a) On-the-job training (OJT) is defined at WIOA section 3(44). OJT is provided under a contract with an employer in the public, private non-profit, or private sector. Through the OJT contract, occupational training is provided for the WIOA participant in exchange for the reimbursement, typically up to 50 percent of the wage rate of the participant, for the extraordinary costs of providing the training and supervision related to the training.

(b) On-the-job training contracts under WIOA title I, must not be entered into with an employer who has received payments under previous contracts under WIOA or WIA if the employer has exhibited a pattern of failing to provide on-the-job training participants with continued long-term employment as regular employees with wages and employment benefits (including health benefits) and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work. (WIOA sec. 194(4))

(c) An OJT contract must be limited to the period of time required for a participant to become proficient in the occupation for which the training is being provided. In determining the appropriate length of the contract, consideration should be given to the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's individual employment plan. (WIOA sec. 3(44)C)

Sec. 680.710 What are the requirements for on-the-job training contracts for employed workers?

OJT contracts may be written for eligible employed workers when:

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

(b) The requirements in § 680.700 are met; and

(c) The OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, workplace literacy, or other appropriate purposes identified by the Local Board.

Sec. 680.720 What conditions govern OJT payments to employers?

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

(b) Employers may be reimbursed up to 50 percent of the wage rate of an OJT participant for the extraordinary costs of providing the training and additional supervision related to the OJT. (WIOA secs. 3(44) and 134(c)(3)(H)(i))

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

CUSTOMIZED TRAINING REQUIREMENTS

Sec. 680.760 What is customized training?

Customized training is training:

- (a) That is designed to meet the special requirements of an employer (including a group of employers);
- (b) That is conducted with a commitment by the employer to employ and individual upon successful completion of the training; and
- (c) For which the employer pays for a significant cost of the training, as determined by the Local Board in accordance with the factors identified in WIOA sec. #(14).

Sec. 680.770 What are the requirements for customized training for employed workers?

Customized training of an eligible employed individual may be provided for an employer or a group of employers when:

- (d) The employee is not earning a self-sufficient wage as determined by Local Board policy;
- (e) The requirements in § 680.760 are met; and
- (f) The customized training relates to the purposes described in § 680.710 (c), or other appropriate purposes identified by the Local Board.

INCUMBENT WORKER REQUIREMENTS

Sec. 680.780 Who is an “incumbent worker” for purposes of statewide and local employment and training activities?

States and local areas must establish policies and definitions to determine which workers, or groups of workers, are eligible for incumbent worker services (WIOA sec. 134(d)(4)). To qualify as an incumbent worker, the incumbent worker needs to be employed, meet the Fair Labor Standards Act requirements for an employer-employee relationship, and have an established employment history with the employer for 6 months or more. The training must satisfy the requirements in WIOA sec. 134(d)(4) and § 680.790 and increase the competitiveness of the employee or employer. An incumbent worker does not necessarily have to meet the eligibility requirements for career and training services for adults and dislocated workers under this Act.

Sec. 680.790 What is incumbent worker training?

Incumbent Worker training, for purposes of WIOA sec. 134(d)(4)(B), is training:

- (a) Designed to meet the special requirements of an employer (including a group of employers) to retain a skilled workforce or avert the need to lay off employees by assisting the workers in obtaining the skills necessary to retain employment.
- (b) Conducted with a commitment by the employer to retain or avert the layoffs of the incumbent worker(s) trained.

TRANSITIONAL EMPLOYMENT REQUIREMENTS

Sec. 680.830 What is a transitional job? [Transitional employment in SP-NEG solicitations]

A transitional job is one that provides a limited work experience, that is subsidized in the public, private, or non-profit sectors for those individuals with barriers to employment because of chronic unemployment or inconsistent work history; these jobs are designed to enable an individual to establish a work history, demonstrate work success, and develop the skills that lead to unsubsidized employment. (WIOA sec. 134(d)(5))