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Bureau of Workforce Transformation (BWT)
Policy Issuance (PI): 10-21

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To: Michigan Works! Agency (MWA) Directors

From: Liza Estlund Olson, Director, Bureau of Workforce Transformation (BWT)
(SIGNED)

Subject: Merit Staffing Requirements for the Trade and Globalization Adjustment Assistance Act (TGAAA) of 2009 and Trade Adjustment Assistance Act (TAA) of 2002

Programs Affected: The TGAAA of 2009, commonly referred to as the TGAAA;
The TAA of 2002, commonly referred to as the TAA

Rescissions: None

References: Trade Act of 1974, Public Law (PL) 93-618, as amended
Trade Act of 2002, PL 107-210
The TGAAA of 2009
(Division B, Title I, Subtitle I of the American Recovery and Reinvestment Act of 2009, (PL) No. 111-520 CFR Part 617)
United States Department of Labor, Training and Employment Guidance Letters No. 1-10
BWT PI 10-02, issued June 21, 2010, and subsequent changes

DELEG is an equal opportunity employer/program.
Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.

Background:

Enabling workers to acquire the skills necessary to succeed in today's 21st Century knowledge-based economy is central to Michigan's strategy for economic transformation and is the foundation for the Governor's No Worker Left Behind (NWLB) initiative. The NWLB initiative aligns all federal workforce dollars used for worker training into a unified workforce development strategy.

The TGAAA of 2009 substantially expanded the TAA program. Final Rule (63 FR16988, April 2, 2010) included part 618 to 20 CFR requiring merit staffing of the TGAAA and TAA programs.

State's whose Employment Services (ES) have a partial exemption from state delivered merit staffing requirements under the Wagner-Peyser Act will retain an exemption from the TGAAA/TAA state delivered merit staffing requirement. This ES exemption applies to the administration of TGAAA/TAA funded services using the staff of an agency that provides ES services.

Requiring merit staffing principles is intended to promote consistency, efficiency, accountability, and transparency in the administration of the TGAAA/TAA program.

Policy:

Effective December 15, 2010, all TGAAA/TAA funded positions will be subject to merit staff provisions as codified under new regulation at 20 CFR 618.890(b).

Under the merit staffing requirement, all TGAAA/TAA eligibility determinations for job search allowances, relocation allowances, training approval/denial, waivers from training requirement, Alternative Trade Adjustment Assistance, and/or Re-Employment Trade Adjustment Assistance must ONLY be issued by merit staff.

Office of Personnel Management (OPM) specifies merit staffing standards for certain Federal grant programs including TGAAA/TAA and ES. OPM's merit system standards at 5 CFR 900.603 are as follows:

- (a) Recruiting, selecting and advancing employees on the basis of their relative ability, knowledge, and skills including open consideration of qualified applicants for initial appointment.
- (b) Providing equitable and adequate compensation.
- (c) Training employees, as needed to assure high quality performance.
- (d) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance and separating employees whose inadequate performance cannot be corrected.

- (e) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age, or handicap and with proper regard for their privacy and constitutional rights as a citizen. This “fair treatment” principal includes compliance with the Federal equal employment opportunity and nondiscrimination laws.
- (f) Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or nomination for office.

Under Michigan’s partial exemption to the merit staffing requirement, TGAAA/TAA services may be provided by the staff of an MWA or contractor who has met one of the following ES staffing requirements: *a unit of the State of Michigan, a local unit of government, special purpose unit of government, school district, intermediate school district, public community college, or public university.*

Staff who do not provide ES services but otherwise meet the merit staffing requirements outlined above, may continue to provide TGAAA/TAA services including all program functions including determinations.

The merit staff requirement applies to staff providing all TGAAA/TAA funded administration, employment and case management services beginning on December 15, 2010, regardless of when the funds used were appropriated.

Non-merit TAA staff may provide services to TGAAA/TAA participants; however, all TGAAA/TAA eligibility determinations must be made by a merit staffed position prior to non-merit staff rendering services. Non-merit staff may provide any of the eight case management services; so long as a funding source other than TGAAA/TAA is used to support that position.

Action: All MWAs and affected TGAAA/TAA service providers must be in compliance with the merit staff requirement as defined in this policy by December 15, 2010.

Inquiries: Questions regarding this policy issuance should be directed to your TAA State Coordinator.

This policy issuance is available from the Internet system at http://web.michworks.org/OWD/index_owd.htm. The information contained in this policy issuance will be made available in alternative format (large type, audio tape, etc.) upon special request to this office.

**Expiration
Date:**

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