

WORKFORCE SOLUTIONS TEXOMA POLICIES & PROCEDURES

CHAPTER 8 - PROGRAM SERVICES

SECTION - 14 TRADE ADJUSTMENT ASSISTANCE (TAA)

Texas Workforce Commission Rule Chapter 849-
Employment and Training Services for Dislocated Workers Eligible for Trade Benefits
Adopted 11/24/03

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8.14.1 WST Adoption of TWC Rule Chapter 849

Workforce Solutions Texoma (hereinafter referred to as WST) agrees to adopt the Texas Workforce Commission's Rule Chapter 849 as policy. In addition, WST's service provider is directed to incorporate information contained in TWC's Integration of Trade Services for Dislocated Workers: A comprehensive Guide, located at <http://www.twc.state.tx.us/boards/guides/guides.html>, into program planning and guidance. WST's additional policy references are intended to clarify local policy with regard to this Rule.

CHAPTER 849. EMPLOYMENT AND TRAINING SERVICES FOR DISLOCATED WORKERS ELIGIBLE FOR TRADE BENEFITS

SUBCHAPTER A. GENERAL PROVISIONS

§849.1 Purpose.

- (a) The purposes of this rule are to ensure:
 - (1) statewide availability of services under the federal and state statutes and regulations relating to services to dislocated workers eligible for Trade benefits through the Texas Workforce Centers consistent with Chapter 801 of this title relating to the One-Stop Service Delivery Network;
 - (2) coordination and integration of services to dislocated workers eligible for Trade benefits through the Texas Workforce Centers, consistent with state law and the Workforce Investment Act (WIA);
 - (3) provision of Rapid Response services, as set forth in §849.21(b) of this chapter, upon receipt of a filed petition for Trade certification with the U.S. Department of Labor (DOL); and
 - (4) co-enrollment of Trade-certified workers in WIA, as appropriate, consistent with the Trade Act and WIA. For purposes of this subchapter, references to the "Trade Act" shall include references to the federal statutes relating to the Trade Act of 1974 and the Trade Act of 2002.
- (b) The purposes of services to dislocated workers eligible for Trade benefits under the Trade Act and WIA are to:
 - (1) ensure that dislocated workers eligible for Trade benefits are assisted in rapid reattachment to employment;
 - (2) fund such services to develop or enhance the vocational skills necessary to meet employers' needs when rapid reattachment to the workforce cannot be obtained; and
 - (3) provide other such services, as may be funded under state or federal programs, for post-employment activities, as needed.

§849.2 Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

- (1) ATAA--Alternative Trade Adjustment Assistance for Older Workers. Benefits are available to workers in an eligible worker group who are at least 50 years of age and who obtain different, full-time employment within 26 weeks of separation from adversely affected employment, at wages less than those earned in the adversely affected employment. These workers may receive up to half of the difference between the worker's old wage and the new wage, as set forth in the Trade Act.
- (2) Bona Fide Application for Training--any document developed by a Board or provided by the Commission that meets the requirements of 20 CFR §617.3(h)(1)(i), and is signed and dated by the participant, which includes the participant's name, Trade petition number, and specific occupational training.
- (3) Contextual Learning--learning, which includes English and basic skills, presented in the context of the selected vocational skills training.
- (4) Employer-Based Training--training services specifically designed to meet an employer's staffing and skill needs, including on-the-job and customized training, as defined by WIA and the Trade Act.
- (5) HCTC--Health Coverage Tax Credit. This benefit provides a tax credit of 65% of the cost of coverage of the eligible individual and qualified family members under qualified health insurance, as set forth in the Trade Act.
- (6) IEP--Individual Employment Plan. An individual employment plan and service strategy that must identify the results of a comprehensive and objective assessment of the knowledge, skills, abilities, and interests; employment goals; a description of the training services; and the appropriate combination of services for the participant to achieve employment goals and objectives.
- (7) Rapid Response Services--as defined by WIA §134; 20 CFR 652 Subpart. C; 20 CFR §665.300, §665.310, §665.320; and the Trade Act.
- (8) Suitable Employment--any employment prior to a referral to Trade-approved training that meets the requirements of 19 U.S.C §2296 [as referenced in 20 CFR 617 Subpart. C, Reemployment Services, and in particular §617.22(a)(1)(i)], which is employment that results in work of a substantially equal or higher skill level than the worker's past adversely affected employment, with wages of not less than 80% of the worker's average weekly wage.
- (9) Trade Act-- the federal statutes relating to Trade Adjustment Assistance, and TRAs. For purposes of this rule, references to the "Trade Act" shall include references to the federal statutes relating to the Trade Act of 1974 and the Trade Act of 2002.
- (10) Trade-Affected Worker--any dislocated worker, as defined in WIA §134, or secondarily impacted worker as referenced in 19 U.S.C. §2272, who states that his or her job was adversely affected by trade, or has filed, or whose company has filed, or who has been assisted in filing a petition for Trade certification with the U.S. Department of Labor (DOL).

- (11) Trade Benefits--benefits available to dislocated workers certified by DOL as eligible for Trade benefits, which are funded through the federal Trade program administered by DOL.
- (12) Trade-Certified Worker--any worker meeting the definition of trade-affected worker who is covered by a certification of eligibility as a result of a petition and determination of certification under 19 U.S.C. §2273 by the Secretary of the U.S. Department of Labor.
- (13) TRAs--Trade Readjustment Allowances. Income-support benefits available to certain trade-affected workers.
- (14) UI--Unemployment Insurance program, as set forth in Texas Labor Code §201.001 *et seq.*.
- (15) Waiver of Training-- any document developed by a Board or provided by the Commission that meets the requirements of the Trade Act, which recommends waiving the requirement to be enrolled in Trade-funded training in order to receive TRAs and the HCTC.
- (16) WARN--The Worker Adjustment and Retraining Notification Act, as set forth in WIA and the Trade Act.

§849.3 Trade Service Strategy.

- (a) Boards shall ensure that their strategic planning process includes an analysis of the local labor market to:
 - (1) determine employer needs;
 - (2) determine emerging, targeted, and demand occupations;
 - (3) identify employment opportunities, which include those with a potential for career advancement; and
 - (4) identify employer-based training opportunities.
- (b) Boards shall set local policies for a Trade service strategy that coordinate various service delivery approaches to:
 - (1) assist dislocated workers eligible for Trade benefits in obtaining suitable employment as an alternative to referral to training;
 - (2) promote the use of WIA core and intensive services to support the rapid reattachment to the workforce;
 - (3) refer to prevocational and vocational training in demand and targeted occupations; and
 - (4) assist in job retention and career advancement.
- (c) Boards shall ensure that dislocated workers eligible for Trade benefits, who are unable to find suitable employment through WIA core services, are co-enrolled in WIA Title I dislocated worker services for referral to Trade-funded intensive and training services.
- (d) Boards shall ensure that dislocated workers eligible for Trade benefits receive the following services:
 - (1) career counseling;
 - (2) job development and placement;
 - (3) case management;

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| <ul style="list-style-type: none">(4) follow-up services upon completion of training; and(5) support services, such as child care and transportation, funded through other sources based on applicable Board policy and procedure. |
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8.14.2 TAA SERVICE STRATEGY

In accordance with §849.3, WST supports ensuring that trade-impacted individuals are provided opportunities to participate in employment activities and support services as well as additional workforce activities and support services, as appropriate. The Workforce Solutions Texoma (WST) staff and service providers will adhere to all state and federal statutes, regulations, and rules in development and implementation of the WST TAA program. It is the policy of the WST that all customers are treated in a fair, equitable manner and that a nondiscrimination and equal opportunity policy is followed. The WST is committed to ensuring that customers in the Texoma Board area have equal access to all services, programs, and facilities. It is WST's policy that no customer will be denied access or services on the basis of race, color, religion, sex, national origin, age, disability, political affiliation, or belief. Refer to WST Equal Opportunity Policy, Chapter 16, for additional equal opportunity policy and procedures.

WST's strategic planning process incorporates researching, developing, and publishing a list of targeted and demand occupations on an at least yearly basis. WST's planning process will incorporate information on emerging occupations. WST's Business Services Unit will coordinate with local employers through board-sponsored meetings, informal meetings, and individual meetings to develop opportunities to assist trade-impacted customers with opportunities for early attachment to the labor force. To support WST's work first design, ongoing coordination and working relationships will be established with local entities, such as the local housing authorities, Health and Human Services Commission, substance abuse and mental health providers, and family services agencies to assist trade-affected customers in overcoming barriers to employment. In addition, TAA customers will be screened for access to additional one-stop partner activities and services, such as the WIA Adult and Youth Programs, which can assist in their progress toward employment.

WST's workforce centers are staffed with the highest quality staff and resources available to assist customers to access employment. Resource room access and services, specialized screening and referral services, group and individual activities, as well as an Individualized Service Plan are combined to provide trade-affected customers with the tools and skills needed to access employment opportunities. WST's work first service delivery approach supports all trade-affected customers in accessing early attachment to employment through use of community collaborative opportunities and specialized workforce center services

including the assessments, specialized job assistance services, support services, individualized family employment plan, referrals to local work-oriented educational and training opportunities, dual programmatic enrollment, and intensive case management. All program activities are designed to assist trade-affected customers in rapid reattachment to the workforce.

In addition, in accordance with §849.3(c), WST service providers will ensure all eligible TAA customers who are unable to find suitable employment through core services and are referred to intensive and/or training services for consideration for co-enrollment in the WIA Dislocated Worker program for intensive services and training services.

According to the 2009 Trade Act reauthorization, WD 52-09, Change 1, and Department of Labor guidance contained in TEGL 22-08, WST service provider will assist TAA customers in selecting a training program that meets their needs. As the choice of the Trade-affected customer's training program is not limited to training programs available under Title I of WIA, and therefore listed on the ETPS, customer may not be eligible for co-enrollment in WIA-sponsored training. However, customers can still be considered for co-enrollment in WIA to provide support services, if needed, throughout the training period.

SUBCHAPTER B. TRADE SERVICES RESPONSIBILITIES

§849.11 General Board Responsibilities.

- (a) **Board Planning.** A Board shall amend and modify its integrated workforce training and services plan to incorporate and coordinate the design, policy development, and management of the delivery of Trade activities and support services with the delivery of other workforce employment, training, and educational services identified in Texas Government Code §2308.251 *et seq.*, as well as other training and services included in the One-Stop Service Delivery Network as set forth in Chapter 801 of this title.
- (b) **Reporting.** Boards shall ensure that documentation is maintained as required by the Commission, including documentation required in the Commission's automated reporting system.
- (c) **Monitoring.** A Board shall ensure that the monitoring of program requirements and participant activities is part of the monitoring required under Chapter 800, Subchapter I of this title, relating to monitoring and, in particular, that the monitoring is ongoing and frequent, as determined appropriate by the Board, and consists of the following:
 - (1) timely and accurate reporting of data required for the provision of services to the trade-affected worker;
 - (2) tracking and reporting of participation;
 - (3) tracking and reporting of support services;

- (4) ensuring progress toward achieving the goals and objectives in the Individual Employment Plan (IEP), as defined by WIA and in §849.2(6) of this chapter;
- (5) notifying the Commission if a participant drops out of training; and
- (6) monitoring other requirements, as prescribed by the Commission.

8.14.3 TAA PLANNING

Pursuant to §849.11(a) and WST 8.6.2, WST will incorporate into its planning process the design, policy, development and management of the delivery of the TAA program.

8.14.4 TAA REPORTING ~~/TWIST DATA ENTRY~~

Pursuant to §849.11(b), WST service providers will ensure that all TAA documentation is maintained in customer files and in the TWIST automated system, as appropriate.

~~As per WD 52-09, Change 1, the application date is now a TAA-reportable item and must be correctly entered into TWIST in the TAA Program Summary tab as the date the individual received his/her first reportable TAA services.~~

8.14.5 TAA MONITORING

WST Monitoring Department will ensure monitoring of TAA cases includes testing the attributes designated in §849.11(c)(1-6). WST monitoring will focus on reviewing holistic case management and will include reviewing data entry of all aspects of the program and programmatic compliance of local, state, and federal policy. WST monitoring of TAA cases will be performed in accordance with the WST Monitoring Policy, which is located in Chapter 6 of the WST Policies and Procedures.

In addition, WST Service Providers will develop internal monitoring procedures to comply with TWC Rule §849.11(c)(1-6). WST Service Providers should perform internal monitoring of a sample of TAA cases ~~on an at least monthly basis~~ and documentation of same should be made in each individual case ~~file~~ in the TWIST case notes section with a report to the service provider management staff. Said report will be made available to WST monitoring staff upon request.

§849.12 Participant Responsibilities.

As required by the Trade Act, dislocated workers eligible for Trade benefits shall:

- (1) apply for UI benefits in the manner, and pursuant to the time limits, prescribed by federal and state statutes and regulations; and
- (2) contact the local Workforce Center and register for full-time work by enrolling in the Commission's automated job matching system;
- (3) attend Rapid Response and Trade orientation activities;
- (4) report to the employer to whom they are referred for suitable employment;

- (5) accept a job offer, if it meets the criteria for suitable employment;
- (6) attend scheduled appointments with the case manager, if no suitable employment is available;
- (7) participate in training that is full time as defined by the training provider or Commission;
- (8) notify the case manager within one week of having dropped out of approved Trade-funded training; and
- (9) report to employers, as referred by case managers, upon completing training.

SUBCHAPTER C. TRADE SERVICES

§849.21 Activities Prior to Certification of a Trade Petition.

- (a) Boards shall develop intervention strategies for providing Texas Workforce Center services, which ensure rapid, suitable, and long-term employment for trade-affected workers and dislocated workers eligible for Trade benefits.
- (b) Boards shall ensure that layoff assistance is provided in the local workforce development areas (workforce areas) consistent with WIA Title I Rapid Response services, including the following:
 - (1) contacting the employer immediately on receipt of a filed Trade petition, WARN letter, or other notification of pending layoff;
 - (2) scheduling an on-site meeting with the employer and workers to ensure notification of Rapid Response services, including availability of UI mass claims;
 - (3) assisting with filing a Trade petition with DOL, including a request for certification under ATAA;
 - (4) providing initial assessment of the workers English, math, and reading levels as well as transferable skills and interests;
 - (5) registering for work for purposes of entering information in the Commission's automated job matching system;
 - (6) scheduling on- or off-site services for workers, including:
 - (A) orientation to federal Trade Act benefits, which includes the following:
 - (i) TRAs;
 - (ii) Trade Act-funded employment and training activities;
 - (iii) Health Coverage Tax Credit (HCTC);
 - (iv) A bona fide application for training ensuring that the worker has been notified of all available benefits to which he or she may be eligible; and
 - (v) A signed waiver of training ensuring eligibility for HCTC and other Trade benefits that have regulatory time limits. A waiver is appropriate if the worker has significant barriers to reemployment, such as

- (I) obsolete skills in the worker's most recent occupation;
 - (II) similar skills to other workers representing an excess supply of similarly skilled workers in the labor market area; and
 - (III) limited English language proficiency coupled with limited or no skills in demand in the local labor market area.
- (B) orientation to labor market information, including wage data and the availability of demand and targeted occupations as defined by the Board.

8.14.6 ACTIVITIES PROVIDED PRIOR TO TRADE PETITION CERTIFICATION

Per WD 01-10, WST must establish contact, by phone or in person, with employers and representatives of affected workers within 48 hours of receiving a WARN notice, a public announcement of a layoff, or notification that a Trade petition has been filed. The initial meeting with any employer requesting Rapid Response Services may include a WST staff member and a representative from the TWC Dislocated Worker Unit. At this meeting, information and services pursuant to §849.21(b) will be provided, including assistance with filing a Trade petition with DOL.

In accordance with WD 01-10, service provider will ensure that rapid response services flow seamlessly from initiation of services to the transition to reemployment or other workforce services, provide an integrated array of services, and benefit eligible affected workers by meeting their individual needs.

WST service provider will ensure that all available intervention strategies, including availability of job search activities, resource room resources, current employment statistics and opportunities, are available to potential trade-affected workers. WST service providers will also provide Rapid Response Services (layoff assistance) in accordance with the guidelines as indicated in §849.21(b). Said services may be provided either on-site or at the local workforce center, as agreed to with management of the impacted company. All orientations to trade act benefits will include dissemination of information as outlined in §849.21(b)(6)(A-B). WST service provider staff will ensure documentation of all services and contacts are entered in the appropriate automated system.

Service provider is referred to WD 01-10 for an overview of Rapid Response Services available to both employers and affected workers.

8.14.6.1 TAA Waivers of Training

Pursuant to §849.21(b)(6)(v I-III), TA Bulletin #89, ~~TA Bulletin #90~~, and ~~WD 29-05~~, WD 52-09, Change 1, and WD 06-11, Waivers of Training may be filed either prior to or after certification of a Trade Petition for individuals to waive the TAA training requirements which allows eligible TAA customers to receive TRA benefits and Health Care Tax Coverage (HCTC) while conducting job search. In order to receive TRA, individuals must be enrolled or participating in TAA-approved training by the waiver/in-training deadline listed in TWIST.

WD Letter ~~06-1129-05~~ details information about staff data entry of Waiver information in TWIST. WST service provider staff must ensure that waivers are approved for one of six approved reasons, through use of the WOT-1 form, as listed in WD ~~29-05~~06-11. ~~As noted in WD 29-05, for Trade petitions numbered 50,000 or greater, staff must ensure that waivers of training should be approved no later than eight (8) weeks after the petition's certification date or sixteen weeks after the trade-affected worker's layoff date, whichever is later, in order for the TAA customer to be eligible to receive TRA. Pursuant to WD 29-05, if the TAA customer declines to sign a waiver of training, that information must be documented in TWIST case notes.~~

Individuals certified under Trade petitions numbered 49,999 or less are not subject to the same time restrictions as those with petitions numbered 50,000; however, it is recommended that the waivers of training be determined and documented as soon as possible, regardless of the certification number. Pursuant to the 2009 Trade Act Changes, petitions filed after May 28, 2009 with numbers 70,000 or greater will receive benefits outlined in the new changes, as per TEG 22-08.

WST service provider staff will ensure that the TAA customer is registered in WorkInTexas and ensure the customer's trade-affected eligibility prior to approving and entering a waiver of training into TWIST. WST service provider is referred to WD ~~29-05~~06-11 to develop additional procedures and training materials for filing Initial and Subsequent waivers, revoking waivers, denial of waivers, and extending waivers for TAA affected customers.

WST service provider will ensure that trade-affected -workers are notified of their requirement to contact their TAA case manager every 30 days and at this contact, the case manager will determine whether the waiver reason still applies or if the training is feasible. Notification of 30 day contact requirement and all contacts with customer must be documented in TWIST case notes. The one-day TWIST service code 21-Case

Management with TAA fund code 121-Trade Adjustment Act must be used for each 30 day contact.

TAA training waivers will last for six months, with monthly contact during the six months. One additional six-month waiver can be approved if the trade-affected worker meets waiver eligibility requirements.

In all circumstances, TWIST data entry, including case note documentation is required within one week of said action or communication.

As TGAAA has extended the TRA deadline to 26 weeks, there should be few instances when granting a waiver is necessary. As noted in WD 52-09, Change 1 and WD 06-11; the following are the six instances when waivers can be granted:

1. **Recall:** The worker was notified that the affected company will recall the worker within six months.
2. **Marketable skills:** The worker possesses marketable skills for employment in a specific occupation, as determined by an initial assessment of the worker's total job skills. If the worker has a master's degree or higher in any subject, the worker is considered to have marketable skills for purposes of the waiver request.

Note: "marketable skills" means that the worker:

- a) possesses all the job skills necessary for a specific occupation with available jobs in the local commuting area (or an area to which the worker is willing to relocate); and
- b) is likely to be employed within 90 days.

~~Marketable skills also can include the possession of a postgraduate degree or certification in a specialized field.~~

3. **Retirement:** The worker is within two years of being eligible for retirement under Social Security retirement benefits or a private pension sponsored by the employer or labor organization.
4. **Health:** The worker is unable to participate in training for health reasons, except this waiver does not exempt the participant from availability for work, active work search, or refusal to accept work requirements of the federal or state UI laws

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5. **Enrollment unavailable:** The first available enrollment date for the TAA-approved training is within 60 days ~~, or later if there are extenuating circumstances of the date the waiver is issued.~~
6. **Training not available:** TAA-approved training is not reasonably available to the worker from a public or private source, no suitable training is available for the worker at a reasonable cost, or no training funds are available in the state.

§849.22 Post-Certification of a Trade Petition.

- (a) Boards shall ensure that Trade-certified workers referred to intensive or training services are co-enrolled in WIA dislocated worker services.
- (b) Boards shall ensure that prior to referring a trade-affected worker to intensive or training services, each of the following six criteria are met and documented in the IEP:
 - (1) no suitable employment;
 - (2) ability of the worker to benefit from training, based on a comprehensive assessment of the worker's knowledge skills and abilities;
 - (3) reasonable expectation of employment following completion of the training;
 - (4) training is reasonably available to the worker, within the commuting area as defined in the Texas Unemployment Compensation Act;
 - (5) worker is qualified to undertake and complete the training based on a comprehensive assessment of the worker's knowledge, skills, abilities, and interests; and
 - (6) training is available at a reasonable cost based on a review of Board-approved training as set forth in §849.23(a)(1)-(4) of this subchapter in the workforce area for like training for the selected occupation.
- (c) Boards shall ensure that referrals to training and amendments are submitted timely to the training provider and the Commission's Trade Unit for final determination, as appropriate, and include the following:
 - (1) a comprehensive assessment of the worker's knowledge, skills, abilities, and interests;
 - (2) an IEP based on the assessment and a Board's demand and targeted occupation list; and
 - (3) information regarding the occupation selected in the counseling process.

§849.23 Training Referrals.

- (a) Boards shall ensure that referrals to Trade-funded training are Board approved as set forth in §849.23(a)(1)(A)-(C) of this subsection, prior to final Commission determination:
 - (1) Meet the six criteria established in §849.22(b)(1-6) of this subchapter; and

- (A) training providers are in the Eligible Training Provider Certification System as defined Chapter 841 of this title;
 - (B) prevocational or vocational skills training as approved by the Commission; or
 - (C) training that offers contextual learning opportunities for Limited English Proficient (LEP) clients as approved by the Board.
- (2) Meet the time limitations for Trade benefits;
 - (3) Meet the needs of employers for demand or targeted occupations, or that the participant has a bona fide job offer; and
 - (4) Be completed during the 104 weeks of Trade-funded benefits, unless otherwise determined by the Commission.
- (b) Boards shall ensure that the following types of intensive and training services are considered:
- (1) employer-based training;
 - (2) contextual vocational skills training, particularly for Limited English Proficiency (LEP) clients;
 - (3) remedial training, including literacy, particularly English as a Second Language (ESL), Adult Basic Education (ABE), or certificate of general equivalence (GED) training as stand-alone or linear training only when consistent with the needs of the participant to qualify for certain vocational skills training; or the requirements of employer-based training, as identified in the IEP; and
 - (A) the training provider has submitted amendments to the IEP; and
 - (B) the case manager has approved the amendments in order for the Commission to make the final determination for extended training.

8.14.7 Activities Provided After Trade Petition Certification

As per WD 52-09, Change 1, and the revised Trade and Globalization Adjustment Assistance Act (TGAAA) of 2009, which amended the Trade Adjustment Assistance (TAA) program, trade-affected workers will be screened for the following programs and services:

- Eligibility
- Case management
- Application date
- Trade Readjustment Allowances
- Waiver of training requirement
- Training
- Training costs
- Transportation and subsistence costs for training
- Approval or denial of training
- Co-enrollment and multiple enrollment
- Reemployment Trade Adjustment Assistance

- Health Coverage Tax Credit
- Assistance to Trade-affected workers from other states

In accordance with WD 52-09, Change 1, WST service provider will ensure that TAA customers are provided with early intervention services including orientation; initial assessment of skills, language, education, aptitudes, and abilities; and provision of labor market, job search assistance, and financial management workshops. Additional details of required services/activities, including the revised reemployment plan (REP), can be found in WD 52-09, Change 1 and WD 06-10.

8.14.8 TAA Training

In accordance with WD Letter 06-10 (dated 2/2/10), the local commuting area is now defined as 50 miles with the reasonable cost of training standard set at \$17,000. Service provider must ensure that the reasonable cost standard is considered when TAA training is being planned. According to WD 06-10, the reasonable cost standard is not a cost cap. TAA training must meet the “lowest-cost” training approval criteria. In instances when the estimated cost of the lowest-cost training exceeds the reasonable cost standard, WST will submit a justification for the higher costs to TWC’s Commission Trade Funded Services Unit. The reasonable cost of training standard includes all training required to make the TAA participant job ready in a specific occupation and any required travel and subsistence. For additional guidance, WST service provider is referred to WD 06-10.

8.14.8.1 WIA Co-Enrollment

Pursuant to §849.3(c), §849.22(a) and 8.6.2 above, WST Service Provider will ensure that all qualified trade-certified workers who are referred to intensive or training services will be co-enrolled in the WIA Dislocated Worker program, if said customer is enrolled in a training program that is on the Board-approved Target Occupations List or if the customer is in need of intensive or support services.

Pending revised state guidance and according to the 2009 Trade Act reauthorization and according to new Department of Labor guidance contained in TEGL 22-08, WST service provider will assist TAA customers in selecting a training program that meets their needs. As this training program may not necessarily be limited to training programs available under Title I of WIA, and therefore listed on the ETPS, customer may not be eligible for co-enrollment in WIA-sponsored training. However, customer can still be co-enrolled in WIA to provide support services, if needed, throughout the training period.

8.14.8.1.1 ESL / GED CLASSES

WST has established local-area partnerships with Grayson County College who offers ESL classes in all three counties in the WST area and the Fannin Literacy Council, which offers ESL classes in Fannin County. In compliance with WD 47-09, eligible TAA individuals are eligible to participate in English as a Second Language (ESL) classes in combination with other training-related activities/classes. It should be noted that if ESL classes are required in conjunction with a WIA Training activity, said classes must be provided by an Eligible Training Provider. All customers receiving ESL classes must have the need documented in their employment plan that clearly indicates how ESL activities are provided as part of a comprehensive strategy that leads directly to employment. In any instance where the ESL is provided as a stand-alone service, the employment plan must document why ESL is the only service needed for employment.

Pre-vocational, short-term (less than six (6) months) GED or ESL classes may be offered as a WIA Intensive service in preparation for employment or training. However, staff must fully document how the ESL classes will support the customer's employment goals. Individuals who require time above and beyond the 6-month limit to complete ESL or GED classes can submit written documentation from the training provider requesting an exception to policy. Said documentation must outline the progress of the customer in the last 6 months and state what goals and timeframe is required to complete the ESL/GED classes. WST will consider a 6 month extension if all student's progress and documented plan from the training provider support completion of student goals during this time.

8.14.8.2 TAA Training

WST Service Provider will ensure that each of the six criteria in §849.22(b)(1-6) are met prior to referring a trade-affected worker to intensive or training services. Pertinent individualized information relating to these six criteria are to be documented in each customer's Individualized Employment Plan (IEP). Any referrals to training will be supported by a comprehensive assessment of the customer's knowledge, skills, and abilities.

The 2009 Trade Act reauthorization requires that TAA training is an entitlement if all of the approval criteria identified in the Trade Act and the TAA Guide are met. Therefore, if the TAA customer with a petition number 70,000 or greater chooses a training that is not on the statewide Eligible Training Provider List or WIA targeted occupation list, customer

will not be co-enrolled in WIA-sponsored training. However, customer can be still be co-enrolled in WIA intensive services for support services assistance. WST Service provider will ensure that the following six approval criteria and three considerations are used as a basis for approving a Trade-certified worker's request for training or to recommend denial of a training request:

Six criteria:

1. There is no suitable employment available.
2. The affected worker will benefit from training.
3. There exists a reasonable expectation of employment following training.
4. The training is reasonably available from a private or public school regulated by a state agency.
5. The Trade-certified worker 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.

Three other considerations:

1. All TAA training programs must be completed within 156 weeks.
2. A Trade-certified participant must not be required to pay any of the training costs, including student loans or any funds that must be repaid.
3. If the training program is part-time, the Trade-certified participant is informed that he or she will not receive TRA.

In addition, Trade-certified participants must be informed that they will not receive TRA when a training program is part-time. Additional information that is required to be disseminated to the Trade-certified participant can be located in WD 52-09, Change 1.

Allowable costs of a TAA-approved training program include:

- Tuition
- Books
- Required Tools
- Academic Fees
- Travel and subsistence expenses when the training location is outside the local commuting area.
- Certification test or licenses required for employment.

Whenever possible, customer choice should take precedence in the selection of the training program. However, any training paid for with WST Dislocated Worker funds must be selected from WST's most current

Target Occupations list (§849.23(a)(3)), be supported by customer's comprehensive assessment of their knowledge, skills, and abilities, and meet guidelines outlined in §849.22(b)(1-6) and WST WIA Policy 8.9. In addition, training that is paid for by WST Dislocated Worker funds must be provided by a training provider listed approved by WST on the most current Texas Eligible Training Provider list (§849.23(a)(1)(A)), which can be located at http://tpcs.twc.state.tx.us/TPCS/jsp/swl/swl_search.jsp. Exceptions for use of training providers on the Texas Eligible Training Provider list can be requested from WST. However, training requested must be selected from WST's most current Target Occupations list. WST approvals for exceptions must be appropriately documented in case files.

TAA customers who require remedial courses will be exempt from the ITA maximum amounts for the cost of those remedial courses. Determination of the need for remedial courses will be maintained in the customer's file and in the IEP. The need for remedial courses will be determined by written request from the school.

All approved trade-affected workers will be referred to the Texas Workforce Commission's (TWC) Trade Unit for final approval and determination, as outlined in §849.22(c). WST service provider staff will provide follow-up and support to ensure all information needed is forwarded to the TWC Trade Unit and TWC's decision relating to training is communicated to the customer in a timely manner. Service provider staff will also provide liaison services to the customer to assist in enrollment in the requested training program.

~~8.14.8.2.1 Training Data Entry~~

~~Pursuant to WD 33-07, WST service provider will ensure training codes and information is correctly entered into TWIST in the Service Detail window. Service provider will ensure that the correct service completion reason and date is entered to close the training component. Additionally, service provider is referred to WD 38-09 for details on appropriate data entry of ONET and CIP codes for training services.~~

All other guidance concerning information and services noted in WD 52-09, Change 1, will be followed.

The 2009 amendments to the Trade Adjustment Assistance program that were included in the American Recovery and Reinvestment Act expired in February, 2011. Therefore, trade petitions filed after that date will have benefits that revert back to the previous federal provisions. A Table is provided at the end of this policy showing the differences between the 2002 Trade Act and the 2009 TGAA changes. Petition numbers to follow for different requirements are as follows:

- Petitions 50,000 – 69,999 and above 80,000L Program services available under TAA 2002
- Petitions 70,000 – 79,999: Program services available under TGAA 2009.

SUBCHAPTER D. SUPPORT SERVICES

§849.41 Support Services for Dislocated Workers Eligible for Trade Benefits.

- (a) Boards shall ensure that support services available under WIA Title I dislocated worker services are made available to dislocated workers eligible for Trade benefits and co-enrolled in WIA under existing Board policies and procedures.
- (b) Support services may include payment or reimbursement from sources other than Trade Act funds for:
 - (1) child care services that are governed by rules contained in Chapter 809 of this title;
 - (2) transportation services that may be provided for participating workers; and
 - (3) work, training, or education-related items, not directly related to the training and not authorized under the Trade Act.

8.14.9 WST TAA SUPPORTIVE SERVICES

Pursuant to §849.41, WST service provider will ensure that support services equivalent to those provided to WIA customers are provided to TAA customers who are enrolled in the WIA program. See WST Policy 8.9 for additional details. Support services must be requested by the customer and not be available from any other source(s). Authorized support services include child care, transportation, and work or training-related equipment. Effective October 22, 2009, service provider is no longer required to enter supportive service information on the Support Services tab in TWIST. Additionally, service provider will follow guidance offered in WD 58-09 regarding TWIST data entry of supportive services given to participants co-enrolled in WIA and TAA. For TAA customers who are not enrolled in the WIA Dislocated Worker program (enrollments prior to 11/24/03), TAA funding can only be used for approved training (tuition, fees, books, and supplies), out-of-area job search, job relocation and the Trade Readjustment Allowances (reference: Dislocated Worker/Trade Integration Webcasts Q&A's). See WST Supportive Service Policy and Procedures, Chapter 8, Section 15, for further clarification on allowable supportive services.

SUBCHAPTER E. COMPLAINTS AND APPEALS

§849.51 Appeals of Commission Determinations on Trade Act Activities.

- (a) A Commission determination or decision may be appealed by the party who is adversely affected by the decision. The decision shall include the information necessary to appeal the decision. Decisions that may be appealed include determinations pertaining to eligibility for Trade Act activities, services, and monetary allowances regarding a trade-affected worker's application for:
- (1) waivers of training;
 - (2) job search allowances;
 - (3) job relocation allowances;
 - (4) Trade Readjustment Allowances;
 - (5) training; and
 - (6) any other appealable action allowable under the Trade Act.
- (b) Appeals under the Trade Act shall be in accordance with Texas Labor Code, Chapter 212, V.T.C.A., and Commission rules contained in Chapter 815 of this title and as provided with the determination or decision.
- (c) Boards shall ensure that participants are informed of their rights to appeal a determination related to certain non-Trade-funded activities and the procedures for an appeal of the determination, and for requesting a hearing from the Commission as specified in the applicable statutes and regulations relating to the services, including but not limited to Chapters 823 and 841 of this title.

8.14.10_ TAA COMPLAINTS AND APPEALS

Pursuant to §849.51(c), WST will ensure that TAA participants are informed of their rights to appeal a determination related to any aspect of §849.51(a)(1-6). WST service provider staff will ensure that written notice is provided to customers of their rights to appeal and that support is provided to customers requesting an appeal. See WST Policy Chapter 8, Section 2 – Grievance/Complaint for additional information about TAA customer complaint policies.

Under no circumstances are WST Board or Contractor staff allowed to deny a TAA customer a TAA-sponsored training opportunity. Contractor must submit suggested denials of TAA-sponsored training to the designated Board representative who will transmit same to the designated individual at TWC. TWC will inform WST of their decision about this request.

§849.52 Discrimination Complaints.

- (a) A participant alleging discrimination on the basis of age, race, color, national origin, or physical or mental disability has a right to file a written complaint of alleged discriminatory acts within 180 calendar days from the date of the alleged discriminatory acts. Complaints shall be submitted to the Texas Workforce Commission Equal Opportunity Department, 101 East 15th Street, Room 220, Austin, Texas 78778-0001.

- (b) Boards shall ensure that the Board or the Board's service providers advise individuals who express an interest in filing a discrimination complaint of their right to file a complaint and the complaint procedures.

8.14.11 TAA COMPLAINTS AND APPEALS

WST's Program Grievance/Complaint Policy is outlined in WST Policy 8.2, and supports TWC §849.52. Pursuant to WST Policy 8.2.1.1, all complainants will be treated in a fair, equitable manner and that a nondiscrimination and equal opportunity policy is followed. Complaints alleging a violation concerning any non-criminal grievance or complaint of discrimination because of race, color, religion, sex, national origin, age, disability, or political affiliation or beliefs; disability issues; accessibility issues; and/or complaints from potential or active participants concerning workforce center issues/programs will be investigated and resolved. It is the goal of the WST that all complaints received will be resolved in a timely manner. Copy of customer's signature on a written notice of program grievance/ complaint policy will be maintained in customer file with original notice being given to the customer. In addition, WST staff and service provider will provide all necessary support to customers who wish to file a discrimination complaint.

8.14.12 THE WORKFORCE INFORMATION SYSTEM OF TEXAS (TWIST) DATA ENTRY REQUIREMENTS

WST service provider is instructed to develop procedures to ensure staff compliance with weekly data entry of all customer contact and actions pertaining to customer's case in TWIST.

In addition, pursuant to WD 27-07, staff will ensure that all required qualifying and non-qualifying services information pertaining to customer's performance-related requirements are entered into TWIST on a weekly basis. ~~In addition, if the TAA customer is co-enrolled in TAA training, WD 27-07 requires that~~ Verification of customer's credentials, certificates, diplomas, achievement of a higher grade level, and post program activities are documented in TWIST in the Performance Data Menu under the Performance Outcomes Tab or the Last Grade Completed Tab. Staff will also ensure appropriate back-up documentation of attainment of the credential, certificate, diploma, or achievement of a higher grade level is maintained in the customer case ~~file~~. WST service provider is referred to WD 27-07 for staff training and development of appropriate procedures.

As per WD 52-09, Change 1, the application date is now a TAA-reportable item and must be correctly entered into TWIST in the TAA Program Summary tab as the date the individual received his/her first reportable TAA services.

8.14.12.1 TWIST Reporting Requirements

WD 10-11 requires additional TWIST reporting requirements as follows:

- **Tenure:** Contractor staff must calculate tenure based on the number of months a trade-affected worker was employed with the trade-affected employer and enter total tenure into the TWIST TAA Program Summary tab.

- **Remedial and/or Prerequisite Training:** Since TRA payments are allowable during a remedial and/or prerequisite training period, service provider staff must ensure that the number of weeks of said training is data entered in the tAA Program Detail Summary Tab. In addition, if the training plan is amended for this type of training, TWIST data entry must be changed to reflect the new training weeks. In addition, it is required for the actual number of weeks and corresponding dates to be noted in TWIST Case Notes and the new TWIST Service Code 190 – Prerequisite Training is used.

- **Integrated Remedial Training:** Integrated remedial training is defined as training in which the provider teaches both remediation courses and occupational vocational training concurrently. TWIST Sub-Fund 50 – Integrated Remedial must be used in the Occupational/Vocational service fund code line in TWIST Service Tracking for this type of training.

- **Part –Time Training:** Part-time training is allowable for Trade petition numbers 70,000-79,999; however, TRA is only allowable for full-time training. TWIST Sub-Fund 49 – Part-Time Training must be used in the Occupational/Vocational service fund code line in TWIST Service Tracking for this type of training.

- **Distance Learning:** TWIST Sub-Fund 48 – Distance Learning must be used in the Occupational/Vocational service fund code line in TWIST Service Tracking for this type of training.

- **TWIST Fund Codes:**
 - TAA Fund code 121 – Trade Adjustment Assistance must be used if any TAA funds are used for the TAA-approved training.
 - In addition, fund code 136-TAA/Other must only be used if training is funded 100% by other government or private sources.

- Planned Cost of Training: The total training cost must be entered into Service Tracking in the Planned Training field. This amount must be the same amount that is document in the TAA Reemployment Plan.

- Training Data Entry:

- Pursuant to WD 33-07, WST service provider will ensure training codes and information is correctly entered into TWIST in the Service Detail window. Service provider will ensure that the correct service completion reason and date is entered to close the training component.
- Service provider is referred to WD 38-09 for details on appropriate data entry of ONET and CIP codes for training services.
- WD 10-11 also requires the following areas be completed in the Intake Common Specialized Services and TAA Program Detail:
 - Identity tab
 - Characteristics taa
 - Education tab
 - Military tab
 - Disability/Medical tab

These fields must be completed the same day the Application Date field is completed. The Application Date is defined as the date an individual first requests TAA services.

8.14.12.2 Data Validation

WD 23-08, Change 2 sets forth the requirements for data element validation requirements for the Trade programs. TWC's Data Element Review document has been updated with the 17 TAA data elements that are subject to validation. The Data Element Review can be located at <http://www.twc.state.tx.us/boards/wia/dataelementreview.pdf>

ATTACHMENT A – TGAA 2009 AND TAA 2002 COMPARISON

<u>Petitions 70,000 and 79,999</u> <u>Program Benefits and Services Available Under</u> <u>TGAA 2009</u>	<u>Petitions 50,000 - 69,999 & Above 80,000</u> <u>Program Benefits and Services Available</u> <u>Under TAA 2002</u>
<u>Trade Readjustment Allowances (TRA)</u> <u>Up to 130 weeks of cash payments for workers in full-time training</u> <u>Up to 156 weeks of cash payments if also enrolled in remedial or prerequisite training</u>	<u>Trade Readjustment Allowances (TRA)</u> <u>Up to 104 weeks of cash payments for workers in full-time training</u> <u>Up to 130 weeks of cash payments if also enrolled in remedial training</u>
<u>Training Enrollment Deadlines</u> <u>Must be enrolled in training 26 weeks after certification or layoff whichever is later in order to receive TRA</u> <u>Wide latitude in applying good cause provisions to missed deadlines</u>	<u>Training Enrollment Deadlines</u> <u>Must be enrolled in training 8 weeks after certification or 16 weeks after layoff, whichever is later, in order to receive TRA</u> <u>May extend training enrollment deadline by 45 days in the event of extenuating circumstances</u>
<u>Training Services</u> <u>Training can be full-or part-time, although full-time is required for TRA eligibility</u> <u>Certified workers can begin training when threatened with separation or when they are totally or partially separated from adversely affected employment</u>	<u>Training Services</u> <u>Only full-time training is approved.</u> <u>Certified workers cannot begin approved training unless they have been totally or partially separated from adversely affected employment</u>
<u>Reemployment Trade Adjustment Assistance</u> <u>50 years of age or older</u> <u>Separate certification of group eligibility is not required</u> <u>Can participate in TAA-approved training</u> <u>Requires full-time employment, unless worker is also enrolled in TAA-approved training & employed at least 20 hrs./wk, and does not set a deadline for reemployment</u> <u>Only for workers earning less than \$55,000/yr in reemployment</u> <u>Maximum benefit of \$12,000 over a period of up to 2 years</u>	<u>Alternative Trade Adjustment Assistance</u> <u>50 years of age or older</u> <u>Separate certification of group eligibility is required</u> <u>Can not participate in TAA-approved training</u> <u>Requires full-time employment within 26 weeks of separation</u> <u>Only for workers earning less than \$50,000/yr in reemployment</u> <u>Maximum benefit of \$10,000 over a period of up to 2 years</u>
<u>Job Search Allowances</u> <u>100% of allowable costs, up to \$1,500</u>	<u>Job Search Allowances</u> <u>90% of allowable costs, up to \$1,250</u>
<u>Relocation Allowances</u> <u>100% of costs, up to statutory limit for Federal Employees</u> <u>Additional lump sum payment of up to \$1,500</u>	<u>Relocation Allowances</u> <u>90% of costs, up to statutory limit for Federal Employees</u> <u>Additional lump sum payment of up to \$1, 250</u>

RESOURCES:

TEGL 22-08 – Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009 (5/15/09)

**Integration of Trade Services for Dislocated Workers: A Comprehensive Guide & Revisions,
<http://www.twc.state.tx.us/boards/guides/tradeguide.pdf>**

WD 34-04 – Integration of Trade Services for Dislocated Workers: A Comprehensive Guide (8/3/04)

WD 45-04 – The Workforce Information System of Texas: Workforce Investment Act Training Services (12/17/04)

~~**WD 29-05 – Trade Adjustment Assistance: Waiver of the Training Requirements, 5/12/05 (Rescinded and replaced by WD 06-11)**~~

WD 70-05 – Selection of Employers and Training Providers for On-the-Job Training and Customized Training (11/15/05)

WD 19-06 – Trade Adjustment Assistance: Waiver of the Training Requirements (5/12/05)

WD 27-07 – Integrated Data Collection and Performance Management (8/1/07)

WD 33-07 – Training Services Information in The Workforce System of Texas (6/6/07)

~~**WD 66-07 – Job Training Course Requirements for English as a Second Language Class, 10/29/07 (Rescinded per 47-09)**~~

~~**WD 16-05 – The Workforce Information System of Texas: Entering Attained Credentials, Certificates, Diplomas, and “Last Grade Level Completed” Data (3/25/05) (Rescinded per WD 27-07)**~~

WD 38-09 – Changes to Reporting Training Activities in the Workforce Information System of Texas (9/16/09)

WD 47-09 – Job Training Course Requirements for English as a Second Language Classes (11/30/09)

~~WD 52-09 – Trade and Globalization Adjustment Assistance Act of 2009, 11/18/09 (Rescinded per WD 52-09, Change 1)~~

WD 58-09 – The Workforce Information System of Texas: Providing Workforce Investment Act Support Services to Trade Adjustment Assistance Participants (12/21/09)

WD 01-10 – Rapid Response Early Intervention Services (1/8/10)

WD 52-09, Change 1 – Trade and Globalization Adjustment Assistance Act of 2009 – *Update* (2/2/10)

WD 06-10 – Trade Adjustment Assistance: Statewide Commuting Area and Reasonable Cost of Training Standard (2/2/10)

~~WD 23-09, Change 2 – State Data Validation Requirements – Update (2/15/11)~~

~~WD 06-11 – Trade Adjustment Assistance: Waiver of Training Requirements (3/3/11)~~

~~WD 10-11 – Trade Adjustment Assistance Reporting Requirements (3/10/11)~~

TA 83 – Trade Adjustment Assistance Services Available to Farmers through Texas Workforce Centers, 11/23/04

TA 89 – Trade Adjustment Assistance Data in the Workforce Information System of Texas, 1/25/05

TA 90 – Health Care Tax Credit, 3/9/05

TA 95 – Alternative Trade Adjustment Assistance, 4/15/05

TA 136 – Texas Workforce Commission's Procedures for Investigating Fraud and Abuse of Trade Readjustment Allowances, 12/15/06

TA 142 – E-mail address for Trade Readjustment Allowance Questions, 2/20/07

