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~~December 1, 2011~~ April 24, 2013

To: WIA Contractors of the Orange County Workforce Investment Area

From: Andrew Munoz
Community Investment Division Administrator/
Orange County Workforce Investment Board Executive Director

Subject: **Labor Demand and WIA Training Policy**
~~Information Notice No. 11-OCWDA- 04~~ Information Notice No. 12-OCWDA-12
~~Supersedes Information Notice - OCWDA 07-08~~
Supersedes Information Notice - 11-OCWDA- 04

PURPOSE:
This information notice identifies the criterion for determining Demand Occupation and establishes the OCWIB WIA training investment policy.

REFERENCES:
- WIA, Section 134 et al.
- ~~WSD 11-4 WIA Statewide Waivers and Extension of State Plan For PY 2011-2012~~
- WSD 12-13 Temporary Extension of WIA Statewide Waivers and State Plan
- 20 CFR Part 663 et al.
- California Unemployment Insurance Code (14000-14500)
- SB 293 (Ducheny) Chapter 630, Statutes of 2006
- Workforce Investment Act of 1998 (WIA), Section 101 (8), (31)
- WIA Sections 181(a) (1) (A) and (B), (b) (2), (3), (4) and (5) and 188

EFFECTIVE DATE:
This notice is effective on the date of issuance.

BACKGROUND:
The Workforce Investment Act requires States to establish a list of training providers who are eligible to receive the WIA funds for training services [WIA Section 122 and 20 CFR 663.500]. Section 134 of the WIA requires that local boards establish a listing of training services and programs that are directly linked to the demand occupations for that area.

The Demand Occupation criterion for Orange County is based on the Industry and Occupation Employment Projections developed by the Employment Development Department Labor Market Information Division (EDD/LMID). The criterion is used for labor market analysis and to determine the occupations that the OCWIB will provide WIA funding for training.

POLICY:

1. The Demand Occupation criterion for Orange County is updated after the State's Industry and Occupation Employment Projection is updated. The Demand Occupation criterion for Orange County is then approved by the Workforce Investment Board (WIB).

   The general criterion for determining a Demand Occupation includes:

   a. The occupation should be identified in the Employment Development Department/Labor Market Information Division (EDD/LMID) Occupational Employment Projections for Orange County. The SOC codes used in these projections will be the occupational reference.
   b. The occupation should have an employment of at least 100 persons in the base year of the projections ~~(2008).~~ (2010).
   c. The occupation should have an entry-level wage of at least $10.00/hour. *Source: The (EDD/LMID) Occupational Employment Projections ~~2008-2018~~ 2010-2020 & Occupational Wage Data ~~(2010, 1st Quarter).~~ (2012, 1st Quarter) or subsequent updates*.
   d. The occupation should have an "Average Total Job Openings" of at least 20, including new jobs and replacement jobs according to EDD LMI data, ~~2008-18~~. 2010-20.
   e. The duration of the WIB approved training program shall not exceed 24 months, 4 semesters, or 6 quarters. *Exception: A participant requiring an approved break in service will be able to continue their approved training program upon re-entry to the program, with the total training time to not exceed 24 months, 4 semesters, or 6 quarters.*
   f. Allow Staff to determine if adding a training program that does not meet the minimum wage and/or growth rate is needed in order to meet the occupation growth demand of an industry cluster.

2. The OCWIB WIA training models are attached to provide information for identifying specific types of training services available to WIA program participants.

ACTION:

Distribute to all appropriate staff.

ATTACHMENTS:

Attachment A: OCWIB Training Models
Attachment B: Industry Cluster Demand Occupation List

OCWIB Training Models

Individual Training Accounts (ITAs)

1. **Definition:** An Individual Training Account (ITA) is an account set up on behalf of an adult, dislocated worker or Older Out-of-School Youth to pay for training services if the job seeker needs advanced skills training to acquire a job.
2. Occupation meets demand occupation criteria approved by the WIB.
3. Tuition Cap of $6,500 with Director's discretion to approve increase based on specific needs of client, and the training completion and employment placements performance of the training providers.
4. The maximum duration of training is not to exceed 24 months with Director's discretion to approve increase based on specific needs of client, and the training completion and employment placements performance of the training providers.
5. Per EDD waiver, ITAs are available only for Older Out-of-School Youth.

On-the-Job Training (OJTs)

1. **Definition:** 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[1] percent of the wage rate of the participant, for the extraordinary costs of providing the training and additional supervision related to the training;

   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; and

   d. Is sponsored by an employer or employer association.

2. **Requirements:** OJT contracts shall not be made with employers who have previously exhibited a pattern of failing to retain OJT participants who are hired post-training with wages, benefits and working conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work.
3. **Time Limit:** 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 up to a maximum of 500 hours, with Director's discretion to approve additional hours. In determining the appropriate length of a contract, consideration should be given to the skill

[1] Any State waivers allowing for higher rates of reimbursement may apply at the discretion of the Director.

requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's individual employment plan.

4. **Self Sufficiency:** Contractor is to ensure that any individual enrolled in OJT is on a path to achieve self-sufficiency through unsubsidized employment. Employers entering into OJT contracts should demonstrate in good faith that individuals enrolled in OJT will be strongly considered for retention in unsubsidized employment.
5. **Adults:** Minimum wage must be $10.00/hour, and the participant must be determined as long-term unemployed (27 weeks or greater) or have a documented poor work history. If the wage is less than $10.00/hour, training may be approved by Director if training is needed to meet the immediate occupation growth demand of an industry cluster or the occupation is a career pathway occupation
6. **Dislocated Workers:** Minimum wage must be $15.00/hour or commensurate with lower wage at time of dislocation from job. If using the lower wage, documentation of hourly wage is required. If the wage is less than $15.00/hour, training may be approved by Director if training is needed to meet the immediate occupation growth demand of an industry cluster or the occupation is a career pathway occupation
7. **Youth:** The entry level wage for the occupation must be at least $9.00/hour. If the wage is less than $9.00/hour, training may be approved by Director if training is needed to meet the immediate occupation growth demand of an industry cluster or the occupation is a career pathway occupation
8. **Employer Assurances:**
   a. Participating employers must agree to cooperate with monitoring efforts as required by WIA legislation and adhere to all other applicable local, state and federal rules and regulations.

   b. As a condition of an OJT contract, an employer must assure that the training to be provided will be in accordance with WIA 181(a)(1)(A) and Federal Register 667.272 for wage and labor standards. Worker protection requirements are set forth in WIA Sections 181(a) (1) (A) and (B), (b) (2), (3), (4) and (5) and 188:

      1) Participants shall be compensated at the same rates as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills (WIA § 181 (a) (1) (A) and (B), Federal Register 667.272).

      2) Participants shall not displace current employees nor impair existing contracts nor infringe upon promotional opportunities of current workers; the same health and safety, workers compensation, and working conditions that are provide to the current employees shall be provided to the participants. (§ 181 (b) (2), (3), (4), (5))

3) Prohibitions on discrimination because of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972), national origin, age, disability, or political affiliation or belief; prohibition on assistance for facilities for sectarian religious worship; prohibition on discrimination because of someone's status as a participant, and prohibitions on discrimination against certain non-citizens (§ 181).

Work Experience (WEX)

1. WEX is a planned, structured learning experience that takes place in a workplace for a limited period of time and is designed to provide exposure to the working world and its requirements.
2. The WEX worksite may include public, private profit or not-for-profit organizations.
3. The duration of the WEX shall not exceed 320 hours (450 hours for WIA Youth Program).
4. The wage should not exceed $8 per hour.

Cohort Training

1. Cohort Training (group size classroom training) programs are structured educational programs offered to groups of students by accredited institutions and other legally authorized organizations that provide skills instruction through didactic instruction in classroom, lab or similar environments.
2. Cohort training must be provided by a procured training provider.
3. The training must meet the demand occupation criteria.

Customized Training

1. **Customized Training Definition:** Training that is designed to meet the special requirements of an employer, or a group of employers:

   a. That is conducted with a commitment by the employer to hire or to continue to employ an individual on successful completion of the training;
   b. For which the employer pays for not less than 50 percent of the cost of the training; and,
   c. Is sponsored by an employer or employer association.

2. Eligible Participants:

   a. Adults
   b. Dislocated Workers
   c. Incumbent Workers: A worker who is currently on the payroll of the applicant employer; 18 years old and above; legally authorized to work in the United States; and has complied with Selective Service provisions.

3. **Eligible Employers:** Customized Training contracts with employers may be developed to provide workers when the Customized Training relates to the introduction of new technologies, introduction to new production or services procedures, upgrading to new jobs that require additional skills, workplace literacy, or to avert a layoff due to obsolescence of

skills. Employers applying for Customized Training contracts must be located in Orange County, excluding Santa Ana and Anaheim; employees participating in the training need not be Orange County residents.

4. **Requirements:** Customized Training contracts shall not be made with employers who have previously exhibited a pattern of failing to provide participants with continued long-term employment with wages, benefits and working conditions that are equal to those provided to regular employees who have worked a similar length of time and are doing the same type of work.

5. **Time Limit:** A Customized Training contract must be limited to the period of time required for employees to acquire proficient with new technologies, new production or services procedures, or with new jobs that require additional skills, workplace literacy, up to a maximum of 500 hours, with Director's discretion to approve additional hours.

6. **Self Sufficiency:** Contractor is to ensure that any individual enrolled in Customized Training is on a path to achieve self-sufficiency through unsubsidized employment. Employers entering into Customized Training contracts should demonstrate in good faith that individuals enrolled in Customized Training will be strongly considered for retention in unsubsidized employment.

7. Employer Assurances:

a. Participating employers must agree to cooperate with monitoring efforts as required by WIA legislation and adhere to all other applicable local, state and federal rules and regulations.

b. As a condition of a Customized Training contract, an employer must assure that the training to be provided will be in accordance with WIA 181(a)(1)(A) and Federal Register 667.272 for wage and labor standards. Worker protection requirements are set forth in WIA Sections 181(a) (1) (A) and (B), (b) (2), (3), (4) and (5) and 188:

1) Participants shall be compensated at the same rates as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills (WIA § 181 (a) (1) (A) and (B), Federal Register 667.272).

2) Participants shall not displace current employees nor impair existing contracts nor infringe upon promotional opportunities of current workers; the same health and safety, workers compensation, and working conditions that are provide to the current employees shall be provided to the participants. (§ 181 (b) (2), (3), (4), (5))

3) Prohibitions on discrimination because of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972),

national origin, age, disability, or political affiliation or belief; prohibition on assistance for facilities for sectarian religious worship; prohibition on discrimination because of someone's status as a participant, and prohibitions on discrimination against certain non-citizens (§ 181).