



Category/Subject:	WIOA Title I Transitional Jobs
USVI SWDB Policy Guidance Letter#:	405-21
Revise/Replace PGL#:	N/A
Date:	July 26, 2021
Distribution:	VIDOL, OSO, All MOU Partners

I. REFERENCES:

- [Workforce Innovation and Opportunity Act \(WIOA\) of 2014](#), Pub. L. No. 113 and 128
- [20 Code of Federal Regulations, Parts 680, 681, and 683.](#)
- [Uniform Guidance Title 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#)
- [TEGL 19-16](#), Guidance on Services provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner-Peyser Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules
- [TEN 17-16](#), Release and Availability of a New Research Report: The Enhanced Transitional Jobs Demonstration: Implementation and Early Impacts of the Next Generation of Subsidized Employment Programs
- [Transitional Jobs - WIOA Desk Reference](#) (2017)
- [Policy Guidance Letter \(PGL\) WIOA-2018-02: WIOA Title I Work Experiences](#)

II. PURPOSE:

- To establish a territory-wide policy regarding the use of local formula funds for Transitional Jobs for WIOA Title I Adult and Dislocated Worker Programs
- To provide guidelines for the development of Virgin Islands Transitional Jobs policies and procedures, **which are due to the Workforce Development Board Director 90 days after publication of this Policy Guidance Letter (PGL), if transitional jobs are to be implemented in the local area.**

III. BACKGROUND:

WIOA provides for a workforce system that is universally accessible and customer centered, and training that is job-driven. WIOA provides enhanced access and flexibility in work-based learning opportunities for Adult and Dislocated Worker participants through work experiences, Registered Apprenticeship, on-the-job training, customized

training, transitional jobs, and incumbent worker training. A transitional job is a type of paid work experience that is designed to help an individual establish a work history, demonstrate success in the workplace, and develop the skills that lead to unsubsidized employment.

IV. POLICY/ACTION:

A. Definition

A **transitional job** provides a work experience that is:

- Time-limited;
- Paid wages;
- Subsidized up to 100%;
- In the public, private, or not-for-profit sectors; and
- Targeted to individuals with barriers to employment who are chronically unemployed or have an inconsistent work history.

B. Work Experience for Adults and Dislocated Workers

Transitional jobs are a type of work experience for adults and dislocated workers. Work experience for adults and dislocated workers may be provided as an individualized career service to enrolled Adults and Dislocated Workers, if appropriate to obtain employment. Additional basic and/or individualized career services and supportive services are required to be provided as part of any transitional jobs strategy. USDOL encourages local areas to provide transitional job participants with job readiness training in combination with a transitional job.

To be eligible for a work experience, an individual must meet adult and dislocated worker program eligibility. Career services such as work experience may be provided in combination with an Individual Training Account (ITA).

C. Funding Transitional Jobs

The workforce development area may use up to 10 percent of their combined total of Adult and Dislocated Worker allocations (after subtracting the administrative set aside) for transitional jobs. Other types of work experience are not subject to a funding cap.

- Allowable uses of transitional jobs funds include only direct client services costs, including wages to the participant, career services (such as the cost of an assessment test) and supportive services. These are all “program” costs and can be subject to the 10% cap.
- Wages to the participant and other “employee” costs must be included in the transitional jobs cap. However, career services and supportive services costs may be included in the transitional jobs set aside or may be covered by regular Adult or DW program funds.
- Costs for staff, overhead, and other program costs that do not involve direct services, must not be included in the transitional jobs set aside and may be paid for with regular Adult and DW program funds.
- Administrative costs are not part of the transitional jobs set aside but may be paid out of the local area’s regular administrative funds.

D. Employer of Record

A transitional job takes place within an employer-employee relationship. The One Stop Operator or their designee (as approved by the WDB) service provider generally acts as the employer of record and pays the participant's wages through their payroll. The participating business may also be the employer of record and may be reimbursed for up to 100% of the wages. There is no requirement that the employer retains the individual upon completion of the transitional job, but retention is the ideal scenario when it benefits both the worker and the employer.

E. Wages and Stipends

A transitional job must be a paid work experience. Transitional jobs participants must be paid the prevailing wage of employees with similar training, experience and skills for a similar occupation, as set by the worksite employer. If an individual's skill sets do not meet the standard occupational classification qualifications for the position, the wages can be set below the prevailing wage standards but may not be lower than the minimum wage. The employer of record is responsible for workers compensation insurance.

A stipend is an allowable payment for participation in activities such as work experience, occupational skills training, or classroom activities. Stipends can be offered concurrently for classroom training that complements a work experience. A stipend is usually a set amount given for participation/completion of an activity. This compensation can be given out in equal payments over a defined period of time. The case file must contain documentation of the activity or goal that must be achieved to result in a stipend.

Stipends must not exceed Virgin Islands minimum wage. Stipends count as taxable income for income tax purposes.

Payment of partial stipends may be made to participants that fail to complete a portion of their work experience activity. However, the participant's case file must contain documentation (at least a case note) regarding the reason for failure to complete and the period of time or activities that were completed.

F. Work Experience Agreements/Contracts

Transitional jobs must be provided through a written agreement or contract with the worksite. See **Attachment A** for the required components of an agreement/contract.

G. Worksite Evaluation and Monitoring

Local areas must develop a worksite pre-evaluation process and local monitoring procedures for worksites. See **Attachment 1** for the requirements.

H. Workplace Laws

Work experiences must be provided in accordance with WIOA Section 181, which requires fair and equal wages, and equal benefits and working conditions. Section 181 and the Fair Labor Standards Act prohibit work experience activities from displacing current employees or creating a layoff, filling openings that resulted from a labor dispute, or infringing on the promotional opportunities of current employees.

A work experience agreement may not be written with an employer or worksite that has previously demonstrated a previous “pattern of failure” as defined by the local board. Such failure may include failing to provide participants with wages, benefits, and working conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work.

The employer of record must provide workers' compensation insurance to work experience participants on the same basis as the compensation provided to other individuals in the state in similar employment. The worksite employer must adhere to labor laws and health and safety requirements.

WIOA funds may not be used for a work experience that promotes or supports the use, possession or distribution of marijuana.

Section 188 of WIOA prohibits participants from working on the construction, operation, or maintenance of a facility that is used primarily for religious instruction or worship. Work experience placements are allowable in faith-based community organizations, as long as the participant does not engage in inherently religious activities, such as religious worship, instruction, or proselytizing. In addition, work experience participants may only be placed in faith-based organizations that do not discriminate against an eligible person seeking help based on their faith.

I. VI Specific Policy Requirements

The following are required topics to address in local policy for transitional jobs:

1. Definitions of "inconsistent work history" and “chronic unemployment”

The WDB encourages using information such as an individual’s labor market history, unemployment status, durations of unemployment, long-term unemployment, and other factors that the local board may determine appropriate for defining these terms.

2. Length of Work Experience

VIDOL and the One Stop Operator and/or their designee may determine the appropriate timeframe for a transitional job based upon multiple factors, including industry standard and/or practice and the sector-based accepted length of time needed to acquire one or more relevant skills and/or industry-recognized credentials.

3. Wages

What percentage of wages will be subsidized and how wages will be paid.

4. Stipends

When stipends will be offered in conjunction with transitional jobs. Transitional jobs must follow the WDB’s procedures on the acceptable forms of documentation for stipends.

5. Supportive Services

What supportive services will be included with a transitional jobs strategy.

6. Worksite Removal

What constitutes a “pattern of failure” for a worksite.

J. Local Procedures for Implementing Transitional Jobs

Attachment 1: Transitional Jobs Procedures, contains a summary of the procedures to monitor and track transitional jobs at the local level. Procedures do not have to be reviewed or approved by the VI WDB.

V. IMPLEMENTATION DATE:

Upon receipt of this PGL. **Any policies and procedures modified or developed as a result of this PGL are due to the WDB no later than 90 days after the publication of this PGL, if transitional jobs are to be implemented in the VI.** Transitional jobs strategies, if applicable, must also be detailed to the WDB by the VIDOL and/or OSO Operator and workbook developed for the use of Adult or Dislocated Worker formula funds.

VI. INQUIRIES:

If you have any questions regarding this PGL, please contact the VI WDB.

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ATTACHMENTS:

1. Transitional Jobs Procedures