

PA Department of Labor & Industry
Workforce Investment Center
Bureau of Workforce Development Partnership
WORKFORCE INVESTMENT INFORMATION NOTICE NO. 04-03
July 29, 2004

TO : ALL PA CAREERLINK SITE ADMINISTRATORS
ALL PA CAREERLINK TAA REPRESENTATIVES
ALL BUREAU OF WORKFORCE DEVELOPMENT
PARTNERSHIP REGIONAL DIRECTORS
ALL WIA TITLE I PROGRAM OPERATORS
ALL WIA FISCAL AGENTS
ALL RAPID RESPONSE REGIONAL REPRESENTATIVES
ALL WORKFORCE DEVELOPMENT SPECIALISTS
FEDERAL PROGRAMS UNIT

FROM : JOHN C. VOGEL
Director
Bureau of Workforce Development Partnership

SUBJECT : Training under the Trade Act

INQUIRIES: If you have questions concerning this issuance, please direct inquiries to one of the following Trade Coordination Services staff via e-mail or telephone:

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- 1. Purpose.** To provide policies and procedures in regard to the training reemployment benefit through the Trade Act program, including changes brought about by the Trade Act of 2002.
- 2. Reference.** The Trade Act of 1974, as amended (P.L. 93-618, as amended); the Trade Act of 2002 (P.L. 107-210); 20 CFR 617; 29 CFR 90; Training and Employment Guidance Letters No. 11-02, No. 5-01, and No. 7-00.

3. **Discussion.** To assist PA CareerLink staff in implementing the training provisions of the Trade Adjustment Assistance (TAA) program under the Trade Act of 1974, as amended, including the most recent amendments under the Trade Act of 2002.

The U.S. Department of Labor (USDOL) has established three guiding principles for TAA implementation:

- Increased focus on early intervention and upfront assessment for adversely affected workers.
- Reemployment services for adversely affected workers.
- Use of One-Stop Career Centers as the main point of participant intake and delivery of benefits and services.
- Maintenance of fiscal integrity and promotion of performance accountability.

The Pennsylvania Department of Labor and Industry is the State Workforce Agency (SWA) that has been designated to act as agents of the Secretary of Labor to notify certified workers of potential Trade Act benefits and services, make eligibility determinations for individuals, and deliver benefits and services. Therefore, the Pennsylvania Department of Labor and Industry must approve training under the requirements established by the Trade Act, its regulations and US DOL guidelines.

This policy guidance focuses on training under the Trade Act; therefore, topics such as early intervention, sequence of service, and assessment are not discussed. Nevertheless, the Department of Labor and Industry, through the rapid response program, fully promotes the importance of early intervention in the layoff cycle to ensure that dislocated workers and workers under notice of layoff access the career exploration and re-employment services offered through the one-stop CareerLink system. The Trade Act of 2002 requires that rapid response be initiated at the time the petition is filed. The overarching message of rapid response is to access services as soon as the layoff is imminent.

Pennsylvania has embraced the concept of integration of the Workforce Investment Act (WIA) Title I Dislocated Worker services with the Trade Act TAA program. On June 10, 2003, the Department issued Workforce Investment Information Notice No. 14-02 to promote full integration of the programs and to encourage Local Workforce Investment Board members, and the appropriate one-stop stakeholders, to re-design their service delivery to incorporate integration of the two program elements and staff. The provision of individualized assessment services and the development of individualized employment and training plans drive the integration policy. Trade certified dislocated workers

should receive the level of service that is appropriate to their needs, and therefore, should be sequenced through intensive services on a case-by-case basis.

4. **Action Required.** PA CareerLink staff is to regard this issuance, along with the Federal regulations for the Trade Act of 1974 and the Trade Act of 2002, as Pennsylvania's policy to implement Trade Adjustment Assistance Training.
5. **Attachments.** TAA Training Policy
6. **Expiration Date.** Ongoing

TRADE ADJUSTMENT ASSISTANCE POLICY

1. Criteria for Approval of Training

TAA training is approvable when:

1. There is no suitable employment available for an adversely affected worker.
 - This means that no suitable employment is available at the time for the adversely impacted worker, either in the commuting area or outside the commuting area in which the worker desires to relocate with the assistance of a relocation allowance under the Trade Act.
 - The term “suitable employment” means, work of a substantially equal or higher skill level than the worker’s past adversely affected employment and the wages are not less than 80 percent of the worker’s average weekly wage at the time of the qualifying separation.
2. The worker would benefit from appropriate training as indicated by the following:
 - The assessment of the worker supports that there is a skills gap that will be addressed by the training program;
 - The worker has the mental and physical capabilities to undertake, make satisfactory progress in, and complete the training; and
 - The worker will be job ready upon completion of the training program.
3. There is a reasonable expectation of employment following completion of the training.
 - The training must be linked to a demand occupation in the labor market in which the worker is expected to reside when the training program is completed.
 - There must be a fair and objective projection of job market conditions expected to exist at the time training is completed. It does not require employment opportunities for the worker be available or offered immediately upon the completion of the approved training.
4. The training program is reasonably available to the worker from either governmental agencies or private sources.

- Reasonably available usually means training opportunities available within the worker's normal commuting area.
 - When training is not available in the worker's normal commuting area, training outside of the normal commuting area may be approved providing the total cost is reasonable. Total cost includes tuition, books, tools, academic fees, travel or transportation expenses, and subsistence expenses.
 - In Pennsylvania "normal commuting area" is defined as a 50-mile radius from the residency of the affected worker.
5. The worker is qualified to undertake and complete such training.
- The assessment of the adversely affected worker is the basis for the decision on whether training is the most appropriate service plan for the dislocated Trade certified worker.
 - Assessment includes the evaluation of the worker's:
 - a. Physical and mental capabilities,
 - b. Educational background,
 - c. Work experience; and
 - d. Financial resources, which must be adequate to undertake and complete the specific training program being considered.
 - 1) If the worker's U.C. and TRA payments will be exhausted before the end of the training program, the PA CareerLink staff shall determine whether personal or family resources will be available to the worker to complete the training. It must be noted on the worker's record that financial resources were discussed with the worker before the training was approved.
 - 2) When adequate financial resources will not be available to the worker to complete a training program, which exceeds the duration of U.C. and TRA payments, the training shall not be approved and consideration shall be given to other training opportunities available to the worker.
6. Such training is suitable for the worker and available at a reasonable cost:
- 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, substantially

similar in quality, content, and results, is offered at more than one training provider, the lowest cost training shall be approved.

- It also means that training may not be approved when the costs of the training are unreasonably high in comparison with the average costs of training other workers in similar occupations at other providers.
- This criterion also requires taking into consideration the funding of training costs from sources other than TAA funds, and the least cost to TAA funding of providing suitable training opportunities to the worker.
- An application for training shall be denied if it is for training in an occupational area which requires an extraordinarily high skill level and for which the total costs of the training are substantially higher than the costs of other training, which is suitable for the worker.

II. Reasonable Cost

The State is responsible for “determining which training institutions offer training programs at a reasonable cost and with a reasonable expectation of employment following the completion of such training, and procuring such training;” (20 CFR 617.20 (b)(9)) for “coordinating the administration and delivery of employment services, benefits, training,” Whether training is offered at a reasonable cost will be determined on a case-by-case basis.

The State must also take into consideration the stringent funding constraints implemented by the USDOL for training programs. Therefore, the Commonwealth will subject to additional review any request for training in which the tuition, books, supplies, and transportation costs exceed \$16,000. In such cases where any suitable training can be obtained within the commuting distance for lesser cost, the original request must be revised or it will be denied.

III. Special Conditions for Approval of Training Costs

1. Training previously approved for a worker under State law or other authority is not automatically approved under the Trade Act unless all of the requirements and limitations of the Trade Act are met.
 - When an adversely affected worker begins training prior to TAA approval, the PA CareerLink staff should assist the worker to document whether the six criteria for approval have been met.
 - The worker may submit a TAA training application and it will be considered, and, if approved, TAA funds will be used to pay the balance of the cost. The training cost cannot be retroactive unless it is a case of a redetermination or decision reversing a determination denying approval of training.

2. Regulation 617.25(b) lists specific restriction on funding of training costs as imposed by Section 236 of the Trade Act. The costs of a training program approved under the Trade Act may be funded by any of the following three methods:

- Solely from TAA funds,
- Solely from other public or private funds, or
- Partly from TAA funds and partly from other public or private funds.

Private funds may not include funds from sources personal to the individual, such as self, relatives, or friends.

3. Coordination of resources should be closely monitored in order to avoid duplication of payment through the use of TAA funds and funds under another Federal law.

4. When payments of Veterans Educational Assistance, Pell Grants, and Supplemental Educational Opportunity Grants

- are made to the training provider, instead of the individual, such payments shall be taken into account as direct payment of the training costs under other Federal law.
- are made to the individual may be deducted from the individual's TRA payment.

5. Any training that requires students to pay their own fees or tuition shall not be approved for TAA funding. In the event, a person has begun training utilizing their own resources, TAA training can be approved as of the beginning of the next semester, term, quarter, etc.

IV. Approved TAA Training

1. In Pennsylvania, TAA training services must be chosen from those listed on the Statewide Training Provider List on the PA CareerLink website. This list is developed in accordance with Section 122(a) of the Workforce Investment Act, 29 USC 2842(a).

- The exception is employer-based training also known as on-the-job or customized training. A WIIN has been issued to address the employer-based training policy and procedural issues.

2. Training providers must have a contract with the Commonwealth of Pennsylvania (referred to as the "Master Agreement") to provide training services to approved TAA eligible workers.

- In those situations when a training program is on the Statewide Training Provider List, but there is no TAA Master Agreement, Trade Coordination Services (TCS) should be contacted immediately. These applications will be reviewed to determine if special contracting procedures should be initiated by TCS.
3. A training program may consist of a single course or group of courses, which is designed and approved by the State agency for an individual to meet a specific occupational goal.
 4. No individual shall be entitled to more than one training program under a single certification.
 5. Distance Learning, also known as online training, may be approved under the Trade Act if the training provider and course are on the Statewide Training Provider List, and comply with other relevant criteria for approval of training under the Act. A WIIN has been developed to provide specific guidance on Distance Learning and the USDOL addresses this subject in TEGl No. 7-00. Distance Learning may be approved under the Trade Act when the following conditions are met:
 - Leads to the completion of a training program,
 - Requires students to interact with instructors,
 - Requires students to take periodic tests; and
 - Requires students to come onto campus, or other approved facility, for tests and meetings with instructors.
 6. Training conducted either totally or partially outside of the United States is prohibited.
 7. Remedial education is defined as training in the elementary skills that every worker must have in order to achieve basic employability.
 - Remedial training should be considered pre-vocational; that is, it leads to occupational, on-the-job, or customized training that will equip the participant with specific job skills.
 - Wherever practical, remedial training should be conducted concurrently with the early parts of occupational training.
 - Examples of remedial education are basic writing and mathematical skills training, English as a Second Language (ESL), and courses leading to a G.E.D.

- For individuals certified under the Trade Act of 2002, up to an additional 26 weeks of TRA benefits can be added to the usual 104 week maximum (for a total of 130) if the remedial training is part of a training program that also includes skills training; the addition of weeks beyond 104 only occurs when remedial training is a component of a larger training program.

V. Length of Training, Breaks in Training, and Hours of Attendance

1. The Trade Act sets the parameters for the length of training and the hours of attendance but does not specify an exact length or number of hours. Therefore, the State Workforce Agency must determine the appropriateness of the length of training and the hours of attendance.
 - The training shall be of suitable duration to achieve the desired skill level in the shortest possible time;
 - No individual shall be entitled to more than one training program under a single certification; and
 - The maximum duration for any approvable training program varies:
 - Under the Trade Act of 1974 and the NAFTA-TAA program, the maximum is 104 weeks (during which training is conducted)
 - Under the Trade Act of 2002, the maximum is 104 weeks or if a training program includes remedial education the maximum is 130 weeks.
2. Individuals in TAA approved training are required to attend training full-time. The hours in a day and days in a week of attendance in training shall be full-time in accordance with established hours and days of training of the training provider. This is a change from the Commonwealth's past practice. When other training is combined with OJT, attendance at both shall be not less than full-time.
 - a. If during the course of study a semester/term reduces to part time through no fault of the student, staff is to contact Trade Coordination Services for a determination.
3. Payment of TRA during "breaks in training."
 - Under the Trade Act of 1974 and NAFTA-TAA, when an approved training program involves more than one course and involves breaks in training (within or between courses, or within or between terms, quarters, semesters, and academic years), all such breaks in training are subject to the "14-day break in training" provision in Section 617.15(d), for purposes of receiving TRA payments.

- The Trade Act of 2002 extends the time period to 30 days before TRA receipt is affected. This applies to affected workers covered by a petition filed after November 4, 2002.
4. The Act does allow the State Workforce Agency to amend an individual's approved training program to add a course designed to satisfy unforeseen needs of the individual, such as remedial education or specific occupational skills, as long as the length of the amended training program does not exceed the maximum week training limitation.

VI. Training of Reemployed Workers

Adversely affected workers who obtain new employment, which is not suitable employment, and have been approved for training may elect to: terminate their jobs, or continue in full- or part-time employment, to undertake such training, and shall not be subject to ineligibility or disqualification for U.C. or TRA as a result of such termination or reduction in employment.

VII. Allowable/Non-Allowable Costs

The following are allowable and non-allowable costs under the Trade Act:

1. Tuition, which is defined as the cost charged for instruction (either credit hours or clock hours) required to receive a particular degree, diploma, or certificate.
 - There are instances of training programs, particularly at colleges and universities that involve elective courses as well as required major courses as part of the degree requirement.
 - Workers should be advised to select elective courses that are closely related to the major course of study, as this will increase the worker's employability and that approval of the cost of the optional courses as electives is contingent on the cost of the course.
 - Courses such as Photography, Scuba Diving, Art, etc., taken as electives and which require purchase of expensive or recreational equipment will not be approved.
2. Books, which are defined as those textbooks, workbooks, and reference books that are specifically required by the instructor to complete the course requirements.
 - Books designated as supplemental readings, optional, or helpful are not covered by TAA.

3. Fees that are allowed include enrollment, registration fee, acceptance fee, library and laboratory fees, graduation fees, and liability insurance fees required for specific courses such as Nursing.
 - Fees, which include payment for services required by the training facility, which are not items of instruction or directly related to the occupational objective, are not covered.
 - Fees that are not approvable are parking fees, late fees, drop fees, club/fraternity/sorority dues, student activity fees (unless all students at the facility are required to pay a student activity fee), class rings and pins (except for Nursing/Medical Arts training).
4. Equipment and supplies which are defined as specific items of particular importance to major course work and is required by the instructor for each individual.
 - These items are to be of a quality sufficient to meet the minimum standard of performance to complete the course. TAA funds are not for the purpose of purchasing the most expensive items on the market. This is a one-time purchase.
 - Replacement items are not approvable. The school or the student may rent cameras. Rental costs must be included in the estimate of costs. They may not be purchased for Photography courses.
 - Items that are optional are not covered.
 - If an individual fails to complete a course for any reason all equipment, tools, books, etc., are to be returned to the training facility.
5. Clothing, which is defined as items specifically required by the instructor for the safety and/or identification of the student and is required for each student.
 - Approvable items include uniforms for training in Nursing, Health Services or Food Services and such items as nurse's shoes, laboratory aprons or coats, steel-toed shoes, and goggles.
 - Non-approvable items include athletic clothing (unless specifically required as part of a required physical education class) or prescription safety glasses.
 - In all cases of clothing, TAA will only cover the minimum number of required items as an initial supply. Cost shall be reasonable. Replacement of clothing is not approvable.

6. Physicals, x-rays, etc., are generally required for Nursing and Medical Arts training and for student teaching. These are approvable costs.
7. Off-campus conferences, meetings, conventions, and/or seminars are not allowable costs.
8. Weapons or weapon components are not allowable costs.

***Auxiliary aids and services are available upon request to individuals with disabilities.
Equal Opportunity Employer/Program***