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| TRAINING AND EMPLOYMENT NOTICE | NO. 23-14 |
| | DATE February 27, 2015 |

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

FROM: PORTIA WU /s/
 Assistant Secretary

SUBJECT: How-To Guide for Completing a Petition for the Trade Adjustment Assistance (TAA) Program and Partnering with Rapid Response Teams to Improve the Quality of State-Filed Petitions

1. Purpose. The purpose of this notice is to: (1) assist the American Job Center (AJC) network operators and partners in filing TAA petitions on behalf of worker groups; (2) assist the State Workforce Agencies designated by the Governor as “Cooperating State Agencies” (CSAs) (also jointly referred to as “states”) in carrying out their responsibilities regarding the submission of complete TAA petitions filed with the Department of Labor (Department or We); and (3) improve the quality of TAA state-filed petitions by ensuring accurate information is disseminated to petitioners through partnerships with Rapid Response teams.

2. References.

- 20 Code of Federal Regulations (CFR) 665.300;
- 29 CFR 90.11;
- Training and Employment Guidance Letter (TEGL) No. 03-14, *Implementing a Job-Driven Workforce System*;
- Training and Employment Notice (TEN) No. 31-11, *The Rapid Response Framework*;
- TEN No. 14-10, *Availability of an Electronic Submission Process for Petitions for Trade Adjustment Assistance (TAA): Employment and Training Administration (ETA) Form 9042 (Office of Management and Budget (OMB) Control No. 1205-0342)*;
- Business Data Request (BDR) Form, ETA Form No. 9042 (OMB #1205-0342, expires 3/31/2016); and
- Petition for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) (OMB No. 1205-0342, expires: 3/31/2016).

3. Background. Petitioners may file a TAA petition with the Department electronically or by hard copy. Petitions may be filed by: a group of three or more workers; an employer of a group of workers; a certified or recognized union or other duly authorized representative; a State Workforce Office; or an AJC. Petitioners are required to simultaneously file the petition with the Governor of the State in which the workers' firm is located (the State TAA Coordinator or the State Dislocated Worker Unit or State Workforce Agency). Upon layoff or threat of layoff, states must deliver Rapid Response services to all potentially eligible TAA worker groups to allow these workers to take advantage of Rapid Response employer networks used for layoff aversion and labor market outreach. As stated in TEN No. 31-11, "the primary purpose of Rapid Response is to enable affected workers to return to work as quickly as possible following a layoff, or to prevent their layoff altogether." Working with Rapid Response teams will also ensure that Rapid Response services are incorporated into the petition filing process and support the Department's vision for an integrated, effective, job-driven workforce system as described in TEGl No. 03-14, *Implementing a Job-Driven Workforce System*. Often as part of the initial outreach, Rapid Response teams work with trade-affected workers and employers to file a TAA petition. Once the Department receives a complete petition, we initiate an investigation to determine a worker group's TAA eligibility.

It is important to note that a complete and accurate petition assists the Department in completing its investigation and issuing a timely determination. On the other hand, incomplete or incorrect petitions may lead to significant delays in investigating and processing. With the time-sensitive nature of the investigations, it is important that all Petition Forms are complete, when submitted.

4. Rapid Response and TAA. As stated in TEN No. 31-11, the Rapid Response team may also explore the possibility of the impending layoff being trade-related and, if appropriate, begin the TAA petition investigation process. To provide accurate information on the TAA program certification process, Rapid Response teams should be trained in current worker group certification eligibility criteria under the Trade Act and TAA program benefits and services currently available to TAA-certified workers. TAA operating instructions on group eligibility and TAA program benefits and services are available on the TAA website at: <http://www.doleta.gov/tradeact/directives.cfm>. States are encouraged to cross train TAA staff and Rapid Response teams on Trade Act laws and updates on changes in the TAA program or guidance.

Since the Department submits Business Data Request (BDR) forms, found under Decisions on TAA Petitions at: <http://www.doleta.gov/tradeact/petitions.cfm>, to workers' firms during the TAA investigation process, we encourage states to become familiar with these forms and ensure Rapid Response teams are also aware of information requested on the BDR as well as in the TAA Petition Forms. The BDR forms are useful for collecting information during initial outreach to employers. These forms ask employers:

- How many workers have been or will be separated and when?
- Why are these workers being separated? Specifically, what is the exact trade-related effect? If production were shifted abroad, what was/were the country(ies)?
- Is the company (or the parent company) importing products?

- Are the company's customers importing products? If so, which ones exactly?
- Has the firm experienced a decline in sales or production? If so, provide an explanation, which may include the dollar amount of decline; percent of production decline, etc.

The answers to these questions will provide Rapid Response teams a better understanding of what is occurring at the company, which will serve as useful information in the completion of quality state-filed petitions.

5. Completing a TAA Petition Form. There are four sections on the TAA Petition Form: Petitioner Information, Workers' Firm, Trade Effects on Separations, and Affirmation of Information. We encourage states to reference the attached instructional illustrative *Petition for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA)* as they review this section. States should consult with Rapid Response teams to ensure the information provided in all sections of the Petition Form is complete and accurate. Petitions that provide accurate and complete information result in the Department's ability to provide more efficient investigations and better customer service to employers and workers.

Section 1. - Petitioner Information

This section captures information regarding the petitioning entity. Items (a) through (i) should clearly articulate the name, title, mailing address, phone number, email, separation date, petitioner type, and worker group description. For states assisting three workers filing a petition, item (b) should reflect the title or position each of the workers held at the time of his/her actual separation or the date of the petition. States should use information from the petitioners and Rapid Response teams to provide an accurate description of the worker group.

The worker separation date, required under item (g), is a critical and often overlooked data element. If the workers' separation date or dates on which separations are threatened (the date(s) on which it is reasonable to predict that separations are imminent) are not readily available, petitioners should estimate these dates and provide an explanation for the basis for the estimation. For state-filed petitions, states should consult with Rapid Response teams to assist with determining worker separation dates. Worker Adjustment and Retraining Notification Act (WARN) notifications or company notification letters are reasonable predictors of imminent separations. A petition must be filed within 1 year of worker separations because the Trade Act provides that a certification for TAA does not apply to any worker who was separated from the firm more than 1 year before the date the petition was filed. This means that workers laid off more than 1 year before the petition is filed cannot be covered by a certification and thereby eligible to apply for benefits.

A description of the worker group, on whose behalf the petition is being filed, is required within item (i). The scope of the affected worker group should be defined as narrowly and specifically as possible, including any subdivision or product line or article. For example, a group of workers may work for a specific department or subdivision within the company or may perform a common job function, such as production or support the production of a specific article or supply specific services in support of the article

produced. An official division or unit name or any other designation will assist the Department and the company official in collecting information during the petition investigation that is specific to the particular worker group within the firm that seeks TAA certification.

Section 2. - Workers' Firm

This section captures information regarding the firm employing the worker group. Items (a) through (g) should clearly describe the firm employing the worker group (name of firm, address, article(s) produced, number of worker separations, etc.) on whose behalf the petition is filed.

If the employing firm and worksite firm are different because the worker group is employed by a staffing agency, then items (a) through (g) should identify the staffing agency and items (h) through (m) should identify the address and other information of the firm on whose physical site the worker group physically or virtually reported. Unless the worker group consists of contract/leased workers, the employing firm's address, and other information, items (a) through (g) should reflect the physical or virtual site of the worker group and items (h) through (m) should be left blank.

It is important that state-filed petitions identify the subject worker group and include employees of a staffing agency working at the physical location, if known, because contract/leased workers may be certified as a part of a worker group certified as eligible to apply for TAA, based upon contract services performed on-site. Rapid Response teams may assist in identifying leased workers that work on-site. Not identifying leased workers may introduce delays in the investigation process.

A full description of the article(s) produced by the workers' firm, requested within items (e) or (k), as applicable, is not only required, but allows for the workers' firm to make timely and complete submissions of Form ETA-9042 on the activities of the worker group/workers' firm during the investigation. Further descriptions of how the product is manufactured, used by the consumer, or of any like and competitive imported articles, should be provided as an attachment to the petition to assist in the investigation process, if available.

Section 3. - Trade Effects on Separations

This section captures information on what the petitioner believes are causes that led to worker separations or the threat thereof. The petitioner is to provide a declarative statement citing what trade effects he/she believes occurred and any additional evidence (i.e. reports, data, articles, etc.) that might aid in the investigation process.

1. Petitions must address the basis for the petitioner's belief that foreign trade is an important cause of worker separations, or threatened separations of workers, in the particular work group identified in the petition. Here are a few examples of causes that led to worker separations:

Example 1: “The Accounting Department work that I formerly performed in support of car manufacturing is no longer needed as the plant is closing and production is being moved overseas.”

Example 2: “The customers of my company are now purchasing the widgets we produce from a company located in China. As a result, the company has lost business and laid us off.”

Example 3: “Our company produces automobile parts for one assembly plant. That plant was recently closed and its workers were certified as eligible to apply for TAA.”

2. The petitioner may provide further information on the reasons for asserting that a trade effect contributed to worker separations, if known, as an attachment to the petition, including: (1) Major customers of the workers or the firm (especially TAA-certified customers); (2) identification of leasing firms with workers under the operational control of the petitioning workers’ firm; and (3) evidence of the impact of increased imports (i.e., by the firm, its customers, or the industry) or shifts of production by the firm to foreign countries on the actual or threatened worker group separations.
3. The full contact information of a company official is required to complete items (a) through (f). At a minimum, petitioners must provide one company contact, but we strongly encourage listing two officials. Rapid Response teams also may be able to provide additional contact information. The company officials identified on the petition must be in a position to provide employment, sales, and production data for the company. A Human Resources official, for example, may not have access to all of these types of data and therefore, another responsible official contact is necessary.

Section 4. - Affirmation of Information

This section requires the petitioner(s) to affirm that, to the best of their knowledge and belief, the information provided in the petition is true, correct, and complete, in accordance with 29 CFR 90.11(b). Knowingly falsifying any information on this Petition Form is a Federal offense (18 USC § 1001) and a violation of the Trade Act (19 USC § 2316). This requirement and penalty applies to all petitions, even those filed on behalf of a worker group by a State Workforce Office or AJC staff member.

Petitions filed without the proper signature (a), name (b), and signature date (c), by a valid petitioner type indicated in Section 1, will be returned because the signature is required for the petition to be valid. Worker-filed petitions require the completion of items (a) through (c) by all three workers, while state-filed, other representative-filed and company-filed petitions may be affirmed by a single individual.

6. Filing. TEN No. 14-10 encourages electronic petition filing through the ETA website at: <https://www.etareports.doleta.gov/petition>. A Spanish language version of the Petition Form can be downloaded at <http://www.doleta.gov/tradeact/DownloadPetitions.cfm>.

7. **Inquiries.** States should direct all inquiries to the appropriate ETA Regional Office or email taa.petition@dol.gov.

For more information about Rapid Response, including a link to State Rapid Response Coordinators, the following website may be accessed: <http://www.doleta.gov/layoff/rapid.cfm>.

8. **Attachment.** Instructional illustrative Petition for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA), OMB No. 1205-0342, Expires: 3/31/2016.