

# Mass Workforce Issuance

---

**Workforce Issuance No. 10-44**

☒ **Policy**   ☐ **Information**

---

**To:** Chief Elected Officials  
Workforce Investment Board Chairs  
Workforce Investment Board Directors  
Title I Administrators  
Career Center Directors  
Title I Fiscal Officers  
DCS Regional Managers

**cc:** WIA State Partners

**From:** Michael Taylor, Director  
Department of Workforce Development

**Date:** May 6, 2010

**Subject:** **Training Under the Trade Adjustment Assistance Programs**

---

**Purpose:** To provide policy guidance to Local Workforce Investment Boards, One-Stop Career Center Operators and local workforce investment partners with respect to training eligibility and enrollment requirements/timeframes in order to establish and maintain eligibility to receive Trade Readjustment Assistance (TRA) benefits. This guidance covers program changes resulting from the enactment of The Trade and Globalization Adjustment Assistance Act of 2009.

**Background:** On February 17, 2009 the American Recovery and Reinvestment Act (ARRA) of 2009 was signed into law. The Trade and Globalization Adjustment Assistance Act of 2009, part of the ARRA, amended several elements of the TAA program. One of the changes includes new deadline dates for TRA eligibility, thus a new set of dates in which enrollment in training must be approved. This policy provides notice of the revised deadlines for TRA eligibility, changes to length of training allowed as well as other important changes regarding training under the TAA program.

**Policy:** For any individual determined to be TAA eligible and in need of training, six (6) criteria that must be met prior to training approval. The six criteria are:

1. There is no suitable employment\* (which may include technical and professional employment) available for the adversely affected worker.
2. The worker would benefit from appropriate training.
3. There is a reasonable expectation of employment following completion of such training.
4. Training approved by the Secretary is reasonably available to the worker from either governmental agencies or private sources.
5. The worker is qualified to undertake and complete such training.
6. Such training is suitable for the worker and available at a reasonable cost.

\*Suitable employment is defined in the Trade regulations at 20 CFR §617.22 as work of an equal or higher skill level and with a wage of at least 80% of the worker's prior average weekly wage.

### **Reasonable Costs**

When determining "reasonable costs", the DCS Trade Programs Central Unit must consider the following:

1. Costs of a training program shall include tuition, and related expenses (books, tools, and academic fees), travel or transportation expenses, and subsistence expenses;
2. In determining whether the costs of a particular training program are reasonable, first consideration must be given to the lowest cost training which is available within the commuting area. When training that is substantially similar in quality, content and results is offered at more than one training provider, the lowest cost training shall be approved; and
3. Training at facilities outside the worker's normal commuting area that involves transportation or subsistence costs which add substantially to the total costs shall not be approved if other appropriate training is available.

For training program approvals made after July 1, 2009, the Commonwealth has established the following maximum Reasonable Cost Levels (inclusive of tuition, fees and books, supplies and equipment) under the TAA Program:

- \$7,000 for stand-alone remedial training
- \$17,000 for vocational training (exclusive of any associated remedial training)
- \$25,000 for degree programs (exclusive of any associated remedial training)

The maximum cost per individual for tuition and related expenses including any travel or subsistence related costs cannot exceed \$30,000.

Training programs that would otherwise not be approved under TAA based on these established Reasonable Cost Levels may be approved if a worker voluntarily commits to using other public or private funds to pay that portion of the total training cost that exceeds these established levels. Private funds may include grants, scholarships, employer funding or other sources available to the participant not requiring the use of funds personal to the worker, relatives or friends.

### **Additional Training Requirements**

When requesting training approval, at least two “like programs” from distinct providers must be researched, compared, and submitted for consideration. In approving training, the Trade Unit must consider cost, suitability for the worker, quality of the training being provided and performance results. A more expensive training may be approved if it is clearly demonstrated to be of higher quality or is expected to produce better results for the worker in quickly returning to suitable employment.

Required electives as part of a college curriculum must be related to the major that the person has been approved under TAA to undertake. For example, a customer approved as an Accounting major should be taking electives listed under the business/accounting program of study; not, for example, Yoga or Photography. Such classes that are not pre-approved may be denied for payment as well as any equipment/supplies required for that course. Also, see MassWorkforce Issuance No. 10-45, Allowable TAA Training Supplies, Materials and Equipment, Revised.

A TAA-eligible individual who has taken a subsequent job in what is determined to be “non-suitable employment” and who has been approved for TAA training may elect to either terminate his/her employment or continue in full or part-time employment while undertaking said approved training. In such a case, the continued employment will not disqualify the individual with regard to maintaining his/her Unemployment Insurance or TRA eligibility. However, if the individual elects to continue working while attending training, the wages earned may affect the amount of weekly UI and/or TRA that is received.

Training conducted outside of the United States cannot be approved. Training for occupations for which there is a demonstrable lack of employment opportunities, or for which the occupation provides no reasonable expectation of permanent employment, also cannot be approved.

Entrepreneurial training programs are not allowable under the Trade Program.

Other funds should be sought and may be used towards the costs of TAA approved training. Such funds (i.e. WIA, Pell, Scholarships, and VETS) can also assist in paying for cost items that TAA Program funds cannot cover (i.e. testing and licensing fees). Also, see MassWorkforce Issuance No.10-45, Allowable TAA Training Supplies, Materials and Equipment, Revised.

**Petitions Filed on or after May 18, 2009**  
**(Identified by petitions numbered “70,000” and higher)**

For any individual determined to be TAA eligible under a petition filed *on or after* May 18, 2009, in order for him/her to be eligible for Trade Readjustment Allowances, he/she must be *enrolled in training, participating in training, have completed training* or be approved to be “waived” from training no later than **26 weeks** from the date of the petition certification *or 26 weeks* from the worker’s most recent total separation from adversely affected employment.

Training may be approved on a full-time or part-time basis, although full-time training is required for Trade Readjustment Allowance (TRA) eligibility. The hours in a day and days in a week of attendance in training must be full time in accordance with established hours and days of the training provider. Additionally, TRA benefits cannot be paid for any week which begins and ends with a scheduled break that is longer than 30 days (not including weekends or National Holidays). See WIA Communication 05-84, Trade Programs Breaks in Training (11/22/05).

Participants can be approved for training for up to 156 weeks. However, they will not be eligible to receive TRA benefits for longer than 130 weeks if they did not participate in remedial training. Training can be approved for a time period greater than the weeks of TRA available, but the participant is required to document a level of financial stability adequate to support his/her continued participation in approved training for the duration requested. Please note, there is no specific form to document this information on. It is a local decision as to what form of documentation is used.

### **Adversely Affected Incumbent Workers**

Certified workers may begin approved training when threatened with separation from adversely affected employment. Such workers are referred to as “adversely affected incumbent workers” (see Attachment A).

### **Registered Apprenticeship Programs & Trade**

Registered Apprenticeship programs offer workers a combination of employment and on-the-job learning and related instruction. The Trade Program can pay for the classroom portion of registered apprenticeship programs. TAA funds can be used until the worker attains “suitable employment” at the “apprentice” level or up to a maximum of 156 weeks, whichever comes first (some apprentice programs exceed 156 weeks in length). Because registered apprenticeship combines classroom instruction with employment, workers enrolled in a registered apprenticeship program may not be able to collect TRA due to the wage levels they earn. However, they may be eligible for Reemployment Trade Adjustment Assistance (RTAA) benefits if all criteria are met (see Attachment A).

### **Alien Verification**

Section 239(k) of the 2009 Act requires that states re-verify an individual’s immigration status if the documentation provided by the individual during initial

verification will expire during the period in which that worker is potentially eligible to receive Trade benefits (i.e. training, TRA cash benefits, etc.). One of the six criteria for approval of training is that there is a “reasonable expectation of employment following completion of such training.” Where a worker is not in a satisfactory immigration status, there is no such reasonable expectation. Therefore, a training program is not approvable if the individual is not eligible at the time of application for work and at least one day following the completion of training.

**Petitions Filed before May 18, 2009  
(Identified by petition numbered “69,999” and lower)**

For any eligible individual covered under a petition filed *before* May 18, 2009, in order for him/her to be entitled to Trade Readjustment Allowances, he/she must be *enrolled in training, participating in training, have completed training* or be approved to be “waived” from training no later than **8 weeks** from the date of the petition certification *or* **16 weeks** from the worker’s most recent total separation from adversely affected employment.

Training may only be approved on a full time basis and certified workers may not begin approved training until they have been totally or partially separated from adversely affected employment.

Participants can be approved for training under Trade for up to 104 weeks, or up to 130 weeks if they are also enrolled in remedial training at any point (see Attachment A for remedial training examples).

**Action**

**Required:** Please distribute copies of this policy to all appropriate individuals in your organization, and take necessary action to ensure compliance with this policy.

**Effective:** **Immediately**

**References:**

- Trade Adjustment Assistance Act of 1974, as amended
- Trade Reform Act of 2002
- The Trade and Globalization Adjustment Assistance Act of 2009
- Trade Regulations, 20 CFR Part 617
- TEGL 11-02, Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Act of 2002, issued October 10, 2002 and subsequent changes
- TEGL 22-08, Operating Instructions For Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009, issued on May 15, 2009 and subsequent changes.

**Inquiries:** Please email all questions to [PolicyQA@detma.org](mailto:PolicyQA@detma.org). Also, indicate Issuance number and description.