

MASSACHUSETTS

Workforce Investment Act

STEERING COMMITTEE

WIA Communication No. 00-41

☒ **Policy** ☐ **Information**

To: Chief Elected Officials
Workforce Investment Board Chairs
Workforce Investment Board Directors
Area Directors or Designee
Career Center Directors
DET Regional Directors
DET Area Directors

cc: WIA State Partners

From: Jonathan Raymond, President
Corporation for Business, Work, and Learning

Date: October 18, 2000

Subject: On-the-Job Training and Customized Training

Purpose: To provide guidance to the Local Workforce Investment Boards in developing a Title I OJT Policy for Adults and Dislocated Workers.

Background: The WIA Regulations at 663.700 through 663.720 contain the provisions for conducting on-the-job (OJT) and customized training activities. They include specific information regarding general, contract, and employer payment requirements. The U.S. Department of Labor received input advocating OJT regulations which do not restrict the duration of OJT and which also permit eligible employed workers to receive this training. Unlike under JTPA, OJT under WIA is not limited to six months. However, as specified in WIA Section 101(31)(C), it is limited in duration as appropriate for the occupation for which the participant is being trained. OJT contracts are permitted for employed workers under certain conditions.

Action Required: This Policy is in effect for all Workforce Investment Act funds provided by CBWL. All Local Workforce Investment Boards must develop their own internal OJT and Customized Training policy in compliance with this policy. Please distribute copies of this policy to all appropriate individuals in your organization.

- Effective:** Effective for all Workforce Investment Act funds provided by the Corporation for Business, Work, and Learning.
- References:** Workforce Investment Act (WIA); WIA Regulations at 20 CFR Parts 663.700 through 663.720.
- Inquiries:** Any questions related to this correspondence should be directed to Elizabeth Durkin at (617) 727-8158 extension 1304.
- Filing:** Please file this in your notebook of previously issued WIA Communication Series Issuances as 00-41.

ON-THE-JOB TRAINING AND CUSTOMIZED TRAINING

On-the-Job Training

The Workforce Investment Act at Section 101(31) defines OJT as:

Training by an employer that is provided to a paid participant while engaged in productive work in a job that:

- A. provides knowledge or skills essential to the full and adequate performance of the job;
- B. provides reimbursement to the employer of up to 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
- C. 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 strategy of the participant, as appropriate.

OJT Operational Guidelines and Wage Standards

One of the primary goals of the WIA Program is to maintain or increase the wage levels of adults and dislocated workers. A contract for an OJT may be written for an employee when the employee is not earning a self-sufficient wage as determined by Local Board policy. Local projects are to develop clear operational procedures for administering OJT contracts. OJT should not be thought of, or used as, a wage subsidy, but should present a real training opportunity in which workers can learn new skills.

The operational guidelines below describe conditions that must be followed when developing the OJT contract with an employer.

A. Operational Guidelines

The following factors should be incorporated into local procedures for contracting OJTs with firms:

1. The local program must not contract with an employer who has received payments under previous contracts and has exhibited a pattern of failing to provide OJT participants with continued long-term employment as regular employees with wages, benefits (including health benefits), 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.
2. Each on-the-job training contract that is not directly contracted by a one-stop career center with an employer (but instead is contracted through an intermediary brokering contractor) shall, in addition to meeting the requirements of the contract, specify the outreach, recruitment, participant training, counseling, placement, monitoring, follow-up, and other services to be provided directly by the brokering contractor within its own organization, the services to be provided by the employers conducting the on-the-job training, and the services to be provided, with or without cost, by other agencies and subcontractors.

3. An OJT contract must be limited to the period of time required for a participant to become proficient in the occupation for which the training is being provided. In determining the appropriate length of the contract, consideration should be given to the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's individual employment plan.
4. A training plan should be included in every OJT contract and should be used to tailor training to individuals' needs and for monitoring of ongoing contracts. This outline should include a summary of the skills to be learned and the anticipated time needed for the participant to learn those skills.
5. All programs using OJT contracts must establish a monitoring schedule (i.e., frequency and intervals) for current OJT contracts as well as follow-up after contract completion. At least one follow-up visit should be done after an individual's OJT contract is completed to determine that the agreed-upon wage (and/or wage increase) is being paid, that benefits comparable to those received by other workers are being provided to the worker, and to get employer/employee feedback on the OJT experience.
6. Program operators should put the emphasis on the development and/or selection of OJT assignments that meet the identified needs of the participants.

On-the-Job Training for Employed Workers

OJT contracts may be written for eligible employed workers when:

- a. The employee is not earning a self-sufficient wage as determined by Local Board policy;
- b. The requirements listed above under Operational Guidelines are met; and
- c. The OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, workplace literacy, or other appropriate purposes identified by the Local Board.

B. Requirements for Contracting

The following conditions must be met to develop an OJT contract with an employer. There should be some form of documentation that these conditions have been met. This documentation could be a statement within the OJT contract.

1. The employer has not failed to meet the requirements of a previous OJT contract. The exception to this requirement is if the employer failed to meet the requirements of a previous OJT contract through no fault of his/her own.
2. The employer has not reduced the workforce with the intention of filling the vacancy with the individual receiving training from the OJT contract or displaced a currently employed worker as a result of the OJT contract. (See Attachment A for a Pre-Award Review form).
3. If there is a collective bargaining agreement, the training provided under the OJT contract does not violate the terms of this agreement.
4. If there is a collective bargaining agreement and the training being provided is inconsistent with the terms for a collective bargaining agreement, a written agreement must be obtained from the representing labor organization.

5. No one should be laid off from the same job for which they will receive OJT training and an OJT contract is being developed.

OJT Payments to Employers

1. OJT payments to employers are deemed to be compensation for the extraordinary costs associated with training participants and the costs associated with the lower productivity of the participants.
2. Employers may be reimbursed up to 50 percent of the wage rate of an OJT participant for the extraordinary costs of providing the training and additional supervision related to the OJT.
3. Employers are not required to document the extraordinary costs associated with providing OJT.

Customized Training

Customized training is training:

- a. that is designed to meet the special requirements of an employer (including a group of employers);
- b. that is conducted with a commitment by the employer to employ, or in the case of incumbent workers, continue to employ, an individual on successful completion of the training; and
- c. for which the employer pays not less than 50 percent of the cost of the training.

Requirements for Customized Training for Employed Workers

Customized training of an eligible employed individual may be provided for an employer or a group of employers when:

- a. The employee is not earning a self-sufficient wage as determined by Local Board policy;
- b. The requirements in Part 663.715 are met; and
- c. The customized training relates to the purposed described in Part 663.705(c) or other appropriate purposes identified by the Local Board.

ATTACHMENT A
PRE-AWARD REVIEW FOR WIA FUNDING/ASSISTANCE
FOR ALL NEW AND/OR EXISTING ESTABLISHMENTS

The WIA Regulations prohibit the use of funds to support any establishment, or part thereof, that has relocated until 120 days after the date on which such establishment commences operations at the new location. A "relocating establishment" is defined as a business entity, including a successor in interest, which is moving any operations from a facility in one labor market area within the United States and its territories to a new or expanding facility in another labor market area. A "labor market area" is defined as a geographic area within which individuals can readily exchange employment with out changing their place of residence.

This Pre-Award Review is intended to ascertain whether or not WIA assistance has been or is being provided in connection with a loss or impending losses of employment at another location/facility.

Company: _____

Address: _____

City/S/Z: _____

Company _____

Official: Name & Title

Phone: (_____)_____

Other names (including successor (s) in interest) under which the above company has conducted or is currently conducting business:

Has the above company, any subsidiary, affiliates, or part thereof, relocated within the last 120 days?

Yes _____

No: _____

If the company has relocated within the last 120 days, did the move result in a loss of employment for any employee of the company at the original location?

Yes _____ No _____ Not applicable, did not locate _____

The Company Official hereby attests, under penalty of perjury, that the above information is correct.

Signature of Company Official

Date

One-Stop Representative/Title

Date