

The Catawba Indian Nation On-the-Job-Training Program Handbook

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Purpose and Benefits

The primary objective of the Catawba Indian Nation (CIN) On-the-Job-Training program is to provide training opportunities for Tribal members to increase their chance of obtaining permanent employment in businesses and industries located off the reservation. The Job Placement and Training program can approve limited funding for two types of on-the-job-training (1) generally recognized apprenticeship or (2) a self-administered, alternative On-the-Job-Training (OJT) program.

Apprenticeship programs usually require at least some classroom instruction time and on-the-job work experience. Training and supervision is provided by the company for an employee who is properly enrolled in an approved training program for a given job classification and position.

On-the-Job-Training (OJT) means a written agreement for an employer to provide training to a tribal member who engages in productive work that provides knowledge or skills essential to the full and adequate performance of the job. The employer receives partial reimbursement from the job training program for the wage rate of the participant.

All on-the-job-training programs must include a list of job classifications covered, a description of the purpose of the training and learning objectives, an enrollment form and exit documents (graduation certificate and/or termination report). Employee compensation during training is governed by the Fair Labor Standards Act of 1938 and the special provisions of the contract.

Catawba Indian Nation Guidelines

Regulations

Funding for the OJT program comes from a Federal contract with the Bureau of Indian Affairs. Guidelines for this program can be found in 25 CFR Part 26. The CIN has also adopted guidelines similar to those governing the Workforce Investment Act. Because each trainee and each employer is different, we make every attempt to customize the OJT agreement; however we must always be in compliance with Federal guidelines.

A participant in an OJT program may not be employed in or assigned to a job 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, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy so created with the participant; or (3) The job is created in a promotional line that infringes in any way on the promotional opportunities of currently employed workers.

Funds may not be used or proposed to be used for customized training, skill training, or OJT or company specific assessments of job applicants or employees of a business or a part of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation has resulted in any employee losing his or her job at the original location. (20 CFR 667.268)

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Participating companies must be in compliance with all applicable federal, state, and local laws regarding employment (nondiscrimination, equal opportunity, payment and reporting of wages earned, work place safety, and child labor), business licensing, and taxation. Employer cannot utilize funds provided under the OJT program directly or indirectly for political purposes, to support any religious or anti-religious activity, or to promote, assist, or deter union organization.

Employers must provide a job description for the occupation under consideration. The job description should contain tasks, work activities, skills, knowledge, work context, educational and/or experience requirements, and all other activities. The employer must conduct training under an OJT Agreement on the job site; training cannot be subcontracted.

Trainee must earn an hourly wage of at least \$7.25 an hour (federal minimum wage). Approved trainee will be paid by the employer through their normal business accounting procedures. OJT trainees must be provided workers compensation and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work. Employers that provide health insurance and other fringe benefits are preferred.

Occupational training must prepare an individual for a position that is full-time (minimum 32 hours/week), permanent and offers the potential for advancement. Employer will provide OJT so individual can develop the skills to meet the specific job requirements. The employer will make an effort to retain the OJT trainee upon completion and to pay at least the hourly rate of pay being paid throughout the training program.

The CIN will not contract with an employer who has previously exhibited a pattern of failing to provide OJT participants with continued long-term employment 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.

Expectations and Responsibilities

- A. The Catawba Indian Nation Vocational Coordinator will interview and assess all OJT trainees to determine if an individual is eligible for training.
- B. All candidates must meet the existing requirements of the participating company's normal hiring procedures unless otherwise authorized by the company OJT training representative.
- C. An individual On-the-Job-Training contract incorporating a training plan will be completed for each OJT trainee prior to the trainee's start date in the new position. Training required by the individual will vary by trainee and may or may not include all training hours in the general training outline.
- D. Employer will be reimbursed on a monthly basis upon submission of invoice for each OJT trainee.

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- E. On-site visits and monitoring by CIN staff members may occur throughout the OJT program with prior approval from company OJT training representative.

Trainee Guidelines

Eligibility Requirements

The trainee must meet all the overall guidelines for the Job Placement & Training program. The option to participate in the OJT program is decided once the Vocational Coordinator has conducted the intake process and has become familiar with the potential applicant's background, education, circumstances, and overall drive to succeed.

If chosen for the program, the OJT trainee cannot be related to the owner of the company, an employee of the company in an administrative capacity or an employee that will directly supervise the trainee.

Expectations and Responsibilities

- A. He/she will participate fully in the proposed training program.
- B. He/she will approach this training as a job, arriving and departing on time, presenting himself/herself appropriately for the setting, completing work assigned by the supervisor and responding to suggestions related to job performance.
- C. He/she will be responsible for his/her own transportation to and from the training site. This may include the use of public transportation to meet scheduled requirements.
- D. He/she will initiate contact with the CIN Vocational Coordinator at least twice monthly and inform CIN Vocational Coordinator of his/her progress or barriers to continued participation in the training program.
- E. He/she will keep track of any and all records and reports of his/her progress at the training site and provide these reports to the CIN Vocational Coordinator.
- F. He/she must notify the Trainer immediately of any absenteeism.
- G. He/she will be required to provide a written doctor's assessment of illness or physical disability if he/she misses more than three consecutive days (or 10 days total) of the training program.
- H. He/she will receive a written warning if he/she fails to uphold the outlined responsibilities. The written warning shall include the type of activity that has been considered unacceptable and will provide a summary statement of information obtained

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from the training site supervisor, and will specify the consequences that may result from uncooperative behavior as outlined by JP&T guidelines part C.

Employer Guidelines

Employers providing Job Placement and Training services must be approved by the Tribal service provider (Executive Committee Liaison) (25 CFR)(26.12)(A)

Selection Process

The company cannot be located on the reservation and must be listed in the approved Chamber of Commerce, County Business Directory or CIN OJT Training Business Directory. If they are not listed in one of these sources, then the following guidelines will apply:

- Company must have more than 25 employees; and
- Company must have been in business for a minimum of ten years; and
- Company does not have a long-term history of hiring tribal members.

In certain circumstances, the CIN Vocational Coordinator may seek out employers that do not meet the above guidelines. This is acceptable if it fills a distinct need of a particular client who has experience and/or interest in working in that field. This approach should only be taken if it benefits the vocational client first and foremost. It should not be used to primarily benefit the prospective employer.

OJT Contracts will not be entered into with a company that has received payments under previous contracts and have exhibited a pattern of failing to provide participants with continued long-term employment. Employers that do not maintain a 70% placement rate may be prohibited from entering into additional OJT contracts. The placement rate is determined by the number of participants enrolled in OJT divided by the number of participants. The rate will be determined at the conclusion of the contract or one year, whichever comes first.

Expectations and Responsibilities

- A. The company will provide a written job description for the recruitment of possible candidates. The job description should concisely describe the industry, explain the necessary skills and aptitude, encourage the applicant, and instruct them on the screening process. Since these are training positions, the company should stress transferable skills or aptitudes in comparable qualifying experiences or craft areas that are needed or "desirable" in applicants, rather than merely indicating the kinds of work to be done or equipment to be used.
- B. The selection of skilled job classifications to be used on a project is an important part of the On-the-Job-Training program. Each job classification selected should be one which adds to the overall strength and value of the company's workforce. Although certain "entry level" positions are typically chosen for on-the job training positions, a company

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should not overlook the full range of potential job classifications. While the CIN program allows businesses to designate their choice of training categories, the goal of the program is to overcome barriers in finding employment for Tribal members in all skill areas. It therefore becomes increasingly important that the company provides training in a number of skill categories. A proactive training program looks to the future of the company and examines every project to determine where a meaningful training opportunity exists.

- C. The selection of the correct job classification should be matched by the equally thoughtful selection of the trainer, for this position. The supervisor selected to train the OJT trainee is critical to the success of the on-the-job training effort. The best "on-the-job" trainer may not be the person with the most formal education or the highest supervisory position. It may not even be the person who is the "best" at the selected skill. The best trainer will be someone who can communicate his or her knowledge of the skill area in an effective manner and does not feel threatened by the trainee. It is imperative that trainers understand the importance of the On-the-Job-Training positions and be able and willing to help the trainee complete the training program.
- D. After receiving the job description, the Vocational Coordinator will contact qualified tribal members for a pre-screening process. Approved candidates will be sent to the company to complete the normal interviewing and hiring process.
- E. Employer must maintain insurance in the minimum amounts as indicated below:
 - Worker's Compensation coverage or equivalent protection for each OJT trainee. The protection must include accident and medical coverage.
 - Commercial General Liability Insurance with minimum limits of \$1,000,000.00 combined single limits for bodily injury and property damage.
 - Automobile Liability Insurance with minimum of \$500,000 combined single limits, if trainee is required to drive in performance of their job duties.
- F. The company OJT representative monitors the trainee for progress in the program, problems, and training issues. The company OJT training representative will collaborate with the CIN Vocational Coordinator to attempt to resolve issues and remove barriers that may result in termination of an OJT trainee.
- G. The company must retain and make available employment, time and attendance, and payroll records for any individual hired under an OJT Agreement throughout the training period.
- H. The retention of trainees upon their completion of the training program and graduation is a primary goal for CIN on-the-job-training program. Though not a requirement, every effort should be made by the company to encourage the graduation of trainees and to place and retain them permanently within the company.
- I. Termination results if a trainee fails to finish the training program. Termination is defined as: the trainee quitting voluntarily, fired "for cause," or retained by the company but

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taken out of the training program. The company OJT representative should verbally notify the CIN Vocational Coordinator five (5) working days before a trainee termination and submit company's termination form within ten (10) working days after the termination. In the event the trainee is terminated from the program the CIN is no longer obligated to pay any further costs on behalf of the trainee.

EEOC Guidelines

Section 703(i) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. section 2000e-2(i) (1982), provides an exception to Title VII's general nondiscrimination principles allowing certain employers under certain circumstances to exercise an employment preference in favor of American Indians. That section provides as follows:

“Nothing contained in this subchapter shall apply to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because he is an Indian living on or near a reservation.”

The statutory language makes it clear than an employer seeking to avail itself of the Indian preference exception must meet three conditions: 1) the employer must be located on or near an Indian reservation, 2) the employer's preference for Indians must be publicly announced, and 3) the individual to whom the preferential treatment is accorded must be an Indian living on or near a reservation. The use of the word “near” would include all that area where a person seeking employment could reasonably be expected to commute to and from in the course of a work day.

We are not qualified to give legal advice, but simply wanted to make you aware of this Indian preference issue and how it should be approached. Here is a link to the EEOC Notice which covers the Indian preference issue in detail.

http://www.eeoc.gov/policy/docs/indian_preference.html

Procedures for Finalizing Agreement

1. Before beginning any OJT project, the business must have his or her OJT agreement in place developed by the CIN Vocational Coordinator and the company authorized agent. This agreement should include who monitors the On-the-Job-Training program and who has responsibilities within the business for administering the company's On-the-Job-Training program.
2. An employer must provide certification that the applicant has been hired. The certification must include job title, beginning date, beginning wage, date of first paycheck, expected duration of the job. (25 CFR)(26.25)(F)

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3. Prior to the employee's first day of work the company OJT representative will complete the trainee training schedule and submit it to the CIN Vocational Coordinator for review and approval.
4. On-the-Job trainees and training schedule are listed on an approved enrollment form which is submitted to the CIN Vocational Coordinator, the CIN Economic Development Director and the CIN Executive Committee Member for approval.
5. The company OJT representative informs the training manager, CIN Vocational Coordinator, and trainee of their individual responsibilities in the program and provides copies of the training guidelines to be used.
6. Employer must be able to provide the following documents as attachments to the application:
 - a. IRS form W-9 for Federal Identification Number
 - b. Copy of Occupational License (if applicable)
 - c. Copy of workers compensation showing carrier information
 - d. Copy of general liability insurance
 - e. Auto insurance (if applicable)
7. Once the application is approved, employer must provide a Certificate of Insurance addressed as follows:

Catawba Indian Nation
Attn: Jean Matthews
996 Avenue of the Nations
Rock Hill, SC 29730

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