

WORKFORCE INVESTMENT FIELD INSTRUCTION (WIFI) No. 05-10 – Change 1

DATE: July 5, 2011

TO: Local WIA Grant Recipients

SUBJECT: On-the-Job Training National Emergency Grants (OJT NEGs) Funded with American Recovery and Reinvestment Act 2009 Resources

REFERENCES:

- Training and Employment Notice (TEN) 38-09 (August 6, 2010)
American Recovery and Reinvestment Act of 2009 On-the-Job Training National Emergency Grants”
- The American Recovery and Reinvestment Act of 2009 (P.L. 111-5)
- Workforce Investment Act (WIA), sections 173 and 189(i) (29 U.S.C. 2918)
- WIA regulations at 20 CFR Part 661, 663 and 671
- Workforce Investment Act: “National Emergency Grants – Application Procedures.”
Federal Register Notice, Vol. 69, No. 81 (April 27, 2004)
- TEGL No. 14-03 (November 13, 2003)
Performance Reporting Submission Procedures for the Workforce Investment Act Standardized Record Data (WIASRD) and the Annual Report under Title IB of the Workforce Investment Act (WIA)
- TEGL No. 16-03, Changes 1-5
(January 26, 2004; Changes Issued on August 18, 2004; May 4, 2005; October 14, 2005; July 13, 2006; April 27, 2007)
National Emergency Grant Policy Guidance
- TEGL No. 17-05 (February 17, 2006)
Common Measures Policy for the Employment and Training Administration’s (ETA) Performance Accountability System and Related Performance Issues
- TEGL No. 13-08 (March 6, 2009)
Allotments for training and employment services as specified in the American Recovery and Reinvestment Act of 2009 (Recovery Act) for activities under the Workforce Investment Act of 1998 (WIA). Workforce Investment Act Adult, Dislocated Worker and Youth Activities Program Allotments; Wagner-Peyser Act Allotments, and Reemployment Service (RES) Allotments
- TEGL No. 14-08 (March 18, 2009)
Guidance for Implementation of the Workforce Investment Act and Wagner-Peyser Act Funding in the American Recovery and Reinvestment Act of 2009 and State Planning Requirements for Program Year 2009
- TEGL No. 19-08 (April 30, 2009)
National Emergency Grants Funded with American Recovery and Reinvestment Act of 2009 Resources

- TEGL 24-08 (May 21, 2009)

Workforce Investment Act and Wagner-Peyser Act Performance Accountability Reporting for the American Recovery and Reinvestment Act of 2009

- TEGL 1-09, Changes 1 and 2 (August 14, 2009; Changes Issued on September 21, 2009; September 30, 2009)

Reporting Requirements under Section 1512 of the “American Recovery and Reinvestment Act of 2009

BACKGROUND INFORMATION:

In response to the widespread scope of recession related layoffs across the country and their significant impact on the workforce system’s ability to assist laid-off workers, the Secretary of Labor (the Secretary) has recognized the impact of the recession on the national workforce as a significant dislocation event for the purpose of one-time ARRA-funded NEG assistance (hereafter referred to as On-the-Job Training National Emergency Grants, or OJT NEGs), as announced by the Assistant Secretary in TEN 38-09.

National Emergency Grants (NEGs) are discretionary grants awarded by the Secretary under section 173 of the WIA, as amended, to provide employment-related services for dislocated workers. NEGs are intended to temporarily expand service capacity at the state and local levels by providing time-limited funding assistance in response to significant dislocation events. Significant events include plant closures and mass layoffs as well as other events recognized by the Secretary under 20 CFR 671.110(f). Significant events are those that create a sudden need for assistance that cannot be accommodated within the ongoing operations of the WIA Dislocated Worker (DW) formula program, including statewide activities and Rapid Response funds reserved at the state level.

Maryland’s Department of Labor, Licensing and Regulation’s (DLLR) Division of Workforce Development and Adult Learning (DWDAL) was awarded a \$1,971,169 grant to address current economic conditions. OJT for this project is provided under a contract with an employer in the private for profit and non-profit sectors. OJT opportunities may not be created in the public sector using these funds. Under the OJT NEGs, occupational training is provided by the employer for the WIA participant in exchange for reimbursement from 50 percent up to 90 percent of the wage rate depending on the employer size or participants skills gaps.

The OJT NEG project is designed to serve dislocated workers with prolonged unemployment in the State’s interpretation of the grant. “Prolonged unemployed” is defined as *“those dislocated workers who have been unemployed beyond the state’s average Unemployment Insurance (UI) duration. The number of weeks is the important indicator not the UI status. Therefore, an individual not covered by UI may still be considered prolonged unemployed if the period of unemployment exceeded the state’s average UI duration of 19 consecutive weeks.”*

It will be critical and necessary to identify workers from those industry sectors that experienced high rates of job loss during the recession.

To facilitate the operation of this project, local WIA participants will be funded to allocate staff and resources for the purpose of

- Outreach,

- Identifying eligible WIA participants,
- Development of OJT Contracts with employers and,
- Training Plan development with follow-up through permanent employment and/or termination.

**IMPLEMENTATION
GUIDELINES:**

OJT NEG grant recipients must adhere to WIA laws and regulation governing OJT with these notable exceptions:

- A. Grant funds must be used to reimburse employers for the extraordinary cost of training OJT participants. The reimbursement amount will be a negotiated percentage of the wage being paid to the participant. The wage level on which the reimbursement is based cannot exceed the State's average hourly wage. (Maryland's average hourly wage is \$23.80)
- B. For OJT NEGs, the negotiated reimbursement percentage may be as high as 90 percent of the participant's hourly wage (subject to the wage cap of \$23.80), based on either of the following conditions:
 1. Employer Size
 - Up to 90 percent of the participant's wage rate for employers with 50 or fewer employees; and
 - Up to 75 percent of the participant's wage rate for employers with 51-250 employees.
 - Employers with more than 250 employees are limited to the standard WIA cap of 50 percent
 2. Participant Skills Gap
 - Where there is an extraordinary large gap between the skills of the individual and the skills needed for the job, a sliding scale up to 90 percent may be used to reflect the degree of the individual participant's skills gap.
- C. For the purposes of these OJT NEGs, the training reimbursement is restricted by a wage cap. The Employment and Training Administration (ETA) has established a wage cap policy that the training reimbursement level is **not to exceed a percentage (up to 50 percent through 90 percent as described in the previous section) of the state's average hourly wage rate.**
- D. OJT Duration Limit
 - Since resources are limited, ETA has determined that the period of reimbursement will be limited to six months to maximize opportunity.
 - Individuals may not be co-enrolled in other ETA programs for the purpose of extending OJT beyond six months.
 - Six months exceeds the average length of time for current WIA OJT activities, so employers who require less time to train OJT participants should be encouraged to transition participants to permanent employment as soon as possible.
- E. OJT Contracts funded under OJT NEGs must comply with the following requirements:
 1. OJT positions cannot be developed with public sector employers or with employers that meet the following criteria:
 - a. Which are casinos or other gambling establishments, swimming pools, aquariums, zoos, and golf courses
 - b. That will or may displace workers

- c. Have relocated all or part of their business within the previous 120 days where the relocation action has resulted in the loss of employment of any employee at the original location.
2. Contracts must include the criteria for employer reimbursement.
3. Contracts must ensure the employer's responsibility for documenting skills gained by dislocated workers during the training period.
4. Contracts must end no later than June 30, 2012. No OJT activities occurring after the grant end date will be eligible for reimbursement.

**PERFORMANCE AND
FISCAL REPORTING
GUIDELINES:**

Local Workforce Investment Areas must report to DWDAL according to Section 1512 of the Recovery Act which requires recipients to report on the use of Recovery Act funding, and provide detailed information, such as: total amount of funds received; the amount spent on projects and activities; a list of those projects and activities funded, including name, description, completion status and estimates of jobs created and retained; and details on sub-awards and other payments. The 1512 reports must be submitted to DWDAL according to the quarterly ARRA reporting schedule.

In addition, monthly ARRA Financial Status Reports must be submitted to the DWDAL.

ELIGIBLE PARTICIPANTS:

- Participation in projects funded with these OJT NEG's will be limited to eligible dislocated workers as defined in WIA Section 101(9).
- Participants must have been laid off since January 1, 2008.

Additionally, *after* meeting the first two criteria above, eligible participants must meet the following criteria:

- Experiencing prolonged unemployment beyond the average of 19 consecutive weeks and those with the greatest barriers to reemployment.

Note: The number of weeks is the important indicator not the UI status. Therefore, an individual not covered by UI may still be considered prolonged unemployed if the period of unemployment exceeded the state's average UI duration of 19 consecutive weeks.

**Maryland Workforce Exchange
(MWE) Procedures for
Tracking the National Emergency Grant OJT:**

To satisfy statutory and regulatory recordkeeping and reporting requirements, DWDAL must report characteristics, services received, and outcomes of participants served with WIA funds, including these OJT NEG's. Such information is critical to determine the success of these investments.

To track performance and participation of the NEG OJT, customer must be enrolled in the MWE system. The customer must be made a participant, by enrolling them in the

NEG program. As part of the enrollment process it is mandatory to enter the NEG/ OJT project ID. Additionally, all NEG/ OJT participants should be co-enrolled in the WIA Dislocated Worker Program. An OJT service must be entered into MWE, either 076- On-the-Job Training or 143- On-the-Job Training, Standard. The OJT service cannot exceed six months; the end date of the OJT service must be equal to or less than six months from the start date of the OJT service. The period of program participation can exceed six months if program participants receive additional services other than OJT. All co-enrolled participants will count in the WIA Dislocated Worker performance measures after program exit

ALLOCATIONS AND STAFFING:

Please see Attachment A with the local funding and staffing allocations. The local allocations are available from January 1, 2011 through June 30, 2012.

ACTION TO BE TAKEN:

Local Workforce Investment Areas must submit two original signature sheets and a Grant Narrative that includes a description of outcomes. The signature sheets and Grant Narratives are due to DWDAL by December 15, 2010. Please mail to the attention of Doreen Shahan, DWDAL Office of Administration, 1100 North Eutaw, Room 209, Baltimore, MD 21201.

CONTACT PERSON:

Rodrigue Vital
Director Discretionary Grants
E-mail: rvital@dllr.state.md.us

EFFECTIVE:

January 1, 2011

REVISED DATE:

July 5, 2011



Paulette Francois
Assistant Secretary
Division of Workforce Development and Adult Learning

Attachment

Attachment A
Local Funding and Staffing Allocations

Local Area	FY 2011 Program Budget	FY 2011 Admin Budget	FY 2011 Total Budget	Total # of OJTs	#of OJT's @ 50%	#of OJTs @ 75%	#of OJTs @ 90%	#of FTEs
Anne Arundel	\$90,000	\$9,000	\$99,000	15	4	6	5	0.5
Baltimore City	\$210,000	\$21,000	\$231,000	35	7	20	8	0.5
Baltimore Co.	\$210,000	\$21,000	\$231,000	35	35	0	0	0.5
Frederick	\$120,000	\$12,000	\$132,000	20	0	5	15	0.5
Lower Shore	\$30,000	\$3,000	\$33,000	5	1	1	3	0
Montgomery	\$174,000	\$17,400	\$191,400	29	7	7	15	0.5
Susquehanna	\$180,000	\$18,000	\$198,000	30	5	10	15	0.5
Southern MD	\$120,000	\$12,000	\$132,000	20	5	10	5	0.5
Prince George's	\$180,000	\$18,000	\$198,000	30	5	10	15	0.5