

## ATTACHMENT A

### TAA OJT Procedural Considerations

Section 236(a)(5) of the Trade Act of 1974, as amended, stipulates OJT as a method of providing necessary skills training to eligible workers.

OJT is a training activity in which training is provided by private or public sector employers to a participant who, after objective assessment and in accordance with a written training plan, has been referred to and hired by the employer. OJT follows the development of an agreement with the employer to provide occupational training in exchange for reimbursement of the employer's extraordinary costs. OJT occurs while the participant is engaged in productive work that provides knowledge and skills essential to the full and adequate performance of the job.

OJT participants are compensated at the same rate of pay (including periodic increases) as other similarly situated employees or trainees. OJT is a training option meant to be conducted in a skill **level suitable to the education and prior experience of the eligible participant**. It is not intended as subsidized employment for low-skill occupations that need very little training time. OJT may be sequenced with, or accompanied by other types of training such as classroom skills training, ESOL, education/literacy training, etc.

#### A. Considering Training through OJT

Prior to approving OJT for a TAA eligible participant, the MA Trade Unit [a unit of the Massachusetts Department of Career Services (DCS)] must ensure that the academic and occupational skill level as well as the work experience of the individual are taken into consideration as part of the training decision.

To that purpose, selection of an occupational goal will be made upon completion of an assessment by local career center staff of the individual's education, prior experience and barriers to employment in relation to the skills in demand within the local labor market (or within the labor market to which the individual wishes to relocate *if* no suitable employment exists within the normal commuting area).

As with all training requested by an individual eligible under the Trade Act, a request for OJT must meet all six approval criteria stipulated in §236 of the Act:

- there is no suitable employment (which may include technical and professional employment) available for the adversely affected worker;
- the worker would benefit from appropriate training;
- there is a reasonable expectation of employment following completion of such training;

- training is reasonably available to the worker from governmental agencies or private sources (which may include a specific employer);
- the worker is qualified to undertake and complete such training; and
- such training is suitable for the worker and available at a reasonable cost.

Under OJT, skills training may be sequenced with, or accompanied by, other types of training determined to be necessary to meet the training needs of the specific individual. Whenever classroom skills training, ESOL, ABE or other appropriate training are identified as skill sets to be provided to a TAA eligible worker, they must be included in the individual's written training plan (required of *all* TAA trainees).

As with any training choice, career center staff must consider whether or not OJT is the most cost effective method of acquiring the needed skills. The choice of OJT as the method of training must be part of the required analysis of all available training programs in order to determine which is the most appropriate for the individual and most cost-effective.

When OJT is considered as a training option, to ensure the individual is knowledgeable of the working conditions to which he/she will be exposed, the TAA customer *must* physically visit the worksite prior to the training request being submitted by the local area for approval. Additionally, career center staff must explain to the prospective trainee that wages paid and the total hours worked during any week while participating in OJT, may disqualify the trainee from receiving monetary benefits (such as unemployment insurance) for such weeks.

## **B. Contracting with an Employer as the OJT Vendor**

Contracting with an employer to provide OJT to a TAA eligible worker must comply with all requirements of §236 (c)(3) of the Trade Act of 1974, as Amended and must also comply with all employer eligibility requirements as described in MassWorkforce Policy Issuance No. 11-28, On-the Job Training (OJT), Revised, unless otherwise stipulated in this policy.

Policy Issuance No. 11-28 may be accessed through the following link:

<http://www.massworkforce.org/Issuances/PolicyIssuance2011.htm>

In order to ensure that proposed training meets the particular skill acquisition needs of each prospective trainee, a separate TAA OJT Contract Request package must be developed for each TAA eligible individual.

To also ensure that proposed costs are reasonable and that all parties are clear with respect to the training plan and outcome, local areas must utilize the forms specified by

this policy (Attachments B1 – B6) when developing the TAA OJT Contract Request package for submittal to the MA Trade Unit.

The forms will be used by the local area to:

- provide a detailed breakdown of the specific tasks and/or skills to be learned, including an approximate range of hours associated with the learning of each task and/or skill or an approximation of the percentage of time associated with said tasks and/or skills as they relate to the total training time;
- provide an itemized listing of any tools and equipment needed to participate and complete the proposed training;
- describe the payment schedule;
- describe the protocol for evaluating the trainee's progress in mastering the described skills during OJT;
- provide written assurance that the training is consistent with the job functions and responsibilities, the length of the training contract, and the nature and methods of the training to be provided;
- provide written assurance that the training is individually negotiated based on the trainee's prior work experience, education, and training needs as determined during assessment and recorded in the individual's written training plan;
- provide assurance that the prospective employer meets all requirements with respect to federal and state tax compliance, DUA compliance and debarment; and
- request modification of contract terms if necessary.

### **C. Employer Compliance with Tax, DUA and Debarment Status**

It is the Commonwealth's policy that an employer seeking to directly benefit from federal or State training funds, be in compliance with all federal and state tax requirements; with all Department of Unemployment Assistance (DUA) requirements, and not subject to either federal or state debarment, suspension or is otherwise ineligible to conduct business with either the federal government or the Commonwealth of Massachusetts. The prospective employer must also assure that it will not utilize any OJT funds for political lobbying activities.

To comply with this requirement, a prospective TAA OJT employer must declare its eligibility to conduct business as an OJT vendor by completing and signing the TAA OJT Employer Compliance Declaration (Attachment B-6). In addition, the prospective employer must provide a current Certificate in Good Standing and Tax Compliance form from the MA Department of Revenue (DOR) as part of the TAA OJT Contract Request package. A Certificate of Good Standing is current if it is dated within the six month period prior to the start date of the OJT.

Only the employer may apply for the Certificate of Good Standing from the DOR website. A sample copy of a Certificate of Good Standing is provided as Attachment E.

Upon receipt of a TAA OJT Contract Request package, DCS will review the prospective TAA OJT employer's status with regard to DUA compliance and disbarment/suspension.

#### **D. Length of OJT Contract**

Training under an OJT contract must be limited to the period of time required for the worker receiving the training to become proficient in the job for which he/she is being trained. The specific length of training must be consistent with the normal training duration for the occupation based on the Specific Vocational Preparation (SVP) code as determined through O\*NET. O\*NET may be accessed by clicking on the following link:

<http://www.doleta.gov/programs/onet/>

However, in no case may the contracted OJT TAA training exceed 104 weeks. When other appropriate training such as ABE or ESOL is being provided concurrently with OJT, the 104-week limit remains in effect for the entire program of training.

#### **E. OJT Trainee Case Management and Progress Evaluation**

Each TAA OJT trainee will be case-managed in a manner consistent with the Commonwealth's Case Management Policy as described in WIA Communication No. 04-34, Case Management for Job Seeker Customers (4/29/04). For OJT there is an expectation of consistent, ongoing communication between appropriate OSCC staff, the trainee and the employer.

The participating TAA eligible trainee's progress will be measured utilizing the TAA OJT Monthly Progress Report (Attachment C). The Monthly Progress Report will be completed and signed by both the designated employer representative and the participating trainee and submitted with the monthly payment invoice (see Section G, below) to the local career center counselor/case manager who will also sign upon completing his/her desk review.

As part of its case management process, the career center will conduct a minimum of one on-site progress review for each OJT of four (4) months in length or less and a minimum of two (2) on-site progress reviews for each OJT greater than four (4) months in length. The on-site progress review will include discussions with both the employer and trainee to determine the trainee's progress and to identify issues in need of resolution. All identified progress issues should be mediated as part of the onsite review process. Reports generated from the reviews will be kept on file at the local career center and will be subject to review by the Commonwealth.

The career center shall also maintain a copy of each Monthly Progress Report as part of the customer's case management record.

## **F. TAA OJT Contract Monitoring**

Formal fiscal monitoring of the contract will be the responsibility of the Division of Career Services.

## **G. Employer Reimbursement**

In accordance with §118(b) of the Trade Reform Act of 2002, TAA OJT reimbursement to participating employers will be made on the basis of 50% of the total wages paid to the TAA OJT trainee during the invoiced training period.

Payments made to a participating employer as OJT reimbursements are deemed to be compensation for the extraordinary costs associated with training a TAA eligible worker and as compensation for costs associated with the lower productivity of such trainee. Employers are not required to maintain separate records to document the extraordinary costs actually incurred.

Payments are to reflect reimbursement of wages paid during **working/training hours only** and must not include wages paid for such benefits as sick, holiday, vacation leave or other such hours whereby the OJT trainee *is not working/receiving training*. Further, the calculation of reimbursement payments may not include any “premium wages” paid to the trainee, such as overtime pay and/or shift differential pay.

Employer reimbursement will be made monthly utilizing the specified OJT Employer Invoice for the TAA Program (Attachment D). The TAA OJT Employer will complete and sign its portion of the Invoice and submit it to the local career center for review. Upon completing its review, the career center will forward the invoice with the attached Monthly Progress Report (see Section E, above) to the MA TAA Unit for approval. When submitting the OJT Employer Invoice to the MA TAA Unit for payment, the local career center must attach a copy of the relevant Monthly Progress Report.

## **H. Support Services**

To the extent that required tools or other equipment (including uniforms and other required work attire) must be acquired from the OJT employer in order for the TAA eligible trainee to participate in a specified OJT, said required tools and equipment and their associated costs shall be itemized on the “Tools and/or Equipment Condition of Training Agreement” form (Attachment B-4) and included as part of the TAA OJT Contract package. The amount will be included as part of the contracted total amount and payment\* will be made as part of the described invoicing process.

If required tools and/or equipment must be acquired from sources other than the OJT employer, the career center case manager will itemize each item and cost in the trainee's written training plan and included as an attachment to the TAA OJT Contract package. Upon the trainee's purchase of said items, the trainee shall submit a signed, written request for reimbursement including all receipts to the case manager, who upon review will forward the request to the MA TAA Unit for approval and payment\*.

\*As a tax-exempt public agency, DCS cannot reimburse sales tax paid on any required items. DCS will provide a copy of its exemption with remittance, if requested.

TAA will also cover subsistence costs such as transportation, meals and lodging if the training facility is located more than 50 miles (round trip) beyond the individual's commuting area as iterated in WIA Communication No. 05-21, Travel Allowances While in Training Under the Trade Programs, Revised (3/9/05).

Other than tools and equipment deemed necessary to participate in an OJT position and travel allowances approved in accordance with the TAA travel allowance cited above, TAA funds (in accordance with §667.21 of the TAA Regulations) may not be used to cover costs of other necessary support services. The cost of support services such as basic education, child or elder care, work orientation, communication skills, etc. must be covered with resources other than TAA and may require co-enrollment in a WIA-funded program (Adult, Dislocated Worker or Youth).

## **I. Reemployment Trade Adjustment Assistance (RTAA) and OJT**

An RTAA participant can also receive training under OJT. Payments made to an employer under OJT, while based on the wage rate paid to the trainee, *are not solely* a direct reimbursement of the wages paid. The payment reflects a partial reimbursement for the overall extraordinary costs incurred by the employer in providing the training that reflect, among elements, the materials and supplies utilized in training as well as the lost productivity associated with training the individual. The payment is made to the employer instead of to a third-party training institution.

RTAA is a specific wage subsidy paid directly to the participant. In many instances, the employer may not even be aware that the individual is an RTAA participant. Thus, as the OJT payment is not a direct wage reimbursement and RTAA is a direct wage subsidy paid to a participant, no conflicting duplication of costs exists.

## **J. TAA OJT Follow-Up Services**

Upon completion of the planned TAA OJT, local area focus will shift to follow-up activity to support the TAA participant's long term retention in employment. In accordance with WIA requirements, follow-up must be available for the 12-month period following the completion of training. Follow-up services may include, but are not limited

to additional career planning/counseling, assistance with workplace issues, peer support groups, additional education information and referral to supportive services (excluding needs-related payments).