

Washington State Trade Adjustment Assistance Policy

Policy Number: 3035 (2002)

Policy Title: On-the-Job Training

Effective Date: August 16, 2006

1. Purpose:

To communicate the expectations, standards, and rationale required for justifying and approving a Trade Adjustment Assistance (TAA) On-the-Job Training (OJT) for petitions certified under 2002 amendments.

2. Background:

The Trade Adjustment Assistance for Workers Program (TAA program) was first established in the Trade Act of 1974 as a tool to retrain trade impacted workers and help them find suitable employment.

The Trade Adjustment Assistance Reform Act of 2002 (Public Law 107-210) reauthorized and expanded the scope of the TAA program. It also repealed the North American Free Trade Agreement Transitional Adjustment Assistance (NAFTA-TAA) program, which had been added to the TAA program in 1993 to provide benefits to workers who lost their jobs because of trade with Mexico and Canada after NAFTA. The NAFTA-TAA program was no longer necessary because the 2002 amendments extended the same favorable TAA coverage to workers who lost their jobs because of shifts in production to other countries with which the United States had trade agreements, treaties or where there was also a likelihood of increased imports because of shifts in productions to Mexico and Canada.

The 2002 amendments expanded coverage to adversely impacted secondary workers, whose layoffs could be attributed to trade impacts demonstrated by TAA certifications of workers for companies considered upstream suppliers or downstream producers to the certified primary firm. The 2002 Program applies to workers covered under petition numbers TA-W 50,000 – 69,999.

3. Policy:

The objective of an OJT or Work-Based training is achieving marketable skills for a participant's return to suitable employment. TAA case managers will make every effort to help participants successfully complete approved training plans at reasonable cost and as quickly as possible.

This policy provides the expectations, standards, and rationale required for justifying and approving TAA training. All [six criteria](#) must be documented to support an approval or denial of training. Only one training program can be approved under a single certification.

a. Approval of On-the-Job Training (OJT)

This Policy applies to workers determined eligible to receive services and allowances under the Trade Act of 1974 as amended.

i. Employer Assurances

Prior to the approval of an OJT, the employer shall assure:

- The participant shall not displace a currently employed worker, including partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits.
- The employer shall not train a participant in a job if another worker is in layoff status for the same job.
- The employer's rate of labor turnover shall not substantially exceed the rate of labor turnover for similar jobs in the same area.
- The employer has not terminated the employment of any regular employee or otherwise reduced the workforce with the intention of filling the vacancy so created by hiring the eligible participant.
- The employer shall not train a participant in a job created in a promotional line that will infringe in any way upon the promotional opportunities of currently employed individuals.
- The employer shall make every effort to retain the participant for at least 26 weeks after completion of the training.
- The employer has not violated the terms of a prior OJT contract.

ii. Case Manager Assurances

Prior to the approval of an OJT, case managers shall assure:

- The participant completes a comprehensive assessment and develops an appropriate training plan that justifies the need for training.
- The participant can achieve the vocational goal identified in the Individual Employment Plan within the term of the approved training plan.
- The on-the-job training meets the six conditions for training approval.
- The participant's attendance in the training is considered full time.

- The participant shall not enter into an on-the-job training agreement in an occupation similar to the job of dislocation in which the participant gained trade certification.
- The participant shall not start training until a signed training agreement is in place.
- The participant shall only enter into an on-the-job training agreement in an occupation for which there is demand, potential for sustained growth, and permanent, full-time employment.
- The Service Provider and participant must arrange and conduct OJT training within the local labor market. When training is not available within the local labor market then OJT training may be conducted outside of the local area.
- The Service Provider shall only approve OJT training that is conducted within the State of Washington. As an exception, a Service Provider may approve an OJT conducted within a bordering state (Oregon or Idaho) as long as the OJT is monitored on a monthly basis.

iii. Fiscal/Reimbursement

- No TRA payments or other TAA funds for transportation, or subsistence payments are allowable while the participant is participating in an OJT.
- The total cost for an OJT shall not exceed the state's established training cost limit of \$12, 000.
- The Service Provider shall not reimburse the employer for fringe benefits, overtime hours, or hours in excess of 40 hours per week.
- The Service Provider shall reimburse an employer for the cost of a participant's wages for time spent during working hours in such training activities. All costs incurred under these provisions must have prior approval and be documented by the employer.
- The cost for classroom training or other required job related training provided to the participant as part of the OJT may be reimbursed to the OJT employer only if such training is in addition to the level of those provided to regular employees. This must be included in the Services Plan in SKIES.
- The Service Provider may pay for classroom training directly to the school with the agreement of the employer.
- The Service Provider shall only use TAA funds to reimburse the employer for the costs associated with training a participant. TAA funds cannot be used by the Service Provider to pay for wages.

- The Service Provider shall not provide reimbursement to the employer unless the signed, approved OJT contract is in place.
- Both the employer and the participant must sign reimbursement invoices and timesheets.
- The Service Provider shall monitor the progress and performance of the participant in accordance with the OJT training plan, at the worksite, at least once a month.
- The Service Provider shall keep original time sheets and copies of invoices in the participant's file.
- The employer, the participant, and the Service Provider shall sign the OJT contract agreement and agree to the terms and conditions prior to the commencement of training.

iv. Duration and Reimbursement Rate

- The duration of the OJT must be appropriate to the occupation for which the adversely affected worker is being trained, taking into account the content of the training, the worker's prior experience and skills as documented in the Services Plan in SKIES. The duration should reflect the time required for the worker to become proficient in the training being provided.
- When determining the length of the training contract the Service Provider shall take into consideration the skill requirements of the occupation, the academic and occupational skill level of the participant, and prior work experience.
- Under OJT, the allowable employer reimbursement should fairly represent compensation for the costs and the lower productivity associated with training a participant on the job.
- The actual reimbursement rate shall be negotiated with the employer but cannot exceed 50% of the regular wages paid to the worker by the employer.

v. Collective Bargaining and Apprentices Programs

- Training shall not impair existing contracts for services or collective bargaining agreements.
- The Service Provider must obtain from the appropriate labor organization a written concurrence if the training is inconsistent with the terms of a collective bargaining agreement. This shall be included in the OJT contract.
- If the OJT is a pre-apprenticeship training program that provides participants with basic skills needed to meet the eligibility requirements for registered

apprenticeship programs, it must be coordinated with the appropriate trade or craft and joint apprenticeship and training committee responsible for the apprenticeship program.

b. Veteran's Priority of Services

The TAA program must comply with the Jobs for Veterans Act, enacted into Public Law 107- 288 on November 2, 2002. Covered veterans determined eligible for the TAA program must receive priority over nonveterans for the receipt of services provided under the TAA program.

4. Definitions:

On the Job Training (OJT): Training provided at an employer's work site where the participant gains new job skills while being employed full-time.

5. References:

- [Public Law 107-210](#), Trade Adjustment Assistance Reform Act 2002
- [Training and Employment Guidance Letter \(TEGL\) 11-02](#), Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Act of 2002; [Change 1](#); [Change 2](#); [Change 3](#)

6. Supersedes:

This communication cancels and supersedes all previously issued policy memorandum related to the employment and training component of the TAA program.

7. Website:

[Workforce Professionals Center](#)

8. Action:

Employment Security Department Regional Directors and WorkSource Administrators must distribute this policy broadly throughout the system to ensure that WorkSource System staff are familiar with its content and requirements.

Direct Inquiries To:

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