OJT/NEG Questions and Answers

Wage Reimbursement Waivers

Q1. How is the level of wage reimbursement determined?
A1. OJT/NEG allows LWIAs to go above the standard Workforce Investment Act reimbursement of 50% if they indicated they wished to use the Business Size waiver when submitting the OJT/NEG Statement of Qualifications (SOQ). The Business Size waiver allows you to reimburse up to 90% of the participants wages on a sliding scale as follows:
   - Businesses with 50 or fewer employees are eligible for up to 90% reimbursement
   - Businesses with 51 to 250 employees are eligible for up to 75% reimbursement
   - Businesses with more than 250 are eligible for up 50% wage reimbursement

Q2. How do we apply to use the Business Size waiver if we did not indicate this in our SOQ?
A2. You can submit a modification by sending an email to OJT-NEG@labor.ny.gov with the subject line “[Local Area Name] SOQ Mod – Waiver.” Indicate that you wish to use the Business Size waiver in body of the email.

Q3. If using the business size waiver, do we look at the business as a whole or the site where the OJT will take place to determine the size?
A3. For the use of this waiver, the size of the site where the OJT will take place is used to determine the size of the business.

Q4. When do the waivers that allow for up to 90% reimbursement expire for OJT programs?
A4. The business size waiver for OJT/NEG can be used for the duration of the program. They do not expire until June 30, 2014, or whenever the funding runs out.

Pre-Award Reviews and Due Diligence

Q5. Responses to Responsibility Questionnaire - what is your vision of who and how to deal with any yes responses to the Questionnaire?
A5. If a business provides an answer of yes, they are to prepare a written explanation on company letterhead, signed by an officer of the company, and submit it along with the completed questionnaire. Per Technical Advisory 10-15.1, the review of the Responsibility Questionnaire falls to the local area during their portion of the due diligence process. It will be the responsibility of the local area to determine if the explanation provided by the business is satisfactory, therefore allowing the contracting process to continue. If you would like assistance, you can ask your Regional Business Service Representative but they will not provide a final answer. That responsibility will fall to the LWIB.

Q6. Can the Responsibility Questionnaire and Due Diligence request form be completed and submitted for businesses we have been working with, who do not yet have identified OJT candidates but who anticipate having them at a future date?
A6. We encourage you to submit a business for due diligence when you have a reasonable expectation of an upcoming hire. Once the vetting process is complete and the business is found responsible, due diligence is good for 90 days. Due to an incredibly high volume of vetting requests for numerous funded programs and other initiatives, we cannot vet businesses just for the purposes of “keeping them active” every 90 days. If 90 days elapses and you have expectation of a new hire, submit the request as soon as possible and staff will return results to you within three business days.

Q7. At this time, the local OJT policy requires Responsibility Questionnaires and Preliminary Business Review forms to be submitted to NYSDOL for Due Diligence Review. If businesses have completed these forms for Local OJTs is this sufficient for the NEG OJT?

A7. The due diligence process for Local OJTs is the same as it is for OJT/NEG. So if it is done for one it is valid for the other, given it abides by the time period restrictions outlined in the Program Guidance Letter. When checking the program the DD is being requested for on the Due Diligence Request Form, use your best judgment as to which funding stream will be used, and know if you end up using another that will be ok.

Q8. Is the Business Questionnaire sent to anyone or is it just for local use?

A8. The Responsibility Questionnaire should be reviewed by your local area, and retained for each business engaged in OJT/NEG. It does not need to be sent to NYSDOL.

Q9. At what point should the Preliminary Review- Business Application be completed - is this sent to anyone or just for local use?

A9. This should be completed per the instructions in TA 10-15.1. It is for local use and should be retained for all businesses regardless of the OJT funding source. It does not need to be sent to NYSDOL.

Q10. The OJT Vetting Request needs to be completed for local OJT and NEG OJT - this would be the very first step to do when a business is interested in an OJT, correct?

A10. Yes, the OJT due diligence request to NYSDOL should be completed in conjunction with the required local due diligence steps outlined in TA 10-15.1. NYSDOL will provide you with a response within three business days, but you can begin the job order/candidate recruiting, etc. as you see fit while awaiting our due diligence response.

Q11. During the OJT/NEG conference call (10/28/10), it was mentioned that there were 2 separate procedures for sending Vetting Requests to NYSDOL depending on if it was for local or NEG. It was then said that you may just utilize 1 for both - has that been decided yet?

A11. It has been decided that all due diligence requests will be sent to OJTDueDiligence@labor.ny.gov, as the funding source for the OJT may depend on the candidates and what criteria they meet. If you know which funding source you are planning on using, please indicate it. You will not be locked into a specific funding source.
Q12. On the Business Application for On-the-Job Training—Question 3, d, asks; “Are any employees on layoff currently?” If the business answers yes to this question does it preclude them from using a one-stop OJT candidate? If so, is there a period of time that can lapse when an OJT candidate can be hired?

A12. This would not mean an automatic no, but the local area will have to do some additional checking to ensure that the OJT opportunities are appropriate. What is important is that the OJT is not in a position that the business currently has employees on layoff from. For example, if a lab technician from company A is currently on layoff, the company should not be utilizing OJT funds to hire a new lab technician. They should be hiring back the lab technician they have on layoff. It will be the responsibility of the local area to ask the right questions and evaluate the answers given to be sure that the business is not utilizing OJT/NEG funds by overlooking employees on layoff that could be readily hired back into the positions they are looking to put OJT candidates into. Similarly, the business cannot terminate the employment of any regular, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy created with an OJT/NEG participant (or any WIA participant for that matter). Additionally, keep in mind that having employees on layoff may mean other things for the business, i.e. the business may be in some kind of financial trouble etc. The local area should do some checking to ensure the business is in fact a good business to pursue OJT with.

Q13. Through the process of Due Diligence for OJT employers, a business answered yes to one of the questions on the Responsibility Questionnaire. Please let me know if I need to take further action and if I can proceed with an OJT contract with this business.

A13. A “yes” answer to one of the questions on the Responsibility Questionnaire (RQ) does not automatically mean that the business is ineligible to receive funding. NYSDOL has moved the responsibility of reviewing the RQ to the local area for the purposes of OJT due diligence. This responsibility includes determining what is considered a satisfactory explanation in your area. So if one of your businesses answered yes to a question, you can proceed with the contracting process as long as the business has provided you with an explanation that you have reviewed and found to be satisfactory.

Funding Questions

Q14. Is there an absolute maximum payment allowed for a given OJT/NEG agreement? That would include wages, supportive services and admin? For example, in Trade, no person is supposed to receive more than $12,500 total for all services. Is there a max like that with OJT/NEG?

A14. The maximum contract for OJT/NEG is capped based on the duration of training and the state’s average wage. The maximum training period is 1,040 hours over the course of 6 months. The maximum reimbursement to a business may not exceed a percentage (50% to 90%) of the state’s average wage rate. New York’s average wage rate (most up-to-date annual data for 2012) is $25.39. Using this data, the reimbursement at the highest allowable wage, for the longest allowable length of
time at the highest reimbursement rate would be $23,765.04. The administrative cost of 8% would be $1,901.20, bringing the total NOA cost to $25,666.24. If a business pays more than the state’s average wage (say $30), the reimbursement would be based on the state average, not the actual wage paid. The above calculation also does not take supportive services funding into account. Money for supportive services should be used in compliance with applicable LWIA policy, and included in the 8% administrative funding calculation.

Q15. Is there guidance on how much can be granted for Supportive Services?
A15. There is no cap set on supportive services. In NYSDOL’s plan to USDOL it was stated that the average would be approximately $1000/individual, but this is not a cap.

Q16. If/when we need to de-obligate OJT/NEG funds, how do we do it?
A16. In the event that the participant does not complete the program, the remaining OJT/NEG funds must be de-obligated. To do this, send an email to OJT-NEG@labor.ny.gov, using the subject line “OJT/NEG De-obligation Request – [Individuals name].” In the body of the message, include the person’s name, the amount to be de-obligated, if that amount includes admin funds, and the reason for the de-obligation. Note that de-obligation requests should be made as soon as the Local Area discovers the individual is no longer in need of the funds. This will ensure that funding can be re-obligated appropriately in a timely fashion.

Q17. What if someone did decide to quit or take a different position, etc. and did not complete – what are the parameters for payment? Ex. Let’s say the business DID provide satisfactory training, what if the TRAINEE leaves for a higher paying position, what if the trainee can NOT or CHOOSES NOT to perform to the satisfaction of the employer, etc. For NEG-OJT, could we have a basic bulleted guide for acceptable/non-acceptable reimbursement if the trainee does not complete to the end of the contract.
A17. In the case described, the business should be compensated for the training they did provide. So if the contract was for 3 months of training and the individual only stayed at the company for a month for whatever reason, the business should receive compensation for the month the individual was employed there and being trained. The remainder of the amount should be de-obligated, as described above. In addition to the de-obligation, staff should note the reason for the OJT cessation in the jobseeker’s and employer’s OSOS records. This documentation will be helpful should the record come under review as part of an audit.

Q18. Can you tell me where I can find or provide me with additional guidance on what constitutes the type of services allowed for when providing supportive services payments under the OJT/NEG Grant?
A18. The OJT/NEG program does allow for the provision of Supportive Services, as defined in the Workforce Investment Act (WIA), using OJT/NEG funds. These services include categories such as transportation, child care, dependent care and housing. The only restriction is that Needs Related Payments are not allowed. In the final Implementation Plan submitted to the United States Department of Labor, Employment and Training Administration, New York State estimated that around 414 OJT/NEG participants will be in need of supportive services at a rate of $77.67 a
week over their training period. You can use these figures to determine how much OJT/NEG funding should be requested for Supportive Services for each individual placed in the program that is in need of such services. If more funding is needed, LWIAs should look to leverage local funding to close the gap.

Q19. If an OJT/NEG contract is terminated before its completion and we have to de-obligate a portion of the funding, do we also have to de-obligate the 8% admin we received?

A19. Yes, a contract that is only partially completed would still require the return of the admin funds. They would be pro-rated against the amount spent on the wages and supportive services. For example, a contract was entered where the wages and supportive services combined equaled $1000, the admin would be $80. The customer drops out at the halfway mark and the remainder of the funds is de-obligated. $500 of the wages/SS would be de-obligated and $40 of the admin.

Q20. Can OJT/NEG funds be used to fund classroom training outside the OJT? As an example, let’s say we have an HVAC Company that is willing to take a new hire on who has little to no experience in their field but interviews very well, just wants to work and exhibits a lot of potential and the employer can afford to take this challenge on by utilizing the NEG-OJT Program. Can we also include an after-hours classroom/certification training and fund that with the OJT to enhance that participant’s transferrable skills sets and close some of the skills gaps? For example: Could we OJT a $10/hr. job for 800 hours for a reimbursement to the business of $4,000, plus reimburse a BOCES for an HVAC Certification Program that costs $2,300 as well?

A20. The short answer is no, the classroom portion of the training you have outlined above is not an allowable cost under the NYS OJT/NEG program. In the case described, the classroom portion of the training is textbook ITA training. WIA does allow a single individual to be enrolled in both an OJT and an ITA concurrently, so this scenario would be allowable under the law. However, the NYS OJT/NEG program is designed to provide for wage reimbursement and supportive services, not the type of classroom training you have outlined here. You would have to utilize local training dollars to fund the classroom portion via an ITA. Therefore, you could set up this scenario by writing the training plan for the individual to include both the OJT and the classroom portion of the training, fund the OJT portion with OJT/NEG, and fund the classroom portion through a local ITA.

Q21. How far in advance can a NOA Request be submitted? I currently have a pending hire for OJT/NEG, but current circumstances will not allow the hire to take place for another two months. Can I submit the NOA Request if the training start date is that far in the future?

A21. NOA Requests for the OJT/NEG program can be submitted up to 30 days prior to the training start date (hire date). Requests submitted with training start dates more than 30 days in the future will not be approved and will need to be resubmitted once the training start date is within 30 days.

Q22. We have a business that would like to hire several individuals across three different job titles, including Customer Service Agents. The individuals hired for these
positions will spend their first 10 days on the job in training onsite at the location of a customer in Florida to receive specific training from that customer. Would off-site training (in this case, out-of-state) provided by someone other than the employer with whom the OJT Contract agreement has been entered into be "allowable" under NEG?

A22. There is nothing fundamentally wrong with this situation. If the individuals are receiving their regular hourly wages during the time spent in the training, the business will be reimbursed a percentage of those wages. It doesn’t matter that the training is being provided off site, or in this case, out of state. The OJT/NEG does not have provisions for travel and lodging expenses (only allows for wage reimbursement, supportive services and admin), so the business will not receive OJT/NEG funds to cover those costs.

Q23. Is there any kind of wage requirement with NEG like there was the $10/hr minimum with the State OJT program? I have an employer who has a $9/hr opportunity.

A23. There is not wage requirement like that in the OJT/NEG program. Obviously, the business must pay minimum wage, so the $9.00 opportunity would be fine. Just make sure it meets the other eligibility requirements, i.e. is with a private business, is a full time position (meaning at least 30 hours a week), etc.

General Questions

Q24. At what point does the LWIA have to start submitting AERs to NYSDOL for the OJT/NEG funding? Will an AER be required if they have not received their first NOA for the funding?

A24. The local area will be required to submit an AER the month following the receipt of their first NOA. For example, if the local area received its first NOA in November, they would be required to submit an AER on December 15th.

Q25. Can a job for the NEG OJT be part time, I do not see any specific hour requirements listed?

A25. Per USDOL, OJT/NEG may not be used for part-time employment.

Q26. Is there a minimum amount of hours the trainee must work per week to qualify for NEG OJT?

A26. To be considered a full-time position, the position must require the employee to work a minimum of 30 hours a week. Anything less than 30 hours a week is considered a part-time position and is not eligible under the OJT/NEG.

Q27. Is there a dollar limit per company on the NEG OJT?

A27. There is no cap per business on either total dollar amount or number of hires/trainees. The only caps are that the training period for an individual cannot exceed 6 months in length, and the reimbursement cannot exceed a percentage (typically 50% to 90%) of the NYS average wage rate of $25.39 per hour for that 6 month time period.

Q28. Regarding the 20 week period of unemployment: Does the job seeker have to be a UI recipient in order to qualify, or just prove 20 weeks of unemployment with or without receiving UI?
A28. No, the individual does not need to be collecting UI. They must only be able to prove that they have been unemployed for 20 weeks since their date of dislocation.

Q29. I know we can’t do OJTs for Public sector jobs, but what about support staff (clerical, maintenance, etc) at a Charter School? Are they public sector jobs?

A29. USDOL/ETA has informed us that OJT/NEG funds cannot be used for OJT with public entities under any circumstances, regardless of the position the OJT would be in.

Q30. Regarding eligibility: it is stated that OJT is available to private not-for-profits, and cannot be used with public entities. What about an ambulance company, private not-for-profit, but funded with town taxpayer money?

A30. Given USDOL/ETA guidance against using OJT/NEG funds with public entities under circumstance, NYSDOL advises against putting people into OJT’s with this type business. Even though it is a private for-profit business, if employees are paid using tax dollars USDOL/ETA may perceive this as a public job, leading to disallowed costs.

Q31. Will there be training on the use of ONET for skill gaps?

A31. Information on how to use JobZone, an O*Net based online tool, to perform a skills gap analysis can be found in OJT/NEG Program Guidance Letter 2.

Q32. Our local OJT policy requires each candidate to complete a 3 hour Work Keys Career Readiness Assessment before an OJT starts. Can we require this for NEG OJT candidates as well?

A32. Yes, but it must be done in addition to the JobZone/O*Net assessment. It cannot be used as a substitute.

Q33. We have a business in our county who is eligible for OJT/NEG, but wants to hire someone who lives outside our county. The individual is eligible for OJT/NEG, can we proceed even though they live outside our county (and therefore local area).

A33. Yes, this is fine. USDOL/ETA required that NYS identify each Local Area that has been disproportionately impacted by the current economic downturn in which the project will operate. NYS identified each local area that submitted an approved SOQ. USDOL/ETA indicated that OJT/NEG funds could be utilized as long as either the business OR the individual was located in one of the affected local areas.

Q34. We have an individual currently in an OJT/NEG and the business would like to extend the training period. Is it possible to modify (extend) the contract to include the additional time?

A34. The answer depends on the situation. If the length of training needed was underestimated when creating the training plan and the individual isn’t fully up to speed for the position they were hired for at the conclusion of the training, then yes, we would consider extending the OJT. However, you must be careful that the individual and business are not entering to a situation that would be an incumbent worker training rather than OJT. If the individual is going to be fully trained for the job that they were hired for, but the business now wants to move them to a different position and train them for that, it is no longer an OJT situation. This is more of an incumbent worker training situation, and not what this OJT program was intended to do. In addition, you need to ensure the duration of the OJT does not exceed 6 months.
Q35. What is the process for requesting an extension of an OJT?
A35. The process to request an extension of an OJT/NEG is very similar to the current NOA Request process; it’s done via an email to OJT-NEG@labor.ny.gov. Please use the subject line OJT/NEG Extension Request – [individual’s name]. In the body of the email, confirm that it is your LWIA’s assessment that the training extension is required for the individual to fully learn the skills identified in the original training plan and include the justification for your decision. Also note that the extension will not affect the start date of the training, so confirm that the training will still be completed within six (6) months of the original start date. Finally, attach a new NOA Request form showing the additional funding being requested, which should be the difference between the original NOA request and the new total. For example, if the original request was for $1,000 in wage reimbursements, and the extension will move the total to $1,500 in wage reimbursements, the NOA Request submitted with the extension request should list $500 in the wage reimbursement line. Please be sure to also include the additional admin costs.

Q36. When counting 20 weeks to determine customer eligibility for OJT/NEG, some field staff uses the Re-Employment Operating System (REOS) to see how many days of UI the individual has collected. Staff then divides that number by days in a week. When doing so, should staff use a 5 day standard work week or the four day UI work week?
A36. If you are going to utilize REOS to identify potential OJT/NEG participants, you can take the total number of days an individual has collected UI and divide it by the four day UI work week. Individuals who are Dislocated Workers who have collected UI for 80 days (20 weeks x 4 days = 180 days) plus the UI waiting week, or more may qualify for this program. Please remember that only full weeks of unemployment will count towards the time required for OJT/NEG program eligibility. If they worked any number of days in a given week, the week cannot count towards the 20+ that are required. Therefore, it is necessary to determine whether the individual worked at any point during this period, including any temporary employment. This should be done during the participant screening phase of OJT development. REOS is a useful tool to help gauge participant eligibility, but you will be unable to make an eligibility determination using REOS alone. You will have to have a conversation with the individual to ensure they meet all the eligibility criteria for the OJT/NEG.

Q37. What if an individual was on Shared Work and has since been completely laid off? Can the weeks that he/she was on Shared Work count towards the 20+ weeks?
A37. Only full weeks of total unemployment will count towards eligibility. If an individual is on Shared Work, they are not fully unemployed during that time. When talking with the individual to determine eligibility for OJT/NEG, ask if they were on Shared Work at any point. If so, the weeks on Shared Work will not count towards the total number of weeks necessary.

Q38. What if an individual does not collect Unemployment Insurance, but is unemployed for more than 20 weeks? How do we determine eligibility?
A38. For someone who has not been on UI, we would require a self-attestation affirming that they have been unemployed for 20 weeks or more, with a date of dislocation on
or after January 1, 2008. An employer attestation would be optimal, but if that is not possible self-attestation will suffice. This raises the question of why the individual did not collect UI benefits. If the individual did not collect benefits because previous employment ended when they voluntarily quit, it may be the individual does not meet the Dislocated Worker requirement of the OJT/NEG program.

Q39. We have an individual who is enrolled in an ITA and attending school full time but is not working, would they still be considered unemployed?
A39. Yes. The person’s school status doesn’t matter; if they are unemployed they are unemployed. Just be sure to check that the person is a Dislocated Worker and meets the other OJT/NEG eligibility criteria.

Q40. How does military service affect a person’s eligibility for OJT? Does military time count toward the 20 week unemployed period or is it considered employment under the program?
A40. Military service does count as employment, so time in the military would not count towards the individuals 20 weeks of unemployment.

Q41. Is a person who was on unemployment 20 weeks in another state, but now lives in New York eligible for OJT/NEG?
A41. Yes, as long as they are a DW, they would be eligible. You will have to verify the unemployment was for 20 weeks, either through that State’s UI system or through self attestation.

Q42. What if we have an individual who was in an OJT/NEG and the training plan called for a full six months of training, but for reasons beyond anyone’s control there was an interruption in the training for two weeks? Can we extend the training beyond the 6 month limit to make up the time lost?
A42. Yes. According to USDOL/ETA, “...the intent of the policy is to limit the reimbursement and training to 6 months...so if it can be documented that there was a necessary/sustained interruption in work, but the grantee stayed true to the policy and limited the reimbursement to 6 months, we don’t have an issue."

Q43. We have an individual who had been unemployed for 20 weeks. He has been placed on a job using a “Work Try Out” through ACESS-VR (VESID). The employer is interested in hiring and training for a job other than the one he is doing during this placement. Can an NEG OJT be used?
A43. According to the definition of Work Try Out provided by VESID (http://www.acces.nysed.gov/vr/current_provider_information/vocational_rehabilitation/policies_procedures/137540_on_the_job_training_programs/policy.htm), someone currently participating in the program would not be eligible for OJT/NEG. The employer “hired” the individual and was reimbursed for 100% of the wages paid during the WTO period. As such, the individual has not been unemployed for 20 weeks, nor would he meet the definition of DW.

Q44. Do the 20 weeks of unemployment need to be consecutive?
A44. No, the 20 weeks do not need to be consecutive. If a candidate has worked in a “stop gap” employment situation after their dislocation, then they can still be
eligible for the OJT/NEG program. Consideration of OJT/NEG candidates who have had “stop gap” employment situations should be reviewed for approval on a case-by-case basis. If you have questions as to whether or not a job would be considered “stop gap,” please contact NYSDOL at OJT-NEG@labor.ny.gov to discuss the candidate’s employment details, and ensure the candidate’s eligibility for OJT/NEG training.

Q45. How do we decide if employment would be considered “stop gap?”
A45. Determining stop gap employment can difficult as no one answer will cover every situation. To help, NYSDOL has adopted the following definition:

Stopgap employment means work an individual does only because he/she has lost the customary work for which his/her training, experience or work history qualifies him/her (individual is “underemployed”). Employment would be considered "stop gap" if:

- the employment is not in the individual’s primary occupation;
- the salary were substantially below the salary of the individual's primary occupation; and/or
- the individual is working substantially under the skill level of his/her customary occupation; and
- the individual has been in the stopgap job less than a year.

There may be times when stopgap employment provides a self-sufficient wage, e.g., contract employment, seasonal employment, or employment obtained through a temporary employment services agency. Such employment would not change the individual’s dislocated worker status. The determination about whether or not an individual’s employment since dislocation is stopgap employment must be made on a case by case basis and take into consideration an individual’s personal, family, financial, and employment situation.

Q46. If an individual is employed in a stop gap position, but has been unemployed for more than 20 weeks since their dislocation date, are they eligible for the OJT/NEG program?
A46. No, this person would not be eligible. This program is, and has always been, for unemployed individuals. Participants must be fully unemployed at the time of their OJT hire; if they are currently employed, even if it’s in a job that would be considered stop gap, they are ineligible for the program.

Q47. An individual was dislocated after January 1, 2008, and was unemployed for more than 20 weeks. Since that time, they were employed in a position that would not be considered stop gap employment. Does this person need to be unemployed for another 20 weeks to be eligible for the program?
A47. Yes. To be eligible for participation in the program, individuals must be long-term unemployed dislocated workers, with a dislocation date on or after January 1, 2008. This means at least 20 weeks of unemployment since their most recent dislocation. The reason we talk about stop gap employment is because the 20 weeks of unemployment do not need to be consecutive, so if an individual took a stop gap job
for a few weeks in the middle of their long term unemployment, the unemployment “clock” wouldn’t start over. However, if an individual was employed in a position that was not considered to be stop gap employment, they would have a dislocation date from the most recent position. This would start the “clock” over. Therefore, they must be unemployed for 20 weeks from this most recent dislocation in order to be eligible for the program.

Q48. Can OJT/NEG funds be used to pay for holiday, vacation, personal or sick leave, or any overtime hours?

A48. No, OJT/NEG funds cannot be used for these purposes. This includes reimbursing overtime based on the base rate rather than the overtime rate. Overtime is considered any time over 40 hr/week.