

PUBLIC POLICY NO.:	CLS-2025-26-01
DATE:	July 31, 2025
SUBJECT:	Requirements for the Work-based Training Activities (WBT, for its English acronym) under the Workforce Innovation and Opportunity Act (WIOA, for its English acronym)
ADDRESSED TO:	Local Board members, Executive Director, One-stop Career Center Director, Title I-B Program Director, One-stop Career Center Officials and Service Providers
PURPOSE:	<p>Amend public policy regarding the Work-based Training Activities (WBT, for its English acronym) under the Workforce Innovation and Opportunity Act (WIOA, for its English acronym) provided by means of delegation of funds contracts:</p> <ul style="list-style-type: none">• On-the-job Training (OJT, for its English acronym)• Customized Training• Incumbent Worker Training• Registered Apprenticeship Program (RA, for its English acronym) <p>In addition, it is established that the On-the-job Training activities (OJT) with Related Instruction (RI) from the Registered Apprenticeship Program be considered as a first alternative when offering training services.</p>
JURISDICTION:	This Public Policy applies to the Southeast One-Stop Career System, which is composed of the municipalities of Humacao, Juncos, Las Piedras, Maunabo, Patillas, San Lorenzo, and Yabucoa.

I. LEGAL BASE

- Workforce Innovation and Opportunity Act (WIOA) (Public Act 113-128)
- National Apprenticeship Act of 1937 (29 USC 50 et seq.)
- Law on Incentives for the Generation and Retention of PyMES Jobs (Public Act 113-128)
- Puerto Rico Municipal Code (Act #107 of August 14, 2020), as amended
- Administrative Bulletin # 2018-047- Executive Order to designate the Department of Economic Development and Commerce of the Government of Puerto Rico as the state

agency of apprenticeship and order the adoption of a regulation to create and implement the Puerto Rico Apprenticeship Program

- Puerto Rico Unified State Plan 2020 or the successive ones
- 20 CFR 680.600; 20 CFR 680.61; 20 CFR 680.650; 20 CFR 682.200
- 2 CFR 200 - (Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards), as amended on April 22, 2024
- 29 CFR 29 & 30 - Apprenticeship Programs: Labor Standards of Registration, Amendment of Regulations and EEO for Apprenticeships
- TEGL 13-16 - Guidance on Registered Apprenticeship Provisions and Opportunities in the Workforce Innovation and Opportunity Act (WIOA)
- TEGL 19-16 - Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by Title III of WIOA, and for Implementation of the WIOA Final Rule
- TEGL 21-16 - Third Workforce Innovation and Opportunity Act (WIOA) Title I Youth Formula Program Guidance
- TEGL 10-16: Performance Accountability Guidance for Workforce Innovation and Opportunity Act (WIOA) Title I, Title II, Title III and Title IV Core Programs
- TEN 31-16: Framework on Registered Apprenticeship for High School Students
- TEN 23-23: Quality Pre-Apprenticeship Programs (March 5, 2024)
- TEGL 8-19: Workforce Innovation and Opportunity Act (WIOA) Title I Training Provider Eligibility and State List of Eligible Training Providers (ETPs) and Programs
- DDEC-WIOA-02-20 - Guidance on Technical Assistance of the Youth Program Elements (July 7, 2020)
- WIOA - PP- 04-22 - Requirements for the Work-based Training (WBT, for its English acronym), under the Workforce Innovation and Opportunity Act (WIOA, for its English acronym) - Amendment 2 of October 2, 2024
- WIOA Desk Reference: Incumbent Worker Training
<https://ion.workforcegps.org/resources/2017/03/19/19/18/Incumbent Worker Training - WIOA Desk Reference>, Employment and Training Administration, January 2017
- WIOA - PP-06-2024 - Standardization of Documentation for Work-based Training Activities (WBT) under WIOA of October 2, 2024

II. DEFINITIONS

The following definitions are part of this policy:

1. **Customized Training:** Classroom-style training, designed and developed to satisfy a worker or group of workers' particular needs with the commitment to employ those individuals that comply satisfactorily with the training.
2. **On-the-job Training (OJT):** Structured training provided by a public or private, for-profit or nonprofit employer, to a participant that earns a salary while doing a productive work in a job that:
 - a. Provides knowledge and/or essential skills for a full and adequate job performance.
 - b. Reimburses the employer up to a 50 percent of participant (in limited circumstances up to a 75%) for the extraordinary costs of providing training and additional supervision related to the OJT .
 - c. It has a limited duration according to the occupation in which the participant is being trained, taking into consideration the required skills for the occupation, the training content, the participant's academic and occupational skills level, the previous work experience, and the participant's service strategy, as applicable.

The employer's reimbursement rate may change by means of a waiver that is approved by the Federal Labor Department.

This activity under the Work Apprenticeship Program is known as On-the-Job Learning (OJT). However, indistinctively of the program and to the effect of this public policy, we will use the OJT acronym to refer to the On-the-job Learning activity.

3. **Incumbent Worker Training:** A training designed to comply with the special requirements of an employer or group of employers in order to retain a skilled workforce. This training purpose is to provide new skills and knowledge to the existing¹ workers with the end of increasing their competitiveness and productivity of the business. The training is carried out with the commitment of the employer to retain or avoid the layoffs of the trained incumbent workers.
4. **Apprentice:** A worker at least 16 years of age, except where a higher minimum age is established by law, who is employed to learn an occupation as an "apprentice" within a Registered Apprenticeship program.

¹It is important to highlight that the definition of *incumbent worker* is the one that has been employed for six (6) months or more as a regular employee with the same employer.

- 5. Registered Apprenticeship (RA):** A structured training model leading to a credential that provides a unique combination of apprenticeship on the Job (OJT)² with Related Instruction and a salary increase during or at the end of the training. The OJT is carried out under the mentoring of a “journey worker” or experienced worker. In the majority of the Registered Apprenticeship programs the worker generates income from the first day of training.

The related instruction hours refers to the theoretical part of the program with classroom-style trainings, which can be carried out before or during the on-the-job training. The graduate students from the registered apprenticeship programs receive portable credentials at a recognized at a national level, which can be applied to additional or secondary education.

- 6. Local Workforce Development Area (ALDL, for its Spanish acronym):** A designation made by the Governor for a geographic area, which is composed by one or various municipalities within which workforce development activities are carried out.
- 7. Certificate of Completion:** A credential given to an *apprentice* after completing the hours required for a determined occupation in a Registered Apprenticeship program. This credential is issued by the Federal Department of Labor, or an entity accredited by the same. In addition, the credential is recognized at a national level, certifies the worker’s professional competence, and is portable.
- 8. CGU:** It refers to the One-Stop Center acronym (known in English as American Job Center, (AJC)).
- 9. Extraordinary cost:** A nonrecurrent expenditure an employer incurs regarding the On-the job training of a participant and their low productivity level.
- 10. Significant cost of the training:** It is the portion of the On-the-job Training or Customized Training that the employer will provide considering the following: business size, number of employees that participate in the training, the salary and the level of benefits of these employees (at the beginning and at the end of the training), the relation between the training and the participant's competitiveness activity, other trainings provided by the employer, and the progress opportunities within the business.
- 11. Credential:** Acknowledgement given to an individual for obtaining a measurable skill of technical or occupational nature, which is necessary to obtain a job for improvement within an occupation. Likewise, it consists of a certificate or certification recognized by an industry, a high school diploma or equivalence, a certificate for completing a learning program, a recognized license at a state or federal level, an associate degree or a bachelor's degree.
- 12. Department of Economic Development and Commerce (DDEC, for its Spanish acronym):** Puerto Rico government agency designated by Act 171-2014 as an administrator and monitor of the federal funds that the Government of Puerto Rico receives under Federal Public Act 113 -128 of July 22, 2014, known as the Workforce Innovation and Opportunity Act (WIOA, for its English acronym).

²It is also known as On-the-job Training.

13. **DOL:** It refers to the English acronym to identify the Federal Department of Labor.
14. **Self-sufficiency Standard:** Household income equal to or in excess of 100% of the Lower Living Standard Income Level based on 100% of the annual estimates of the Federal Department of Labor.
15. **Individual Service Strategy (ISS):** The individual plan designed specifically for youth program participants. The individual service strategy is used as a basic tool for documenting case management and as a guide to provide the adequate combination of services for the youth, including referrals to other programs.
16. **Individuals with barriers to employment:** An individual who belongs to one or more of the following populations:
 - a. dislocated housewives
 - b. low-income individuals
 - c. others, as defined in section 166 of WIOA
 - d. disabled individuals (including youth)
 - e. elderly individuals
 - f. ex offenders
 - g. homeless, as defined in section 41403-c (6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6)); or youth or homeless children, as defined in section 725(2) of McKinney Vento Act– Homeless Assistance Act (42 U.S.C. 11434a (2))
 - h. youths who are in -or- have aged out of foster care
 - i. Individuals who are English language learners, individuals with a low-literacy levels, and individuals who face substantial cultural barriers
 - j. seasonal farmers and eligible migrants, as defined in section 167(i) of WIOA
 - k. individuals within two years of the exhaustion of lifetime eligibility under part A of Title IV of Social Security Act (42 U.S.C. 601 et seq.)
 - l. long-term employed individuals, and
 - n. other groups that the governor determines that face employment barriers.
17. **Related Instruction (RI):** Theoretical instruction or training that supplements technical knowledge of the OJT component of the Registered Apprenticeship Program (RA). Classroom-style training helps tune technical and academic skills that are applied to the job. Related instruction is provided by training centers, technical schools, community colleges and/or universities or other institutions that employ technology-based and distance learning approaches. It can also be provided by the employer’s internal resources who are qualified in the subjects required by the program. The objective is to provide apprentices with a set of advanced skills that meet the specific needs of the employer(s).

- 18. Workforce Development State Board:** According to section 101 of WIOA (d) (1), the State Board will assist the governor in the development, implementation, and modification of the strategic plan that outlines strategies for the state workforce development system and additional functions established by law. The Board is appointed by the governor and is led by representatives of the private sector, who constitute the majority of the Board's membership. In addition, the membership includes representatives from labor unions, state agencies responsible for postsecondary education, career and technical education, workforce development, economic development, and community organizations.
- 19. Workforce Development Local Board (JLDL):** The Local Board is appointed by the elected official (mayors) in each local area according to the state criteria established under section 107(b) of WIOA and is certified by the governor every two (2) years, according to WIOA 107(c)(2)³.
- 20. Fair Labor Standards Act:** The Fair Labor Standards Act, 29 U.S.C. § 203, et seq., (FLSA) establishes norms for minimum wage, overtime pay, and employment of minors that affect full-time and part-time workers in the private sector and in the federal government, as well as in state and local governments.
- 21. Office of Planning, Evaluation, Validation, and Statistics of the Workforce Development Program (OPEVE):** Office within the Workforce Development Program that promotes, applies, and advises on strategic and programmatic planning for the development of the Workforce Development System.
- 22. O*NET:** Online system for the occupations classification that provides a common language to define and describe occupations.⁴ The O*NET database is the leading source of occupational information in the United States. Its portal web address is onetonline.org.
- 23. Apprenticeship Program Sponsor:** Any employer, association, committee or organization that operates a Registered Apprenticeship program and that assumes full responsibility for its administration and operation. In turn, it recruits apprentices, oversees the trainings development, and provides the setting to carry out the OJL and/or technical instruction. A sponsor may be: a business or consortium of businesses, a workforce intermediary, such as an industry association or labor management organization, technical/community colleges, and community organizations, among others.
- 24. Small and Medium Enterprises (PyMES):** State Act 120 of July 31, 2014, known as Law on Incentives for the Generation and Retention of PyMES Jobs, classifies PyMES as:
- (i) *Microenterprises: generate a gross income less than five-hundred thousand dollars (\$500,000) every year, and employ (7) workers or less*

³20 CFR 679.310

⁴Also known as *Dictionary of Occupations*.

(ii) Small enterprises: generate a gross income less than three million dollars (\$3,000,000) every year, and employ twenty-five (25) full-time or its equivalent workers, as defined in this Act, and

(iii) Medium enterprises: generate a gross income less than ten million dollars (\$10,000,000) every year, and employ (50) workers or less or its equivalent, as defined in this Act.

- 25. Individual Employment Plan:** An individualized career service developed jointly by the Career Planner and the participant. The Individual Employment Plan (PIE) is a continuous strategy to identify the employment goals, target objectives, and the adequate service combination for the participant of the Adult or Dislocated Worker Program.
- 26. Career Planning:** It is the provision of services focused on the participant that is designed to:
- a. prepare and coordinate comprehensive employment plans for participants, such as service strategies to ensure access to workforce development activities and support services using, to the extent possible, computerized technology and,
 - b. provide employment, education, and career counseling, as appropriate, during participation in program and after placement in employment.
- 27. Workforce Development Program (PDL):** Program ascribed to DDEC, created by virtue of Act 171-2014, whose function is to administer, counseling, monitoring, and implementing the public policy of the workforce development system.
- 28. Pre-apprenticeship programs:** They are designed to offer instruction and or training to increase Math skills, literacy, and other needed vocational and prevocational abilities in order to enroll in a Registered Apprenticeship program (RA). The pre-apprenticeship programs funded by WIOA must be formally linked to one or more RA programs and have a solid history of enrolling their graduates in RA programs. Pre-apprenticeship is a part of the For-Profit or Nonprofit Workforce Experience of the Youth Program element.
- 29. Industrial sector or occupation in demand:**
- a. An industrial sector that has a substantial current or potential impact (including jobs leading to self-sufficiency and growth opportunities) in the local, state, or regional economy, as appropriate, and that contributes to the growth or stability of other related businesses or industrial sectors, or
 - b. An occupation that has or projects a number of job positions (including jobs that lead to self-sufficiency and growth opportunities) in an industrial sector that has a significant impact in the local, state or regional economy. The State Board or the Local Board, correspondingly, will determine if an industrial sector or occupation is in demand using the business state and regional projections and labor market information.
- 30. Request for Funds for Training and Learning Activities:** Document(s) that the employer will fill out when requesting WIOA funds for Incumbent Workers Training. The request establishes the requirements that the employer must meet to be eligible, the

documents necessary to evaluate the request, and the posterior funds delegation contract, if the application or request is approved. Upon completion, every request will be evaluated, according to the Local Area’s funds availability.

- 31. Specific Vocational Preparation (SVP):** It is the period of time required for an employee to learn techniques, acquire information, and develop the necessary agility to perform in a specific position. Training can be acquired in a school, work, institutional, military, or vocational environment. The orientation time required for a qualified employee to become accustomed to the special conditions of a new job is not included within the SVP. The following table contains an explanation of the different levels of SVP:

Level	Time
1	Only short demonstrations
2	Any short demonstration up to and including one month
3	More than one month up to and including three months
4	More than three months up to and including six months
5	More than six months up to and including one year
6	More than one year up to including two years
7	More than two years up to including four years
8	More than four years up to including ten years
9	More than ten years

- 32. Career Pathway:** The career pathway approaches for the workforce development offer articulated steps to education and training among occupations in an industrial sector combined with support services to allow people enter and exit at various levels and to advance throughout time towards higher skills, recognized credentials, and better jobs with higher salaries. Each step in a career pathway is designed explicitly to prepare people to progress to the next employment and or education level. The professional career pathways are aimed at job positions in industries of importance for the local and regional economies and construct solid relationships with the employers.

III. BACKGROUND

The Workforce Innovation and Opportunity Act (WIOA, for its English acronym) authorizes a series of training options based on work known in English as work-based training⁵, (WBT), that can be used, correspondingly, to assist job searching people reincorporate or advance in the workforce.

⁵Under the structured model of the Registered Apprenticeship Program it is known as work-based training.

Generally, work-based training (WBT) implies an employer or employers' commitment to employ participants on a full-time basis after having completed the program successfully.

A key advantage of the work-based training is that participants can "earn while they learn" in a hands-on environment to achieve better performance and profits results. In addition, the work-based training opportunities provide enterprises the opportunity to develop and retain a qualified labor force using resources from WIOA.

Each of the work-based training models can be efficiently used to aim at the job searching individuals' and employers' different needs.

The activities identified as work-based training that are included in this policy are:

1. On-the-job Training (OJT, for its English acronym)
2. Customized Training
3. Incumbent Worker Training (Incumbents)
4. Registered Apprenticeship Program (RA)

Other work-based training activities authorized by WIOA are: internship and other labor experiences such as Observational Learning Technique (Job Shadowing).

IV. PUBLIC POLICY

A. GENERAL PARTICIPANT ELIGIBILITY REQUIREMENTS FOR WORK-BASED TRAINING SERVICES

1. All the training services, including the WBT, will be available for individuals employed or unemployed when:
 - a. The One-stop Center or American Job Center (CGU/AJC) or one of its partners, after a job interview or evaluation determines that the individual:
 - i. Only with the provision of career services is improbable or the person is unable to obtain or retain a job that leads to self-sufficiency or a salary comparable or higher than the one the person earned in a previous job.
 - ii. Is in need of obtaining or retaining unemployment that leads to self-sufficiency or to a salary comparable or higher than the one the person earned in a previous job, and
 - iii. Has the skills and qualifications to participate successfully in the selected training service.
 - b. The work-based training opportunities must be identified in the Individual Training Plan (ITA) or the Individual Service Strategy (ISS, for its English acronym) as an activity appropriate for the program participants. Also, PIE or ISS

- and/or the case notations will specify the objectives of the work-based activity and the expected results.
- c. The selected training program must be directly linked to the employment opportunities in the local area or the planning region (industries and occupations in demand established in the Local Plan) or in any other area to which the individual is available to travel or relocate.
 - d. The individual cannot obtain financial assistance from other source to pay for the training cost, including sources such as subsidized funds for state or federal training, the Trade Adjustment Assistance Program, (TAA), or the Federal Pell Grant established under Title IV of the Higher Education Federal Act of 1965.
 - e. The individuals are determined eligible and will be serviced according to the state and local priority policies.
2. The Local Board must adopt, estimate, or commission the approval of the self-sufficiency standards for the local area that specify the necessary household income, according to family size, number and age of the family's children, and substate geographical considerations. That is established in the Self-Sufficiency Public Policy No. 26-A of January 22, 2019.
 3. A new interview or evaluation of the participant will not be required if the CGU/AJC or their partner determines that it is appropriate to use an interview or evaluation conducted recently by other education or training program.
 4. Adult and Dislocated Worker Training Services of Title I of WIOA, when deemed appropriate, must be provided through an Individual Training Account (ITA) or through a training contract.

B. ON-THE-JOB TRAINING ACTIVITY (OJT)

The OJT is defined in section 3(44) of WIOA as structured training provided by an employer or a participant who earns a salary while conducting a productive labor in an employment that:

1. Provide the knowledge and necessary skills for full and proper job performance.
2. Provide reimbursement to employer, generally up to fifty (50) percent of the participant's salary for the extraordinary costs of providing additional training and supervision related to the OJT. In limited circumstances, reimbursement can be up to seventy-five (75) of the participant's salary.
3. It has a limited duration according to the occupation for which the participant is being trained. The duration is determined by taking into account the training content, previous work experience, and the participant's service strategy (PIE or ISS), correspondingly.

4. It is critical to differentiate OJT “training” from the initial orientation provided by the employer to new hires. The employer should only be compensated for the type of training that is in addition to what is normally provided to a qualified new employee.
5. OJT benefits employers by reducing the cost of training new employees, the employer designs the on-the-job training in the workplace, the training is aligned with the skills required to perform the job tasks, and it is a long-term investment in the company. The OJT benefits the candidate by providing the opportunity to earn wages as they learn in a hands-on environment, acquire job skills with the possibility of career advancement, besides the opportunity to maintain a long-term employment. The core purpose of an OJT is to encourage public and private for-profit and nonprofit employers to hire individuals and teach them the skills necessary to perform successfully on the job or upgrade the skills of an eligible worker. The Local Board or service provider provides the employer with a partial reimbursement of the participant's wages in exchange for providing training and a commitment to retain the person when the training is successfully completed.
6. **Not all the jobs are appropriate for an OJT.** The training emphasis eliminates automatically all the jobs that require no more than a brief period of initial orientation. Similarly, because reimbursements are intended to compensate the employer for decreased productivity, job positions that pay on commission or for work delivered are not appropriate. Other jobs not suitable for OJT are seasonal, temporary, and part-time jobs, since the desired outcome of OJT is long-term retention in full-time employment leading to self-sufficiency.

Occupation demand in the local and/or regional labor market

OJT positions must be in demand in the local labor market, as defined in section 3 (23) of WIOA and must be determined by the information in the labor market that is issued by the Department of Labor and Human Resources.

OJTs that occur in small businesses where OJT training covers a relatively wide range of functions that draw on several occupations are generally considered a single occupation for labor market demand purposes. With these single occupations, the fact that there is an employment opportunity for the occupation in the business presupposes the existence of a demand for the occupation.

Participants selection

The responsibilities that accompany the use of public funds require that expenditures for training activities be limited to situations where there is a documented need for training. OJT is not to subsidize salaries to businesses or provide economic incentives for hiring. Therefore, the selection of candidates for OJT should be carefully governed by a well-thought-out process. The skills already possessed by the participant should be considered along with the skills needed to perform the job.

1. The OJT programs can be particularly successful for the persons that:

- a. are unable or unlikely to obtain employment without retraining
 - b. have low-income, receive unemployment insurance, or public assistance, or need to earn a wage while learning an occupational skill
 - c. are people with barriers to employment who need help finding their next job
 - d. are individuals that can learn skills necessary for the occupation easily and thoroughly within the labor area and/or
 - e. Need supervision while they learn occupation specific skills.
2. The OJT activity can also be offered to eligible persons that are already employed when:
- a. The employer does not earn a salary that allow them to be self-sufficient or when is underemployed.
 - b. Receives a salary comparable to or less than the salaries earned in previous jobs, as determined by the Local Board policy.
 - c. Complies with the requirements established for OJT, and
 - d. On-the-job training is related to introduction of new technology, new products or service procedures, promotions to new jobs that require additional skills, workplace literacy, or for other appropriate purposes identified by the Local Board.

Note: The workers that already possess a substantial part of the skills required to perform the job must not be considered for OJT positions.

Participants eligibility

1. Participants are required to meet the program eligibility requirements for each funding source, i.e., Adult, Dislocated Worker and Youth programs of WIOA, National Dislocated Worker Grants, (NDWG) or the Trade Adjustment Assistance Program (TAA).
2. Although the primary focus of OJT is job-specific skills training, it is sometimes necessary to include training that **simultaneously** addresses basic skills and/or job readiness deficiencies as part of the participant's training plan.

Participants evaluation

1. OJT can be provided to any eligible participant under WIOA who has completed a comprehensive evaluation process; is determined that needs the training service; and is suitable to obtain or retain a job leading to self-sufficiency. Employers will have the final decision regarding the recruitment of participants subject to meeting the eligibility requirements for the WBT services.

2. When a candidate is referred by an employer, they may be considered for OJT with that employer only if they meet the eligibility requirements for WBT services, as set forth in this policy.
3. In determining a participant's eligibility for the activity, consideration must be given to the occupation demands, the participant's academic and occupational skill levels, previous work experiences, and PIE, in the case of adults and dislocated workers, or the ISS for out-of-school youth and those over the age of 18. PIE/ISS must be based on the objective evaluation outcomes; it must demonstrate that the participant has the need, and that the OJT activity will be of benefit to the candidate. As part of the evaluation, it must be taken into consideration the employment background, the analysis of the diagnostic tests and additional information of the participant about work experience, hobbies, volunteer work, and the identification of skills and weaknesses of participant. Also, the evaluation must include documentation regarding the new skills that must be acquired during the training and how the gap of the skills deficiency will be overcome with the training.

Participants with previous experience in the occupation

An individual that possesses knowledge or essential skills for full and adequate performance in the specific occupation for which OJT is proposed cannot be considered for this activity in said occupation. While strict adherence to this principle is inherent in the OJT concept, in reality many jobs are unique and do not have an exact match of the skills required for jobs with other employers, even when the job title is identical. Therefore, the need for OJT can sometimes be justified through the evaluation process. In addition, lack of updated skills application or a change in technology may require additional training.

Co-enrollment in WIOA and TAA

1. Eligible participants can be jointly enrolled (*co-enrolled*) in workforce development partner programs system as the Trade Adjustment Assistance Program (TAA) and receive OJT of WIOA.
2. Participants must meet the eligibility requirements for each program. WIOA and TAA funds must be managed in a coordinating manner to better meet the needs of participants and avoid double payment of training costs.
3. The TAA Program can reimburse employers up to fifty (50) percent, and WIOA can reimburse employers up to an additional twenty-five (25) percent, which increases the total reimbursement to employers up to seventy-five⁶, (75), aligning TA Program benefits with WIOA benefits.

⁶Each Local Board must approve its public policy to award this percentage.

Reimbursement for training

1. Through the adoption of public policy, the reimbursement rate for an OJT may be increased from fifty (50%) to seventy-five (75%) taking into consideration the following factors:
 - a. special characteristics of participants considering if they are individuals with job barriers; for example, if they are disabled, etc.
 - b. company or business size, with emphasis on small and medium businesses
 - c. employer's track record in providing training and promotion opportunities, such as, for example, when trainings aim at an occupation in demand and may lead to a credential recognized by the industry
 - d. salary and benefits level of the participant during and after training
 - e. type of industry
 - f. type of credential obtained
 - g. relation between the participant's training and competitiveness
 - h. number of employees to be trained.
2. In case that the employer belongs to the construction, renewable energies or health-related services, the Board authorizes that -as a sectorial strategy- seventy-five (75) percent of reimbursement can be granted, irrespectively of the number of employees.
3. The Local Board will be required to document the factors used when determining to increase the salary reimbursement level above fifty (50) percent up to a maximum of seventy-five (75) percent for OJTs. It will not be necessary to document the extraordinary costs when reimbursement cost is less than 50% of the participant's salary.
4. OJT must be granted through a funds delegation contract establishing the conditions of the structured training and the responsibilities of the involved parties. The contract must be completed and signed by all the parties prior start of training.
5. Reimbursement will be made only for the hours the participant spends on training. No reimbursement will be made for payment for work performed outside the terms of the contract, or during breaks or periods not worked (e.g. vacations, holidays, sick leave, strikes, emergency shutdowns, etc.).
6. For OJT to be successful, training requires continuous monitoring that allows documenting the progress of the activity and its participants.
7. The OJT contract must be limited to the period of time that the participant requires to become skillful or apt in the occupation for which the training is provided. The maximum training hours established in O*Net for an

occupation should not be uniformly assigned to an OJT activity. In determining the appropriate content and duration of training, consideration must be given to the skills gap that exists when comparing the skills required for the occupation and the participant's academic and occupational skill level, previous work experiences, and the participant's PIE/ISS.

Employer eligibility requirements

1. OJT is provided by virtue of an agreement with an employer in the public, private for-profit, or nonprofit sector. Prior to executing an OJT agreement, a pre-screening must be conducted to ensure that the employer meets minimum standards and can provide training and employment to an OJT participant. If additional training is needed, the CGU/AJC should ensure that an outside training provider is included in the agreement.
2. The minimum standards that must be guaranteed at the state and Local Board level are the following:
 - a. The employer will offer the OJT participants continued employment salary, benefits and work conditions equal to those provided to their regular employees that have worked for a similar period of time doing the same type of work.
 - b. WIOA funds will not be used to relocate all or part of the operations of the company or organization.
 - c. The employer has operated in their location for at least one hundred (120) days. If the employer has operated for less than one hundred and twenty (120) days and the business moved from another US jurisdiction, the employer cannot have laid off employees at the previous location as a result of the relocation. If the employer has operated one hundred and twenty (120) days or less and the business have never operated in another jurisdiction, must submit the following documents:
 - Projection of the profits/operations of the business certified by a Certified Public Accountant (CPA) independent of the employer
 - Five (5) year Business Plan, and
 - Certification that they are not currently or have not been in bankruptcy proceedings within the last five (5) years.
 - d. The employer will not use OJT participants to fill job vacancies arising from a labor dispute.
 - e. The OJT funds will not be used to assist, promote, or dissuade directly or indirectly a trade union.
 - f. The OJT will not result in total or partial displacement of the employer's workers.

Contracts must also include specific requirements related to the OJT funded through other federal programs.

3. Contracts executed with employers for the OJT activity must contain at a minimum what follows:
 - a. The occupation for which training is provided and a description of the occupation, including the skills and competences to be learned or acquired.
 - b. The training outline reflecting the occupational skills required for the position, including the hours of training for each skill or task. The occupation description and the outline must be specific enough to allow verification that the training is being offered according to what is set forth in the contract.
 - c. The number of participants and the hourly salary for each participant that will be trained. The amount of the salary to be reimbursed, according to the percent approved to the employer. The State Board or the Local Board may approve public policy to establish a wage cap for all occupations for Puerto Rico.
 - d. Payment method and the maximum amount to reimburse to the employer.
 - e. A clause that establishes that the employer must comply with the compensation insurance, as well as the withholding of applicable contributions.
 - f. The employer must maintain and present the records of time, attendance, payroll or other records to back up the amount of reimbursement to be claimed under the OJT contract.
 - g. Any applicable provision required by the federal statutes and the executive orders numbered in 2 CFR part 200, Appendix II.
 - h. The general clauses established in the clause regarding the *General Provisions* referring to the WBT activities.

Waiver of the reimbursement rate approved by the DOL

The waivers must be approved by the Training and Employment Administration of the Federal Department of Labor (DOLETA, for its English acronym), pursuant to WIOA section 134(c)(3)(H)(i) and 20 CFR 680.720(b) to increase the reimbursement to employers for the On-the-job Training Activity (OJT) up to ninety (90) percent.

The waiver allows the DDEC (on behalf of the state) and the JLDLs to increase the reimbursement to the employer for on-the-job training activity (OJT) participants up to 90%, or according to what is set forth in the current waiver.

If the Local Board determines participating in the exemption of reimbursement of OJTs, it must:

1. Notify in writing to PDL and include in the public policy of On-the-job Training (OJT) the changes that reflect the reimbursement rates approved by the Local Board. In addition, the public policy will be posted on the webpage.

2. Present for the approval of PDL, the Budget Information Summary (BIS) (notification) per program, reflecting the impact of the use of the waiver in the budgetary items per each programmatic year (as applicable).
3. Amend active contracts with eligible employers for the OJT activity that started prior to the approval of the waiver. The application of the contract and its amendment in the salary reimbursement rate will be effective as of the date and filing thereof in the Office of the Controller of Puerto Rico (it will not be retroactive.)

If the Local Board determines not to participate in the OJT reimbursement exception will notify its decision in writing to PDL OPEVE. However, the Local Board will set forth the local policy regarding the OJT activity.

The PDL OPEVE will monitor the progress in virtue of the current waiver and will work with the Local Board to implement the approved state and local policies. The Title I-B Provider, in coordination with the Executive Director, will submit a quarterly report establishing the number of employers, impacted participants, and budget used. We must ensure the strict compliance thereof since the Monitoring Division of DDC will evaluate the implementation of this policy in monitoring the operational, administrative, and financial systems, according to the audited period.

C. REGISTERED APPRENTICESHIP PROGRAM (RA)

Apprenticeship is the strategy that enables a worker for the specific occupation using a structured combination of on-the-job learning (OJT) and related instruction. The registered apprenticeship is a type of training at national level that is approved by the DOL. The model also implies progressive salary increases to the apprentice for the new acquired skills and the obtention of a portable credential recognized nationally upon completion of training. Apprentices may be new employees or existent employees that need to update their skills to gain greater competitiveness and retain their jobs.

There are five elements that compose of a RA program, namely:

1. **Employer participation:** Employers are the base of the RA program and must be the OJT providers.
2. **On-the-job learning:** Each RA program includes OJL hours for a **minimum** of one year or two thousand (2,000) hours.
3. **Related instruction:** Each RA program includes an academic component (in person or distance learning) with a minimum of one hundred forty-four (144) hours for each OJL year.⁷
4. **Salary increase:** Each RA program must have at least one incremental salary increase commensurate with an increase in acquired skills.

⁷RI hours vary according to the years of the program duration and its focus.

5. Occupational credential: The RA Termination Certificate is a recognized postsecondary credential, which belongs to the apprentice once the program hours are complete. In addition, it is also recognized by the WIOA programs. It is issued by the DOL office or by an entity certified by it.

Registered Apprenticeship benefits

Registration of an Apprenticeship program in the DOL offers many benefits to the job applicants and employers compared to other training programs:

- 1. National recognition credential:** Registered apprenticeship programs' graduate participants receive national credential recognized by the industry in which they were trained.
- 2. Quality standards:** Registration means that the program has met the national and independent quality and rigor standards. Registration conveys to the prospective employees, clients, and providers that the business invests in its workforce and knows that it is most important asset.
- 3. Safe and high-quality work conditions:** The program's emphasis on safety can reduce the cost of workers' compensation cost.
- 4. Assistance and technical support:** The program is part of the registered apprenticeship system that provides access to an experienced national net, customer service and support at no cost for the program's sponsors.
- 5. Federal resources:** Employers and apprentices may access funds and other federal resources to help support their Registered Apprenticeship program, including Pell Grants and GI Bill.

Development of new Registered Apprenticeship programs

- 1.** The Workforce Development Program (PDL, for its Spanish acronym) of the Economic Development and Commerce Department (DDEC, for its Spanish acronym) is responsible of providing technical assistance and registering new RA programs. The representatives of the program can discuss the benefits of the RA with the employers, call on meetings with the parties interested in the apprenticeship program development and support the sponsor in the process of registration in the Office of Apprenticeship of the DOL.
- 2.** For the Local Area, when orienting a training services employer, the Registered Apprenticeship Program and On-the-Job Learning (OJL) activities with Related Instruction (IR) should be presented as a first alternative. The employer may then be provided with information on On-the-Job Training activities and/or Customized Training.
- 3.** There is a wide variety of occupations for the manufacturing, health, hospitality, services, construction, and other sectors that can meet the needs of employers in these industries and provide the opportunity for employees to receive solid training

that will open new doors in the labor market through the RA. However, while not all occupations qualify to be trained by an RA, about one thousand four hundred (1,400) have been approved by the USDOL's National Apprenticeship Office. These should be verified by visiting www.apprenticeship.gov under Employers: Tools: Occupation Finder.

4. WIOA requires each Local Board and the State Board to have an Apprenticeship representative among its members. The purpose of having an apprenticeship representative sit on the Local Board is to serve as a resource for their Local Area in the development of new RA opportunities.
5. Industry associations, labor unions or any official entity that groups or represents varied sectors of our local or regional economy can help insert RAs into the local workforce development system. Employers in the respective sectors can identify common challenges and design strategies to meet their training and recruitment needs. For example, an association or training provider can become an RA sponsor for several employers in a sector.
6. The programs have three types of approaches:
 - a. **Base time**--OJL hours are determined by the Office of National Apprenticeship and cannot be changed.
 - b. **Competence** – By means of a screening, the employer can credit the Apprentice with OJL hours. However, the apprentice must comply with a minimum of one (1) training year. Not all the occupations are approved under this focus.⁸
 - c. **Hybrid** – The occupations with a hybrid approach allows for apprentices on time-based trainings and in competence under the same registered program.
7. A minimum of one hundred and forty-four (144) hours of related instruction (RI) is required for each year of on-the-job training. The related instruction hours can be provided before or during the OJL. On some occasions they are not paid for by the employers. It is not compulsory for the employer to cover the RI cost.⁹

Eligibility requirements to be an apprentice

1. RA program sponsors identify minimum qualifications to enroll in their apprenticeship program. The eligible starting age cannot be less than sixteen (16);

⁸To learn about the occupations and approaches approved in each of them visit:

www.apprenticeship.gov/apprenticeship-occupations

⁹Certain conditions apply. For details consult the State Apprenticeship Office representative.

however, individuals must be eighteen (18) to be apprentices in hazardous occupations¹⁰.

2. RA program sponsors can also identify qualifications and additional minimal credentials to admit candidates to their programs, such as education or capacity to physically do the essential functions of the occupation. Pre-Apprenticeship programs can serve as a gateway to apprenticeship for youth or individuals with barriers to employment.

Use of WIOA funds for employment-based learning activities

There are several ways in which WIOA Title I funds can support the RA components for adults, dislocated workers and youth.

1. **Individual Training Account (ITA):** ITAs can be used to fund the related instruction component of RAs for eligible apprentices. ITAs may also fund Pre-Apprenticeship if the sponsor is on the State's Eligible Training Provider List (ETPL, for its English acronym). Pre-apprenticeship is not only a program strategy for youth but can also be an effective strategy for participants in WIOA adult programs.
2. **On-the-Job Training (OJT)**¹¹ In certain circumstances, WIOA funds may reimburse up to seventy-five (75%) of the apprentices' wages. Local areas may place their OJT participants with one or more employers duly registered in the RA program. In certain circumstances, the Local Board may determine that a contract with a training provider is the most appropriate way to train a pool of new apprentices in in occupations or in the same industry sector.

Apprentices may be new hires or incumbent workers, at the time of participation in an RA. The on-the-job apprenticeship (training) must meet the requirements of part (20 CFR §680.700) for new hires and parts (20 CFR §680.780 and §680.790) when incumbent workers are involved. The OJT must always be related to one or more of the following reasons:

- a. new jobs requiring additional skills
- b. introduction of new technology
- c. new products or service procedures
- d. promotions
- e. workplace literacy, or
- f. other appropriate purpose identified by the Local Board.

¹⁰Consult TEN 31-16 published by the DOL to obtain more details on the norms of the Fair Labor Standards Act (FLSA) for minors employment.

¹¹Also known as On-the-job Training (OJT, for its English acronym).

3. **Customized Training:** The RA program sponsors and trainees may receive support through customized training agreements. In most cases, customized training is part of the Related Instruction component.
4. **Incumbent Worker Training:** Funds for incumbent workers training from adult or dislocated worker programs can be used to provide training to a pool of apprentices.
5. **Youth occupational skills training:** In the Title I Youth Program, pre-apprenticeships are considered a type of work experience for youth ages sixteen (16) to twenty-four (24) years. The work experience program element also emphasizes training that aligns with in-demand industry sectors and occupations, which is a key component of RA programs.
6. **Support Services:** WIOA funds can support a variety of support services for apprentices, including: annual dues, registration fees, books, supplies, childcare, transportation, tools and uniforms.¹²

Apprenticeship Program Sponsors

The sponsor is the one who applies for registration to operate an apprenticeship program. There are several types of sponsors, some of which are listed below:

1. **Employer:** An individual employer may create its own program and offer the related instruction, with its trained in-house staff, in addition to providing the on-the-job apprenticeship.

Employer using an outside training provider: Under this model, employers are sponsors, but do not provide the related instruction. They rely on an outside educational entity. Employers may use postsecondary institutions with two- or four-year educational offerings, technical training schools, or online courses for related instruction. The employer is the eligible training provider and must identify its training provider.

Employers that combine internal and external resources: Most of the RI is provided by internal resources, but they also contract with an external educational entity to provide certain parts of the related instruction.

2. **Joint Apprenticeship Training Programs, known in English as *Joint Apprenticeship Training Committee (JATC)*:** These programs are integrated by employers and their affiliated unions. The unions administer a training school that provides the IR portion for apprentices in certain specialties, such as plumbing, electrical, carpentry, iron work, among many others. What makes the union the RI provider, however, is not limited to this. When we talk about a JATC, it means that the

¹² 20 CFR §680.900

union with the support of one or more employers have applied for registration with the RA, and it is the union that administers the program. Most JATCs have collective bargaining agreements¹³. These agreements signed between the parties establish the criteria that a candidate must meet to become an apprentice. Each employer has its own collective bargaining agreement. However, when it comes to unions, the fundamentals and skills that the apprentice must master to perform the occupation are the same.

3. **Intermediaries:** Serve as program sponsors and assume responsibility for administration. They may also provide assistance in curriculum development, classroom instruction and support services, as appropriate. Intermediaries may be educational institutions, including postsecondary institutions or two- and four-year technical schools. In this model, the educational institution administers the program, works with employers to recruit apprentices, and provides classroom or online instruction for the apprenticeship program. There are also service providers that serve as intermediaries. They assume the responsibilities of administering the program and assist both the employer and the educational entity in the design, implementation and execution of the RA.
4. **Industry associations:** Administer the program and work with member employers and educational entities to implement the apprenticeship program.
5. **Community-Based Organizations (CBO):** Administer the program and work with employers, educational entities and the community to implement the apprenticeship program.

Registered Apprenticeship Sponsors and the Eligible Training Provider List (ETPL)

1. Under WIOA, RA program sponsors are automatically eligible for placement on the statewide ETPL. External RI providers can automatically enter the ETPL. To be part of the ETPL the provider must notify the State Office of Apprenticeship (OEA) of their intent to be on the ETPL. The OEA will notify the Workforce Development Program in writing of the provider's request and provide the necessary evidence to document the entity's registration.
2. Through this mechanism, only approved training for the registered occupation will belong to the ETPL. The provider may belong to the ETPL as long as the RA program is active or until they wish to do so.
3. To disenroll from the ETPL, the provider need only notify the OEA of their intent, who will inform the PDL for appropriate action. RAs that have external RI providers will be informed of this opportunity at the time of registration. Participation in the ETPL is voluntary and not automatic.

¹³Each collective bargaining agreement establishes the apprentices' wage increases, as well as the program approach. The majority of the agreements have programs registered in the three approaches: Base Time, Competence and Hybrid.

Pre-apprenticeship and registered apprenticeship for youths

1. Eligible in-school and out-of-school youth may enroll in Pre-Apprenticeship or Registered Apprenticeship programs as part of the WIOA Youth Program.
2. Through a variety of unique program approaches and designs, Pre-Apprenticeship programs can be tailored to meet the needs of diverse populations and businesses.
3. The DOL has developed a framework for quality Pre-Apprenticeship programs. YouthBuild and Job Corps programs often serve as pathways to registered apprenticeship programs and have an established track record of successful apprenticeship placements because they meet the criteria for a quality Pre-Apprenticeship program.
4. The DOL, in partnership with the Federal Department of Education, has also developed a registered apprenticeship framework for high school students.

Registered Apprenticeship in the Trade Adjustment Assistance Program (TAA)

In addition to WIOA programs, RA is considered a WBL¹⁴ that may be approved for a worker covered by a group eligibility certification for the TAA program.

Program exit

1. For most training activities provided under WIOA, participants complete their training and then exit the WIOA program. However, the RAs range from one to six years in duration. In many cases, participants will continue to participate in their RA programs after registering the exit from WIOA.
2. The duration of RA programs does not represent a barrier to positive outcomes of performance measures. However, there is a need to determine appropriate exit points from RA programs that adhere to WIOA regulations, provide quality employees for companies, and ensure a higher skill set for workers.
3. The exit point should be based on when the participant is successfully moving through the RA program and no longer receiving WIOA services, including sustaining services. Once the RA program is no longer receiving WIOA funding for one or both of the training activities, meaning related instruction and/or OJL, the service should be closed. OEA will continue to provide the necessary assistance until the program graduates trainees.

¹⁴It is the same as WBT.

The following three RA goals are appropriate WIOA exit points::

1. **Wage increases:** Apprentices receive progressive wage increases as their skills and knowledge increase; this is a core element of all RAs. A wage increase may be an appropriate exit point from WIOA, as it means that trainees have exceeded their training objective, improved their skills and increased their income, indicating that support through WIOA may no longer be necessary.
2. **Credentials attainment:** RA programs offer occupational credentials that trainees can earn during their participation in the program. Credential attainment is another aspect that could be considered in determining an appropriate WIOA exit point, as it marks an important achievement in the RA program. Attainment of a credential indicates that trainees have successfully progressed along a career pathway and increased their skills in the occupational field and are potentially beyond the point of needing WIOA support.
3. **Measurable skill gains:** As trainees' skills increase, they must be able to document progress toward that provisional occupational credential or certificate of completion awarded at the end of an RA. Documented progress in an RA is defined as:
 - a. Report of satisfactory progress, toward stated goals, such as completion of OJL or completion of one year of an apprenticeship program or similar goals, from an employer or training provider who is providing the training, or
 - b. Successful approval of an examination that is required for a particular occupation or progress in attaining technical or occupational skills as demonstrated by industry-related benchmarks such as knowledge-based examinations.
4. Regardless of the number of participants, OJL is a core component of all RA programs. An OJT contract may be established with employers who have a Registered Apprenticeship (RA) Program, but only OJL hours are eligible for wage reimbursement through the program portion.

Documentation of the participant's file

The participant's file must include an original copy of the ETA 671 form which is the learning agreement with the sponsor, in addition to all documents required by the WIOA program. Also, it should include case management notations, such as progress reports and any other information that evidences their progress in the RA program.

D. CUSTOMIZED TRAINING ACTIVITY

1. The Customized Training activity is a theoretical training, designed and developed to meet the particular needs of an employer or group of employers who have made a

commitment to employ individuals who successfully complete the training. This type of training must meet the following characteristics:

- a. It is developed according to the special need of the employer or group of employers; therefore, it should not be found in the educational market.
- b. Generally, it is conducted in a classroom, provided for a group of employees of an employer or a group of employers¹⁵.
- c. It may be provided by trained resources internal to the employer or an outside provider with credentials in the subject matter.
- d. WIOA will contribute up to 50% of the training funds.
- e. The employer will pay a significant portion of the cost of the training, taking into consideration the size of the employer and other factors to be determined such as:
 - i. the number of employees taking part in the training
 - ii. the salary and benefit level of those employees (at the beginning and at the end of the training)
 - iii. the relationship of training to the competitiveness of the participant
 - iv. other training provided by the employer, and
 - v. opportunities for career advancement.
- f. In connection with training costs, the Employer shall provide the following:
 - i. 50% of the cost if you have 50 employees or less
 - ii. 55% of the cost if you have between 51 to 100 employees
 - iii. 60% of the cost if you have more than 101 employees
 - iv. In case the employer belongs to the construction, energy or health-related service industries, the Board authorizes that -as a sectorial strategy- fifty percent (50%) of the reimbursement be granted, regardless of the number of employees.
- g. It may include occupations in industries that have experienced a shortage of skilled personnel. Careers on the state's occupational demand list, high wages, high hiring costs, and positions that remain unfilled for long periods of time, is indicative of a shortage of skilled candidates within the workforce for a given occupation.

¹⁵New or incumbent employees can participate in this activity.

- h. Training providers must demonstrate: satisfactory past performance, have accredited training within the occupational sector, have curricula leading to credentials, have experience in relevant training programs, have accredited instructors, have high job placement and retention and/or training completion rates.
- i. The facility where the training is offered must provide a suitable learning environment and be within reasonable proximity to the participant. Training may take place on the employer's premises, the premises of a training provider, or a combination of accessible locations. Distance learning may also be considered.
- j. WIOA funds may not be used to provide this activity in the public sector, except when specifically authorized in WIOA¹⁶. Under the provisions for the Customized Training activity, contracting in the public sector is not specifically authorized, so WIOA funds may not be used to subsidize, for example, training activities for Police Academy cadets, electric power monitors, or any regular position in state or municipal government. Costs for government services normally provided to the general public, such as firefighters and police services, are not allowable (2 CFR §200.444).
- k. The Federal Department of Labor encourages that through this type of training a credential can be obtained.
 - l. The training contributes to salary advancement in the participant's career.
- 2. Customized training will always be provided through a delegation of funds contract¹⁷.
- 3. The employer is required to commit to employ or retain in employment the participant upon successful completion of the training. [20 CFR 680. 760(b)].
- 4. As with the On-the-job Training (OJT) activity, the duration of Customized Training will depend on the assessment of the skills required for the occupation, the participant's skills and education, and previous experience.
- 5. Companies that have employees in a situation of possible layoffs should not be considered for customized training, unless the training avoids additional layoffs.
- 6. Companies that have relocated to Puerto Rico and have laid off workers at their former location in the United States cannot be considered for this program until they have been in operation at the new location for one hundred and twenty (120) consecutive days.

New workers eligibility

¹⁶Refer to page 32, *Incumbent Worker Training*.

¹⁷Refer to page 31 for details.

Customized training may be offered to adults and dislocated workers only if the case manager determines, after an interview and assessment, that the participant meets WIOA eligibility, and the criteria established by the employer for recruitment.

Eligibility for workers already employed

1. If an individual is employed at the time of participation in Customized Training, they must comply with the requirements set forth in 20 CFR section 680.770.
2. An “employer-employee” relationship must exist between the worker and the employer seeking Local Board approval to conduct the Customized Training.
3. The case manager must determine whether there is a risk that the individual will lose their job due to lack of competitiveness or failure to earn a wage that will allow him or her to be self-supporting, as determined by Local Board policy. In such a case, the training must earn the employee at least a self-supporting wage. For both circumstances, the customized training must be supported by one or more of the following reasons:
 - a. the employer's introduction of new technology
 - b. the employer's introduction of procedures for new products or services, or
 - c. promotions to jobs that require additional skills
 - d. workplace literacy, or
 - e. for another purpose identified by the Local Board.
4. Individual workers who are independent contractors are not eligible to participate in customized training to participate in customized training. Independent contractors fall into the self-employed category.

Customized training and the State's Eligible Training Providers List (ETPL)

Customized training is exempt from the WIOA section 122 (a) through (f) requirement that training providers be included on the ETPL. However, they are subject to the information dissemination requirements (WIOA 134 (a)(2)(B)(v)) and the performance information collection requirements (WIOA 122 (h)(2)). Nothing in turn precludes the use of training providers listed on the ETPL to provide WBTs, as long as they meet the criteria established by both federal regulation and the Local Board.

Requirement for employer contribution to the customized training activity

1. The employer will pay a significant portion of the cost of the training, taking into consideration the size of the employer and other factors determined appropriate by the Local Board, which may include:
 - a. the number of employees participating in the training

- b. the salary and benefit level of those employees (at the beginning and at the end of the training)
 - c. the connection of training with the participant's competitiveness
 - d. other trainings provided by employer, and
 - e. career advancement opportunities.
2. The employer must pay not less than 50% of training cost. Payment of costs must be properly documented and is subject to audit.
 3. In the case of a customized training involving an employer or employers located in multiple local areas within Puerto Rico, the significant portion of the cost of the training shall be determined by the State Board, taking into consideration the size of the employer's business, as well as other factors it deems appropriate.

When the need for this type of training is presented by an employer, the Local Board will submit the proposed activity to the State Board for determination of the significant portion of the cost to be contributed by the employer.

Allowable customized training costs

1. WIOA will reimburse up to fifty percent (50%) of the costs under the customized training activity.
2. *Allowable costs* may include only those costs directly related to the training:
 - a. Tuition or training enrollment related costs
 - b. Instructors or trainers costs (if are not included in the tuition costs)
 - c. costs related to the development of the curriculum or study plan
 - d. teaching materials such as textbooks, educational equipment, manuals, materials and supplies
 - e. certifications, licenses and credentials
 - f. travel expenses of instructors or trainers in Puerto Rico, the United States and its territories
 - g. certifications/tests
 - h. off-site training space (e.g., room rental, etc.) and
 - i. Necessary computer software that is used 100% for training purposes only may also be considered for reimbursement.

Not allowable costs in customized training

1. Workers' wages and fringe benefits while attending customized training
2. Costs that are not directly related to the customized training
3. Travel outside the U.S. territory

4. Capital improvements
5. Purchase of capitalized equipment for training
6. Catering services or snacks during training
7. Expenses incurred outside the contract period (start and end date of the contract).
Meaning training conducted outside of the contract period (contract effective date).

Minimum clauses to be included in a delegation of funds contract to carry out customized training

1. Contracts can be drawn up for customized training activities for both unemployed workers (new recruits) and salaried workers (already employed/existing).
2. Existing workers may include full-time workers, part-time workers and/or workers placed through private employment agencies.
3. The private employment agency and the employer must be included in the contract when offering customized training to employers who wish to include workers placed through private employment agencies. This is to ensure that all parties agree that successful completion of customized training will result in the placement of workers in permanent employment. This is to ensure that all parties agree that successful completion of customized training will result in the placement of workers in permanent employment.
4. The Customized Training will have to be subscribed by means of delegation of funds contracts with the employers for the development of the activity, which must specify at least the following:
 - a. Name and description of the occupation for which the participant will be training.
 - b. Training outline, which shall include all specifications that will allow verification that training is being provided as agreed.
 - c. The skills and competencies to be developed by the worker.
 - d. Name of the credential that will be obtained at the end of the training.
 - e. Number of participants to be trained.
 - f. Cost of training per participant.
 - g. Method of payment and maximum amount to be reimbursed.
 - h. The employer's assurance that tailored training is needed, based on the individual skill sets of the participants.
 - i. The general clauses set forth in section H *General Provisions* relating to WBT activities.

- j. The cost and documented description of any ancillary items or support services that may be necessary, and
- k. Other results related to training (for example, increases in income).

E. TRAINING FOR INCUMBENT WORKERS

Training incumbent workers is a permissible activity at the state and local level under WIOA. Incumbent Worker Training (IWT) is intended as a means of job retention, layoff prevention, and skill upgrading mechanisms to improve the productivity and competitiveness of a company's or business' workforce. This, in view of the existence or arrival of new technology that may affect competitiveness, or make the operation of an industry obsolete, ineffective or unproductive. Training is carried out with the employer's commitment to retain trained workers and avoid layoffs.

Note: For incumbent worker training opportunities that are funded through other grants, or any other federal/state funds, certain requirements and provisions may vary. Technical assistance will be requested from PDL, in writing, when this situation arises.

Types of trainings

Incumbent Worker Training provides flexibility to employers with respect to the types of training based on their overall needs. Like other work-based training, it can be provided through customized training, on-the-job training, or both¹⁸.

The training may be provided by a public or private educational institution, a certified private training provider or instructor, a company employee, or a combination of training providers. Training may be provided on the company's premises, at the training provider's premises, or at a combination of locations. The employer may select an outside training provider that best suits their training needs.

Customized training can be delivered face-to-face or online, and types of training include:

1. Occupational skills training designed to meet the special requirements of a company or industry
2. updating of required certifications
3. professional development (e.g., leadership training)
4. training in strategies to improve the efficiency of the company's operations, and
5. technical training in hard skills, such as computer software training.

On-the-job training (OJT) should be considered when¹⁹:

¹⁸20 CFR 680.700 Work-Based Training, Sub-part

¹⁹20 CFR 680.710 What are the requirements for on-the-job-training contracts for employed workers

1. The employee is not earning a wage that allows for self-sufficiency or wages comparable to, or greater than, their previous employment, as determined by Local Board policy.
2. The requirements of 20 CFR §680.700 are met, and
3. The OJT is related to the introduction of new technologies, introduction of a new production or service, increase in skills for new jobs that require it, workplace literacy, or other appropriate purposes, as identified by the Local Board.

Types of training that may **NOT** be paid for with WIOA funds include:

1. CPR (*Cardiopulmonary Resuscitation*) and First Aid
2. Mandatory safety training (OSHA and others)
3. Orientation to new employees
4. Diversity and sexual harassment
5. English as a second language
6. Programs leading to a degree (e.g. associate degree, bachelor's degree)
7. Self-directed learning
8. Basic skills
9. Personal development courses
10. Work literacy or social skills, and
11. Nonjob related training.

Incumbent worker training and State Eligible Training Providers List (ETPL)

Incumbent worker training is exempt from the requirement of WIOA section 122 (a)-(f) that requires training providers to be included on the State Eligible Training Provider List (ETPL). However, they are subject to information dissemination requirements (WIOA 134 (a)(2)(B)(v)) and performance information collection requirements (WIOA 122 (h)(2)). Nothing prevents the use of state-listed training providers to provide training for incumbent workers.

Incumbent worker eligibility requirements

Incumbent Worker Training is intended for individuals who have a history of employment with the current employer, and have the knowledge, skills and abilities required by the employer, but need additional training due to changes in skills necessary to remain in their position, to move up in the company or to avoid possible layoffs.

Employees selected to participate in incumbent worker training must meet the following criteria:

1. Be employed
2. Meet the requirements of the FLSA²⁰ in terms of the employer-employee relationship

²⁰Fair Labor Standards Act of 1938

3. Have an established work history with the employer of six months or more
4. Incumbent workers may also be underemployed, for example, workers who prefer full-time work but are currently working part-time. These workers may have accepted reduced hours to gain or maintain employment, or a previous layoff has caused them to accept lower wages than previous employment. Training for the underemployed should focus on increasing the skills to advance these workers and increase their earnings through more hours or higher wages. In addition, this strategy of upgrading their skills should lead to new job openings being created, whenever possible, as incumbent workers move to better jobs.
5. Be a U.S. citizen or be authorized to work legally in the United States
6. Be 18 years of age or older
7. Be registered in the selective service (if male and born after January 1, 1960, unless justified by exception)
8. Not be directly supervised by a member of their family, and
9. Meet additional qualifications as may be established by the Local Board.

Note: There is an exception to the six-month work history requirement. If a worker does not have six months or more of employment with the employer but is part of the group of workers who need to be trained, he or she may participate in the training as long as a majority (more than 50%) of the employees meet the employment history requirement.

An incumbent worker does not have to meet the eligibility criteria established for the adult and dislocated worker programs. However, if an incumbent worker is also receiving other services, besides the incumbent worker training, the individual will have to meet the eligibility requirements as any other adult or dislocated worker program participant.

Because incumbent worker training is intended to assess employer eligibility, individuals who benefit from the Program are not considered participants and will not be included in the calculations of the State Primary Performance Indicators. However, the State and the Local Board must report on individuals who receive incumbent worker training, including employment status, salary, and credential attainment after completion of training.

Requirements for training services

1. The Local Board will use the following criteria to evaluate the design of training under Incumbent Worker Training:
 - a. That the costs of the training(s) are reasonable.

- b. That the training leads to the attainment of a credential or is focused on occupational skills development.
- c. Training should be evaluated periodically in order to document its effectiveness and the progress of the workers.
- d. That is offered during the workday, and the individual is compensated at no less than the established salary for the position held while in training.

Employer eligibility requirements

1. In determining an employer's eligibility to receive WIOA funds, the Local Board will consider the following factors:
 - a. The characteristics of the incumbent workers to be trained (e.g., individuals with barriers to employment).
 - b. The relationship of the training to the competitiveness of the individual and the employer, and
 - c. The occupations for which incumbent workers are trained must be in demand, as defined in section 3 (23) of WIOA and as determined by labor market information specific to the local area.
 - d. The employer is in an industry that is:
 1. An in-demand industry, as determined by local area labor market information, or
 2. A stable industry, as determined by local area labor market, or
 3. An industry in decline, but there are compelling reasons (e.g., evidence of employer viability) to justify investment in the training of incumbent workers.
 - e. The employer must not have laid off any employees for relocating its operations within the last 120 days; and
 - f. Such other factors as the Local Board deems appropriate, which may include the number of employees trained, wage and benefit levels, including increases upon completion of training, and the existence of other training opportunities provided by the employer.

Note: All factors considered in approving a training project for incumbent workers with an employer or group of employers shall be documented.

2. Incumbent Worker Training may only be offered to employers in the private sector.

3. Contracting with an employer that does not comply with its responsibility to pay unemployment insurance and employee contributions is not permitted.
4. Occupations may not be seasonal, temporary services, part time, or have a high turnover rate.
5. They cannot be occupations in which the main source of income is tips or commissions.
6. The Local Board shall give priority to patrons who:
 - a. are interested in identifying, designing, developing and/or providing training alternatives to address the skill gaps of their workers and the implications of these gaps in terms of eventual or potential displacements or layoffs.
 - b. need to upgrade skills or retrain their employees for the proper performance of the occupational job(s) in question.
7. Trainings mandatory in nature and offered to the employee at the time of hire and in compliance with federal workplace requirements (e.g., OSHA, ServSafe, etc.) are not allowed.

Measuring employee and employer competitiveness

The Local Board will consider the following factors to measure the increase in competitiveness of the incumbent worker during the year following the completion of the training:

1. increase in salary or income
2. access to other benefits, bonuses, or commissions
3. attainment of industry-recognized credentials or certificates, and
4. promotion of the employee to a higher classification or pay scale position.

The Local Board will consider the following factors in measuring the employer's increased competitiveness during the year following the completion of the training:

1. increase in earnings
2. increase in contracts awarded
3. sales data
4. geographic expansions
5. increase in salaries to its employees, and
6. increase in the level of education and credential attainment.

Funds for training projects for incumbent workers

1. The Local Board may set aside up to 20% of the total combined adult and dislocated worker funds for this type of training.
2. Administrative costs, as defined in 20 CFR section 683.215, shall not be included in the 20% limit established for incumbent worker training.
3. Allowable costs that may be reimbursed under the customized training activity include: the cost of tuition, in-house trainers, book costs, noncapitalizable training materials, distance training fees, and credential exam fees, among others. Workers who are being trained in this modality must document their attendance by means of detailed sheets that include the name and signature of the worker and their instructor, topic discussed, date and time of the training. Wages for the hours that workers dedicate to this type of training cannot be submitted for reimbursement
4. Regarding on-the-job training activity, payments to employers must be handled by a billing system that clearly documents the following information:
 - a. The number of hours worked by the participants each day they were trained, and the salary for that period of time.
 - b. Evidence of attendance such as time sheets/time cards with each worker's name and employer's signature. Reimbursement is for regular hours worked, and does not include paid time off (e.g., sick leave, vacation, jury duty, etc.), overtime or benefits.

Limits for the employer's contribution

1. Employers who receive funds for incumbent worker training must pay for costs not covered by federal funds. Section 134(d)(4)(D) of WIOA requires the Local Board to establish policies regarding the non-Federal share of the cost of incumbent worker training.
2. The employer(s) contribution will be determined by taking into account such factors as: the number of employees participating in the training, the wage and benefit levels of the employees (at the beginning and anticipated at the end of the training), the relationship of the training to the competitiveness of the employer and employees, and the availability of other training and advancement opportunities within the company.
3. The *PDL* and Local Board will track and document the employer's cost-sharing contributions. Official payroll must be used to document the worker's hours and wages to determine the amount of the employer's cost share.
4. The calculation of the employer's share may include the amount of wages paid by the employer to workers attending the Incumbent Worker Training program.

5. The payments made by the employer for the training of its incumbent workers may not come from any other federal funds. The salary paid to the incumbent worker during the time the training is being taken may be considered as the employer's contribution.
6. The limits for the nonfederal employer contribution shall not be less than:
 - a. 10% of the cost for employers with no more than 50 employees²¹.
 - b. 25% of the cost for employers employing between 51 to 99 workers²², and
 - c. 50% of the cost for employers with 100 or more employees.
7. The size of the employer is determined by the number of employees at the local operation where the incumbent worker training will be conducted. Employers must provide documentation to demonstrate their size.

NOTE: In-kind contributions may include the cost of staff time when an employee is participating in classroom training, the cost of use and maintenance of equipment used in training, the cost of classroom training not covered with WIOA funds, or other costs related to training that will not be covered by the WIOA portion.

The service provider will establish a system for tracking employer participation in IWT costs that includes a mechanism for employers to report their contributions, and regular reconciliation with total IWT costs and the employer participation established in the IWT contract.

Local Board Incumbent Worker Training Policies and Procedures

The Local Board shall revise its IWT policies and procedures to include at a minimum the following requirements:

1. Procedures for determining the percentage (up to a maximum of 20%) of local area formula funds from Adult and/or Dislocated Worker programs to be used for IWT, and obtaining Local Board approval to use these funds for IWT.
2. Qualifications/definition of incumbent worker
3. Definition of competitiveness of employers and employees
4. Determination of employer eligibility for IWT
5. Duration of training; sliding scale for reimbursement, maximum allowable reimbursement, and procedures for approval of exceptions to maximum reimbursement
6. Determination of the employer's share of IWT costs

²¹WIOA Desk Reference: Incumbent Worker Training
[https://ion.workforcegps.org/resources/2017/03/19/19/18/Incumbent Worker Training - WIOA Desk Reference](https://ion.workforcegps.org/resources/2017/03/19/19/18/Incumbent%20Worker%20Training%20-%20WIOA%20Desk%20Reference)

²²The Local Board will review the specific public policy to these ends.

7. Pre-award evaluations/previous factors for selecting employers and awarding contracts
8. Contract requirements
9. Reimbursements and procedures to track employer cost-sharing.
10. Incumbent worker documentation and tracking requirements.
11. Local area contract monitoring process.
12. Demonstrate alignment with the local four (4) year WIOA plan, particularly the sector strategy approaches for in-demand occupations.
13. Other requirements established by the Local Board, which may include establishing local performance outcomes for IWT initiatives.

F. GENERAL PROVISIONS

1. Section 683.275 of the final WIOA regulations sets forth which wage standards apply to participants under Title I activities. Accordingly, the applicable standards are:
 - a. Individuals participating in any WBT or employed under WIOA Title I activities shall be compensated at the same rate, including periodic increases, as those in training or employed under similar situations and conditions. Wage compensation shall never be less than that established by the Fair Labor Standards Act or the federal, state or local minimum wage.
 - b. Participants in any WBT or employees under WIOA Title I activities shall receive fringe benefits and working conditions at the same level and to the same extent as those trainees or regular employees who are performing similar duties and who have been performing the duties for the same period of time.
 - c. The employer will comply with the equal opportunity and nondiscrimination provisions of WIOA laws and regulations.
 - d. The recommended reimbursement rate for the employer is based on factors consistent with state and local policies specified in section 6 (a)(1) of the Fair Labor Standards Act of 1938 (29 USC 206 (a) (1) or the applicable federal, state or local minimum wage.
 - e. Wages, income, and payments to participants in WIOA Title I activities will not be considered income for purposes of eligibility under other Federal programs and the amount of income to be transferred and “in-kind” assistance provided by other Federal need-based programs except for purposes of the Social Security Act.

2. The O*Net OnLine occupational information system and the SVPs listed for each occupation will be used as a reference guide to determine the duration of the WBT. In addition, the skills required for the occupation, the participant's academic and occupational skill level, previous work experiences, and the participant's individual employment plan will be considered.
3. The Executive Director, in coordination with the Title I-B Service Provider, will draft a procedure, which will be evaluated by the Local Board for WBT activities in accordance with the provisions set forth in this policy. The procedure shall include at a minimum the following elements:
 - a. Outreach and participants recruiting for the on-the-job training activities
 - b. PIE/ISS skills and development gap analysis
 - c. employer marketing strategies
 - d. policies for the referral of participants by employers
 - e. participant support services policies (if applicable)
 - f. development of WBT contracts
 - g. coordination of case management functions and services to employer
 - h. policies or procedures for the billing and reimbursement process, and
 - i. financial and programmatic monitoring.
4. Proposals will be evaluated by the Service Provider Evaluation Committee, ascribed to the Local Board, if WIOA's contribution does not exceed the amount of **\$100,000**. Those that exceed this cost will be referred to the Executive Committee, ascribed to the Local Board. The evaluation may be conducted in person or by electronic referendum in a manner that does not delay the evaluation process and does not adversely affect the services offered to system participants.
5. At a minimum, WBT contracts shall contain clauses that include the following::
 - a. Compliance with the requirements and restrictions set forth in section 181 (a), (b) and (d) relating to benefits and labor standards that apply to participants under WIOA Title I activities.
 - b. The corresponding guarantees and certifications that include compensation, benefits and working conditions at the same level and extension to other employees working for a similar period of time and performing the same type of work.
 - c. prohibition against training a participant under a WBT contract with an employer if:
 - i. any other individual is removed from the same or a substantially equivalent position, or

- ii. the employer has laid off any regular employee or reduced the number of employees with the intention of filling vacancies created by the participants, or
 - iii. the position is created in a line of promotion that may infringe in any way on the promotional opportunities of regular employees of the company.
- d. The employer's commitment to employ or retain in employment those individuals who have successfully completed the training.
- e. Participants will be subject to the same rules, policies, and personnel regulations as other employees of the company.
- f. The employer's duty to maintain, retain and provide access to records to the Local Area, DDEC, the Comptroller and the Federal Department of Labor. These must evidence the associated costs of the training activity and the corresponding reimbursements, such as attendance records, payroll, invoices and other information necessary to respond during monitoring or auditing processes.
- g. Prohibition against the use or proposed use of WIOA funds to induce a business or part of a business to relocate and the results of such relocation would result in any employee losing the job at the original location.
- h. Prohibition against the use or proposed use of WIOA training funds in any business or part of a business that has relocated to the United States, until the company has operated in the new location for one-hundred twenty (120) days, if the relocation results in any employee losing the job at the former location.
- i. Prohibition against directly or indirectly filling a position that is vacant because the incumbent is on strike, or is suspended because of a labor dispute, or because filling the vacancy is otherwise a matter of a labor dispute involving a work stoppage.
- j. Provision against nondiscrimination and prohibition of sectarian activities.
- k. Prohibition against the use of funds to assist, promote, or stop the organization of unions.
- l. Prohibition against the use of WIOA funds for foreign travel (outside of U.S. jurisdictions).
- m. Prohibition against political and lobbying activities
- n. Clause relating to the availability or existence of a grievance procedure pursuant to section 181(c) of WIOA, and

- o. No individual may hold a position in a WBT if there is any family member within the fourth degree of consanguinity or second degree of affinity who has administrative capacity with the employer, including selection, hiring, placement, or supervisory responsibility for the WBT participant.
6. Upon completion of the WBT, the employer shall issue a Performance Report and certification, for each WIOA participant, formally stating that the worker is competent in the occupational skills acquired²³.

Requests for Funds for On-the-job training (OJT) Activities

The Work-Based Training (WBT) Activities Funding Request and Contracting Manual under the Workforce Innovation and Opportunity Act includes the documents to be used as part of the Funding Request, Employer Eligibility, Employer Qualifications and documentation required for funding and contracting, as well as the contract clauses that must be included as a minimum in the contracts related to the activities. They shall be used as provided by the State Board including any amendments that the latter may make. In relation to requests for funds (proposals) that are in the process of evaluation and/or contracting, the forms authorized prior to the effectiveness of this policy shall be used.

V. CONTRACTING

The contracts shall be worked in faithful compliance with Law No. 18 of October 30, 1975, as amended, Regulation 33: Registration of Contracts of the Office of the Comptroller of the Commonwealth of PR, Circular Letter OC-21-11 of May 12, 2021 issued by the Comptroller of PR and any other applicable legislation.

VI. SEPARABILITY CLAUSE

Should any provision of this public policy be challenged by the Court and declared unconstitutional or null, such decision shall not affect, impair or invalidate the remaining provisions of this public policy, but its effect shall be limited to the provision or topic specifically indicated. The nullity or invalidity of any provision or topic shall not affect or impair in any way its application or validity in any other case, except when specifically and expressly invalidated for all cases.

VII. COMPLIANCE

Compliance with the provisions and requirements established in this public policy will be evaluated by the Monitor ascribed to the Local Board as part of its functions, as well as by the Monitoring Division of the DDEC as part of the systematic evaluation of the operations of the ALDLs that is carried out annually.

²³In the particular case of the Registered Apprenticeship, it will be the Federal Department of Labor that will issue this Certificate of Completion.

VIII. FAIR PRACTICES AND ACCESSIBILITY

All persons will have equal opportunity and equal access to services and physical facilities without regard to race, religion, color, sex, age, national origin or ancestry, marital status, parental status, sexual orientation, disability, or veteran status. Staff members will be responsible for ensuring the necessary support for participants with disabilities who have a need for assistance in accessing CGU/AJC facilities and services.

IX. REQUIRED ACTION

The Local Board Executive Director and the Title I-B Program Director shall be responsible for disseminating this public policy, as well as training the One-Stop Career Center System Officers in relation to this public policy. In addition, they shall answer all inquiries or requests for information related to it. The Executive Director of the Local Board shall be responsible for sending a copy to the Evaluation Specialist of the Office of Planning, Evaluation, Validation and Statistics of the Workforce Connection Program, no later than sixty (60) days after its approval.

X. AMENDMENT

Public Policy 55-A is amended, as approved on November 14, 2024.

XI. VALIDITY

This amendment to the public policy was approved by the Executive Committee of the Southeast Local Board at a meeting held on July 31, 2025, with three (3) members present. It shall become effective on December 2, 2024 and shall remain in effect until amended or repealed by the Executive Committee of the Local Board.

For the record, I hereby sign this public policy in Humacao, Puerto Rico on the 31 day of the month of July of the year 2025.

Juan M. Méndez Rosa, Atty.
Local Board President