

## ATTACHMENT C

### EA TOJ Contract (SAMPLE)

#### SECTION 1: GENERAL INFORMATION

##### MASSHIRE CAREER CENTER (if applicable)

MassHire Career Center Name:	EA TOJ Contact Person:	E-mail:
Address:	Telephone:	

##### EMPLOYER/BUSINESS

Employer's Legal Business Name:			
Alternative Business Name(s) (including DBAs):			
Employer ID <sup>1</sup> :	Training Provider ID <sup>2</sup> :	FEIN <sup>3</sup> :	
Business Address:			
TOJ facility location (If different than above):			
Employer TOJ Contact Person:		Title:	
Contact Telephone:	E-mail:		Fax:
Employer NAICS Code <sup>4</sup> :			
Workers' compensation company:	Workers' compensation account #:	Workers' compensation effective dates:	
Does the company have any of the following ( <i>if so, please attach copies to this contract</i> ): <input type="checkbox"/> EEO/Affirmative Action Plan <input type="checkbox"/> Written Grievance Procedures <input type="checkbox"/> Personnel Policies & Procedures			

<sup>1</sup> MOSES Employer Identification

<sup>2</sup> MOSES Training Provider Identification

<sup>3</sup> Federal Employer Identification Number (FEIN)

<sup>4</sup> North American Industry Classification Systems (NAICS)

## SECTION 2: TRAINING ON-THE-JOB PROGRAM

### TRAINEE INFORMATION

Trainee Name:	MOSES ID#:	Telephone:
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### EA TOJ POSITION INFORMATION

TOJ Job Title:			
TOJ Job Description:			
TOJ Beginning Date:		TOJ End Date:	
TOJ Work Schedule (days/times):		Hours/week:	
O*NET SOC # <sup>5</sup> :		O*NET Job Zone:	
SVP Level <sup>6</sup> :			
Hourly Wage Rate: \$_____	Reimbursement Rate: _____%	Total Training Hours: _____	Max Reimbursement: \$_____
Trainee Pay Schedule: <input type="checkbox"/> Weekly <input type="checkbox"/> Bi-Weekly <input type="checkbox"/> Monthly <input type="checkbox"/> Other (Specify):			
Pay Day:		Pay Period Covers:	
Training Supervisor:		E-mail:	Phone:

### EMPLOYEE BENEFITS

Benefit Provided	Type of Benefit
<input type="checkbox"/>	Medical Insurance
<input type="checkbox"/>	Life Insurance
<input type="checkbox"/>	Paid Holidays
<input type="checkbox"/>	Sick Pay
<input type="checkbox"/>	Paid Vacation
<input type="checkbox"/>	Retirement Benefits
<input type="checkbox"/>	Other (specify):

<sup>5</sup> Standard Occupational Classification (SOC). See O\*NET for more information: <http://online.onetcenter.org>

<sup>6</sup> Specific Vocational Preparation (SVP). O\*NET: <http://online.onetcenter.org>

<b>TRAINING OUTLINE</b>
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TOJ TRAINING PLAN OUTLINE				
[REQUIRED] COMPONENT ONE DATES:		[OPTIONAL] COMPONENT TWO DATES: (e.g. ESOL)		
SKILLS TO BE LEARNED <i>(skills may be learned concurrently)</i>	PHASE NO. (Phase I or Phase II)	INSTRUCTION METHOD (e.g. instruction, shadowing, practice, reading manuals, etc.)	ESTIMATED TRAINING HOURS	PROGRESS EVALUATION METHOD OD = Observable Demonstration PR = Product Review Q = Meets Performance Quota
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

- Add additional rows/sheets as necessary
- Attach full TOJ Training Plan to this TOJ Contract

### SECTION 3: TERMS AND CONDITIONS

This Training On-the-Job (TOJ) Contract is between the **(Fiscal Agent Name)** herein after called the TOJ Operator and **(Name of Employer)**, herein after called Employer. Both parties agree to the terms and conditions set forth within this contract. The contract term commences on (enter start date here) and terminates on (enter end date here).

#### **CONTRACT PURPOSE**

The purpose of this contract is to establish the general terms and conditions under which participants ("the Trainee") shall receive training from the Employer and to establish the reimbursement due to the Employer for the training period identified herein.

#### **TOJ DEFINITION**

The term "training on-the-job" means training by an employer that is provided to a paid trainee while engaged in productive work in a job that -

- a) Provide knowledge or skills essential to the full and adequate performance of the job;
- b) Qualify for reimbursement to the employer of a percentage of the wage rate of the Trainee (see Section 2 above for wage reimbursement rate), for the extraordinary costs of providing the training and additional supervision related to the training; and
- c) Limit the TOJ contract period of time for a trainee to become proficient in the occupation for which the training is being provided. In determining the length of the training, consideration should be given to the skill requirements of the occupation, the academic and occupational skill level of the trainee, the prior work experience of the trainee, and the individual employment plan, as appropriate.

#### **TRAINING**

1. The Employer agrees to employ the Trainee and develop a training plan for the TOJ Trainee that includes competencies needed to be satisfactorily skilled in the TOJ position.
2. The Employer agrees the TOJ training period will be at least four weeks and not exceed 6-months.
3. The Employer will not start any Trainee at work or begin Training On-the-Job until a TOJ Contract has been issued and signed by the TOJ Operator. The Employer understands that TOJ funds cannot be authorized after work has begun.
4. The Employer attests that the Trainee is not presently employed and has not previously been employed by the Employer in the same or similar capacity as the TOJ position, nor is the Trainee presently on a layoff status subject to recall by the Employer or other like status with the Employer.
5. If the TOJ is provided to one of the Employer's current employees, the Employer verifies that the TOJ will relate to the introduction of new technologies, introduction to new production or service procedures, or is an upgrade to a new job that requires additional skills, and that the TOJ position will provide the TOJ Trainee with additional wages, hours or benefits.
6. The Employer assures that the TOJ Trainee has not been hired into or will remain working in any position when any other person is on layoff from the same or a substantially equivalent job within the same organizational unit or has been bumped and has recall rights to that position, nor if the TOJ is created in a promotional line that infringes on opportunities of current employees.

7. The Employer agrees that wage and labor standards will be adhered to and to pay the TOJ Trainee at the same rate, including increases, and benefits as trainees or employees who are situated in similar jobs with similar experience. Such rates shall be in accordance with applicable law, but no less than the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or the applicable state or local minimum wage law, whichever is higher.
8. The Employer agrees to provide the TOJ Trainee with the same workers' compensation, health insurance, unemployment insurance, retirement benefits, and other employer-provided benefits, as regular, non-TOJ employees.
9. The Employer agrees to complete progress reports, invoices, and other TOJ-related paperwork in a timely fashion.
10. The Employer will provide a copy, if available, of its policies to the Trainee covering, in addition to benefits and grievance procedures, any specific rules or regulations by which the Trainee is expected to abide. If no Employer grievance policy is provided, the TOJ Operator policy will apply.
11. The Employer sponsored level of training in existence prior to initiation of this project shall be continued and not be reduced in level of effort in any way as a result of this Contract except for reductions unrelated to the provisions or purposes of this Contract.
12. The Employer certifies that no member of the TOJ Trainee's immediate family is engaged in an administrative capacity for the Employer or will directly supervise the TOJ Trainee. For the purpose of this contract, immediate family is defined as spouse, children, parents, grandparents, grandchildren, brothers, sisters or person bearing the same relationship to the TOJ Trainee's spouse.
13. Employer assures the TOJ training will not involve political activities.
14. Employer assures that the TOJ Trainee will not be employed to carry out the construction, operation or maintenance of any part of a facility that is used or to be used for sectarian instruction or as a place for religious worship.
15. The Employer may not further subcontract the Training On-the-Job provided for under this Contract.

#### **HEALTH AND SAFETY**

1. Employer agrees that it possesses the necessary facilities, staff, and equipment to provide quality training.
2. Employer ensures that its buildings and surroundings pose no threat to the health, safety, or welfare of employees. Such buildings and surroundings, to the best knowledge of the Employer, also meet the standards set forth in the applicable rules and regulations of the Occupational Safety and Health Administration (OSHA), and other applicable state and local health and safety regulations.

#### **FISCAL**

1. TOJ Operator shall reimburse Employer on a (Enter a term such as a monthly or bi-monthly) basis in an amount not to exceed total reimbursement for extraordinary costs of training to be provided by the Employer to Trainee.
2. TOJ Operator shall reimburse Employer based on actual training time. TOJ Operator shall not reimburse for paid leave the TOJ Trainee may take such as holidays, sick time, or personal time. The Employer, however, agrees to compensate the TOJ Trainee for paid leaves at the same rates as similarly situated employees or trainees.
3. TOJ Trainee shall be compensated by the Employer at the same rate, including periodic increases not related to individual performance, as similarly situated employees or trainees, but in no event less than the highest of the minimum wage prescribed under the Fair Labor Standards Act of 1938, as amended; applicable State or local minimum wage laws.

4. The Employer has given assurance that it will pay overtime for hours worked in excess of forty (40) hours per week. TOJ will not reimburse for anything other than the base hourly wage rate for a standard work week up to 40 hours, less any shift differentials.
5. The Employer certifies that the company is financially solvent on the date of this contract, and the Employer's best projection is that it will remain financially able to meet contract obligations at the end of the training period, including TOJ Trainee's retention.
6. The Employer agrees to maintain adequate time and attendance, payroll, and other records to support amounts reimbursed under the TOJ contract.
7. The Employer shall, until expiration of 3 years after final payment under this Contract or until such time as any related legal action is resolved, maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all costs of whatever nature claimed to have been incurred in the performance of this Contract.

### **MONITORING**

1. Employer agrees that records which are directly related to the TOJ contract are subject to review, monitoring, and audit by the TOJ Operator, the State and/or the federal government or their authorized agents/representatives, at any time and without prior notice to the employer.
2. The Employer's plants and other facilities, or such part thereof as may be engaged in the performance of this Contract, and all records pertinent thereto shall be subject, upon delivery of reasonable notice, to monitoring, inspection and audit by the TOJ Operator, the Governor, Secretary of Labor, Inspector General, or Comptroller General, or their authorized representatives.
3. Employer agrees that such parties shall, until expiration of 3 years after final payment under this Contract or until such time as any related legal action is resolved, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Employer involving transactions related to this Contract and the right to interview the Employer's personnel regarding such matters. All pertinent records shall be open to inspection and audit and subject to being copied either at the Employer's plants or such part thereof as may be engaged in the performance of this Contract or, shall be furnished to the TOJ Operator or his/her authorized representative upon request.

### **COLLECTIVE BARGAINING**

1. The Employer certifies that the TOJ will not impair existing Contracts for services or collective bargaining Contracts and that either it has the concurrence of the appropriate labor organization as to the design and conduct of the TOJ, or it has no collective bargaining Contract with a labor organization that covers the TOJ position.
2. The Employer further assures that TOJ funds will not be used to assist, promote or deter union organizing.

### **EMPLOYER ASSURANCES**

1. The Employer shall provide worker's compensation coverage for the TOJ Trainee.
2. The Employer must provide comprehensive general liability insurance protection to Trainee.
3. The Employer shall provide adequate insurance coverage to protect against legal liability arising out of TOJ activity.
4. The Employer assures that it is not debarred or suspended in regard from receiving federal or state funding.

5. The Employer agrees to comply with the non-discrimination and equal opportunity provisions of the Workforce Innovation and Opportunity Act of 2014 and its regulations?
8. The Employer assures that it has been issued a Certificate of Good Standing issued by the Massachusetts Department of Revenue within 6 months of the TOJ start date stated in this Contract.
9. The Employer assures that it is in compliance with the rules and regulations of (1) Unemployment Assistance and (2) Universal Health Insurance

#### ***POST-TRAINING EMPLOYMENT***

10. Employer agrees that in good faith it intends to continue the employment of the trainee on a full-time basis upon successful completion of the TOJ. Failure to do so without just cause and written notification to the TOJ Operator may disallow Employer from engaging in future TOJ contracts in the Commonwealth of Massachusetts.
11. Employer agrees that it will not require any Trainee, whose training costs are subsidized in whole or in part with EA Training On-the-Job program funds, to sign any non-competition Contract that would limit the future employment of the Trainee in respect to any period of time and/or geographic limit.

#### ***DISPUTES, MODIFICATIONS AND TERMINATIONS***

12. The Employer agrees that no civil action alleging a violation of WIOA or its regulations shall be filed without first exhausting the administrative remedies.
13. The foregoing provision does not prohibit either party from filing a civil action or other form of action or complaint for alleged causes of action. The parties hereto may resolve grievances by arbitration or some other form of dispute resolution process upon which they mutually agree.
14. The TOJ Operator reserves the right to institute an administrative modification to reduce in whole or in part the monies provided under this Contract should available monies become insufficient to continue contracted levels.
15. This TOJ contract is subject to modification or termination due to actions taken by the Federal, state, or local governments that result in a frustration of contract purpose.
16. Trainees will not be terminated without prior notice to the Trainee and reasonable opportunity for correction or improvement of performance including substandard or unsatisfactory progress or conduct. In the case of a Trainee termination, the Employer agrees to immediately contact the TOJ Operator and the MassHire Career Center to alert them of this action.
17. Failure to comply with any of the terms and conditions of this Contract shall constitute grounds for termination. This Contract may be terminated for non-performance by either the TOJ Operator or the Employer following written notice to the other party. Such notice must be posted by certified mail, return receipt requested, and must specify and document the reason for termination.
18. The TOJ Operator may, by written notice of default to the Employer, terminate the whole or any part of this Contract in any one of the following circumstances:
  - a) If the Employer fails to perform the services specified herein; or
  - b) If the Employer fails to perform any of the other provisions of this Contract, or so fails to make progress as to endanger performance of this Contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of 10 days (or such longer period as the TOJ Operator may authorize in writing) after receipt of notice from the TOJ Operator specifying such failure.

<b>SECTION 4: SIGNATURES</b>
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I hereby agree to all the terms and conditions in this TOJ Contract.

**EMPLOYER SIGNATURE**

Employer Signature:	Date:
Type/Print Name:	Title:

**TOJ OPERATOR / FISCAL AGENT SIGNATURE**

Signature:	Date:
Type/Print Name:	Title:

**SECTION 5: COLLECTIVE BARGAINING/UNION AGREEMENT**

Complete this section if the employment and training is subject to a collective bargaining agreement.

Is this TOJ position subject to a collective bargaining agreement?	<input type="checkbox"/> YES <input type="checkbox"/> NO
If <b>YES</b> , attach a letter from an authorized union official on official union letterhead indicating support for this TOJ position, and complete below:	
Union Affiliation:	
Bargaining Unit/Union Official Name:	