

Workforce Solutions

Issuance 10-13: New Procedures for Trade Affected Customers

Attachment 2: Eligibility, Application Deadlines & Timelines

Overview

In this document we provide details of the following:

- Customer Eligibility Information
- Customer Notification of Trade Act Benefits
- Financial Aid for Training and Other Needs
 - TAA Reemployment and Training Plan
 - Definition of “Local Commuting Area”
 - Reasonable Cost of Training Standard
 - Recommending Denial of Training
 - Financial Aid for Transportation and Work-Related Needs
- Trade Readjustment Allowance - Cash Benefits
 - Waiving the Training Requirement
 - Bona-fide Request for Training (Explanation of Services form)
- Job Search Allowance
- Relocation Allowance
- Health Coverage Tax Credit
- Service for Workers Age 51 and older
- Requesting an Investigation of Eligibility
- Appealing a Decision of Benefit Denial

Customer Eligibility Information

When a TAA petition is approved, the petition defines the group of workers who are certified eligible to receive Trade Act benefits.

Trade Act of 2002 applies to workers certified eligible under petitions numbering 50,000 to 70,000. Workers who may be certified eligible are:

- Workers whose firm (company) has shifted production to foreign countries

Trade Act of 2002 applies to workers certified eligible under petitions numbering 50,000 to 70,000. Workers who may be certified eligible are:

- Workers in firms that supply services.
- Workers whose firm has shifted production to any foreign country.
- Workers in public agencies.
- Workers whose firm produces component parts of a finished article produced by its customer(s).
- Workers in firms that supply testing, packaging, maintenance and transportation services to companies with TAA-certified workers.

- Workers whose firm is identified in an International Trade Commission “injury” determination listed in the Act.

TWC receives a list of affected workers from the firm or agency. TWC determines whether or not each worker is eligible for Trade Act benefits as defined in the petition – and enters the information in TWIST.

TWC determines eligibility for Trade Act benefits for each customer and enters the eligibility information in TWIST in the TAA Program Detail, Eligibility Criteria tab. To be eligible for Trade Act benefits, the customer record must show a “Yes” answer for each of the 5 eligibility criteria listed.

Customer Notification of Trade Act Benefits

TWC notifies each trade-affected worker of her potential eligibility for Trade Adjustment Assistance by mailing her a form letter (Form BS-121E Notice of Potential Trade Adjustment Assistance Eligibility). The letter states the customer *may be eligible* for Trade Adjustment Assistance. The notice instructs the customer to go to the nearest Workforce Solutions office to apply for financial assistance.

In addition, the Gulf Coast Workforce Board will conduct special marketing designed to inform business and workers about the benefits of the Trade Act.

Financial Aid for Training and Other Needs

The goal of TAA is to ensure Trade-certified customers become reemployed as soon as possible. However, if opportunities are not available, these customers may require retraining. In fact, the law was written to assume most workers would require training in a new occupation.

Staff must make sure the training meets the following six approval criteria:

1. No suitable employment available.
2. Participant would benefit from training.
3. Reasonable expectation of employment following training.
4. Training reasonably available from a private or public school regulated by a state agency. To determine if the school is regulated by a state agency, look for the school listed at one of these websites:
 - Texas Higher Education Coordinating Board – Data:
<http://www.txhighereddata.org/Interactive/Institutions.cfm>
 - Texas Higher Education Coordinating Board:
<http://www.thecb.state.tx.us/index.cfm?objectId=64BDCE51-D636-526E-DA30D84E3D623495>
 - Texas Workforce Commission - Proprietary Schools Department:
<https://services.twc.state.tx.us/PECOSRPT/propschool>
5. Participant is qualified to undertake and complete the training.

6. Training is available at both a reasonable cost and at the lowest cost available for the occupation.

Follow the usual procedures for applying for Workforce Solutions Financial Aid with the following exceptions:

- The customer must not pay a co-payment or pay out-of-pocket for any required tuition, books, fees and supplies. We must pay for financial aid for other needs such as transportation, childcare, work-related costs from other non-TAA funds such as WIA-Dislocated Worker funds.
 - *One exception – TAA may pay travel and subsistence expenses when the training location is outside the local commuting area*
- If the training is part time, tell the Trade-certified worker she/he cannot receive TRA.
- Complete the Reemployment and Training Plan form when planning training for the customer. Also, complete an assessment and TWIST employment/service plan.
- The training occupation does not have to be on our list of occupations eligible for scholarship
- The vendor does not have to be on our approved list
- All TAA funded training must be completed within 156 weeks

TAA Reemployment and Training Plan. Staff must complete a TWIST Employment/Service Plan and the Workforce Solutions Trade Adjustment Assistance Reemployment and Training Plan when planning training for the customer. Gather information about the training program and the distance the customer will travel from his residence to the training site. Use the following information to develop the plan:

- Definition of local commuting area. TWC defines the “local commuting area” as 50 miles. Calculate the shortest one-way distance from residence to training site. If the distance exceeds 50 miles one-way, staff must include travel and/or subsistence costs in the reemployment plan. Cost is based on the entire travel distance, not just the distance over 50 miles.
- Reasonable cost of training standard. TWC established a reasonable cost of training standard at \$17,000. The standard includes all training required to make the customer job ready in a specific occupation plus any required travel and subsistence.

The reasonable cost standard is not a cost cap. Training must meet the “lowest-cost” training approval criteria. If the estimated cost of the lowest-cost training exceeds the reasonable cost standard, Workforce Solutions staff must submit a justification for the higher cost for approval to Ginger Rogers ginger.rogers@wrksolutions.com for submittal and approval by the TWC TAA Department.

Make a note in TWIST to document the approval of your justification. Do not submit financial aid requests to the Workforce Solutions Financial Aid Payment Office until you receive approval of your justification.

Recommending denial of training. If the customer insists on applying for training that staff determines does not meet the approval criteria, and staff is unable to refocus the customer on approvable training, staff may recommend that training be denied. Submit an email request to deny training to Ginger Rogers at ginger.rogers@wrksolutions.com. Include documentation to support your recommendation for denial of training.

An eligible customer has no deadline for requesting training. The deadline dates shown in TWIST are related to TRA. The customer must be enrolled in training by the Waiver/In Training Deadline Date in order to receive TRA cash benefits. If the customer misses the deadline and enrolls in training at a later date, the training can still be funded with TAA funds, but the customer won't receive the TRA cash benefits.

Limits of Training:

- Petitions Numbering 50,000-70,000:
 - Training may only be approved on a full-time basis
 - Certified workers may not begin approved training until they have been totally or partially separated from adversely affected employment

- Petitions Numbering 70,000 and above:
 - Training may be approved on a full-time or part-time basis, although full-time training is required for TRA.
 - Certified workers may begin approved training when threatened with separation from adversely affected employment prior to the actual lay-off.
 - If the training is provided outside the affected worker's normal commuting area, the costs for transportation and subsistence (lodging and meals) can also be paid.

Full time training is defined as:

- 12 hours per semester for a credit-hour program or full time as defined by the training provider
- 30 hours for stand-alone English as a Second Language (ESL), Adult Basic Education (ABE), or General Education Development (GED) programs.

Financial Aid for Transportation and Work-Related needs. TWC requires Workforce Solutions staff to track service for - or co-enroll - customers with both the TAA and the WIA-DW fund codes. If the customer needs financial aid for transportation and work-related needs, WIA-DW funds can be used to pay these costs.

Trade Readjustment Allowance – Cash Benefits

Trade Readjustment Allowance (TRA) is intended to provide support to customers in training. Customers apply for TRA by calling the TWC UI Tele-Center. Tel-Center staff will interview the customer and mail her a paper application (form BS-100) to continue her claim. The TWC

UI Department will view a customer's TWIST record before making payments to make sure the customer is enrolled in training or has a waiver of the training requirement.

It is important to help the customer enter training at the soonest possible time – usually the beginning of the next term or beginning of the next training cycle.

General timeframes for type of cash benefit to trade-affected workers are:

- Unemployment Insurance – 26 weeks
- Basic TRA – 26 weeks.
- Additional TRA (TRX) – 78 weeks.
- Additional Remedial/Prerequisite TRA – 26 weeks.

Basic TRA Cash Benefits. An eligible Trade-certified customer may receive weekly TRA following exhaustion of her UI benefits. TRA benefits are generally paid only if the customer is enrolled in TAA-approved training or has a waiver of the training requirement. To receive Basic TRA, a customer must:

- Have exhausted her Unemployment Insurance benefits;
- Applied for TRA within two years of the date of separation;
- Be enrolled in approved training by the deadline date **OR**
- Have a Waiver of Training entered in TWIST by the deadline date. The waiver period can be no longer than 6 months and can be renewed once for a total of 12 months coverage.
- Have successfully completed training and be looking for work. The TWIST service record must have the training completion date, completion reason and academic credit/credential entered in the occupational training service – and job search services opened. The customer who successfully completes training can continue to receive Basic TRA payments during her job search until her weeks of Basic TRA end.

Limits of TRA:

To receive TRA, a customer eligible under TAA petitions numbering 50,000-70,000:

- Must be enrolled in training within 8 weeks after certification or 16 weeks after layoff, whichever is later. The deadline date is listed in the Eligibility Criteria tab.
- May receive up to 104 weeks of cash payments if enrolled in full-time training.
- May receive up to 130 weeks of cash payments if also enrolled in remedial training.

For Customers eligible under TAA petitions numbering 70,000 and above:

- Must be enrolled in training within 26 weeks after certification or layoff, whichever is later. The deadline date is listed in the Eligibility Criteria tab.
- Up to 130 weeks of cash payments for workers enrolled in full-time training
- Up to 156 weeks of cash payments if the worker was also enrolled in remedial training

Extended TRA Cash Benefits (TRX). Extended TRA benefits are available to customers who are actually attending training.

- Customer must have exhausted her Unemployment Insurance benefits and her Basic TRA benefits (A customer may exhaust her Basic TRA benefits in two ways: by either drawing all her Basic TRA money or when 104 weeks has passed.)
- Be attending approved training. (Not paid during school holidays.)

Waiving the Training Requirement. The waiver of the training requirement pertains to TRA eligibility. To be eligible for TRA, a Trade-certified customer must be in training or have a waiver of the training requirement by the Waiver/In Training Deadline Date shown on the Eligibility Criteria tab in the customer's TWIST record.

TRA is paid to qualified trade affected customers who are approved for training. However, a waiver of this training requirement can be issued to the trade-affected customer for a qualifying reason. Valid reasons are listed below and on the Waiver of Training form and described in detail in the Forms Chart - Attachment 5 of this Issuance.

1. Worker subject to recall within six months
2. Worker possesses marketable skills.
3. Worker is in poor health.
4. Worker is within 2 years of retirement.
5. First available enrollment date is within 60 days
6. Training is not available, or is not available at a reasonable cost, or no funds are available under TAA or federal law.

To be valid, the Waiver of Training must include the effective dates and determination and be entered in TWIST.

Give a printout of the waiver form WOT -1/S to the customer and file a copy in an alpha file at the career office.

Petitions Numbering 50,000 – 70,000:

- Deadline – eight weeks from petition certification or 16 weeks from last qualifying separation, whichever is later. (Waiver/In Training Deadline Date is on the Eligibility Criteria tab)
- A waiver means TAA training is not feasible at this time.
- Waiver period can be no longer than six months.
- Marketable skills waiver requires initial assessment.
- 30-day contact required.
- No limit to number of waivers.

Petitions Numbering 70,000 and above:

- Deadline – 26 weeks from petition certification or last qualifying separation, whichever is later. (Waiver/In Training Deadline Date is on the Eligibility Criteria tab)
- A waiver means TAA training is not feasible at this time.

- Waiver period can be no longer than six months.
- Marketable skills waiver requires initial assessment.
- 30-day contact required after 90 days, unless waiver for retirement.
- No limit to number of waivers.

Bona-fide Request for Training - (Explanation of Services, Form 206-TAA-E). The law requires a customer to make a “bona-fide request for training” before she requests the additional TRA (also known as “TRX”). The Explanation of Services, Form 206-TAA-E serves this purpose and must be completed signed and dated within 210 days of a trade-certified layoff or within 210 days of the DOL certification date, whichever is later. Workforce Solutions staff provides the Explanation of Services form to customers during the first visit. Enter the date of the form in TWIST as the “Interest in Training” date in the program summary of the TAA program detail. The UI/TRA Department of TWC reviews the program detail before approving TRX.

Job Search Allowance

Job search allowance helps the Trade-certified customer (who also has an active work application in WorkinTexas.com) with job search expenses. We can reimburse customers for transportation expenses to job interviews outside the normal commuting area. You may approve job search allowances if the customer:

- wants to relocate and has a bona fide job interview;
- applies within 365 days of the petition certification or most recent separation; or
- applies within 182 days after the last day of TAA-approved training.

Job search allowances reimburse a percentage up to a maximum amount of the allowable cost for job searches outside the normal commuting area if the individual meets the following criteria:

- Suitable employment is not available within the normal commuting area;
- There is a reasonable expectation the customer will obtain suitable full-time employment of long-term duration in the area where the job search is conducted (part-time employment is not allowed);
- The customer makes a written request and sends it to the TWC Dislocated Worker Unit through Workforce Solutions staff before beginning each job search trip.
- The customer arranges at least one job interview verified by TWC before leaving for a job search trip.

Customers may request job search allowances by completing the Request for Job Search Allowance Form ETA-861 and the Certificate of Suitable Employment Form TAA-12. The customer must submit her request using these forms and receive approval prior to traveling to the job interview.

Limits of Job Search Allowances:

- Petitions Numbering 50,000-70,000: pays 90% of allowable costs up to a maximum of \$1,250.

- Petitions Numbering 70,000 and above: pays 100% of allowable costs up to a maximum of \$1,500.

Relocation Allowance

The Trade-certified customer may use job relocation allowances to help relocate within the United States when local work is not available and the customer receives a *bona fide* job offer.

The customer can receive a percentage of the allowable transportation and moving costs for the customer, the customer's family, and the customer's household goods. The customer can also receive a lump sum payment in addition to the percentage.

Consider these criteria for Relocation Allowances eligibility:

- The customer is Trade-certified.
- The customer has an active ES work application on file.
- Suitable work isn't available within the normal commuting area.

The customer must obtain either:

- suitable employment with a reasonable expectation of long-term duration (at least 150 days or five months); **or**
- a *bona fide* offer of such employment in the area of intended relocation that is verified by TWC.

The Trade-certified customer must submit the formal written request before the beginning of the relocation and:

- before day 425 after petition certification or the date of the most recent total separation; **or**
- before day 182 after completing TAA-approved training.

Time limits for beginning and completing a relocation move expire 182 days after the date of application for relocation allowance or 182 days after the completion of training, whichever is later.

- If the customer uses a commercial mover, the maximum allowable weight for household goods is 18,000 pounds. "Self moves" are also allowable.
- The maximum insurance charge allowed is \$50.
- Temporary living expenses are not reimbursable.
- Expenses are paid only for the Trade-certified customer and immediate family members residing with the customer.
- Amounts payable by TAA shall be reduced by any amount to which the Trade-certified customer is entitled or is reimbursed from any other source.
- With prior written approval from TWC, relocation allowances may be made available and approved to include:
 - ✓ storage of furniture for a maximum of 60 days; and
 - ✓ extension of the relocation move expiration date.

Customer must complete Request for Relocation Allowances Form ETA-860, and Certification of Suitable Employment Form TAA-12, and receive approval before the move.

Limits of Job Search Allowances:

- Petitions Numbering 50,000-70,000: pays 90% of moving costs plus a lump sum of \$1,250.
- Petitions Numbering 70,000 and above: pays 100% of moving costs plus a lump sum of up to \$1,500.

Health Coverage Tax Credit (HCTC)

HCTC is a federal tax credit that pays a percentage of the health plan premium for eligible people enrolled in qualified health plans. Customers may receive this tax credit by either claiming it in advance to help pay for health plan premiums as they become due, or claiming it when she file her income tax returns. The following customers are eligible for HCTC:

- Individuals who receive TRA are eligible;
- Individuals who would be eligible to receive TRA, but have not yet exhausted their UI benefits;
- Individuals receiving benefits under Alternative Trade Adjustment Assistance (ATAA).

Customers have a limited window for COBRA and other health insurance. If customers want to use the HCTC to help pay for an individual policy, she must have obtained it 30 days prior to separation from the job that made them eligible for TRA benefits or ATAA benefits. If a customer has had 63 days or more without coverage, a state qualified plan does not have to take them and if it does, the plan can impose pre-existing condition exclusions.

Limits on Health Coverage Tax Credit:

- Prior to May 2009, a tax credit covering up to 65% of an eligible participant's monthly qualifying health insurance premium.
- Beginning May 2009, the tax credit was raised for all participants to cover 80% of an eligible participant's monthly qualifying health insurance premium.

Service for Workers over Age 50

- Alternative Trade Adjustment Assistance (ATAA), and
- Reemployment Trade Adjustment Assistance (RTAA)

The Trade Act provides eligible individuals over the age of 50 who obtain new employment within 26 weeks of her separation with a wage subsidy to help bridge the salary gap between her old and new employment. The service helps customers when the retraining offered under regular TAA services might not be appropriate. For any of the customers in the petitioning customer group to be eligible for ATAA, a request for ATAA consideration must be checked when the

TAA petition is filed. If the customer group is eligible to apply for TAA and ATAA, individuals will have the option of applying for benefits under TAA or ATAA.

Individuals who continue to meet the eligibility criteria are paid ATAA benefits until a total of \$10,000 in benefits has been received, or a period of two years has elapsed since their first qualifying reemployment, whichever occurs first.

Individual customers within the certified customer group who meet individual ATAA eligibility criteria have the option of choosing ATAA or TAA benefits and services. If she chooses ATAA, she cannot receive financial aid for training funded with TAA monies or TRA cash benefit.

DOL will determine if a customer group meets eligibility criteria for ATAA when investigating the petition application. To be eligible for the ATAA wage subsidy benefit, the customer group must meet the following criteria:

- A significant number of adversely affected customers in the petitioning customers' firm are 50 years of age or older;
- The adversely affected customers in the petitioning customers' firm possess job skills that are not easily transferable to other employment; and
- The competitive conditions within the adversely affected customers industry are adverse.

Limits on Alternative Trade Adjustment Assistance:

- Petitions Numbering 50,000-70,000:
 - Requires a separate certification of group eligibility, submitted on the petition application.
 - Workers may not participate in TAA-approved training.
 - Requires full-time employment within 26 weeks of separation
 - Available only for workers earning less than \$50,000 per year in reemployment
 - Maximum benefit of \$10,000 over a period of up to two years

Limits on Reemployment Trade Adjustment Assistance:

- Petitions Numbering 70,000 and above:
 - Doesn't require a separate certification of group eligibility
 - Workers may participate in TAA- approved training
 - Requires full-time employment, unless the worker is also enrolled in TAA approved training and employed at least 20 hours per week, and does not set a deadline for reemployment
 - Available only for workers earning less than \$55,000 per year in reemployment
 - Maximum benefit of \$12,000 over a period of up to two years

Additional criteria that must be met for individual eligibility include:

- A customer must be at least 50 years of age
- Reemployment wages on an average annual basis must be less than wages earned in the adversely affected employment
- The customer must be certified as eligible to apply for TAA benefits

Requesting an Investigation of Eligibility

If a customer does not have a record in TWIST indicating that she is covered under an approved petition, and she believes that she should be, staff may request an investigation by emailing Ginger Rogers ginger.rogers@wrksolutions.com with the following information:

- Customer's name, social security number and mailing address
- Company Name, Division and Petition Number
- Last day of work
- Work location
- Reason for separation

We cannot deny the customer the opportunity to apply for TAA financial assistance while the investigation is underway. Office staff should tell the customer that, although we can proceed with the application process, until the state makes a final determination, the application for TAA cannot be approved. Staff must investigate alternate sources of financial aid and where possible, provide the aid from other Workforce Solutions resources or other available sources (colleges, foundations, etc.). Continue the financial aid application process if the customer wants. If the investigation results in no TAA funding, the office should provide financial aid according to its usual procedures.

Appealing a Decision of Benefit Denial

If DOL has denied the petition, and the customer wishes to appeal or refile the petition, office staff should help the customer appeal and/or refile. See Attachment 1 for the process.

Staff inform the Trade certified customer of:

- her right to appeal a determination related to certain trade activities;
- the procedure for appealing a determination; and
- the procedure for requesting a TWC hearing.

The request is submitted in writing within 14 calendar days of the date of the determination to:

The Appeals Department, TWC Building
101 East 15th Street, Room 410
Austin, Texas 78778-0001
Fax: (512) 463-2590

Information on how to file an appeal is also available at each service access point:

- Denial of Petition – see back of form TAA Petition (and ATAA Petition) Form ETA-9042a (and Form ETA-9042a-1 Spanish version)
- Denial of UI, TRA and/or extended TRA – appeal information can be found on the back of the customer's benefit termination letter.
- Denial of TAA funded training - appeal information can be found on the back of the customer's benefit termination letter.
- Denial of Relocation Allowance – see back of the form Request for Relocation Allowance Form ETA-860.

- Denial of Job Search Allowance – see back of the form Request for Job Search Allowance Form ETA-861.
- Denial of the Health Care Tax Credit – Customers can call the HCTC Customer Contact Center toll free 1-866-628-HCTC or <http://www.irs.gov> (IRS keyword: HCTC).

See additional related attachment documents for procedures for:

- Petition Process – Attachment 1
- Service Process – Attachment 3
- TWIST Instructions – Attachment 4
- Forms Chart – Attachment 5