ALABAMA WORKFORCE INVESTMENT SYSTEM

Alabama Department of Economic and Community Affairs
Workforce Development Division
401 Adams Avenue
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GOVERNOR'S WORKFORCE DEVELOPMENT DIRECTIVE NO. PY 2010-03

SUBJECT: On-the-Job Training National Emergency Grants (OJT NEGs) Funded with American Recovery and Reinvestment Act of 2009 Resources

1. Purpose. To transmit Training and Employment Guidance Letter (TEGL) No. 4-10, which provides additional detail on the one-time availability of On-the-Job Training National Emergency Grants (OJT NEGs) funded with ARRA resources announced in Training and Employment Notice (TEN) 38-09.

2. Discussion. In its guidance TEGL No.4-10, *On-the-Job Training National Emergency Grants (OJT NEGs) Funded with American Recovery and Reinvestment Act of 2009 Resources,* the Employment and Training Administration (ETA) is providing additional details on the OJT NEGs funded with ARRA resources. NEGs are intended to temporarily expand service capacity at the state and local levels by providing time-limited funding assistance in response to significant dislocation events. Current economic conditions have intensified the country's need to employ practical and effective solutions to our most pressing socio-economic challenges. Job creation has been slow in many urban and rural communities which also has lead to prolonged unemployment. For these communities, sustained unemployment rates have created an emergency on a scale with the emergencies typically identified with NEGs. Because of the widespread scope of recession-related layoffs across the country and their significant impact on the workforce system's ability to assist laid-off workers, the Secretary has recognized the impact of the recession on the national workforce as a significant dislocation event for purposes of one-time ARRA-funded NEG assistance (hereafter referred as OJT NEGs), announced by the Assistant Secretary in TEN 38-09, attached.

OJTs can bridge the divide between unemployment and employment by addressing gaps in an individual's skill level that would hinder them from fully performing a new job. OJT for this project is provided under a contract with an employer in the private for-profit and non-profit sectors. OJT opportunities may not be created in the public sector using these funds. Under the OJT NEGs, occupational training is provided by the employer for the WIA participant in exchange for reimbursement from 50 percent up to 90 percent of the wage rate depending on employer size or participant skill

gaps. This reimbursement policy is explained in more detail under the heading *Training Reimbursement Sliding Scale* within Section 5 of TEGL 4-10.

Special Policy Guidelines for OJT NEGs. OJT NEG grantees must adhere to WIA laws and regulations governing OJT with a few notable exceptions described in section 5 of TEGL 4-10, including: Training Reimbursement Sliding Scale, Wage Cap, OJT Duration Limit, and OJT Contracts.

It is ETA's expectation that roles of partners including business, organized labor, other government agencies and Community Based Organizations (CBOs) be defined in the implementation plan. It should also be noted that a substantial connection to the local workforce system is an OJT NEG requirement.

Participation in projects funded with these OJT NEGs will be limited to dislocated workers with special consideration for dislocated workers experiencing prolonged unemployment and those with the greatest barriers to reemployment.

3. Action All three Local Workforce Investment Areas will be participating in the one-time availability of ARRA funded OJT NEGs, as provided through the attached Training and Employment Notice 38-09. As such, each local area is required to comply with ETA policies set forth in the attached TEGL 4-10. Please review the attached documents and convey the information to pertinent workforce partners.

4. Contact Any questions should be referred to Sara Calhoun, State Programs and Divisional Budget Management Section, at (334) 393-1632 or sara.calhoun@adeca.alabama.gov.

6/20/10

Matthew Hughes, Director
Office of Workforce Development

Attachments: TEN 38-09, TEGL 4-10

TRAINING AND EMPLOYMENT NOTICE	NO. 38-09
	DATE April 12, 2010

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
STATE WORKFORCE LIAISONS
STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS
STATE LABOR COMMISSIONERS
FEDERALLY RECOGNIZED TRIBES

FROM: JANE OATES /s/
Assistant Secretary

SUBJECT: American Recovery and Reinvestment Act of 2009 On-the-Job Training National Emergency Grants

1. Purpose. To announce the one-time availability of up to $90 million in funding for On-the-Job Training (OJT) National Emergency Grants (NEGs) funded through the American Recovery and Reinvestment Act of 2009 (Recovery Act).

2. References.

- The American Recovery and Reinvestment Act of 2009 (P.L. 111-5) (ARRA)
- Workforce Investment Act (WIA), section 173 (29 U.S.C. 2918)
- WIA regulations at 20 CFR Part 671
- TEGL No. 16-03, "National Emergency Grant (NEG) Policy Guidance," dated January 26, 2004
- Workforce Investment Act: National Emergency Grants – Application Procedures, Federal Register Notice, Vol. 69, No. 81, dated April 27, 2004
- TEGL No. 14-03, "Performance Reporting Submission Procedures for the Workforce Investment Act Standardized Record Data (WIASRD) and the Annual Report under Title IB of the Workforce Investment Act (WIA)," dated November 13, 2003
- TEGL No. 16-03, Changes 1-5, "National Emergency Grant Policy Guidance"
- TEGL No. 17-05, "Common Measures Policy for the Employment and Training Administration's (ETA) Performance Accountability System and Related Performance Issues," dated February 17, 2006
- TEGL No. 14-08, "Guidance for Implementation of the Workforce Investment Act and Wagner-Peyser Act Funding in the American Recovery and Reinvestment Act of 2009 and State Planning Requirements for Program Year 2009," dated March 18, 2009
- TEGL No. 19-08, "National Emergency Grants Funded with American Recovery and Reinvestment Act of 2009 Resources," dated April 30, 2009

- Information Collection Forms – ETA 9103, 9104, 9105, 9106, 9107 (OMB Control No. 1205-0439); ETA Form 9090 and the Workforce Investment Act Standardized Record Data (WIASRD) format (OMB Control No. 1205-0420); and, ETA Form 9130 (OMB Control No. 1205-0461)

3. Background. On April 30, 2009, the Employment and Training Administration (ETA) issued TEGL 19-08, which expanded access to NEG funds, established NEG eligibility for certain workers previously excluded from receiving NEG services, clarified NEG program service coordination with the Trade Adjustment Assistance (TAA) program and created two new types of NEGs: Regional Economic Impact (REI) and Formula Funds Replenishment.

NEGs are discretionary grants awarded by the Secretary of Labor (the Secretary), under section 173 of the WIA, as amended, to provide employment-related services for dislocated workers. NEGs are intended to temporarily expand service capacity at the state and local levels by providing time-limited funding assistance in response to significant dislocation events. Significant events include plant closures and mass layoffs as well as other events recognized by the Secretary under 20 CFR 671.110(f). Significant events are those that create a sudden need for assistance that cannot be accommodated within the ongoing operations of the WIA Dislocated Worker (DW) formula program, including statewide activities and Rapid Response funds reserved at the state level. NEG funds are not intended to replenish formula shortfalls or fluctuations in the annual WIA DW formula allotment, but rather are to be used in response to unanticipated and specific dislocation events, in accordance with the policies in the NEG Application Guidelines and new policies contained in this guidance.

Current economic conditions have contributed to an increased number of significant layoff events across the nation. In addition, many regions have experienced an increased number of smaller, staggered dislocation events that occur over time. Estimates show that nearly 8.4 million Americans have lost their jobs further illustrating the severity of this recession. Job creation has been slow in returning to the most impacted communities and many newly-created jobs will require updated skill sets. In March 2010, nearly 162,000 jobs were created and it is critical that OJT opportunities be made available to dislocated workers to learn the skill sets necessary to fill those positions.

Because of the widespread scope of recession-related layoffs across the country and their significant impact on the workforce system's ability to assist laid-off workers, the Secretary has recognized the impact of the recession on the national workforce as a significant dislocation event for purposes of one-time ARRA-funded NEG assistance. ETA is committed to supporting innovative strategies that will help dislocated workers, promote the nation's economic recovery, and assist those most impacted by current economic conditions. NEGs are a critical tool in helping workers and communities recover from the effects of the economic downturn, including plant closures, mass layoffs and smaller worker dislocations by providing WIA services to eligible program participants. WIA services include core and intensive services and training. Training may include occupational skill training, OJT, entrepreneurial training, skill upgrading, job readiness training and adult education and literacy activities. OJT, which requires active participation from employers for training to take place at a worksite, is based on an agreement between the One-Stop Career Center, on behalf of the individual receiving OJT and the employer which provides the training at its worksite. These grants will focus on providing OJT opportunities in order to more rapidly train dislocated workers for unfilled job placements.

4. On-the-Job Training (OJT) NEGs. ETA invites States and Federally Recognized Tribes (here after referred to as "state") to apply for a one-time ARRA-funded OJT NEG. ETA encourages states to begin planning a strategic approach and a NEG application that would greatly expand OJT activities for hard-to-serve populations with the greatest barriers to reemployment. Participating employers may be reimbursed for the extraordinary costs of the training at a rate up to 90 percent of an OJT participant's wage rate. Reimbursement above the normal 50 percent rate will be based on: (1) employer size; and, (2) the gap between the participant's initial skill level and the skill level needed to perform the job. The application will identify the OJT provisions to be waived and why it is needed. ETA will consider such requests as part of the overall application review and decision process.

Applicants are requested to submit proposals that focus on expanding the use of OJT to better meet the needs of dislocated workers. Funding will be made available to states to provide workers the opportunity to return to the workplace and earn wages to support themselves and their families while adding new skills or learning new technologies, production or service procedures, and adding experience to meet the requirements of a new occupation or industry.

Upon receipt of an award, ETA will require states to provide an implementation plan addressing the following:

- Creating OJT opportunities in the private and private non-profit sectors that provide appropriate skill acquisition opportunities for the participants; OJT opportunities may not be created in the public sector using these funds.
- Creating partnerships that develop additional recruitment and outreach services to communities most impacted by the current economic recession by establishing collaborative partnerships that will contribute to and support the creation of OJT opportunities.
- Providing a credible plan for recruitment of employers in the area to be served to participate in the program.
- Describing how the project will serve areas of the state that have been disproportionately impacted by the current economic downturn and provide OJT opportunities to those areas with the highest levels of poverty and with the lowest employment to population ratio.
- Focusing on populations with the greatest barriers to reemployment.
- Identifying and developing a skilled and diverse pipeline of workers by using the experience and expertise of Community Based Organizations (CBO) and intermediaries to help in the recruitment of both eligible NEG OJT participants and OJT training opportunities.
- Identifying workers from those industry sectors that experienced high rates of job loss during the recession; such as, construction, manufacturing, transportation and logistics, and administrative and support services who can benefit from an OJT opportunity in a new occupation or industry; or recently dislocated workers who are now transitioning from temporary or under-employed situations.

5. Eligible Participants. States are required to target these grants towards the communities identified above, but participation in projects funded with these NEGs is limited to dislocated workers. Because the recent economic downturn has had such a severe impact on the nation's ability to create and sustain jobs, workers whose layoffs occurred since the onset of the recent

recession (01/01/2008) may be considered to be unlikely to return to their previous industry or occupation for purposes of determining eligibility to participate under these grants.

6. Funds Availability. These NEG funds will be available for expenditure from the date of award through June 30, 2012.

States will be limited to drawing and expending up to 10 percent of their award for the initial OJT implementation. Once an award is made, the state will have 60 days to submit an implementation plan to ETA. No additional funds beyond the 10 percent stated above may be drawn or expended until ETA approves the implementation plan.

7. Availability. Funds will be made available to states to plan and implement OJT programs in partnership with State Workforce Investment Boards, Local Workforce Investment Boards, CBOs, and other intermediaries in areas of high unemployment. States are invited to create and build upon existing partnerships that will allow for the greatest number of OJT NEG opportunities while targeting populations with the greatest barriers to reemployment.

Funding will be made available for states to create and support partnerships with CBOs and intermediaries to expand outreach and recruitment of OJT opportunities for both participants and employers.

There is no formula funds usage requirement to be able to apply for an OJT NEG.

8. Application Process for OJT NEGs. Applications for OJT NEGs are to be submitted via the NEG Electronic Application System, which consists of an initial, short application which contains:

- A SF 424 Application Form (OMB No. 0348-0043)
- A SF 424A Budget Information Form (OMB No. 0348-0044)
- A Project Synopsis – Form 9106 (OMB No. 1205-0439)
- A brief narrative (OMB No. 1205-0439) which describes:
    - How the state plans to select local areas for participation for the creation and implementation of the OJT program;
    - A discussion of the infrastructure in place for the selected local areas to administer an OJT program that meets the objectives of this initiative; and
    - When applicable, a request for a WIA waiver for employer reimbursement for over 50 percent of extraordinary costs, which would apply to this OJT NEG only.

Considering the available funding for all OJT NEGs is $90 million, states should request funding at a level proportionate to its demonstrated need and ability to implement this project.

9. Paperwork Reduction Act (PRA) Statement. According to the PRA, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The Department notes that a Federal agency may not conduct or sponsor a collection of information, nor is the public required to respond to a collection of information unless it is approved by OMB under the PRA, and displays a currently valid OMB control number (44 U.S.C. 3507). Also, notwithstanding any other provisions of law, no person shall be

subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number (44 U.S.C. 3512). The currently valid OMB Control Number for this collection is OMB 1205-0439.

10. Inquiries. Questions regarding this guidance should be directed to the appropriate ETA Regional Office.

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION
	CORRESPONDENCE SYMBOL OWI & ONR
	DATE August 6, 2010

ADVISORY: **TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 4-10**

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
STATE WORKFORCE LIAISONS
STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS
STATE LABOR COMMISSIONERS
FEDERALLY RECOGNIZED TRIBES

FROM: JANE OATES /s/
Assistant Secretary
Employment and Training Administration

SUBJECT: On-the-Job Training National Emergency Grants (OJT NEGs) Funded with American Recovery and Reinvestment Act of 2009 Resources

1. **Purpose.** Through this guidance, the Department of Labor is providing additional detail on the one-time availability of On-the-Job Training National Emergency Grants (OJT NEGs) funded with ARRA resources announced in Training and Employment Notice (TEN) 38-09.

2. **References.**
   - Training and Employment Notice (TEN), "38-09 American Recovery and Reinvestment Act of 2009 On-the-Job Training National Emergency Grants"
   - The American Recovery and Reinvestment Act of 2009 (P.L. 111-5)
   - Workforce Investment Act (WIA), sections 173 and 189(i) (29 U.S.C. 2918)
   - WIA regulations at 20 CFR Part 661, 663 and 671
   - Workforce Investment Act: "National Emergency Grants – Application Procedures," Federal Register Notice, Vol. 69, No. 81, dated April 27, 2004
   - TEGL No. 14-03, "Performance Reporting Submission Procedures for the Workforce Investment Act Standardized Record Data (WIASRD) and the Annual Report under Title IB of the Workforce Investment Act (WIA)," dated November 13, 2003
   - TEGL No. 16-03, "National Emergency Grant (NEG) Policy Guidance," dated January 26, 2004
   - TEGL No. 16-03, "Changes 1-5, National Emergency Grant Policy Guidance"
   - TEGL No. 17-05, "Common Measures Policy for the Employment and Training Administration's (ETA) Performance Accountability System and Related Performance Issues," dated February 17, 2006
   - TEGL No. 13-08, "Allotments for training and employment services as specified in the

American Recovery and Reinvestment Act of 2009 (Recovery Act) for activities under the Workforce Investment Act of 1998 (WIA). Workforce Investment Act Adult, Dislocated Worker and Youth Activities Program Allotments; Wagner-Peyser Act Allotments, and Reemployment Service (RES) Allotments," dated March 6, 2009

- TEGL No. 14-08, "Guidance for Implementation of the Workforce Investment Act and Wagner-Peyser Act Funding in the American Recovery and Reinvestment Act of 2009 and State Planning Requirements for Program Year 2009," dated March 18, 2009
- TEGL No. 19-08, "National Emergency Grants Funded with American Recovery and Reinvestment Act of 2009 Resources," dated April 30, 2009
- TEGL 24-08, "Workforce Investment Act and Wagner-Peyser Act Performance Accountability Reporting for the American Recovery and Reinvestment Act of 2009," dated May 21, 2009
- TEGL 1-09, Changes 1 and 2, Reporting Requirements under Section 1512 of the "American Recovery and Reinvestment Act of 2009"
- Information Collection Request Forms – ETA 9103, 9104, 9105, 9106, 9107 (OMB Control No. 1205-0439); ETA Form 9090 and the Workforce Investment Act Standardized Record Data (WIASRD) format (OMB Control No. 1205-0420); ETA Form 9130 (OMB Control No. 1205-0461); and ETA Form 9148 (OMB Control No. 1205-0474)

3. **Background.** National Emergency Grants (NEGs) are discretionary grants awarded by the Secretary of Labor (the Secretary), under section 173 of the WIA, as amended, to provide employment-related services for dislocated workers. NEGs are intended to temporarily expand service capacity at the state and local levels by providing time-limited funding assistance in response to significant dislocation events. Significant events include plant closures and mass layoffs as well as other events recognized by the Secretary under 20 CFR 671.110(f). Significant events are those that create a sudden need for assistance that cannot be accommodated within the ongoing operations of the WIA Dislocated Worker (DW) formula program, including statewide activities and Rapid Response funds reserved at the state level.

4. **OJT NEG Overview.** The United States supports a very large, diverse, and innovative economy. Current economic conditions have intensified the country's need to employ practical and effective solutions to our most pressing socio-economic challenges. President Obama created a national response when he signed into law the American Recovery and Reinvestment Act of 2009 to mitigate recessionary forces. While the economy is showing positive signs, the recession is still playing out in many parts of the country, including an increased number of layoffs. As of May 2010, over 14 million workers were unemployed. Of the 50 largest metropolitan areas in the US, 16 averaged double digit unemployment rates in 2009. During the same period, unemployment rates were: 14.8 percent for African Americans; 13.3 percent for Native Americans; 11.5 percent for Hispanics; and 9.3 percent for Whites. Job creation has been slow in many urban and rural communities which also has lead to prolonged unemployment. For these communities, sustained unemployment rates have created an emergency on a scale with the emergencies typically identified with NEGs. Because of the widespread scope of recession-related layoffs across the country and their significant impact on the workforce system's ability to assist laid-off workers, the Secretary

has recognized the impact of the recession on the national workforce as a significant dislocation event for purposes of one-time ARRA-funded NEG assistance (hereafter referred to as On-the-Job Training National Emergency Grants, or OJT NEGs), announced by the Assistant Secretary in TEN 38-09.

President Obama has said, "Now is the time to build a firmer, stronger foundation for growth that will not only withstand future economic storms, but one that helps us thrive and compete in a global economy." Initial signs of economic recovery are emerging. With 1.7 million layoffs or discharges in April, the layoff rate fell to 1.3 percent, its lowest level in two years. Furthermore, March's increase in hires to 4.3 million was maintained in April. As hiring opportunities expand, it will be critical to provide dislocated workers the opportunity to acquire the skill sets necessary to fill these positions. This grant opportunity provided $75 million across those areas most severely impacted by the recession, with a focus on creating On-the-Job Training (OJT) opportunities for dislocated workers. The OJT NEG awards can be a critical tool in helping workers and communities recover from the effects of the economic downturn, including plant closures, mass layoffs and smaller worker dislocations by providing critical WIA services. To the extent possible, OJT NEG project designs will include strategies to serve dislocated workers with the greatest barriers to reemployment, including those experiencing prolonged unemployment. It will also be critical for grantees to identify workers from those industry sectors that experienced high rates of job loss during the recession, such as construction, manufacturing, transportation and logistics, and administrative and support services, who can benefit from an OJT opportunity in a new occupation or industry.

OJTs can bridge the divide between unemployment and employment by addressing gaps in an individual's skill level that would hinder them from fully performing a new job. Individuals who participated in OJTs funded under WIA in the past have demonstrated improved labor market attachment and enhanced job tenure, as illustrated by higher rates of job placement and retention. OJT also offers participants a more family-friendly "learn and earn" training option, allowing individuals a chance at up-skilling while earning a regular paycheck. For these reasons, OJT is a remarkably viable training pathway for dislocated workers seeking reemployment. For employers, OJTs offer the unique opportunity to offset initial training costs to fill skilled positions while building organizational productivity as the participant learns job requirements. An OJT arrangement can be the impetus for an employer to create the job opportunity now.

OJT is defined at WIA section 101(31) as training by an employer that is provided to a paid participant while engaged in productive work in a job that--

- provides knowledge or skills essential to the full adequate performance of the job;
- provides reimbursement to the employer of up to 50 percent of the wage rate of the participant, for the extraordinary costs of providing the training and additional supervision related to the training; and
- is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.

OJT for this project is provided under a contract with an employer in the private for-profit and non-profit sectors. OJT opportunities may not be created in the public sector using these funds. **Under the OJT NEGs, occupational training is provided by the employer for the WIA participant in exchange for reimbursement from 50 percent up to 90 percent of the wage rate depending on employer size or participant skill gaps.** This reimbursement policy is explained in more detail under the heading *Training Reimbursement Sliding Scale* within Section 5 of this TEGL.

OJT works best when the employment experience is closely tied to anticipated employment opportunities after an OJT placement is completed. As stated in the regulations governing OJT, there is an expectation that the OJT will lead to continued unsubsidized employment beyond the OJT period. Therefore, a dislocated worker's potential for permanent employment with the OJT employer or in the occupation or industry in which the OJT experience is taking place is an essential component of a quality OJT placement. Grantees should consider OJT placements in the context of in-demand occupations or industries where career pathways exist with employer partners who have a documented plan to add jobs.

Grantees should conduct proactive outreach to employers, particularly small businesses, where OJT opportunities can be utilized to maximum effectiveness for the dislocated worker. Potential employers must be able to demonstrate their ability to train participants and document what skills will be acquired. For those employers who meet the grantee's approval and are selected as partners, OJT contracts of sufficient detail should be developed to ensure an optimal training experience, as well as one that maximizes the potential of trainees to be permanently hired once the training period has ended. Contracts must also adhere to the ***Special Policy Guidelines*** around reimbursement, wage cap, and training duration in Section 5 of this TEGL. Contracts must ensure the employer's responsibility for documenting skills gained by dislocated workers during the training period. When possible, industry recognized credentials should be the end product for applicable occupations. Grantees also are required to track data on unsubsidized placement and retention as an indicator of successful employer/participant matches. The data will be useful in determining employers who followed through with retention of OJT participants on a permanent basis at the end of the OJT contract. Employers who are unsuccessful in transitioning OJT participants to permanent employment should not be eligible for future OJT opportunities under this funding.

In working with employers, grantees are advised to develop policies and procedures to avoid displacement. 20 CFR Sec. 667.270 of the WIA regulations imposes safeguards to prevent WIA participants, including those receiving services under an OJT NEG, from displacing other employees. A participant *may not* be placed in an OJT slot if: (1) any other individual is on layoff from the same or any substantially equivalent job; (2) the employer has terminated the employment of any regular employee with the intention of filling the vacancy with an OJT participant; or (3) the OJT position infringes on the promotional opportunities of currently employed workers. It should be noted that the prohibition on displacement may also include a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits of any currently employed employee.

5. **Special Policy Guidelines for OJT NEGs.** OJT NEG grantees must adhere to WIA laws and regulations governing OJT with a few notable exceptions described in this section below.

A. Training Reimbursement Sliding Scale

Grantees may use grant funds to reimburse employers for the extraordinary cost of training OJT participants, e.g. the costs of overhead associated with providing the training, shadowing, mentoring and additional supervision that are part of a quality OJT placement. The reimbursement amount will be a negotiated percentage of the wage being paid to the participant. The wage level on which the reimbursement is based cannot exceed the State's average hourly wage (the "wage cap"; as discussed below in Section B). For OJT NEGs, the negotiated reimbursement percentage may be as high as 90 percent of the participant's hourly wage (subject to the wage cap) based on either of the following conditions:

> Employer size: (1) up to 90 percent of the participant's wage rate for employers with 50 or fewer employees; and (2) up to 75 percent of the participant's wage rate for employers with 51-250 employees. Employers with more than 250 employees are limited to the standard WIA cap of 50 percent.
>
> Participant skills gap: Where there is an extraordinarily large gap between the skills of the individual and the skills needed for the job, a sliding scale up to 90 percent may be used to reflect the degree of the individual participant's skills gap.

These flexibilities are optional and may be used independent of one another. It should be emphasized that grantees need not apply for waivers to obtain these flexibilities. The sliding scales for reimbursement will be built into the terms and conditions of the grant award. Grantees are responsible for developing their own policies to assess individual participants' skill gaps as well as determining the appropriate tools the state will use to measure it. There are several tools that are useful in determining the skills necessary for specific occupations and industries. Some of these include:

- Industries: Competency Model Clearinghouse www.CareerOneStop.org/CompetencyModel
  - Includes competency models for bioscience, construction, automation, and more
- Occupations: O*NET Online http://online.onetcenter.org
  - Occupational Competency Profiles contain: tasks, knowledge, skills, abilities, detailed work activities
- Certification Finder: http://www.careerinfonet.org/certifications_new/default.aspx
  - Includes certifications for hundreds of occupations

B. Wage Cap

For the purposes of these OJT NEGs, the training reimbursement described above is restricted by a wage cap. ETA has established a wage cap policy that the training

reimbursement level is *not to exceed a percentage (up to 50 percent through 90 percent as described in the previous section A) of the state's average hourly wage rate.* That is, the training reimbursement percentage is applied against the participant's wage rate unless the wage rate exceeds the state's average hourly rate. In that case, the training reimbursement percentage must be applied against the state's average hourly rate.

This limitation on the training reimbursement provides grantees with latitude in the type of occupations that can be targeted while maximizing the number of OJT opportunities. Grantees may enter into contracts with employers who elect to pay participants more than the state average wage; however, the employer cannot receive a training reimbursement beyond a percentage (determined by the sliding scale) of the capped level.

The states' average hourly wage rate is provided by the Bureau of Labor Statistics in the Quarterly Census of Employment and Wages. The most up-to-date annual data are for 2009. The hourly wage caps for each state can be found in the table below.

State Average Hourly Wage Rate

STATE	AVE. HOURLY WAGE	STATE	AVE. HOURLY WAGE
Alabama	$18.03	Nebraska	$17.94
Alaska	$23.41	Nevada	$19.42
Arizona	$19.67	New Hampshire	$21.02
Arkansas	$16.65	New Jersey	$24.04
California	$23.82	New Mexico	$18.71
Colorado	$22.11	New York	$24.42
Connecticut	$24.50	North Carolina	$18.95
Delaware	$22.25	North Dakota	$17.31
District of Columbia	$34.01	Ohio	$19.37
Florida	$18.96	Oklahoma	$17.22
Georgia	$19.88	Oregon	$20.45
Hawaii	$20.56	Pennsylvania	$20.21
Idaho	$18.23	Rhode Island	$21.31
Illinois	$22.17	South Carolina	$17.81
Indiana	$18.43	South Dakota	$16.02
Iowa	$17.77	Tennessee	$17.96
Kansas	$18.52	Texas	$19.76
Kentucky	$17.97	Utah	$18.86
Louisiana	$17.60	Vermont	$19.68
Maine	$18.53	Virginia	$22.29
Maryland	$23.80	Washington	$22.97
Massachusetts	$25.34	West Virginia	$16.62
Michigan	$20.64	Wisconsin	$19.32
Minnesota	$21.60	Wyoming	$19.19
Mississippi	$16.14	Guam	$14.33
Missouri	$18.87	Puerto Rico	$12.35
Montana	$16.87	Virgin Islands	$16.85

Source: Bureau of Labor Statistics 2009 Occupational Employment Statistics

It should be noted that employers are required to compensate OJT participants at the same rates as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills (WIA Sec. 181(a)(1)(A)). Therefore, if the job pays less than the capped level for similar work, the OJT wages and training reimbursement should be based on this lesser level. The OJT employee should not be paid more simply because the state's average wage makes available a higher reimbursement threshold.

Two examples may help to illustrate reimbursement within the wage cap:

i. A participant in Pennsylvania may enter OJT as an insurance cost estimator, the average hourly wage for which is $28.50 (above the wage cap). Since the average hourly wage for Pennsylvania is $20.21, the employer may only be reimbursed at some percentage of this wage cap (determined by the employer's size or the skills gap of the trainee). However, the employer must compensate the participant at the same rate as the person sitting next to the trainee doing the same job with similar levels of training, experience, and skills.

ii. A participant in Pennsylvania may enter OJT as a certified nursing assistant, the average hourly wage for which is approximately $11.00 (below the wage cap). Even though the average hourly wage cap for Pennsylvania is $20.21, the OJT reimbursement level must be based on a wage deemed equal to other employees doing the same job with similar levels of training, experience, and skills. The reimbursement would be some percentage of the wage (to be determined by employer size or skill gaps of the trainee). In this case, the wage level would be lower than the capped level. Therefore, the reimbursement level would be applied against the full wage rate.

C. OJT Duration Limit

OJT NEGs are a special initiative under ARRA and, as TEN 38-09 and this TEGL indicate, the current economic conditions have contributed to an increased number of significant layoff events across the country. Since resources are limited, ETA has determined that the period of reimbursement will be limited to six months to maximize opportunity. Individuals may not be co-enrolled in other ETA programs for the purpose of extending OJT beyond six months. Six months exceeds the average length of time for current WIA OJT activities, so employers who require less time to train OJT participants should be encouraged to transition participants to permanent employment as soon as possible.

D. OJT Contracts

OJT contracts funded under OJT NEGs must comply with the following requirements:

i. OJT positions cannot be developed with public sector employers or with employers:
   a. which are casinos or other gambling establishments, swimming pools, aquariums, zoos, and golf courses.
   b. that will or may displace workers (see 20 CFR Sec. 667.270).
   c. have relocated all or part of their business within the previous 120 days where the relocation action has resulted in the loss of employment of any employee at the original location.

ii. Contracts must include the criteria for employer reimbursement.

iii. Contracts must ensure the employer's responsibility for documenting skills gained by dislocated workers during the training period.

6. **Partnerships.** It is ETA's expectation that roles of partners including business, organized labor, other government agencies and Community Based Organizations (CBOs) be defined in the implementation plan. It should also be noted that a substantial connection to the local workforce system is an OJT NEG requirement.

   As TEN 38-09 outlined, where possible, CBOs may play a special role in these grants, especially in the recruitment of OJT participants and identifying OJT opportunities. They may also act as intermediaries offering contacts to community employers for potential OJT creation or be potential employers themselves.

   However, a number of other roles for CBOs should be explored. The local knowledge base, wrap-around service resources, training capability and key community networks of CBOs can be utilized as value-adding components of the OJT NEGs. Integrating the local networks, community awareness, resources and services available through CBOs into the project can enhance the wrap-around support provided to participants, as well as the community-specific information and contacts to aid program implementation. Such value-adding resources should not go untapped.

   CBOs can play a critical support role in the individual's transition from dislocated worker to OJT participant, ranging from the provision of supportive services (such as transportation assistance, child care, access to food banks and other community resources) to direct off-site training, counseling and/or mentoring activities for participants, particularly as related to basic employability, low English proficiency, substance abuse, disabilities, or other key barriers to successful participation in OJT.

7. **Eligible Participants.** Participation in projects funded with these OJT NEGs will be limited to dislocated workers with special consideration for dislocated workers experiencing prolonged unemployment and those with the greatest barriers to reemployment.

   WIA Section 101(9) defines the term dislocated worker as an individual who meets one of the following four categories:

   (A) (i) has been terminated or laid off, or who has received a notice of termination or layoff, from employment;
   (ii)(I) is eligible for or has exhausted entitlement to unemployment compensation; or (II) has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one-stop center referred to in section 134(c), attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; and
   (iii) is unlikely to return to a previous industry or occupation;

   (B) (i) has been terminated or laid off, or has received a notice of termination or layoff, from employment as a result of any permanent closure of, or any substantial layoff of, a plant, facility, or enterprise;

(ii) is employed at a facility at which the employer has made a general announcement that such a facility will close within 180 days; or
(iii) for purposes of eligibility to receive services other than training services described in section 134(d)(4), intensive services described in section 134(d)(3), or supportive services, is employed at a facility at which the employer has made a general announcement that such a facility will close;

(C) was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disaster; or

(D) is a displaced homemaker.

Because the recent economic downturn has had such a severe impact on the nation's ability to create and sustain jobs, workers whose layoffs occurred since the onset of the recent recession (January 1, 2008) may be considered to be unlikely to return to their previous industry or occupation for purposes of determining eligibility for part A (iii) of the Dislocated Worker definition above.

As noted earlier in this TEGL, to the extent possible, ETA expects project designs to include strategies to serve dislocated workers with the greatest barriers to reemployment including those experiencing prolonged unemployment. Prolonged unemployment refers to a period of joblessness beyond the state's average weeks for Unemployment Insurance (UI). The number of weeks is the important indicator, not the UI status. Therefore, an individual not covered by UI (ineligible or exhaustee) may still be identified as experiencing prolonged unemployment if s/he exceeds the specified duration.

8. **Implementation Plans for Grantees.** By August 31, 2010, the grantee, through the NEG electronic application system (eSystem), must develop and submit an implementation plan to the Regional Office, the Grant Officer and the Office of National Response that describes in detail how OJT NEG funds will be used to create and implement an OJT project. Grantees will be allowed to draw down and expend up to 10 percent of their award to support the development and submission of the grantee implementation plan as well as other preparatory and participant service activities.

The implementation plan process allows states to work with statewide and regional representatives, CBOs and intermediaries to design OJT projects appropriate for local labor markets. It is expected that the implementation plans will identify and ultimately provide services to hard-to-serve communities and populations, and identify OJT funding needs based on populations, local industry, occupations and employer partnerships.

Implementation plan criteria were provided to each grantee as part of the grant award documents and can also be found in Attachment I of this TEGL. Submission of a quality implementation plan is required as part of the grant's terms and conditions for grantees to be able to access their total grant award. An OJT NEG Implementation Plan Modification User Guide will be provided to all grantees to explain the submission process.

9. **Administrative Costs.** Administrative costs are allowable at all levels so long as the total administrative costs do not exceed 10 percent for the overall grant per the standard NEG Guidelines. An applicant could propose to exceed the 10 percent overall limitation if a justification is provided and approved by the Grant Officer. Administrative costs are defined at 20 CFR 667.220. Staffing costs (Administrative or Program) are allowable costs and are subject to the OMB Cost Principles, including, for example, the "necessary, reasonable and allocable" criteria.

10. **Funding.** Each OJT NEG grantee received a Notice of Obligation (NOO) which indicated the amount awarded to the grantee. As stated earlier, grantees will be limited to drawing and expending up to 10 percent of their award for implementation planning and other limited OJT preparatory project and participant service activities. These activities must be in general accordance with the conditionally approved application. The period of performance for OJT NEGs will be for 12 months from date of award. A no-cost extension may be provided for up to an additional 12 months subject to justification and approval by the Grant Officer. All funds must be expended by June 30, 2012.

11. **OJT Technical Assistance.** ETA will be offering technical assistance to help grantees with the development of their implementation plan. The new OJT Toolkit website is now live. This toolkit was designed with the substantial input from various stakeholders at the State and local level. It includes sample OJT policies and procedures, contracts, monitoring tools and other useful documents. Grantees may access this information at: http://ojttoolkit.workforce3one.org/page/home. All other materials, including TENs, TEGLs, and Policy Questions and Answers may be accessed through the Department's dedicated OJT NEG Web site: http://www.doleta.gov/layoff/Job_Training.cfm.

12. **Performance and Fiscal Reporting for OJT NEGs.** To ensure ETA is able to assess the success achieved under these OJT NEGs and other WIA programs, the collection of accurate, quality data is instrumental in assuring financial and performance accountability. To satisfy statutory and regulatory recordkeeping and reporting requirements, states must report characteristics, services received, and outcomes of participants served with WIA funds, including these OJT NEGs. Such information is critical to determine the success of these investments. The following performance and fiscal reports are required:

    - ETA 9090 – WIA Quarterly Report (OMB Control No. 1205-0420);
    - Workforce Investment Act Standardized Record Data (WIASRD) Quarterly Submission (OMB Control No. 1205-0420);
    - ETA 9148 WIA Adults, Dislocated Workers, and National Emergency Grants Monthly Report (OMB Control No. 1205-0474). This report is submitted by each state on the 15th of each month to ETA for the previous month. Accurate monthly counts of OJT NEG participants provide a means to track the progress of OJT NEGs as they are implemented. This is important because it provides ETA with an early warning system to identify grantees that may be in need of technical assistance to get their OJT NEG operational.
    - ETA 9130 – U.S. DOL ETA Quarterly Financial Status Report (OMB 1205-0461);
    - ETA 9104 – NEG Quarterly Performance Report (QPR) (OMB 1205-0439);
    - ARRA Section 1512 – Quarterly Recipient Report. Please note, the ARRA recipient

report is submitted by direct recipients or designated sub-recipients of ARRA funds to OMB through an electronic reporting system at www.FederalReporting.gov, no later than the 10th day after the end of each calendar quarter. This Recipient Report contains cumulative data on the projects and activities funded by ARRA from the inception of the grant award (jobs created/retained data is quarterly). For additional reporting guidance and references, see TEGL 1-09, Change 1 and 2, *Reporting Requirements under Section 1512 of the American Recovery and Reinvestment Act of 2009* as well as OMB guidance found at www.recovery.gov.

In addition, the WIASRD must be submitted quarterly on all participants and exiters from OJT NEGs. In order to evaluate the success of OJT NEGs, it is imperative that states make every effort to submit the required reports on a timely basis, and that they be accurate and complete. There are a few important WIASRD elements pertaining to OJT and NEG funding sources that must be completed for OJT NEG participants:

- WIASRD data items 340 and 341 (*Type of Training Service #1 and Type of Training Service #2*) are the sources for determining which individuals received OJT. A lack of complete data on these WIASRD elements will result in an undercounting and underreporting of the number of individuals who received OJT;
- WIASRD data item 342 (*Occupational Skills Training Code*) is important because it contains information on the occupation in which the individual was trained. This information facilitates the identification of occupations where OJT most often occurs or where it is the most successful in obtaining better employment outcomes for workforce system customers;
- WIASRD data items 313a, 313b and 313c (*1st, 2nd, and 3rd NEG Project IDs*) in conjunction with WIASRD data item 326 (*Other WIA or Non-WIA Programs*) make possible the isolation of individuals who were provided OJT through these ARRA-funded NEGs.

Individuals in any OJT NEG will not count against the performance of the **credential attainment measure** for WIA programs. States also may request a time limited waiver to also exclude OJT NEG participants who are co-enrolled in other WIA programs so that the credential result for that individual would not count against performance of either program. It should be noted that while the individual does not count against performance of this measure, the data on credential attainment for each individual must still be collected and reported by the grantee in the WIASRD and submitted to ETA.

The number of participants and exiters in the OJT NEGs must be included in the quarterly aggregate counts submitted by states in the ETA 9090, WIA Quarterly Report.

13. **Paperwork Reduction Act (PRA) Statement.** Under the PRA, a Federal agency may not conduct or sponsor a collection of information, nor is the public required to respond to a collection of information, nor may any person be subject to a penalty for failing to comply with a collection of information, unless it is approved by the Office of Management and Budget (OMB) under the PRA, and displays a currently valid OMB control number (44

U.S.C. 3507). The currently valid OMB Control Number for this collection is OMB Control No. 1205-0439.

14. **Action Requested.** Grantees must complete an implementation plan within 60 days of award. Please distribute this information to all appropriate state and local officials, including local workforce investment board chairs, administrative entities, chief elected officials and One-Stop Career Centers.

15. **Inquiries.** Any questions regarding program and policy issues for the OJT NEGs should be directed to the appropriate ETA Regional Office. Requests for NEG eSystem access or technical assistance with the electronic submission of the implementation plan modification should be sent to NEGEsystem@dol.gov.

16. **Attachment.**

Attachment I – Implementation Plan Narrative Criteria