

<b>EMPLOYMENT AND TRAINING ADMINISTRATION</b> <b>ADVISORY SYSTEM</b> <b>U.S. DEPARTMENT OF LABOR</b> <b>Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> Trade Adjustment Assistance (TAA)
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**ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 07-23**

**TO:** STATE WORKFORCE AGENCIES  
STATE WORKFORCE LIAISONS  
AFFILIATE AMERICAN JOB CENTER MANAGERS  
COMPREHENSIVE AMERICAN JOB CENTER MANAGERS  
STATE WORKFORCE ADMINISTRATORS  
STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS  
STATE LABOR COMMISSIONERS  
STATE UI DIRECTORS  
RAPID RESPONSE COORDINATORS  
TRADE ADJUSTMENT ASSISTANCE LEADS

**FROM:** BRENT PARTON   
Principal Deputy Assistant Secretary

**SUBJECT:** Ongoing Operations of the Trade Adjustment Assistance (TAA) for Workers Program During Phase-Out Termination

1. **Purpose.** To advise and provide clarity to State Workforce Agencies or agencies designated by Governors as “Cooperating State Agencies” (CSAs or “States”) on the ongoing required activities under the TAA Program pending reauthorization.
2. **Action Requested.** Use this document as companion guidance to Training and Employment Guidance Letter (TEGL) No. 24-20 and TEGL No. 24-20, Change 1, Operating Instructions for Implementing the Reversion Provisions of the Amendments to the Trade Act of 1974 Enacted by the Trade Adjustment Assistance Reauthorization Act of 2015, TEGL No. 13-21, Trade Adjustment Assistance (TAA) for Workers and Alternative Trade Adjustment Assistance (ATAA) and Reemployment Trade Adjustment Assistance (RTAA) Program Operations after June 30, 2022, and TEGL No. 14-22, Trade Adjustment Assistance (TAA) for Workers Program Phase-out Termination Frequently Asked Questions. States must promptly ensure that the appropriate staff and workforce partners are notified of and familiar with the contents of this TEGL.
3. **Summary and Background.**
  - a. Summary – This TEGL provides additional, clarifying guidance to states about the continuing requirement to provide benefits and services under the TAA Program to eligible trade-affected workers.

<b>RESCISSIONS</b> None	<b>EXPIRATION DATE</b> Continuing
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- b. Background – The Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015) (Pub. L. 114-27), at Section 406, terminated the TAA Program on July 1, 2022. This termination is not a cliff termination, but rather a phase-out termination. The termination provisions prohibit the Department from investigating or certifying petitions for TAA. However, States are required to continue to provide workers access to the benefits and services of the TAA Program and encouraged to continue to conduct outreach to eligible workers. Although reauthorization has taken longer than anticipated, the Department continues to support the Administration and Congress in their efforts to reauthorize the TAA Program.

#### **4. Ongoing Operations.**

##### **a. Retention of Staff**

As discussed in this guidance, States have ongoing required responsibilities under the TAA Program. It is vital that states do their best to retain qualified and trained TAA Program staff to ensure eligible workers have access to the benefits and services available under the TAA Program and to continue required program administration functions.

##### **b. Outreach**

Although the Department is currently unable to investigate petitions or render determinations, there are still tens of thousands of eligible trade-affected workers who have not yet accessed the benefits and services under the TAA Program. TAA Program regulations provide for outreach requirements, including [20 CFR § 618.816\(a\)](#), requiring the state to notify all workers who file an application for unemployment insurance about the benefits and services available under the TAA Program. Further, [20 CFR § 618.816\(e\)](#) requires the state to notify members of eligible worker groups with individual notifications of their eligibility through the mail and through at least one modern electronic communications method – such as text messages, or emails. States are also encouraged to utilize social media, websites, and other communication methods such as radio, public service announcements, and press releases. Since termination, states have shown great success in utilizing targeted communication strategies that go well beyond the standard UI and mail notices. In the four quarters following termination, more than 1,300 new participants have been enrolled in the TAA Program. Many of these new participants are workers eligible under petitions certified years prior to termination who never accessed the benefits and services for which they are eligible and who have since been enrolled as a direct result of the targeted outreach strategies deployed by the states. The average time from separation to enrollment for the most recent quarter was over three years. More than 4,000 participants remain active in the TAA Program. Attachment I provides more information on outreach.

##### **c. Training**

Trade-affected workers have a lifetime entitlement to apply for training under the TAA Program. There are no changes to the training approval criteria in Section 236, as further described in [20 CFR § 618.610](#). Attachment II provides more information on the definition of suitable employment. Funding for Training and Other Activities (TaOA) will be provided to states in fiscal year (FY) 2024. In addition, states still have access to

FY 2022 and FY 2023 funds.

**d. Employment and Case Management Services**

Employment and case management services have no additional eligibility criteria or deadline for accessing these services beyond the general TAA Program eligibility requirements located in Sec. 236 of the Trade Act. Neither the TAA Program regulations nor their Preamble provide any additional guidance on the operational impact of this reality. A trade-affected worker may seek these services at any time at their nearest American Job Center or through any electronic portal supported by the American Job Center Network. Primary funding for the provision of these services must be the TAA Program. The requirements at 20 CFR § 618.310 to provide employment and case management services remain in full effect. However, since all trade-affected workers are also Dislocated Workers under the Workforce Innovation and Opportunity Act (WIOA) and are also eligible for services under Wagner-Peyser, states should leverage all appropriate sources to provide employment and case management services to workers. Importantly, the requirement to co-enroll Trade participants in the WIOA dislocated worker program, established at [20 CFR § 618.325](#), remains in full effect.

**e. Trade Readjustment Allowances (TRA)**

There are various deadlines workers must meet to be initially eligible for TRA. For many trade-affected workers, these deadlines have now passed. The first deadline to meet is to receive a first TRA payment within the 104-week period described at [20 CFR § 618.755](#). A worker separated on June 30, 2022, has until June 30, 2024, to receive their first payment. In addition, workers must meet the training enrollment deadlines described in [20 CFR § 618.725](#) or [TEGL No. 24-20](#) to be eligible for TRA. Workers certified under the Reversion 2021 Program must be enrolled in or receive a waiver from training within 8 weeks of certification or 16 weeks of separation. Workers certified under the 2015 Program must be enrolled in or receive a waiver from training within 26 weeks of certification or separation. There are exceptions to these deadlines which are discussed in f. and g. below. Given these deadline requirements and most workers' need for financial support while participating in training, States are reporting work-based learning as the preferred training strategy for trade-affected workers who are not eligible for TRA. This strategy may become integral as the program continues in termination.

**f. Equitable Tolling**

Equitable tolling allows for TAA Program deadlines to be extended when an extraordinary circumstance prevented a trade-affected worker's timely action and the worker otherwise acted with diligence. Equitable tolling, as described in [20 CFR § 618.888](#), is available for all trade-affected workers, regardless of the version of the TAA Program under which they were certified.

**g. Good Cause / Justifiable Cause**

During termination, the good cause provisions of [20 CFR § 618.730](#) remain available for workers certified under the 2015 Program. Good cause provisions are not allowable under Reversion 2021. The same is true for the justifiable cause provision at [20 CFR §](#)

[618.770](#). For more on good cause and justifiable cause, see [TEGL No. 24-20](#) Attachment A.

**h. Program Oversight**

As of the quarter-ending June 30, 2023, there are more than 4,000 active TAA participants. States are still required to comply with the requirements at [20 CFR § 618.860\(d\)](#) and [20 CFR § 618.864\(g\)](#) to conduct oversight of the TAA Program, including file reviews. States should discuss their oversight strategies with the appropriate Regional Office.

**i. Reporting**

States are required to continue to provide all TAA required reports.

States are required to submit participant reports through the Workforce Integrated Performance System (WIPS) on the ETA-9172 (OMB Control No. 1205-0521) and continue to report both participants currently receiving services and those who have exited for ten (10) quarters after exit to fully capture performance outcomes.

TAA collects information on state efforts to improve outcomes through WIPS on the ETA-9173 (OMB Control No. 1205-0392) and are required to do so until there are no participant records within ten (10) quarters after exit in the ETA-9172.

Quarterly financial reporting for active TAA grants including training and other activities, TRA, and ATAA/RTAA must continue through the Payment Management System (PMS) on the applicable ETA-9130 form (OMB Control No. 1205-0461).

States are required to continue to review and respond to missed measures quarterly as described in [TEGL No. 01-19, Change 1: Trade Adjustment Assistance Data Integrity \(TAADI\)](#). Individual measures that do not have any records in the denominator as well as any passed measures do not require a response. If a state does not have any measures that did not pass in a quarter, no TAADI response is required.

The annual TAA Administrative Collection of States (TAAACS) collected on form ETA-9189 (OMB Control No. 1205-0540) is required to be completed by all states.

**j. TAA as a Required One-Stop Partner**

WIOA Sec. 121(b)(1)(B)(vii) establishes the TAA Program as a required one-stop partner. The TAA regulations at [20 CFR § 618.305](#) directs states to comply with the partnership requirements in WIOA Sec. 121(b)(1)(A), as described by the memorandum of understandings (MOU) established under the WIOA regulations at [20 CFR Subpart C](#).

**k. Alternative / Reemployment Trade Adjustment Assistance (ATAA/RTAA)**

For most workers, there is no longer a pathway to ATAA or RTAA eligibility. As first explained in [TEGL No. 13-21](#), the termination provisions at Section 246(b) provides that only workers who have already begun receiving ATAA or RTAA payments

as of June 30, 2022, may continue to receive payments under the respective program after that date.

**1. Job Search and Relocation Allowances**

Under the Job Search and Relocation Allowances, there are different deadlines that apply to different workers. See [20 CFR § 618 Subpart D](#) for more details.

**5. Inquiries.** Please direct inquiries to the appropriate Regional Office.

**6. References.**

- Chapter 2 of Title II of the Trade Act of 1974, as amended (Pub. L. 93-618) (Trade Act)(codified at 19 U.S.C. §§ 2271 et seq.)
- Pub. L. 114-27, Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015);
- Pub. L. 112-40, Trade Adjustment Assistance Extension Act of 2011 (TAAEA);
- Pub. L. 111-5, Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA);
- Pub. L. 107-210, Trade Adjustment Assistance Reform Act of 2002 (TAARA 2002);
- Pub. L. 113-128, Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. 3101 *et seq.*;
- TAA Final Rule, 20 CFR Part 618, 85 FR 51896 (August 21, 2020);
- WIOA Joint Final Rule, 20 CFR Part 678, 81 FR 55792 (August 19, 2016);
- Agreement Between the Governor and Secretary of Labor, United States Department of Labor, to Carry Out the Provisions of Subchapters A, B, and C of Chapter 2 of Title II of the Trade Act of 1974, as amended by the Trade Adjustment Assistance Reauthorization Act of 2015;
- TEGL No. 11-02 and Changes 1, 2, and 3 - Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Act of 2002;
- TEGL No. 22-08 and Change 1 - Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009;
- TEGL No. 24-20 - Operating Instructions for Implementing the Reversion Provisions of the Amendments to the Trade Act of 1974 Enacted by the Trade Adjustment Assistance Reauthorization Act of 2015, and Change 1;
- TEGL No. 13-21 - Trade Adjustment Assistance (TAA) for Workers and Alternative Trade Adjustment Assistance (ATAA) and Reemployment Trade Adjustment Assistance (RTAA) Program Operations after June 30, 2022; and
- TEGL No. 3-23 - Allowable Uses of Funds for Outreach Activities for Federal Formula and Competitive Grant Awards.

**7. Attachment(s).**

- Attachment I. Effective Outreach Strategies
- Attachment II. Definition of Suitable Employment in Relation to Criterion 1 of TAA Training Eligibility

## **Real-World Outreach Strategies**

This attachment contains resources that have been developed and implemented in states to engage workers regarding the TAA Program. Although some of these resources are restricted to TAA, much of what is presented below reinforces categories of allowable outreach that were outlined in [TEGL No. 03-23](#). The list below expands beyond “what” is allowed to real-world examples of “how” different outreach methods have been employed by TAA staffs across the country.

Thanks to TAA state staffs applying new methods to alert, notify, and engage workers, the TAA Program enjoys hundreds of new enrollments each quarter. In many cases, this success is attributable to a reach-back approach that relies on using a variety of new materials and methods to effectively connect with workers, often years after non-response to initial notification using traditional approaches. The results of successful enrollments based on a *second* round of outreach demonstrates that creative strategies have a positive impact on engagement.

The list below provides:

- Outreach Strategies – Descriptions of outreach strategies including featured state examples.
- Related content – Each numbered heading is a hyperlink to related material. An expanded index is also available as a link at the bottom of this document.
- Contacts for follow up on related content – a link to state TAA coordinators contact information is provided to allow for convenient follow up on learning more about strategies that are posted.

### **Examples**

1. [Social Media/Geofencing](#) – Social media can be a very effective tool for creating brand awareness and educating the public about the existence of the TAA Program. Indiana conducted an inexpensive geofencing strategy that employs social media (Facebook, Instagram, YouTube) posts that are deposited into feeds of those who live or travel to geographical areas where layoffs occur to alert workers of the program and its benefits. An analysis of data showed dramatically better results than in outreach efforts using more traditional methods.
2. [In-Person Events/Related Incentives](#) – In-person events can be an effective way to engage participants. In one example, the state of Indiana uses gas cards as a very successful incentive to encourage eligible workers to attend orientations to learn about the program and apply.
3. [Multi-Prong Outreach](#) – This involves using multiple approaches to educate and engage individual workers. The state of Oregon ties together successive outreach attempts to alert a worker as to the next communication (interweaving auto-dialer, person to person calls, emails, and letters), which has been proven to lower barriers to trust and increase receptivity. The state of Pennsylvania has adopted a “three touch strategy” which looks thoughtfully at

successive outreach engagements with participants in a manner that measures what works and what doesn't in various outreach "campaigns".

4. **Use of UI claimant and/or Labor Exchange Data** – Leverages UI claimant and Wagner-Peyser data for the purpose of identifying workers laid off by employers of eligible worker groups. Cross matching UI system and Wagner-Peyser data to update contact information from past worker lists can also alert staff to new workers that were not provided by the employer in the initial worker group list.
5. **English Language Learners** – Providing effective outreach to worker groups that have limited English can present special problems, especially in situations where there are multiple primary languages spoken. The state of Maine recently presented a webinar that summarized successes and lessons learned from conducting program orientations for a large multi-language worker group.
6. **Peer Advocacy** – One highly effective strategy that is helpful in large layoffs involves hiring workers from within the worker group to conduct outreach to their peers, helping to demystify the application enrollment and boost the credibility of program participation. The states of Maine and Oregon have used this method successfully.
7. **Computer Assessment** – Access to computer and internet, as well as the computer skills necessary to utilize them, can make all the difference in successful program outreach and engagement. This applies to meaningful connection in all geographies and populations, but especially in rural areas and among underserved communities. By understanding the extent that workers can access and use technology, TAA can more effectively assess needs to support effective outreach communications and supports. The state of Oregon has comprehensively addressed this need in the development of an IT Pilot designed to equip participants with training and access to internet and computers to provide critical computer literacy skills.
8. **Mobile Units** – Mobile units can greatly extend flexibility to provide outreach to areas across the state, including rural areas. The state of Tennessee has a very mature model for this strategy.
9. **Partnerships** – One of the cornerstones of a successful workforce program lies in its ability to collaborate with partner programs and other organizations that share our mission to attract, engage, and support workers in a timely fashion with the skills and resources needed to meet employer needs. Below are *some* of the partners that can provide critical linkages in serving that mission.
  - a. Reemployment Services and Eligibility Assessment (RESEA) – This recently expanded ETA funded program is designed to provide a link for UI claimants to reemployment, including serving as a liaison for workforce programs in identifying workers' reemployment needs. Several TAA state programs partner closely with RESEA through worker orientations and other opportunities for engaging laid off workers with an eye to minimizing the period of unemployment.



- b. Rapid Response – Intended to be the original vanguard for all ETA workforce programs, Rapid Response is tasked with both responding to layoffs and conducting ongoing layoff aversion activities to prevent or minimize layoffs.
  - c. Unions – Unions are very useful stakeholders in networking to support worker engagement, as they have long established ties with both employers and workers. The state of Washington is a leader in Trade Program/Union partnership through the state’s Labor Council.
10. **Printed Materials** – Used for different audiences, well-designed flyers can provide scannable, easy to consume formats for program orientation and steps to learn more about applying. The power of print materials can be extended in a number of ways, including QR codes on T-shirts and other items. The reach of print advertisements can be extended to the sides of buses, inside metro trains, as well as roadside billboards.
11. **Eligibility Notifications** – Effective notifications, such as those provided by the state of Colorado, include upfront information on benefits and services, simplified language with distinct hyperlinks to “learn more” about program benefits, program application, and contact information.
12. **Radio and TV Spots** – TV and Radio spots that promote program awareness must be short to be economical. But as seen by the example of a radio spot by Indiana, even a 30 second spot can be memorable and impactful.
13. **Videos** – As demonstrated in one-minute videos produced by the state of Arizona, video program overviews can also be surprisingly short but effective in providing “brand awareness” with contact information to find out more. In other cases, videos can be used to provide more in-depth overviews (such as those developed by the states of Connecticut and Maryland) or to provide snapshots of various program benefits and services (as seen in videos from the state of Massachusetts) in a manner that is more engaging than a similar depth of material provided in print. Once hosted on public platforms like YouTube, videos can be embedded to help enliven and enhance a variety of outreach materials. Time increments are provided for context on depth of content. Success stories are another way to engage participants in understanding the process and impact of the program from a personal perspective. Brief but authentic testimonials from real participants, such as those developed by the states of Kansas and Michigan, can establish an initial sense of identification with the program, which is key to worker engagement.
14. **Website** – Most workforce programs have websites that contain comprehensive information about what they have to offer, how to apply, etc. Sometimes the challenge is to provide an interface that is not so full of information that it can be difficult to navigate. The state of Nebraska provides a streamlined web-page format that provides easy access to program information and collection of initial intake information. For more complicated web pages, tools such as chatbots, as seen in the state of Minnesota, can be used to respond and direct users to appropriate resources.

**15. Person-to-Person Engagement** – Direct contact with eligible workers is unquestionably the most promising path to successful engagement, but only if it is handled with the necessary sensitivity. For example, reaching out to workers via phone about their program eligibility can be just such an outreach opportunity. However, “cold-calling” workers can be misinterpreted in a manner that can result in workers not taking the call seriously or even worse, in a way that makes the worker fearful or hostile. The state of Oregon has developed a series of simple scenarios of typical issues that arise during outreach calls that can be used for training staff to support positive outcomes. This category can also include coaching staff on face-to-face engagement, which is equally important to handle with care.

A consolidated list of links to resources may be found [here](#) on the TAA WorkforceGPS website.

Contact information for State Trade Coordinators who can be references for additional information on posted content is [here](#).

### Definition of Suitable Employment in Relation to Criterion 1 of TAA Training Eligibility

**20 CFR § 618.110 Definition:** “*Suitable employment* means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work that are not less than 80 percent of the worker's average weekly wage. Part-time, temporary, short-term, or threatened employment is not suitable employment.” This definition is applied in Criterion 1 of TAA training eligibility at **20 CFR § 618.610(a)**, which requires that no suitable employment be available for the worker.

The definition of suitable employment in 20 CFR § 618.110 consists of multiple components. All components of the definition must be met for a job to meet the definition of suitable employment. If one component fails to meet the definition, the worker does not have suitable employment and TAA training benefits can be considered.

Applying the Definition of Suitable Employment under Criteria 1 for Trade-approved Training	
<b>Substantially equal or higher skill set</b>	Compare job duties from separation job compared to current job. Is the new job equal to, lower or higher skilled than their adversely affected employment?
<b>Average weekly wages of at least 80% of the TAA-qualifying separation</b>	Information that may be collected from the worker to determine whether this component is met may include: (1) What is their weekly wage (hourly rate and how many hours) now vs. what was their weekly wage (hourly rate and how many hours) in adversely affected employment? (2) Does the new job or separating employment include commission, regular bonuses, retention pay- if so, what was/is it?
<b>Threatened with layoff</b>	Does the worker’s current employment have an outstanding WARN notice, layoff announcement from the employer, multiple active UI claims, or does the worker have a future layoff? <b>If yes, eligible under Criteria 1, regardless of wages.</b>
<b>Short-term / Temporary Employment</b>	Does the new employment have an end date or is the employment with a temporary agency or contract firm? <b>If yes, eligible under Criteria 1, regardless of wages.</b>
<b>Part-Time Employment</b>	Is the new employment less than full-time? <b>If yes, eligible under Criteria 1, regardless of wages.</b>