

Alabama Workforce Investment System

**Alabama Department of Economic and Community Affairs
Workforce Development Division
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February 2, 2004

GOVERNOR'S WORKFORCE DEVELOPMENT DIRECTIVE NO. PY2003-05, Change 6

SUBJECT: Training and Employment Guidance Letter (TEGL)

1. **Purpose.** This transmits the following TEGL:


<u>Number</u>	<u>Date</u>	<u>Subject</u>
16-03	1/26/2004	National Emergency Grant (NEG) Policy Guidelines

2. **Discussion.** TEGL No. 16-03 informs the local workforce investment system of the policies and priorities that will govern the award and use of the Secretary's discretionary National Emergency Grant (NEG) Dislocated Worker funds, pursuant to the Workforce Investment Act (WIA), Title I, Section 173, as amended.

NEG funds are awarded to provide employment-related services for dislocated workers.

3. **Action.** Copies of TEGL No. 16-03 are provided for informational and action purposes.

4. **Contact.** Please direct any questions regarding this information to the USDOL Regional Office, or to Mr. Shirley M. Smith, Administrator, Office of National Response, at (202) 693-3500..



Steve Walkley, Division Director
Workforce Development Division

Attachment

Employment and Training Administration Advisory System U.S. Department of Labor Washington, D.C. 20210	CLASSIFICATION National Emergency Grants
	CORRESPONDENCE SYMBOL ONR
	DATE January 26, 2004

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 16-03

TO: ALL STATE WORKFORCE AGENCIES
 ALL STATE WORKFORCE LIAISONS
 ALL STATE RAPID RESPONSE COORDINATORS
 ALL STATE TRADE COORDINATORS

/S/

FROM: EMILY STOVER DeROCCO
 Assistant Secretary

SUBJECT: National Emergency Grant (NEG) Policy Guidance

1. Purpose. To inform the state and local workforce investment system of the policies and priorities that will govern the award and use of the Secretary's discretionary National Emergency Grant (NEG) Dislocated Worker funds, pursuant to the Workforce Investment Act (WIA), Title I, Section 173, as amended.

2. References.

- Workforce Investment Act (WIA), as amended
- Trade Adjustment Assistance Reform Act of 2002 (Public Law 107-21 Sections 201, 202 and 203
- WIA regulations at 20 CFR Part 671
- Training and Employment Guidance Letter (TEGL) No. 14-00, Change 1, "Guidance on the Workforce Investment Act (WIA) Management Information and Reporting System," dated November 19, 2001
- Training and Employment Guidance Letter (TEGL) No. 10-02, "Use of National Emergency Grant Funds Under the Workforce Investment Act, as amended, to Develop Systems for Health Insurance Coverage Assistance for Trade-Impacted Workers," dated October 10, 2002
- Training and Employment Guidance Letter (TEGL) No. 20-02, "Use of National Emergency Grant (NEG) Funds Under the Workforce Investment Act (WIA), as amended, to Support Health Insurance Coverage Assistance for Trade-Impacted Workers," dated March 3, 2003

- Training and Employment Notice (TEN) No. 8-02, "Implementation of Common Measures for Job Training and Employment Programs," dated March 27, 2003

RESCISSIONS	EXPIRATION DATE
TEGL 2-94 and TEGL 2-94 Change 1	Continuing

3. Background. National Emergency Grants (NEGs) are discretionary grants awarded by the Secretary of Labor (the Secretary), pursuant to Section 173 of WIA, as amended. Funds are awarded to provide employment-related services for dislocated workers as authorized under WIA Section 173 and 20 CFR part 671. Funds are reserved and made available for obligation by the Secretary under Sections 132 and 173 of WIA, as amended.

Within the next few months, the Department will publish new application guidelines for NEGs. The new guidelines will reflect the changes made as a result of comments received following the Office of Management and Budget Paperwork Reduction Act clearance process. In conjunction with the issuance of these new guidelines, ETA will implement electronic processes for submitting and reviewing all NEG applications. Use of the electronic application will be required by all applicants for all NEG applications and modifications beginning July 1, 2004 (Program Year 2004). The use of the electronic processes will facilitate a quicker review and processing of NEG applications. The policies articulated in this TEGL are in effect immediately for all application requests for NEG funds.

The new guidelines and the electronic application are designed to achieve timeliness in the application and award of NEG funds to enable dislocated workers to receive employment-related assistance early in their transition period. However, the Department expects that unexpended formula Dislocated Worker program funds will be used to initiate services for workers impacted by mass layoffs and plant closures and, depending upon the amount of unexpended funds, may be sufficient to provide all transition assistance required by workers affected by such layoffs. In addition to the submission requirements contained in the application guidelines, eligible applicants must use the policies and priorities framework communicated in this issuance in determining the appropriateness of NEG funding to respond to a dislocation event and in developing the project design for a proposed NEG application.

The application guidelines will define the basic requirements for NEGs: eligible events, eligible applicants, project types, allowable use of funds, criteria for evaluating applications, and project management. This issuance does not generally repeat those requirements; rather, it provides the policy context for awarding NEG resources and provides the priorities and expectations of ETA in terms of the use of this important source of funding assistance.

ETA is committed to supporting innovative strategies that will help dislocated workers, and the communities in which they live and work, recover economically from the effects of plant closures and mass layoffs. A primary strategy is building a demand-

driven workforce system that integrates workforce investment activities with economic development initiatives. Strategies can include both short-term actions--such as responding to skills shortages--and longer-term actions--such as planning customized and other training strategies in support of business expansion and high-growth occupational employment. NEGs are a major tool in implementing these strategies. Another high priority is early intervention to enable workers to return to the workforce (including self-employment) at wages that are as close as possible to their layoff wages in order to help maintain workers' standard of living and promote the economic security of their communities.

This issuance highlights priorities that the Department is using in the award of NEG funds. The Department recognizes, however, that there may be instances where flexibility will be necessary. Therefore, in order to minimize the potential impacts on the timeliness goal, ETA strongly encourages and expects that the appropriate Regional Office will be contacted when an application is being developed that is outside the scope of the funding priorities articulated in this issuance.

4. Policy and Priority Framework for the Use of NEG Funds.

a. Purpose of NEGs. NEGs are discretionary awards by the Secretary of Labor that are intended to temporarily expand service capacity at the state and local levels by providing time-limited funding assistance in response to significant dislocation events. Significant events are those that create a sudden need for assistance that cannot reasonably be expected to be accommodated within the on-going operations of the formula-funded Dislocated Worker program, including the discretionary resources reserved at the state level. NEG funds are not available to replenish general formula short-falls or fluctuations in the annual Dislocated Worker formula allotment, but must be used in response to specific dislocation events, and in accordance with the policies in this document (including formula expenditures). Maintaining adequate rates of expenditure of available formula funds on a program year-basis will be a major criterion in evaluating the need for NEG funding. These funds include those allocated to local areas as well as those reserved for both rapid response and statewide activities. (See Para. 4. m., below, for additional information.)

b. Eligible Dislocation Events. NEG funds are available for significant dislocation events that arise from the effects of economic globalization, business fluctuations and unexpected events (e.g., disasters). Since workers will be eligible for services (upon receipt of layoff notice or company announcement) when an application is submitted, all projects are expected to enroll/register all participants within six months of a grant award.

NEG applications covering the following dislocation events are accepted by ETA for consideration of NEG funding:

(1) A single company layoff of 50 or more workers. Priority in funding will be given to applications that document the participation of a large enough group of workers to sustain a separately-funded project. Generally, projects that serve less than 50 workers should be funded with formula Dislocated Worker program dollars, but ETA will examine the sustainability of projects serving smaller groups on a case-by-case basis.

(2) Multiple company layoffs, where the dislocations from each company impact 50 or more workers. Priority will be given to applications that demonstrate a sustainable project size. Generally, this standard will be deemed met with the documented planned participation of at least 50 workers from each qualified company. (See Para. 4.c., below, regarding layoffs at secondary firms and Para. 4.b.(4) for community impact applications.)

(3) Industry-wide layoffs from companies in the same industry as determined by the three-digit code level in the North American Industrial Classification System. Each layoff in an industry-wide application must have 50 or more workers unless the exception below is met. In order to ensure a consistent statewide approach, we expect to focus our funding of these projects on applications from state applicants. Priority will be given to applications that document the planned participation of 50 or more workers from each company of the identified companies when the affected workers are not in the same or geographically contiguous local workforce investment area(s). Exception: Where the dislocation events are in the same local workforce investment area—or geographically contiguous areas—one company must have a layoff of more than 50 workers, and other identified companies may have layoffs of less than 50 workers as part of the same application.

(4) Community impact projects to assist workers in a local workforce investment area (primarily rural) where the employer base is primarily small employers and multiple small dislocations over a six month-period have a significant impact on the unemployment rate of the local workforce area, as determined by the state. In order to ensure a consistent statewide approach, we expect to focus our funding on applications from state applicants. For single area states, a local

commuting area or labor market area should be used. Priority will be given to applications where an increase in the unemployment rate of 1 percent has occurred in the affected local workforce area (or local commuter area or labor market area in single area states) over the previous six months. Each company and location must be identified as with other multiple company applications.

(5) Trade dual-enrollment projects with identified single or multi-company layoffs of more than 50 workers each, and where DOL has determined that workers were trade-impacted. The following policies and expectations apply to dual-enrollment applications:

(a) The application and review process for dual-enrollment projects will include consideration of annual planning estimates for expenditure in the year of allotment as issued by the Department for the trade program. This will strengthen the state's ability to project needs and manage Dislocated Worker funds, and improve ETA's ability to evaluate the need for additional training funds for trade-certified dislocated workers.

(b) The primary purpose of dual-enrollment projects is to provide trade-eligible dislocated workers with "wrap-around" services that are not available through the trade program, and state formula Dislocated Worker program funds are not sufficient to provide such services, including conducting a comprehensive assessment, developing individual re-employment plans, providing on-going case management, and providing supportive services (WIA core, intensive and supportive services). As described in Para. 4.m., below, we will take into account the state's success in meeting a 70 percent formula Dislocated Worker program expenditure rate when deciding whether to approve a NEG application.

(c) NEG funds may also be requested to provide training when the state demonstrates that it has spent or will spend by the end of the trade program's fiscal year its annual allotment, reserved trade funds are not available, and the requesting state is meeting the 70 percent expenditure requirement for Dislocated Worker program formula funds (see Para 4.m., below). Consideration of planning estimates and expenditure rates, and state effectiveness at operating the trade program will enable DOL to address resource requests in a timely and rational manner.

(d) Generally, NEG funds awarded for training will be used to fill a temporary gap in trade training funds to ensure that workers who have been appropriately assessed and need training to return to work will have access to such training as soon as possible after dislocation. Systems must be in place to seamlessly accommodate a change in the funding of training, as appropriate.

(e) Before a state applies for NEG funds for training trade-eligible workers, it must have evaluated its trade and WIA Dislocated Worker funds availability in the context of the above expenditure requirements. Any training proposed to be provided with NEG funds to trade-eligible workers must qualify under both the trade and the WIA programs.

(f) All dislocated workers, including those for whom trade petitions have been filed, are required to have access to rapid response, core and intensive services (paid with WIA or other resources available to a state). This assistance should be available prior to a determination of trade certification to limit the period of unemployment. Once a worker has been determined eligible for trade assistance, those services authorized under the trade program (approved training, job search and relocation allowances and transportation) should be funded with trade funds to the extent those funds are available. Participants must sign-off on their individual reemployment plans (including training as appropriate). Trade Readjustment Allowances (income support) are also paid under the trade program. It is the responsibility of state and local program managers to manage WIA and trade program funds in an integrated manner to best meet the needs of the workers and in accordance with all applicable trade and WIA statutes, regulations and federal policies. Discretionary funds, including both the trade reserved funds and NEG resources, may be requested as needed, using application procedures.

(g) In instances where a trade petition has been filed, but no determination has been made, such companies may be included in a NEG application indicating that a petition is pending. In addition, if dislocations impacting trade-certified workers also qualify for industry-wide or community impact projects, those

application criteria will also apply, e.g., for a dual-enrollment application that also qualifies as industry-wide (where all layoffs are trade-impacted), an application would be required to have at least one company with 50 or more workers, but other companies could have less than 50 (under the exception criteria).

(6) Disaster applications. These applications require verification that the Federal Emergency Management Agency (FEMA) has declared a disaster area eligible for public assistance. The primary purpose of a disaster project is to create temporary employment to assist with clean-up activities. The initial award will restrict the clean-up period to six months from the date of grant award until there is a subsequent modification (e.g., fully documented plan or other request) that justifies a longer clean-up period. A state may include in its fully-documented plan, or modification request, a component for employment-related services. This component of a disaster project is for workers involved in the clean-up work who will not return to their prior employment. The application must demonstrate that the participants need employment-related assistance to return to work and that non-NEG resources are not available to provide such services. The employment-related component must provide information on the number of participants that require assistance, the type of assistance and the duration and planned performance goals. The application must also include the outcomes of those who will not require employment-related assistance through the NEG project.

(7) Trade Program - Health Coverage Tax Credit (HCTC) Infrastructure projects, pursuant to the authority in the Trade Act and WIA Section 173(f) and appropriation of funds to help states develop an infrastructure in support of the implementation and operation of the HCTC or health coverage assistance through the NEG "bridge" program. Application requirements are outlined in TEGL 10-02, issued on October 2, 2002.

(8) Trade Program - Health Coverage "Bridge" projects, pursuant to the authority in the Trade Act and WIA Section 173(g) and appropriation of funds to help states provide health coverage assistance through qualified health plans for trade-certified workers who are Trade Readjustment Assistance (TRA) recipients (including those who would be if they had exhausted UI); Alternative Trade Adjustment Assistance (ATAA) wage-subsidy recipients; as well as certain Pension Benefit Guaranty Corporation (PBGC) recipients. The application guidelines are described in TEGL 20-02, issued on March 3, 2003, and additional guidance is forthcoming.

c. Secondary Workers. When a regular NEG application is submitted for a primary company layoff of 50 or more workers (or multi-companies with 50 or more layoffs each) and the state makes a determination that there is a secondary worker layoff (including those with 50 or fewer workers being laid-off) where the primary layoff contributed importantly to the secondary layoff, the application may include the secondarily-impacted firm(s). The definition of secondary workers is contained in the NEG application guidelines. Tertiary workers will not be covered in a NEG project unless the dislocation qualifies for a NEG application on its own merits.

d. NAFTA Secondary Workers. Although the Trade Act amended the trade program for secondarily-impacted workers so they can access the same services as primary workers, the Department's policy of covering NAFTA secondary workers through NEGs, including needs-related payments, remains in effect for those who are covered under a certification issued prior to November 1, 2002, and for whom a petition has not been filed under the new law.

e. Rapid Response and Other Early Intervention Assistance. The value of early intervention assistance, including rapid response, in achieving positive employment and earnings outcomes for dislocated workers has been consistently demonstrated. ETA is committed to the principles of rapid response and other early intervention strategies for assisting dislocated workers as soon as they learn they are going to be laid off. For all regular (single-company, multi-company, industry-wide and community impact) and dual-enrollment projects, NEG applications are expected to reflect the results of the early intervention processes activated through a state's rapid response system.

To maximize the effectiveness of early intervention strategies for dislocated workers, states are strongly encouraged to use the flexibility contained in WIA to provide additional rapid response resources to local areas (WIA Section 134(a)(2)(A)(ii)). At a minimum, funds should be available to commence development of individualized re-employment plans and other required intensive and training employment-related assistance as soon as dislocated workers become eligible for WIA assistance, i.e., upon receipt of a notice of layoff or 180 days (6 months) prior to scheduled closure. Where state and local funds are not available (as reflected by expenditure levels), a NEG application should be submitted quickly to ensure funds are available as soon as possible.

If a trade-petition is being filed, the full array of early intervention services should not be delayed until a petition determination has been made. When provided early intervention assistance, workers will be ready to participate in eligible trade program services if an affirmative finding is rendered by DOL or continue needed assistance under WIA (formula or NEG) if there is a negative petition finding.

f. Linkage to Economic Development. The “power of e-3” is the ETA reference to the linkage of education, employment and economic development. Linkage with economic development initiatives is a key component for communities developing strategies to help workers, especially those workers affected by mass layoffs and plant closures. The development of any plan and request for NEG funding by a state or local community should be done in conjunction with economic development planning to support current and future economic growth in a community. Much of this planning can and should be done with rapid response and other resources, including any resources provided to states through the Economic Development Administration (EDA) at the U.S. Department of Commerce.

g. Quality Customer Service. ETA expects that NEG project designs will provide time-efficient strategies that return workers to appropriate employment as quickly as possible to reduce the adverse impact of the dislocation event on the workers and the local economy. Applications will be evaluated for reasonableness of costs and planned outcomes and timeliness of planned assistance. When NEG funds are requested, it is expected that systems are in place or will be in place quickly to accommodate the needs of the workers, including having temporary personnel available to provide assistance when needed by the workers. Delaying the enrollments of eligible workers over a protracted duration of time due to staffing or other limitations is not an acceptable program design.

NEG projects should take advantage of the pre-layoff eligibility of dislocated workers under WIA (i.e., as soon as an individual layoff notice is received or 180 days prior to a planned closure) and be designed to support employment and wage replacement goals focused on returning individuals to the workforce as soon as possible after layoff. Often, these workers possess high skills and are long-tenured and highly effective workers. Enhanced service strategies should be built into the project design for participants requiring more and longer assistance (such as for limited English-speaking populations or in severely impacted communities). At a minimum, project designs should be demand-driven so that workers are being trained for jobs with career and growth potential.

h. Integrated Service-Delivery. NEG projects should be designed to make maximum use of assistance and resources available through One-Stop partners (including "required" and "additional partners"), employers and other state and local organizations. (Under the Trade Act, the trade program is a "required" partner.) "Silo-based" service policies and procedures are not acceptable. Integrated policies, procedures and approaches will be reviewed and considered as part of the NEG application process.

i. Reprogramming of NEG Funds. Federal appropriations law generally prohibits the redirection or reprogramming of funds to serve target populations not originally identified as part of an original grant award (change in scope) or the re-award of returned funds to another grantee, if such actions are executed after the year of appropriation, or after the Department's authority to obligate funds have expired. For instance, Program Year 2003 appropriated funds (which include FY 2004 funds) may be reprogrammed until June 30, 2004, but not thereafter. To ensure that the Department has sufficient time to evaluate and act on such requests, grantees must manage the expenditure of NEG funds and take appropriate action to ensure effective use of the funds. Requests to reprogram excess NEG funds must be received by the Department no later than May 1 of the program year in which the NEG award was made. Therefore, generally, NEGs awarded in the last two months of a program year will not qualify for any reprogramming actions.

j. Incremental Funding. To minimize any end-of-project under-expenditure, applicants should expect that most NEG awards will be funded incrementally. In most cases, the initial increment will be for six months to enable a project to achieve full enrollment. The release of subsequent funding increments will be based on a demonstrated need for funds as evidenced by enrolled/registered participants and accrued expenditures. "Accrued expenditures" equal actual cash payments, plus the cost of services or goods that have been received or are being provided (e.g., the cost of a semester of tuition that has not been paid but participants are in training).

k. Performance Management Accountability. ETA will issue separate guidance on expectations for outcomes for participants served with NEG funds. ETA is announcing policy and will be issuing reporting instructions to implement common performance measures for all federal training and employment programs. The common measures will include entered employment, retention and earnings gain. Beginning July 1, 2004, the common performance measures will be implemented for NEG projects.

l. Cost Per Participant. Part of the evaluation of "reasonableness of costs" will be a comparison of the average cost per participant in a state's formula Dislocated Worker program with the proposed cost in a NEG application, excluding disaster projects and the NEG "bridge" program. In making such an evaluation, ETA recognizes that a two-year project with a limited number of participants may incur a greater cost per participant than the average annual cost for formula participants whose costs may be captured in more than one program year.

m. Formula Dislocated Worker Program Expenditures. The expected June 30 annual accrued expenditure rate (see Para. 4. j., above, for the definition of "accrued expenditures") for Dislocated Worker formula program funds when applying for NEG resources is 70 percent of "total available" (prior year carryover plus annual allotment). A review of each state's success in meeting this rate will be conducted at the end of each program year and will be part of the review of a state's need for NEG funds as applications are received. Quarterly financial reports of formula Dislocated Worker program fund expenditures, as well as recent NEG project experience, will also be factors in determining fundability.

n. Assistance to Military Personnel. Assisting military personnel with the transition to the private workforce is a priority of both the Departments of Defense and Labor. However, except for BRAC-directed closures or realignments of military installations which involve significant dislocations, military personnel who are exiting military service are generally expected to seek and receive transition assistance through such programs using formula funds. This includes those who are completing their commitments as well as those who are being involuntarily, but honorably discharged. Generally, it is expected that the number of personnel is such that local formula funds are available to provide the transition assistance in coordination with veterans' programs available in nearly every community, in addition to the transition assistance provided by the military services and the Department of Labor's Veterans Employment and Training Service. Individuals being dislocated as a result of an announced military installation closure or realignment may be served with NEG funds pursuant to WIA Section 173(c)(2)(A).

o. Assistance to Military Spouses. NEG funds may be requested to serve military spouses who qualify as dislocated workers, including those who were required to leave jobs to accompany military spouse members for the convenience of the Government. The number of individuals affected within a

six-month period must be provided by the appropriate military branch, and any request for NEG funds must include documentation that demonstrates that formula funds are not adequate to provide the needed level of assistance. Other spouses who do not qualify as dislocated workers under WIA should be served with WIA adult program funds.

p. Health Insurance Premiums. The Trade Act of 2002 amended WIA by adding Section 173(g), and appropriated funds to permit the use of NEGs to provide appropriate qualified health coverage assistance for eligible TAA (TRA) recipients, certain TAA individuals who have not exhausted UI benefits, ATAA wage subsidy participants, and certain PBGC recipients. Guidance was issued by the Department in TEGL 20-02 on March 3, 2003. However, based upon recent experience, further guidance is being developed and will be issued.

ETA's policy is that the limited resources available for regular NEGs will not be awarded to pay for health insurance premiums for dislocated workers who do not qualify under the trade program. NEG supportive service funds may be used to pay for emergency medical treatment and needs-related payments--where authorized by local workforce investment boards for the Dislocated Worker formula program. This income support can be used by participants to pay for insurance premiums and other personal expenses.

5. Incomplete Applications. As indicated above, ETA is committed to a shortened NEG application review and decision period through the use of an electronic application process. The electronic system will include edit checks to ensure that applications are complete. Incomplete applications will not be accepted. While this will not always assure that the document contains the information necessary to make funding decisions, we believe this will be an important step. In addition, prior to the implementation of the e-tool, in order to avoid unexplained delays in processing times, upon finding that an application is either incomplete (e.g., lacking SF-424, layoff/rapid response information, budgets, implementation schedules, etc.) or the application does not support the purpose being requested, ETA will send an e-mail to the applicant stating that the application cannot be considered for funding as submitted and will cite the deficiencies. Information to address the deficiencies must be transmitted to ETA by the official signatory. Submission of a complete and fully supported application will establish a new application date.

6. Other Terms. The Department may negotiate and fund projects under terms other than those specified in this TEGL and NEG guidelines, where it can be clearly demonstrated to the Department that such adjustments will achieve a greater positive benefit for the workers and/or the communities being assisted (20 CFR 671.170(b)(5)).

7. Action. NEG applications must be submitted in accordance with these policies and the application guidelines. Please ensure that local workforce investment boards, local elected officials, One-Stop Center operators, rapid response and trade coordinators and other appropriate staff involved in the submission of NEG applications or operation of NEG projects receive this issuance.

8. Inquiries. Questions regarding this transmittal should be directed to the appropriate Regional Administrator or to Ms. Shirley M. Smith, Administrator, Office of National Response, at (202) 693-3500.