

1. TAA Certifications. At this time, DOL makes available on their Website a “Searchable Listing of Determinations” under TAA. Information is categorized according to the date upon which the determination was made, city and state, SIC code, and company name. Clicking on a TA petition number brings up a more complete description, which often includes the country to which jobs have moved. This site needs to be improved by increasing its capabilities, notably by allowing users to access the data by:

- the country to which the jobs have moved
- Congressional district (to aid contact with Members of Congress), and
- more detailed four digit zip codes.

d. Longer Term Priorities

1. Implementation. Review the findings of the Presidential Council above, and develop plans to implement them in DOL and other agencies. Consider new legislation as necessary.

C. Trade Adjustment Assistance

I. Overview of Issue Area

Trade Adjustment Assistance (TAA) provides income protection, limited health care benefits, and job training to qualified workers who lose their jobs as a result of import competition or shifts in production to selected foreign countries. After receiving up to 26 weeks of unemployment benefits, workers certified as eligible for TAA can receive up to 78 weeks of trade adjustment allowances, for a potential of two full years of income support. (Workers enrolled in remedial education can receive an additional 26 weeks of trade readjustment allowances.) In order to continue receiving these trade adjustment allowances, workers must be enrolled in an approved training program or have received a waiver specifying that training is not available or feasible. Despite limitations and necessary improvements, TAA “represents one of the very best programs for income support and retraining for jobless workers in the U.S.,” according to the National Employment Law Project (NELP) and the UAW.³

The legislation providing TAA services was last authorized in 2002, when a separate NAFTA TAA program was incorporated into the overall program and the scope of services was expanded to cover secondary workers. The current TAA program expired on September 30, 2007. Because the Consolidated Appropriations Act of 2008 (H.R. 2764) contained funds to fully operate the program for another year, the Department of Labor

³ McHugh, Rick and Phil Gilliam. 2006. *Getting Certified for Trade Adjustment Assistance: a Guide for Unions, Workforce Agencies, and Community Groups*. Detroit, MI: NELP and International Union, UAW.



instructed states to continue to provide program services, and request funds for program benefits and administration, through September 30, 2008.

When the President mentioned TAA in his State of the Union address in January 2008, there was some attention directed toward the program. Observers entertained the notion that it might be reauthorized this year. The House of Representatives had already taken action, passing an excellent bill in November 2007 (H.R. 3920) that improved and modernized the program. That bill was supported by the AFL-CIO. Sen. Max Baucus (D-MT) has introduced a bill in the Senate (S. 1848) and reportedly is working with Republican members of the Senate Finance Committee to prepare a bill that will be approved by his Committee. As this time, it is unlikely that a TAA reauthorization bill will pass the full Senate.

According to the Department of Labor, approximately 147,000 workers were certified as eligible for TAA during FY 2007. DOL reported that 91,701 participants were served under TAA during that period.

II. Orientation for a New Administration

The new administration should view TAA as a top priority for reauthorization and modernization, sending a strong signal to the American people that they are serious about mitigating the impact of globalization on working families. The passage of an excellent TAA bill in the House in 2007 shows that a great amount of background work has already been done, and this should foster quick action. Although a bill introduced by Sen. Baucus is weaker than the House legislation, there are some aspects of it that merit support by labor and its allies.

Overall, the new administration should be oriented toward winning passage of TAA legislation that provides assistance to any and all workers adversely affected by trade, regardless of whether jobs were lost to a country with which the US has a “free trade agreement.” They should view the House bill as a model for the sort of broadened, comprehensive trade adjustment policies that are necessary for American workers. Additionally, the new administration should reject any consideration of merging TAA into the Workforce Investment Act, a move that would reduce the training available to eligible workers.

III. Key Agencies and Programs

The key Federal agency responsible for TAA programs is DOL’s Employment and Training Administration (ETA), which received \$8.4 billion in funding for FY 2007. TAA is administered by their Office of National Response, which is part of their Workforce Investment System division (headed by a Deputy Assistant Secretary.) Federal staff in this Office play an extremely important role in the implementation of TAA – they are the investigators who go out into the field after individuals and organizations file for TAA certification, and they make the initial determination about whether applicants will qualify for TAA benefits. The slower these Office staff person



are, the more likely it is for those adversely affected by trade to disperse and not receive services. The ineffectiveness of these investigators is discussed below.

Overall, TAA needs to assume a higher profile in the DOL of a new administration. More resources need to be available. Conceivably, investigators need education in labor economics and training that will enable them to recognize that trade has affected jobs in a particular facility or company, whether primary or secondary effects. Most importantly, a new administration needs to signal that TAA is considered to be an important program that intimately affects the lives of job-seekers and working families across the nation.

IV. Legacy of the Bush Administration

It is widely acknowledged that the administration of TAA in the Bush administration has been a disaster, marked by incompetence and a blatant disregard for the interests of those severely affected by international trade. In the past five years, court decisions have directed the DOL to reconsider erroneous denials of TAA income and training assistance to hundreds of trade-affected workers. In 2005 alone, court decisions found that DOL had ignored substantial amounts of factual evidence, conducted hasty and “merely perfunctory” investigations, and interpreted the TAA law in a rigid fashion that undermined the basic purpose of the program.⁴ Workers have suffered protracted delays in getting assistance as a result of many errors and the DOL’s reliance on biased corporate officials in collecting information. Many workers have become discouraged or lack the resources to pursue appeals.

Cuts to TAA income support benefits are compounded by shortfalls in training funds and other administrative failures by the DOL. Research studies have shown that many states exhaust their training funds before the end of each fiscal year, precluding numerous workers from being able to take advantage of training programs to which they are entitled. According to the Government Accountability Office (GAO), 35 states expected that available TAA training funds for FY 2004 would not cover the amount they would obligate and spend for TAA-eligible workers. Eighteen states estimated the gap at over \$1 million.⁵ The GAO also has found that the DOL distributes substantial amounts of its training funds to states on the last day of the fiscal year, making it nearly impossible for states to direct training resources to eligible workers in a timely fashion. Bush administration policies have made it more difficult for states to use TAA to respond to mass layoffs, the GAO concluded.⁶

⁴ Robin H. Gilbert, “Trade Adjustment Assistance Cases – 2005 Developments”, *Georgetown Journal of International Law*, Fall 2006.

⁵ GAO, *Trade Adjustment Assistance: Reforms Have Accelerated Training Enrollment, but Implementation Challenges Remain*, GAO-04-1012, September 2004, <http://www.gao.gov/new.items/d041012.pdf>

⁶ GAO, *Trade Adjustment Assistance: Changes Needed to Improve States’ Ability to Provide Benefits and Services to Trade-Affected Workers*, GAO-07-995T, June 14, 2007, <http://www.gao.gov/new.items/d07995t.pdf>



The new TAA program (reauthorized in 2002) was expanded to cover secondary workers, such as parts manufacturing workers who lose their jobs when a client-manufacturing firm moves its operations to another country. Poor program design and inadequate guidance to identify affected workers, however, have meant that few secondary workers are receiving benefits. Just over 2 percent of workers covered by TAA were secondary workers in FY 2003. No state has developed procedures to identify workers who are secondarily affected by a trade-related layoff in another state.⁷

Meanwhile, back at the Department of Labor, Secretary Chao continues to propose that TAA be merged into the Workforce Investment Act, a clear non-starter for Congress that would reduce the amount of training available to job seekers. Failing that, the Bush Administration has sought to push this agenda by forcing the states to execute a new agreement that specifically states that TAA need not be administered by state merit staff employees – in contradiction to longstanding policy and practice. It also has pushed the states to use the WIA program to provide employment services to TAA participants instead of requesting additional funding for state employment service job counselors to expand their capacity to provide these services. Overall, DOL under Bush and Chao have regarded TAA as a pawn to be moved around to convince Members of Congress to support “free trade agreements.” As one state union official with extensive experience filing TAA petitions, put it: “The Trade Act certification process is arbitrary, capricious, erratic. It is broken.”

V. Key Priorities for a New Administration

a. Priorities for Day 1 – None

b. Priorities for First Hundred Days

1. Office of Trade Adjustment Assistance. By Executive Order, establish an Office of Trade Adjustment Assistance in the Department of Labor. Office would be headed by an Administrator and report to the Workforce Investment System division. This office would signal that the new administration attaches greater importance to TAA.

2. Revise Federal-State Agreement. DOL should withdraw the current Federal-State agreements imposed upon states, and execute revised agreements reinforcing the role of state workforce agency merit staff in determining eligibility for TAA benefits and providing employment services and case management services to participants.

c. Priorities for First Year

1. Reauthorize TAA. Based upon the model of the 2007 House bill, the new administration should support the reauthorization of TAA as soon as possible. Following are the major elements to be included: (1) Provide assistance to all workers

⁷ Ibid.



adversely affected by trade; (2) Expand TAA coverage to workers in service sector firms; (3) Make workers employed by a public agency, or subdivision, eligible for TAA coverage; (4) Include workers who were employed by “downstream producers” of goods or services; (5) Enable industry-wide certification of eligibility for TAA; (6) Ensure that eligibility determination for trade readjustment allowances and training benefits under TAA be made by employees of the State who are appointed on a merit basis; (7) Increase the training funds available to States to provide to TAA-eligible persons, and improve the annual distribution of those funds; (8) Enable States to receive additional payments for administrative expenses, and employment and case management services, with administration provided by merit staff; (9) Clarify the rules for obtaining health care coverage so that persons who are eligible obtain access to such coverage; (10) Improve the Health Care Tax Credit (HCTC) program in line with provisions in Sen. Baucus bill; (11) Establish a network of Manufacturing Redevelopment Zones to enable distressed communities to revitalize manufacturing employment.

Review whether an Office of Trade Adjustment Assistance has been established in DOL, and consider whether the Office should be incorporated in legislation.

Consider whether a provision to strengthen the Worker Adjustment and Retraining Notification (WARN) Act should be included in the legislation. An amendment to WARN should include expanding the businesses covered, increasing back pay amounts to workers when companies violate WARN, and expanding the investigatory and enforcement powers of the Department of Labor.

d. Longer Term Priorities

1. Monitoring. In concert with allied organizations such as the National Employment Law Project, monitor the activities of the DOL Office of Trade Adjustment Assistance. Encourage specific measures to ensure that investigators obtain the training they need to make accurate determinations of TAA eligibility for groups of workers.



Key Federal Agency Positions – Job Training

Department	Agency	Position	Nature of Position
DOL		Secretary of Labor	PAS
DOL	ETA	Assistant Secretary for Employment and Training	PAS
DOL	ETA	Deputy Assistant Secretary Workforce Investment Systems	NA
DOL	ETA	Deputy Assistant Secretary Administration and National Activity	NA
DOL	ETA	Administrator, Office of Apprenticeship	CA
DOL	ETA	Administrator, Office of Trade Adjustment Assistance	New
DOL	Office of the Assistant Secretary for Policy	Deputy Assistant Secretary	NA
DOL	BLS	Commissioner	PAS