

WORKFORCE SOLUTIONS TEXOMA POLICIES & PROCEDURES

CHAPTER 8 PROGRAM SERVICES

SECTION 17 SUBSIDIZED EMPLOYMENT & TRAINING

TABLE OF CONTENTS

8.17.1	GENERAL
8.17.2	EQUAL OPPORTUNITY
8.17.3	CONTRACTS
	8.17.3.1 OJT Contracts
	8.17.3.2 CHOICES Contracts
	8.17.3.3 Customized Training Contracts
	8.17.3.4 Incumbent Worker Training Contracts
8.17.4	ACCESSIBILITY REQUIREMENTS
8.17.5	SUBSIDIZED EMPLOYMENT POLICY
	8.17.5.1 WIA Youth SE
	8.17.5.2 American Recovery and Reinvestment Act (ARRA) of 2009
	Summer Youth Employment Program
	8.17.5.2.1 Basic Eligibility
	8.17.5.2.2 Required Activities
	8.17.5.2.2.1 Time Frame
	8.17.5.2.2.2 Summer Employment Definition
	8.17.5.2.2.3 Worksites
	8.17.5.2.2.4 ARRA Funded Training
	8.17.5.2.2.5 Wages and Support Services
	8.17.5.2.3 Performance
	8.17.5.2.4 Data Entry Requirements
	8.17.5.3 American Recovery and Reinvestment Act (ARRA) of 2009
	Temporary Assistance for Needy Families Subsidized
	Summer Youth Employment Program
	8.17.5.3.1 Time Frame

~~8.17.5.3.2 Basic Eligibility~~

~~8.17.5.3.2.1 Low Income~~

~~8.17.5.3.2.2 Additional Eligibility~~

~~8.17.5.3.3 Participants~~

~~8.17.5.3.4 Worksites~~

~~8.17.5.3.5 Data Entry~~

~~8.17.5.42~~ WIA Adult and Dislocated Worker SE

8.17.5.35 Choices SE

8.17.5.46 SNAP SE

8.17.5.57 Project RIO SE

8.17.5.68 Texas Back-to-Work Initiative

8.17.6 SUBSIDIZED EMPLOYMENT PROVIDERS (EMPLOYER OF RECORD)

8.17.7 BASIC EDUCATION OR OCCUPATIONAL SKILLS REQUIREMENT

8.17.8 SUBSIDIZED EMPLOYMENT PROVIDER ORIENTATION

8.17.9 ON-THE-JOB TRAINING

8.17.9.1 CHOICES Participants

8.17.9.1.1 CHOICES Wages

8.17.9.1.2 CHOICES OJT Time Limitations

8.17.9.1.3 CHOICES OJT Eligibility

8.17.9.2 WIA PARTICIPANTS

8.17.9.2.1 WIA Wage Reimbursement Restrictions

8.17.9.2.2 WIA OJT Time Limitations

8.17.9.2.3 WIA OJT Eligibility

8.17.9.3 TAA OJT Eligibility

8.17.10 SUBSIDIZED EMPLOYMENT OJT COMPLIANCE

8.17.11 CUSTOMIZED TRAINING

8.17.11.1 Customized Training Costs

8.17.12 INCUMBENT WORKER TRAINING

8.17.12.1 Incumbent Worker Eligibility

8.16.12.2 Incumbent Worker Contracts

8.17.1 GENERAL

This manual contains procedures for administering Subsidized Employment (SE), Subsidized Training (ST) including Customized Training and Incumbent Worker Training, and On-the-Job Training (OJT) for eligible customers of the Texoma Workforce Centers. SE, ST and OJT are activities that should be used to improve the employability of CHOICES and WIA customers who have been unable to find employment. Texoma Workforce Centers (WFC) are encouraged to use SE, ST and OJT only in cases where the individual's needs warrants.

WST will ensure that SE, ST and OJT are **not** developed with employers with a pattern of failing to continue long-term employment with wages, benefits, and work conditions equal to regular employees.

SE, ST and OJT activities may not include:

- Union or anti-union activity;
- Religious proselytism or evangelism; and
- Partisan or non-partisan political activity or campaigns.

All SE, ST and OJT participants are required to follow worksite work rules, such as abiding by the dress code, maintaining a work schedule according to the hours approved by the supervisor, and notifying the supervisor of planned absences from work or tardiness before missing work. Participants will be withdrawn from SE, ST or OJT immediately upon discovery of non-participation. Workforce center staff must ensure that the SE and OJT participants are not related to the employer or any person who works for the employer in an administrative capacity (Supervisor) which could create a situation of nepotism.

Support services, as defined in WST Support Services Policy 8.15, will be provided upon customers' request.

8.17.2 EQUAL OPPORTUNITY

Workforce Center Staff and Employers must assure that "no individual shall be excluded from participating in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of, or in connection with, any such program because of race, color, religion, sex, national origin, age, disability, or political affiliation or belief" in accordance with WST Equal Opportunity Policy Section 8.1 and EO compliance 20 CFR 30.20(a)(2).

8.17.3 CONTRACTS

WST service providers will receive approval from the WST Executive Director prior to entering into Subsidized Employment, Subsidized Training or On-the-Job Training Contracts.

Pursuant to WD 70-05, and WIA §134(d)(4)(G)(ii)(I) WIA Subsidized Employment, Subsidized Training, and On-the-Job Training contracts are exempt from the ITA and ETPS certification requirements and WST will develop contracts with local employers for these services. Choices SE, and OJT contracts are also exempt from these requirements. Per WIA Final Regulations at

20 CFR §663.700(a) through OJT contracts occupational training is provided for the WIA participant in exchange for the reimbursement of up to 50% maximum of the wage rate to compensate for the employer's extraordinary costs. (See WIA sec. 101(31)(B).) Both WIA and Choices SE or OJT contracts at a minimum will include:

- A stipulation that all employees involved in the training initiative must be deemed to have met initial WIA eligibility standards with paperwork collected and submitted for approval prior to beginning the training program.
- A commitment by the employer to employ or continue to employ the individual or group of individuals upon successful completion of the training.
- Identification of the occupation that is targeted.
- Assurances that no federal employment-related laws have been violated including WIA section 181(a)(1)(A) and 667.272 (wage and labor standards) and WIA Section 181(9)(2) and 667.74(a) (health and safety).
- A threshold for employer reimbursement of a maximum of 50% of participants' wage rate.
- WD 70-05 authorizes WST to enter into OJT contracts with existing employers in the Board area or with new or businesses relocating to the Board area. In accordance with WIA §181(d)(1), Boards must not use funds "to encourage or induce the relocation of a business or part of a business, if such relocation would result in a loss of employment for any employee of such business at the original location and such original location is within the United States."
- Information pertaining to EO compliance, including 20 CFR 30.20(a)(2).
- Allowances for on-site monitoring and information collection.
- Budget and payment information
- A statement of work detailing information about the training provided and expectations for the employee(s), employer, and training provider. Statement of work will also contain specific information about the number of hours of training, and skills expected to be learned by the employee(s).
- A specific start and end date that is consistent with the amount of time necessary to learn the needed skills.

Prior to placing customers in SE, ST or OJT, WST service providers will be required to coordinate with WST staff to develop Contracts with employers that detail specific length of time with start and end dates, goals, objectives, knowledge, skills, and abilities that are expected to be gained from the SE, ST or OJT employment opportunity. Contracts will also contain information pertaining to EO compliance, including 20 CFR 30.20(a)(2), allowances for on-site monitoring and information collection, budget and payment information, and a statement of work or job description detailing information about the training provided and expectations for the employee(s), employer, and training provider. The Contract Statement of Work will also contain specific information about the number of hours of training, and skills expected to be learned by the employee(s). Contract will include language to specify the

employer of record, that the SE, ST or OJT position will not be used to displace existing employees, and outline all employer, employee, and WST service provider responsibilities. The written SE, ST or OJT Contract must be completed, signed, and approved prior to the OJT employment start date. All OJT plans will be reviewed with and signed by the Employer and the OJT Trainee. The original OJT must be forwarded to WST within five (5) working days. One copy will be given to the employer and one retained at the Texoma Workforce Center.

Pursuant to §811.44(c), Contracts will include the expectation that the SE or OJT opportunity will result in retaining the participant in long-term employment with wages, benefits, and working conditions commensurate with employees who have worked a similar length of time and are doing similar types of work.

The SE and OJT will be limited to a minimum of 90 days with a review every 30 days to determine that the needed skills are being acquired. The length of training will not exceed the number of hours negotiated in the original Contract, unless a Contract Amendment has been prepared and approved by all WST and the OJT Employer.

8.17.3.1 OJT CONTRACTS

Pursuant to WD 70-05, WST is required to procure employers for OJT programs. Prior to entering into a contract for OJT, WST allow local employers to apply to WST for OJT. Said application will include information on the employer's required training and skills needs, the number of employees to be trained, the occupations/industries to be included in the training, the proposed dates of the training, and the amount of funding requested.

WST will not enter into OJT contracts with employers that have received payments under previous contracts and have exhibited a pattern of failing to retain OJT participants as long-term, regular employees with wages, employment benefits (including health benefits), and working conditions at the same level as other employees in similar positions.

WST will ensure that funds provided to employers for OJT are not used to directly or indirectly assist, promote, or deter union organizing.

8.17.3.2 CHOICES CONTRACTS

Subsidized Employment contracts will not be entered into for employers where individuals reside. For example, if an individual resides at a halfway house that is also an SE Employer, the individual may not be assigned at that Employer. It should be understood that this policy does not affect the eligibility of SE Employers to utilize individuals who are not their residents or the eligibility of their residents to be served by another SE Employer. Special exceptions may be granted; however, they will be considered on a case-by-case basis and are subject to the prior approval of WST.

8.17.3.3 CUSTOMIZED TRAINING CONTRACTS

A contract for customized training services will be developed between the employer and WST that will, at a minimum, include:

- a commitment by the employer to employ or continue to employ the individual (or group) of individuals upon successful completion of the training.
- a stipulation that all employees involved in the training initiative must be deemed to have met initial WIA eligibility standards and be receiving a wage that is below WST's locally established self-sufficiency guidelines at WST 8.9.17.1 with paperwork collected and submitted for approval prior to beginning the training program.
- identification of the occupation that is targeted.
- define/outline the skills/competencies to be learned.
- the length of the training.
- assurances that no federal employment-related laws have been violated including WIA section 181(a)(1)(A) and 667.272 (wage and labor standards) and WIA Section 181(9)(2) and 667.74(a) (health and safety).
- information pertaining to EO compliance, including 20 CFR 30.20(a)(2).
- allowances for on-site monitoring and information collection.
- budget and payment information.
- a statement of work detailing information about the training provided and expectations for the employee(s), employer, and training provider. Statement of work will also contain specific information about the number of hours of training, and skills expected to be learned by the employee(s).
- a specific start and end date that is consistent with the amount of time necessary to learn the needed skills.
- a provision for employer match for training.

8.17.3.4 Incumbent Worker Training Contracts

After appropriate procurement, and RFP response that outlines specific skills/competencies to be targeted, a contract/letter of agreement will be developed with the training provider that will include:

- information about which employers are targeted for training.
- stipulations that:
 - all employees involved in the training initiative meet WIA eligibility standards as outlined in 8.9.15.2, with paperwork collected and submitted for approval prior to beginning the training program
 - participants are not currently enrolled in any WIA-funded program.
 - trainees are making at least \$9.00 per hour
 - trainees are permanent employees of the company, with proof of current employment submitted with WIA eligibility paperwork
- the length of the training.

- assurances that federal employment-related laws have not been violated including WIA section 181(a)(1)(A) and 667.272 (wage and labor standards) and WIA Section 181(9)(2) and 667.74(a) (health and safety).
- information pertaining to EO compliance, including 20 CFR 30.20(a)(2).
- allowances for on-site monitoring and information collection.
- budget, payment, and record-keeping information.
- a statement of work detailing information about the training provided and expectations for the employee(s), employer, and training provider. Statement of work will also contain specific information about the number of hours of training, and skills expected to be learned by the employee(s).
- Class Rosters that contain the following:
 - a specific start and end date.
 - instructor or designee signature
 - WECM Course Number
 - Class Section Number
 - Class Quarter

8.17.4 ACCESSIBILITY REQUIREMENTS

All intake, remedial education, and occupational skill training sites must be accessible and there must be a sufficient number of accessible Subsidized Employment worksites in each county to serve the physically challenged individuals in each county.

8.17.5 SUBSIDIZED EMPLOYMENT

WST supports Subsidized Employment as defined in TWC Rule §811.43. However, subsidized employment activities are contingent on available funding and are considered a core activity for Choices customers and an intensive for WIA youth customers according to Section 663.200, 664.460 and 664.470.

Hours for subsidized employment activities are restricted to a maximum of the total number of required participation hours per month and will consist of at least minimum wage up to the same wages that would be paid to an unsubsidized employee with similar skills, experience, and in a similar position. Employers must provide the same benefits to subsidized employees as for unsubsidized employees with similar skills, experience, and position. Each placement must have designated hours, tasks, objectives and staff supervision. Due to limited funding, WST service providers will coordinate with WST Executive Director in determining the amount of wages that will be subsidized. No overtime will be allowed. Subsidized employment will be scheduled as determined by allowable funding with an evaluation conducted every 30 days to determine if customer is obtaining needed skills to successfully obtain employment, or until participants have obtained needed skills, knowledge, and abilities necessary to successfully obtain employment, whichever comes first. Subsidized employment can be either full-time or part-time. Under no circumstances will overtime be allowed in any subsidized employment activity. Worksite Agreements are required with all employers participating in subsidized employment activities. Close coordination between the employer and career specialist is required to ensure customers are progressing in learning the knowledge, skills, and abilities

required for successful employment. Support services, as defined in WST Policy 8.7.42 (CHOICES), 8.9.7 (WIA) and 8.15 (Support Services), will be provided upon customer request and documentation of need.

8.17.5.1 WIA YOUTH SE

WIA Youth SE for youth between 14-15 years of age is restricted to summer months. Youth 15-18 with two years of summer work experience will be required to perform intensive job search to obtain summer employment on their own and with assistance from Career Specialist in order to use the job skills acquired through training and prior work experience. Youth 16-18 who have proven that they have actively participated in job search with no results will be considered for summer SE on a case by case basis. Youth will be scheduled for the number of hours per training placement as agreed to by the Board Executive Director, or designee, as determined by funding. Employment activities will normally be scheduled from 200-400 hours. Occupational skills goals or work readiness goals may be attained during their participation. In-school youth may be allowed to work up to 20 hours each week for students enrolled in full-time secondary school, excluding summer months, and 32 hours per week, with no more than 8 hours a day, each week for summer component. Out-of-school youth may be allowed to work up to 32 hours per week year round. Hours and weeks are determined by funding parameters and Executive Director's guidance. Assessment for work components may consist of: Interest Inventory, TABE test, and completion of a resume writing and application/interview skills workshop.

WST Service provider will ensure that the following youth SE restrictions are followed:

- In-school youth who are working during summer months are allowed multiple subsidized placements as long as they remain in school, providing no two placements are with the same employer.
- Out-of-school youth are expected to have no more than one subsidized employment placement. Additional subsidized employment placements for out-of-school youth will require Board approval.
- One subsidized employment assignment change will be allowed per training placement without Board staff approval; however a second assignment change will require Board staff approval and sufficient evidence to support the change.

~~**8.17.5.2 US DOL American Recovery and Reinvestment Act (ARRA) of 2009 Summer Youth Employment Program**~~

~~By authorization of the USDOL TEGL 14-08 and WD 13-09, WST will implement a summer youth employment program.~~

~~WD 13-09 specifies the expenditure thresholds and summer employment minimum amounts. However, WST reserves the right to notify WST Contractor in writing more restrictive requirements. This WD Letter also authorizes a 30 percent out-of-school youth funds expenditure rather than the more restrictive 60 percent previously~~

authorized by TWC.

~~8.17.5.2.1 Basic Eligibility~~

~~Youth enrolled in the ARRA Summer Youth Employment program must meet the same eligibility criteria applicable to WIA youth formula funds with one exception. ARRA extends the maximum age of eligibility from 21 through 24. TWC Contractor is referred to the Workforce Investment Act Document Log and WST Policy Chapter 8, Section 9, for further guidelines on youth eligibility.~~

~~Due to funding limitations, WST will focus on enrolling youth between the ages of 16 – 24 in ARRA-funded activities.~~

~~8.17.5.2.2 Required Services~~

~~Youth enrolled in the ARRA Summer employment program are required to have the following services:~~

~~8.17.5.2.2.1 Time frame~~

~~The time frame for the US DOL WIA youth summer employment program has been defined as May 1, 2009 through September 30, 2009.~~

~~8.17.5.2.2.2 Summer Employment Definition~~

~~ARRA summer employment is defined as a subsidized work experience activity that provides a planned, structured learning experience that takes place in a workplace setting for a limited period to allow youth to gain exposure to the world of work and its requirements. WST service provider is referred to the TWC WIA ARRA Implementation Guide, page 25, for a more detailed explanation of included activities. Priority of service for eligible veterans and eligible foster youth, as outlined in TWC WD 04-09, Change 3, must be observed.~~

~~8.17.5.2.2.3 Worksites~~

~~ARRA work experience placements will occur with private for-profit, private non-profit, and public companies/organizations.~~

~~Worksites will be developed using the current Worksite Agreement with interested employers/organizations. Worksite recruitment will take into account the following requirements:~~

- ~~• arrangements do not unfavorably impact current employees and do not impair existing contracts for services or collective bargaining agreements;~~
- ~~• arrangements do not impact the profit margin of a for-profit company (the participating youth should be the primary beneficiary of the work experience placement); and~~

- ~~• opportunities are **not** in any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pools.~~

~~In addition, under 20 C.F.R., §667.270, a participant or activity must not:~~

- ~~• displace (including a partial displacement, such as a reduction in the hours of non overtime work, wages, or employment benefits) any currently employed employee as of the date of the participation; or~~
- ~~• impair existing contracts for services or collective bargaining agreements. When the program or activity would be inconsistent with a collective bargaining agreement, the appropriate labor organization and employer must provide written concurrence before the program or activity begins.~~

~~An ARRA participant must also not be employed in or assigned to a job if:~~

- ~~• any employee in the same or any substantially equivalent job has been laid off;~~
- ~~• the employer has terminated any regular, unsubsidized employee or caused an involuntary reduction in its workforce with the intention of filling the vacancy with a WIA participant; or~~
- ~~• the job is created in a promotional line that infringes in any way on the promotional opportunities of currently employed workers.~~

~~Lastly, WST will ensure that ARRA funds are not used to:~~

- ~~• encourage or induce a business or part of a business to relocate from anywhere in the United States if the relocation will result in any employee losing his or her job at the original location:~~
- ~~• provide customized training, skill training, or on-the-job training (OJT) or company specific assessments of job applications or employees of a business, or part of a business, that relocated to the local workforce development area (workforce area) until the company has been in operation in the workforce area for 120 days if employees from the original location lost their jobs.~~

~~WST Monitoring Department will ensure that worksite placements comply with the following federal requirements:~~

- ~~• Health and Safety regulations;~~
- ~~• Fair Labor Standards Act (FLSA);~~
- ~~• Child Labor Laws; and~~
- ~~• All other applicable federal and state employment laws.~~

~~**8.17.5.2.2.4 ARRA Funded Training**~~

~~Academic learning is an authorized component of the ARRA summer employment program. WST will procure short-term training that will be authorized in conjunction with a summer employment activity. See WST Chapter 8, Section 17, for additional information on ARRA-funded training opportunities.~~

~~**8.17.5.2.2.5 Wages and Support Services**~~

~~Summer employment placements will be subsidized at a rate determined by the amount of funding available. Youth ages 16-17 are authorized to work no more than 32 hours per week with youth ages 18-24 working no more than 40 hours per week. Overtime is not allowed. Federal Holidays will be paid if the worksite observes the holiday. See Section 8.17.5 and 8.17.5.1 of this policy for further information.~~

~~Support services are also authorized with the exception of Work Related Expenses and Child Care. Youth who need child care are to be referred to the WST Income Eligible Child Care program. See WST Chapter 8, Section 16 for additional information on allowable support services.~~

~~**8.17.5.2.3 Performance**~~

~~The two performance measures for this program are the work readiness skills goal performance measure and completion rate. WST service provider will document all activities in TWIST with the correct Summer Employment fund code so that data entry will support reporting for these two measures and exclude ARRA-funded youth from Common Measures performance reporting requirements. In conjunction with Board staff, WST service provider will develop a work readiness skills goal evaluation to determine whether a measureable gain has occurred for participants as a result of involvement in summer employment activities. The work readiness evaluation will be administered to obtain both a pre and post score with said scores being documented in TWIST Service Tracking, Youth Goals tab.~~

~~Youth will be exited from all summer employment activities on or before September 30, 2009 to exclude them from Common Measures performance reporting requirements. Youth ages 16-21 who are deemed to be in need of additional services can continue to receive summer and year-round services without the need for additional eligibility determination if said services are funded by ARRA funds. However, youth ages 22-24 who need additional services funded by WIA formula funds will need to be determined eligible for the WIA low income Adult program. (reference: [USDOLETA TEGL 14-08, Change 1, FAQs.](#))~~

~~8.17.5.2.4 DATA ENTRY REQUIREMENTS~~

~~Work experience jobs and summer youth placements are not to be entered into WorkInTexas.~~

~~All TWIST data entry must be accurately recorded to reflect eligibility, services provided, wages and support services provided, and performance outcomes for the work readiness indicator and completion rate.~~

~~8.17.5.3 American Recovery and Reinvestment Act (ARRA) of 2009~~

~~— Temporary Assistance for Needy Families Subsidized~~

~~— Summer Youth Employment Program (SSYEP)~~

~~By authorization of WD 16-10, WST will implement a summer youth employment program utilizing ARRA/TANF Emergency Contingency Fund (ECF) funds. WST will only use these funds for the administration, oversight and subsidized wages for the subsidized employment program.~~

~~If SSYEP partnerships are formed with public sector employers, service provider will ensure that supervisors' wages are not derived from federal funds.~~

~~8.17.5.3.1 Time Frame~~

~~The SSYEP subsidized employment activities will conclude September 30, 2010.~~

~~8.17.5.3.2 Basic Eligibility~~

~~Youth enrolled in the SSYEP program must be between the ages of 16 and 24, a U.S. citizen or noncitizen authorized to work in the U.S., and defined as low income:~~

~~8.17.5.3.2.1 Low Income~~

~~Low income youth are defined as youth whose families are receiving any of the following means tested benefits:~~

- ~~• Household receives TANF benefits~~
- ~~• Household receives SNAP benefits~~
- ~~• Youth receives Children's Health Insurance Program (CHIP) benefits~~
- ~~• Youth receives Medicaid benefits~~
- ~~• Household receives subsidized child care through the Child Care and Development Fund~~
- ~~• Household is eligible for or receives subsidized public housing assistance~~
- ~~• Household participates in the U.S. Department of Agriculture Food and Nutrition Services' Women, Infants, and Children (WIC) program~~
- ~~• Youth receives free or reduced-cost school lunch~~
- ~~• Youth is eligible for, or enrolled in, WIA youth services~~
- ~~• Youth whose family income is 200% of or below the U.S. Department of Health and Human Services' Poverty Guidelines or the U.S. Department of Labor's Lower Living Standard Income Level~~

~~8.17.5.3.2.2 Additional Eligibility~~

~~Additionally, youth must be members of, and reside in, households with a parent, caretaker, or adult relative as follows:~~

- ~~• The household must consist of two or more persons related by blood, marriage, or court decree, who are living in a single residence, and are included in one or more of the following family/household categories:
 - ~~○ Husband, wife and dependent children~~
 - ~~○ Parent or legal guardian or adult relative/caretaker and dependent children~~
 - ~~○ Husband and wife~~~~
- ~~• The two exceptions in which youth do not need to reside in a household with a parent, caretaker, or adult relative are the following:
 - ~~○ Pregnant youth age 16-24~~
 - ~~○ Noncustodial parent age 16-24~~~~

~~WST will use a self-attestation form to document whether the youth is residing in a household with a parent, caretaker, or adult relative. The self-attestation document will be completed, signed by all parties and maintained for documentation purposes. The form will contain an accompanying signature of a parent, caretaker, or adult relative for youth under the age of 18. Guidance offered from TWC allows youth age 18 and over to sign all documentation on their own behalf.~~

~~8.17.5.3.3 Participants~~

~~SSYEP participants will receive an orientation that will include information on participation requirements, workplace safety, payroll procedures, and additional expectations.~~

~~8.17.5.3.4 Worksites~~

~~SSYEP subsidized employment placements may occur with public sector, private sector, and nonprofit partnerships.~~

~~WST Monitoring Department will ensure that worksite placements comply with the following federal requirements:~~

- ~~• Health and Safety regulations;~~
- ~~• Fair Labor Standards Act (FLSA);~~
- ~~• Child Labor Laws; and~~
- ~~• All other applicable federal and state employment laws.~~

~~Worksites will be developed using the current Worksite Agreement with interested employers/organizations. Worksite recruitment will take into account the following requirements:~~

- ~~• arrangements do not unfavorably impact current employees and do not impair existing contracts for services or collective bargaining agreements;~~
- ~~• arrangements do not impact the profit margin of a for-profit company (the participating youth should be the primary beneficiary of the work experience placement); and~~
- ~~• opportunities are **not** in any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pools.~~

~~8.17.5.3.5 Data Entry~~

~~Service provider will follow guidance offered in WD 16-10 concerning all TWIST data entry requirements.~~

8.17.5.24 WIA Adult and Dislocated Worker Subsidized Employment

Guidance has been received from TWC that WIA funding can be used to support adults and dislocated workers in subsidized employment activities when categorized as work experience. WST contractor is requested to develop procedures implementing a subsidized employment program for no more than 400 hours per customer as an intensive-level service for Adults and Dislocated Workers.

8.17.5.35 CHOICES SE

With WST approval based on a review of available funding, subsidized employment opportunities are allowable to participants age 18 or older. Exempt Choices recipients must successfully complete one week of intensive job search with mandatory Choices recipients successfully completing two weeks of intensive job search prior to enrollment in subsidized employment. Participants will be scheduled for the number of hours per SE placement directed as agreed to by the Board Executive Director, or designee, as determined by funding. Employment activities will normally be scheduled from 200-400 hours. The maximum hours allowable for a Choices subsidized employment placement will be 400 hours, with additional hours based on Board approval. This hourly maximum aligns with other integrated programs offered by WST. Hourly participation in work experience will be limited to no more than 40 hours per week, and can be stacked with other activities to assist customer in meeting participation requirements. Prior to placement at a subsidized employment site, each potential SE participant must be administered the TABE and COPS/CAPS/COPES or the OSCAR assessment tests. SE worksite placements should be made based upon skills, ability and interest results. The goal of the subsidized employment is to assist customers in gaining valuable real-world work experience with a goal of continued unsubsidized employment.

Subsidized employment is restricted to a one-time only activity, without Board approval. WST will not be the employer of record for Choices customers involved in SE. WST will procure the use of temporary service agencies to serve as the Choices customer's employer of record. Salary will consist of minimum wage if paid with TANF/Choices funding up to the same wages that would be paid to an unsubsidized employee with similar skills, experience, and in a similar position, if paid with WIA funding.

8.17.5.~~64~~ SNAP SE

In accordance with WD 56-09, SNAP benefit recipients are also eligible for subsidized employment placement. In order to qualify for placement in a SE position, all SNAP customers must successfully complete two weeks of intensive job search activities, as well as complete the TABE and the COPS/CAPS/COPEs or the OSCAR assessment test. Placements will be made based on the results of the assessment test. SE salary will consist of at least minimum wage up to the same wages that would be paid to an unsubsidized employee with similar skills, experience, and in a similar position and will be funded from WIA funds; therefore, all WIA eligibility standards apply. Participants will be scheduled for the number of hours per SE placement directed as agreed to by the Board Executive Director, or designee, as determined by funding. Employment activities will normally be scheduled for 200 or less hours. A maximum of 400 hours of SE will be allowable with the The SE goal of assisting customers in gaining valuable real-world work experience with a goal of resulting in continued unsubsidized employment. The Board can be the employer of record for SNAP SE participants.

8.17.5.~~57~~ Project RIO SE

Project RIO customers can be eligible for WIA-funded subsidized employment after completion of 4 weeks of job search activities and 2 weeks of unpaid work experience. WIA eligibility guidelines will apply. SE salary will consist of at least minimum wage up to the same wages that would be paid to an unsubsidized employee with similar skills, experience, and in a similar position. Placements are limited to a maximum of 400 hours. The Board can be the employer of record.

8.17.5.~~68~~ Texas Back-to-Work Initiative

TWC WD Letter 46-09, Change 2, allows Boards to implement a Texas Back-to-Work Initiative to assist eligible unemployment insurance (UI) claimants in gaining employment. WST will utilize Option 2 – Employer Subsidized-Wage Retention Bonuses noted in WD 46-09, Change 2. For this option, TBTW participants' successful completion of full-time employment is defined as a minimum of 120 days (unsubsidized, paid employment for 30 hours or more per week). TBTW agreements will be developed with area employers that are interested in participating in the Texas Back to Work Initiative. Employers that participate in the TBTW Initiative will receive up to \$2,000 depending on the amount of time an employee retains employment with said employer. After each month of employment for a TBTW eligible participant, the employer will submit an invoice and proof of payroll documentation for each participant to WST for payment.

The employer will be the employer-of-record with all responsibilities and obligations that entails. For employers that utilize a staffing agency, a separate TBTW agreement will be signed noting the staffing agency contact information along with additional allowable proof of TBTW participant's employment. In such cases, the retention bonus will be paid to the employer and not the staffing agency. In addition to WD 46-09, Change 2, service provider shall refer to WD 13-10 for additional information on eligibility, worksite agreements and TWIST data entry. Service provider is also referred to TA Bulletin 222, which contains information on TWIST data entry.

8.17.6 SUBSIDIZED EMPLOYMENT PROVIDERS (EMPLOYER OF RECORD)

The Contractor's Business Services Unit will be responsible for contacting public and private sector, profit or nonprofit organizations, hereinafter referred to as Subsidized Employment Providers, with their respective areas to develop SE Provider Contracts for SE positions. Upon completing a Contract, the Contractor's Career Specialist will be responsible for locating and referring eligible individuals to the SE Provider. It must be documented in the IEP/FEP of the individual that the training is consistent with the vocational goals and career interests of the individual referred.

With the exception of Choices participants (see 8.17.5.3), for purposes of State and Federal Labor Laws, the Employer of Record for individuals enrolled in SE will be the Workforce Solutions Texoma. Any Worker's Compensation, FICA, and income tax withholding provisions apply to all wages paid to individuals. All individuals must, at a minimum, have Social Security withheld and be covered by Worker's Compensation. Other employer benefits should be the same for subsidized employees as unsubsidized employees of similar skills, experience, and position. Payments may not occur for holidays, sick time, vacations or other leaves, and may not exceed more that 40 hours per week.

TANF individuals receiving TANF cash assistance must report the wages earned to HHSC as "income".

8.17.7 BASIC EDUCATION OR OCCUPATIONAL SKILLS REQUIREMENT

Subsidized Employment may be accompanied, either concurrently or sequentially, by other services designed to increase the Basic Education (such as English as a Second Language or Adult Literacy) and/or Occupational Skills of the individual as documented in the IEP/FEP.

The contractor shall be responsible for checking each individual's progress in the Basic Education programs in order to satisfy the "successful progress" requirement. A schedule of participation will be prepared that is compatible with the work schedule at the employment placement, and it is expected that the Basic Education classes will be consistent with the needs and goals of the individual as identified during the assessment process and on the individual's IEP/ISS/FEP.

The contractor will be responsible for developing a policy to address if an SE individual in the Basic Education programs is not satisfying the “successful progress” requirement.

Individuals shall be eligible for support services while enrolled into Basic Education classes in accordance with Workforce Texoma Development Board support service policies at 8.15 and as justified on the individual IEP/ISS/FEP.

Subsidized Employment individuals may be co-enrolled in all other program activities consistent with each program’s individual rules.

8.17.8 SUBSIDIZED EMPLOYMENT PROVIDER ORIENTATION

In order to aid the contractor in documenting that all of the required assurances have been made, contractor’s staff shall ensure that each employer sign a Worksite Agreement and Assurances Agreement. The Contractor shall provide required training and have the worksite supervisor sign the Supervisor Orientation Form as an assurance that all required program, state and federal requirements were covered. The training must provide information in the following areas:

- Instructions Regarding:
 - Worker's Compensation
 - On-Site Medical/Accident Instructions
 - Safety of Individuals
 - Federal Labor Law Compliance
- Equal Opportunity Assurances
- Individual Time Report and Payroll Procedures

8.17.9 ON-THE-JOB TRAINING

WIA Section 101(31) defines OJT as “*training by an employer that is provided to a paid participant while engaged in productive work on a job.*” Further, Section 134(d)(3)(A)(ii) and (d)(4)(A)(i), provides for employed workers to receive intensive and training services if they need such services in order to obtain or retain employment that allows for self-sufficiency. Therefore, in order to provide an employed worker with on-the-job training, the worker must meet either the low-income eligibility guidelines or the self-sufficiency guidelines located at WST WIA Policy 8.9.15.3. OJT opportunities enable customers to learn a new skill while their wages are partially subsidized by WST. OJT may be utilized when there is a need for new technologies or new production or service procedures to perform the job, or there is a need for an individual to upgrade skills to obtain a new job requiring additional skills, technology proficiency, or literacy skills. TWC WD 70-05 states that OJT may only be provided by an employer to a paid Choices or WIA/TAA participant while engaged in productive work in a job that:

- provides knowledge or skills essential to the full and adequate performance of the job;

- provides reimbursement to the employer of maximum of 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 delivery strategy of the participant, as appropriate.

8.17.9.1 CHOICES PARTICIPANTS

WST supports on-the job training opportunities for Choices participants as defined in §811.44(b), Choices Guide B-504, and WD 70-05, within local available funding parameters. According to Choices Guide B-504, OJT is a core activity and is provided by an employer to a work-eligible participant, on or off the worksite, who is engaged in productive work in a job. Furthermore, this section of the Choices Guide states that Boards must ensure that OJT:

- provides knowledge or skills essential to the full and adequate performance of the job;
- provides reimbursement to the employer of a percentage of the wage rate of the Choices participants for the extraordinary costs of providing the training and additional supervision related to the training;
- is limited in duration, as appropriate, to the occupation for which the Choices 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; and
- includes training specified by the employer (i.e., customized training).

In compliance with §811.48, WST service provider must ensure that a determination is made on a case-by-case basis, whether to authorize, arrange, or refer a Choices individual for OJT. On-the-job training is restricted to a one-time only activity. Per Choices Guide B-504, Boards must be aware that OJT placements are allotted to employers that expect to retain Choices participants as regular unsubsidized employees once the OJT placement has ended, unless successful completion of the placement is expected to result in unsubsidized employment with a different employer.

8.17.9.1.1 CHOICES WAGES

~~Wages are restricted to a maximum of the total number of required participation hours per month and will consist of at least minimum wage up to the same wages that would be paid to an unsubsidized employee with similar skills, experience, and in a similar position with no overtime allowed. Due to limited funding, WST service providers will coordinate with WST Executive Director in determining the amount of wages that will be subsidized. No overtime will be allowed.~~ WST will not be the employer of record for Choices customers.

8.17.9.1.2 CHOICES OJT TIME LIMITATIONS

OJT will last no longer than 90 days, or until participants have obtained needed skills, knowledge, and abilities necessary to enter the unsubsidized employment slot with the On-the-Job Training Employer. A review of participants' progress is required every 30 days to ensure customers are progressing in learning the knowledge, skills, and abilities required for successful continued employment. Therefore, it is important that close coordination is maintained between the Employer and Career Specialist.

8.17.9.1.3 CHOICES OJT Eligibility

With WST approval based on a review of available funding, on-the-job training opportunities are allowable for mandatory TANF recipient Choices customers: age 18 or older, who, after successfully completing at least 2 weeks of intensive job search and job readiness activities, are unable to obtain employment.

8.17.9.2 WIA PARTICIPANTS

WST may provide on-the-job training (OJT) to customers who have established eligibility for WIA services. WIA Section 101(31) defines on-the-job training as *"training by an employer that is provided to a paid participant while engaged in productive work on a job."* Further, Section 134(d)(3)(A)(ii) and (d)(4)(A)(i), provides for employed workers to receive intensive training services if they need such services in order to obtain or retain employment that allows for self-sufficiency. Therefore, in order to provide an employed worker with on-the-job training, the worker must meet either the low-income eligibility guidelines or the self-sufficiency guidelines located at WST 8.9.15. Underemployed customers must be receiving a wage that is below WST's locally established self-sufficiency guidelines at WST 8.9.15. WST service provider will ensure customer assessment is provided and results are used to determine appropriate OJT training opportunities. Although OJT is not an appropriate work experience for participants under age 18, it may be used for eligible youth when it is appropriate, based on the needs identified by the objective assessment of an individual youth participant.

8.17.9.2.1 WIA WAGE REIMBURSEMENT RESTRICTIONS

WIA Section 101(31)b) and 663.700(a) states that reimbursement of wages is capped at 50% of the wage rate and is intended to cover the employer's extraordinary costs. Extraordinary costs are documented in WIA Section 63.710 as *"employer training costs plus lower productivity plus additional supervision."* In addition, the extra costs are presumed and need not be documented.

8.17.9.2.2 WIA OJT TIME LIMITATIONS

In determining the length of the OJT, consideration will be given to the job's skill requirements, academics, and occupational skill levels of the participants, their

prior work experience, and the Individual Employment Plan. The length of the OJT will be established in advance and will take into consideration the time it takes the individual to become proficient in the occupation, customer's skill level, abilities, and prior work experience.

8.17.9.2.3 WIA OJT ELIGIBILITY

Customers who participate in OJT activities through use of WIA Formula Funds must provide documentation of full WIA eligibility, including income eligibility, except for WIA Dislocated Workers. Adults and dislocated workers must go through the sequence of services before receiving OJT. If Statewide or Local Activity Funds are used to pay for, the following basic WIA eligibility requirements apply:

- Age (for WIA Youth and Adults)
- Selective service registration
- U.S. citizenship or legal eligibility to work in the United States
- For WIA Youth only: low income or 5% income exemption and barrier

8.17.9.3 TAA OJT ELIGIBILITY

In compliance with WD 70-05, WST service provider can use OJT as a training option for Trade-certified workers. In accordance with Section 617.23(c)(1) of the Trade regulations, and as referenced in Section D-400.3 of *Integration of Trade Services for Dislocated Workers: A Comprehensive Guide*, Boards must ensure that priority is given to OJT. This ensures that an individual acquires the skills necessary for the individual to obtain employment in an occupation rather than a particular job at a specific site.

Boards must be aware that Trade-certified workers are WIA Dislocated Workers; therefore, they are not required to meet WIA income eligibility requirements to receive OJT.

8.17.11 SUBSIDIZED EMPLOYMENT OJT COMPLIANCE

Contractor staff will monitor each OJT Worksite and Trainee at least monthly to determine if progress is being made toward the training goal, if any unresolved problems between the Employer and Trainee have developed, and ensure compliance with Agreement terms and conditions. In addition, at least weekly contact must be maintained with all customers involved in subsidized employment. Follow-up will be conducted to determine Employer retention of OJT Trainees. TWIST case note, services, and service activity is required to be documented on an at least weekly basis.

8.17.11 CUSTOMIZED TRAINING

As defined in WIA Section 101(8), customized training is defined as *“training that is designed to meet the special requirements of an employer (including a group of employers); that is conducted with a commitment by the employer to employ an individual on successful completion of the training; and for which the employer pays for not less than 50 percent of the*

cost of the training.” Further, Section 663.720 states that in order for employed workers to be determined eligible for customized training, the employee must not be earning a self-sufficient wage as determined by the local Board. Therefore, in order to provide an employed worker with customized training, the worker must meet either the low-income eligibility guidelines or the self-sufficiency guidelines located at WST 8.9.3 and 8.9.15 WIA Policy. WST can provide customized training to a single employer or group of employers under the following conditions:

- employees must establish eligibility for WIA services,
- employers must commit to employ or continue to employ the trainee upon successful completion of the training.

WST will offer customized training services to local employers that take into account the quality of the training, transferability of acquired skills, wage levels, employee retention factors, economic stimulus to the community. Customized training can also relate to facilitating industry growth and the creation and attraction of high-value, high-skill job.

8.17.11.1 CUSTOMIZED TRAINING COSTS

Customized training costs will be determined based on the type of training involved, the skill level of the trainers, and the materials needed for the training. Training costs will be negotiated between WST, the employer, and the training provider and will be included in the contract. Customized training will be competitively procured in accordance with WST’s procurement policy outlined in WST Policy Chapter 2, Procurement & Contracting.

8.17.12 INCUMBENT WORKER TRAINING

According to the Workforce Investment Act Final Rule 20 CFR Commentary dated February 9, 2001, Section 665.220, *“An incumbent worker is an individual who is employed, but an incumbent worker does not necessarily have to meet the eligibility requirements for intensive and training services for employed adults and dislocated workers at 20 CFR 663.220(b) and 663.310. (WIA sec. 134(a)(3)(A)(iv)(I).)”* Further guidance from TWC’s Question and Answers about the Workforce Investment Act (WIA) dated June 19, 2003, states that *“Section 665.220 of the WIA Final Regulations states that for services provided with statewide activities funds, an incumbent worker is an employed worker but does not necessarily have to meet the eligibility requirements for intensive and training services for employed adults and dislocated workers.”*

8.17.12.1 Incumbent Worker Training Eligibility

Incumbent workers who receive training services through the WIA Statewide Activities Funds, as per Section 665.220, are required to meet and provide documentation of the following WIA eligibility requirements: Citizenship/Alien Status, Selective Service (if applicable), age, and documentation of current employment. In addition, trainees are also required to meet the following state/local requirements in order to be eligible for incumbent worker training: work in an approved industry cluster, as outlined in the yearly WST Plan; must be earning a wage of not less than \$9.00 per hour; and, if under

21 years of age, must provide information of the last grade completed and information of any current school enrollment.

8.17.12.2 Incumbent Worker Training Contracts

After appropriate procurement, and RFP response that outlines specific skills/competencies to be targeted, a contract/letter of agreement will be developed with the training provider and/or all involved employers that will include:

- information about which employers are targeted for training
- a stipulation that all employees involved in the training initiative must be deemed to have met WIA eligibility standards as outlined in 8.17.12.1, with paperwork collected and submitted for approval prior to beginning the training program.
- the length of the training.
- assurances that no federal employment-related laws have been violated including WIA section 181(a)(1)(A) and 667.272 (wage and labor standards) and WIA Section 181(9)(2) and 667.74(a) (health and safety).
- information pertaining to EO compliance, including 20 CFR 30.20(a)(2).
- allowances for on-site monitoring and information collection.
- budget, payment, eligibility documentation, and record-keeping information.
- a statement of work detailing information about the training provided and expectations for the employee(s), employer, and training provider. Statement of work will also contain specific information about the number of hours of training, approved training topics, and skills expected to be learned by the employee(s).
- Education information, including last grade completed and current school enrollment) for any trainee age 21 or younger.
- a specific start and end date.

REFERENCES:

TEGL 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, 3/18/09.

EO Compliance 20 CFR 30.20(a)(2)

[TWC Choices Guide; February 2011](#)

Texas Workforce Commission Self-Sufficiency Fund Rules:

40 TAX Chapter 835

A-200.1.5 Employer Training Services

A-200.1.5.1 On-the-Job Training

TWC Rules: §811.43 Subsidized Employment

§811.44 On-the-Job Training.

TWC WD Letters: ~~WD 07-03 – Workforce Investment Act: Waiver Approval of New Sliding Scale Employer Match for Customized Training (3/10/03)~~
(Rescinded per WD 46-07)

WD 70-05 – Selection of Employers and Training Providers for On-the-Job Training and Customized Training (11/15/2005)

~~WD 46-07 – Workforce Investment Act: Guidelines for Implementing WIA Waivers (9/10/07)~~ Rescinded per WD 03-10

WD 04-09 – Priority of Service for Eligible Veterans and Eligible Foster Youth, 1/28/09 (Rescinded per WD 04-09, Change 2)

~~WD 13-09 – Workforce Investment Act: American Recovery and Reinvestment Act of 2009 Implementation Guide, 5/14/09~~

WD 46-09 – Texas Back-to-Work Initiative, 11/2/09

WD 56-09 – Temporary Assistance for Needy Families Subsidized Employment Initiatives, 11/30/09

WD 03-10 – Guidelines for Implementing Workforce Investment Act Waivers (1/20/10)

WD 04-09, Change 3 – Priority of Service for Eligible Veterans and Eligible Foster Youth (1/20/10)

WD 13-10 – Texas Back to Work Initiative - Subsidized Employment (3/16/10)

TWC TA Bulletins: TA Bulletin 203 – American Recovery and Reinvestment Act of 2009: TWIST Fund Codes, 4/9/09

TA Bulletin 222 – Texas Back-to-Work Initiative, 4/23/10

WIA: WIA Final Regulations at 20 CFR §663.700(a)

Section 101(31)

Section 181(a)(1)(A) and 667.272 Wage and Labor Standards

Section 181(9)(2) and 667.74(a) Health and Safety

Workforce Investment Act: American Recovery and Reinvestment Act of
2009 Implementation Guide

WST Policy: Section 8.1 Equal Opportunity
 Section 8.7.42 CHOICES Support Services
 Section 8.9.7 WIA
 Section 8.15 Support Services