

# TRADE ADJUSTMENT ASSISTANCE

[CERTIFIED PETITION](#)

[PROGRAM ENROLLMENT](#)

[SERVICES](#)

[REMEDIAL TRAINING](#)

[TRAINING](#)

[RE-EMPLOYMENT TRADE ADJUSTMENT ASSISTANCE](#)

[TRADE READJUSTMENT ALLOWANCE](#)

[APPEALS](#)

The Trade Adjustment Assistance (TAA) program provides a path for employment growth and opportunity through aid to U.S. workers who have lost their jobs as a result of foreign trade. The goal of the TAA program seeks to provide trade-affected workers with opportunities to obtain the skills, resources, and support they need to become re-employed as soon as possible. Program eligibility, technical assistance, and oversight are provided by U.S. DOL Employment and Training Administration Office of TAA.

For TAA petition numbers 98,000 and above, refer to TAA Reversion 2021 [Policy 5.40B](#).

TAA is a federal entitlement program, however, to be eligible:

- Individuals must meet the criteria based on TAA Entitlement Determination [Form 40](#).
- Individuals need to discuss the program with DLR staff to ensure they are part of an approved Certified Petition. This is validated by:
  - Verification of their employment with the company within the petition date range (pay stub, etc..), or
  - Layoff letter or email from the company.

**Note:** *If an individual is located in another state but are part of a Certified Petition in South Dakota, they may choose to receive services in South Dakota or their home state. This also applies to someone living in, or who has relocated to, South Dakota and is part of a Certified Petition in another state.*

These individuals should enter a job service office immediately following the announcement of a lay-off.

Individuals are not eligible if they have:

- Quit their job,
- Been terminated for cause by their employer, OR
- Obtained suitable employment. **Suitable Employment** – Making 80% or more than the wages earned at workers past adversely affected employment and/or employed in a position with similar skill level of the job they were laid off from. 80% of income received from a part time, temporary or short-term job is not considered suitable.

## CERTIFIED PETITION

A petition may be filed for workers who have lost or may lose their job as a result of foreign trade one of four ways:

1. State Agency-One Stop Partner – Rapid Response
2. Union
3. Employer (Firm)
4. Group of 2 Workers (Or their duly authorized representative)

South Dakota will file a petition on behalf of a worker group or assist in the filing despite objections from workers, union, firms or others if there is a likelihood of eligibility.

Once the petition is filed, the employer is contacted by U.S. DOL to gather additional information to make a determination. The result of the determination will either be an approval or denial. If denied the petitioner may appeal the denial within one year of the initial filing. If it is approved, the petitioner is notified by email.

The TAA Labor Program specialist will contact the firm to gather contact information for the affected workers, set up a TAA Informational Meeting and make every effort to contact the individual workers to ensure they are aware of the benefit and services offered through the Trade Adjustment Assistance program.

Upon receipt of the approved petition the Labor Program Specialist must publish (20CFR 618.618 (2)viii4-7) a notice of the certification in a newspaper in the areas in which the affected workers reside. This notice will include information regarding the layoff and impending upcoming information meetings. In addition to a public notice South Dakota will utilize social media to reach affected workers.

[Back to Table of Contents](#)

## PROGRAM ENROLLMENT

TAA is a required partner of WIOA and individuals must be enrolled in WIOA Title I Dislocated Worker and Wagner-Peyser Title III. Co-enrollment of workers certified as eligible for TAA into WIOA allows for the timely and individualized career services and improves the effectiveness of the TAA Program. Barriers to service delivery to this population should be eliminated to maximize all the resources available in the One-Stop System. Co-enrollment allows for services and assistance even before becoming eligible for TAA. This allows individuals more time to consider all of the options available to them.

Once enrolled all TAA participants are encouraged to attend a variety of virtual workshops. This program is designed to provide workers with knowledge that will enable them to find suitable employment.

[Back to Table of Contents](#)

## SERVICES

TAA offers a variety of training opportunities and support services to gain suitable employment. As TAA and WIOA programs work together to serve the individual, financial services cannot be duplicated in more than one funding stream. If the needs of individual go beyond the services below, consider other Support Services [Policy 5.34](#) through the Title I Dislocated Worker program.

**For example:** if TAA funding is providing gas for job search on May 1, 2019, the same gas cannot be paid for using other program funding. However, if TAA pays for gas for job searching on May 1, 2019, Dislocated Worker funding could purchase job interview clothing.

### ***Job Search Allowance***

Individuals must meet TAA eligibility prior to receiving Job Search Allowance. Eligibility for job search allowance requires that the worker cannot reasonably secure suitable employment in the commuting area in which they reside. This will be paid out of TAA funding. This service is used for reimbursement for 90% of approved expenses while job searching that takes place 50 miles or greater from the participant's home address. Maximum benefit allowable up to of \$1250.00. This is a lifetime maximum. Once the participant has used up to the maximum, no further Job Search allowance will be available from TAA funds.

The availability of electronic /virtual means will be taken into consideration when approving a Job Search Allowance request. With technological advances, workers may be able to utilize on-line services that connect to employers for applying and interviewing for suitable employment. Examples of job search allowance may include:

- Travel to attend job fairs and interviews.
- Travel to and attendance at prevocational workshops.
- Completing a job application in person with a potential employer who has openings for suitable employment.
- Going to the local DLR Job service, post office, or other entity to print, copy, mail, email or fax a job application, cover letter and or resume to an employer.
- Going to a local DLR Job Service, public library, community center or similar entity to use online job matching systems to search for job matches, request referrals, submit applications/ resumes, attend workshops, and/or apply for jobs.
- Attending a professional association meeting for networking purposes.
- This includes reimbursement for gas, lodging, and food and can only be considered if suitable employment is not available in the normal commuting area. The individual must request the reimbursement:
  - Within 365 days of the certified date on the TAA petition or within 365 days of the date of separation (whichever is later); or
  - 182 days after conclusion of approved training.

TAA Request for Job Search Allowance [Form 44](#) must be approved by the Case Manager and completed **prior** to incurring expenses. There is a maximum reimbursable amount of \$1,250. If expense are below \$1,250, DLR can reimburse 90% of the lessor of:

- The total receipts gas meals, and lodging); Or
- 50% of the federal per diem rate using federal rates for South Dakota at <https://www.gsa.gov/travel/plan-book/per-diem-rates>.
- Mileage reimbursement rate is calculated using the formula: Mileage x Federal Reimbursement Rate.
- Food and lodging reimbursement is based on federal per diem x number of days.

Payments to participants will be processed as quickly as possible.

Evidence of employer contact and receipts will be required for reimbursement.

### ***Relocation Assistance***

The individual must be determined eligible for TAA services. Relocation is paid out of TAA funding. Reimbursement for approved costs of relocating for a new job more than 50 miles away from their current address (i.e. U-Haul and gas, moving company, etc...). Considered *only* if suitable employment is not available in the normal commuting area (less than 50 miles) and in the United States.

The Trade Affected Worker must:

1. File an application before either:
  - 425 days of the certified date on the TAA petition or within 425 days of the date of separation (whichever is later); Or
  - 182 days after the conclusion of approved training.
2. Be totally separated from adversely affected employment at the time of relocation.
3. Not have already received a relocation allowance under the same certification.
4. Relocate within the U.S, but outside the workers commuting area.
5. Be able to justify that there is no reasonable expectation of securing suitable employment in the commuting area.
6. Obtain either suitable employment or employment that pays a wage of at least 75 percentile of national wages (national occupational employment wage estimates) and otherwise meets the suitable employment requirements OR a bona fide offer of employment in the area intended to relocate.
7. Complete relocation in a reasonable time.

Reimbursement is calculated at the lesser of 90% of the actual costs or GSA or 50% of federal per diem allowance for:

- Cost of mileage with a personal vehicle.
- Rental trailer / truck or commercial carrier.
- Lodging and meals.
- Storage unit up to 60 days.
- Insurance coverage up to 40,000.00 on household goods.

A lump sum payment to alleviate other costs associated with relocation (i.e. rent, deposits, temporary housing waiting for lease, etc.) may be available up to \$1,250 as long as the worker is making over 3 times their weekly average wage.

To request Relocation Assistance:

1. Complete the TAA Request for Relocation Allowance [Form 43](#) **prior** to relocation.
2. The participant must provide employment verification (email, letter, or call from employer).
3. A minimum of two bids from moving companies or cost of renting a moving truck.
4. Payment to the participant or provider may not be more than 10 days prior to relocation (over payments are subject to reimbursement to the state).

If the worker is eligible for and receiving relocations expenses from any other source, the state will deduct that amount received from the TAA allowance determination. *\*The worker may not receive a relocation allowance and job search allowance at the same time but can received relocation allowance after job search allowance.*

### ***Transportation and Subsistence While in Training***

Transportation while in training or transportation and subsistence while in training is only allowed when attending training full-time. Participants who do not permanently relocate for schooling and live outside the normal commuting area (50 miles one way) from their home address may qualify for TAA Transportation and Subsistence payments. Subsistence may take the form of assistance with food and lodging. Requirements to receive transportation and/or subsistence:

- The worker may not be receiving or authorized to receive reimbursement or payments from any other source.
- Subsistence payments will not be provided when a worker receives a daily commuting transportation payment when training is held outside of the workers commuting area, except:
  - At the beginning of training when the worker arrives at the training facility.
  - At the end of training when the work departs the training facility.

Participants who live within the commuting area (less than 50 miles one way) will not qualify for Transportation and subsistence through TAA. Complete TAA Transportation and Subsistence [Form 49](#).

[Back to Table of Contents](#)

## **REMEDIAL TRAINING**

Allowed up to 26 weeks, if needed, for training in the elementary skills that every worker must have to achieve basic re-employability. Should lead to occupational on-the-job or customized training that will equip the participant with specific job skills. Wherever practical, remedial training should be conducted concurrently with the early parts of occupational training. Remedial education may include GED preparation, literacy training, basic writing and math skills training, and ESL.

The cost of training is paid to the training provider by the State with TAA Program funds.

[Back to Table of Contents](#)

## TRAINING

Training services should be expected to lead to new employment. One training is allowed through TAA funding per participant. TAA staff along with the participant is responsible for verifying that there is no “similar or like training” available at a more reasonable cost within the TAA participant’s commuting area. (see determining reasonable cost below).

Training may be approved if:

- There is no suitable employment (within 50 miles from home address) available for an adversely affected worker; and
- The worker would benefit from approved training; and
- There is reasonable expectations of employment in their program field following completion of such training; and
- Approved training is reasonably available to the worker from either governmental agencies or private providers; and
- The worker is qualified to undertake and complete the training; and
- The training is suitable for the worker and available at a reasonable cost.

Determining reasonable costs of training, the following elements must be considered:

- Costs of a training program shall include tuition and related expenses (books, tools, and academic fees), travel or transportation expenses, and subsistence expenses; not to exceed \$50,000. The program must be completed on or before the financial training cap is met.
- No similar or like training is available at a more reasonable cost within the participants commuting area; and
- Costs included in the decision is the cost of supplemental assistance such as transportation and or subsistence, unemployment and or TRA.
- First consideration must be given to the lowest cost training which is available within the commuting area.

The three most common training services provided through TAA are On-the-Job Training and Occupational Skills Training. Registered Apprenticeship and other trainings can also be considered.

### ***On-the-Job Training***

Follow On-the-Job Training [Policy 5.28](#).

### ***Registered Apprenticeship***

Follow Registered Apprenticeship Program [Policy 5.51](#)

### ***Occupational Skills Training***

Follow Occupational Skills Training [Policy 5.27](#). TAA training programs **do not** need to be on the Eligible Training Provider List (ETPL). DLR will make available to all TAA participants the programs listed on the ETPL; including the Apprenticeship list of sponsors and trades, a list of all State Universities and Technical Colleges, and other training available within the state.

Allowable OST expenses include:

- 100% of tuition fees, books and required equipment to successfully complete a program at a reasonable cost.
- Online classes (distance learning) if completed by a local accredited institution.
- Master’s Degree programs may be considered in extremely rare instances. Contact the Labor Program Specialist for approval.

Individuals who drop out of training may only be reconsidered if they have a 2.0 or higher GPA and can complete within the allowable weeks from the original start date.

Individuals who drop out of training without good cause also may be required to repay all costs associated with training. See [Overpayment](#) section of this policy.

Training programs are directed to a specific occupation (example: Registered Nurse) and is specified as a goal on the IEP. Programs that are general (example: Interdisciplinary studies) will not be approved.

Training programs may be amended if the following criteria is met and approved by the TAA LPS:

1. Reasonable expectation of employment following completion of such training continues to exist.
2. Training continues to be reasonably available to the worker.
3. The worker continues to be qualified to undertake and complete such amended training.
4. Amended training continues to be suitable for the worker at a reasonable cost.
5. Training will not exceed the time limits of the petition (i.e. 130 weeks).

A part-time OST is allowed; however, a participant must show they can complete their training within the designated weeks allowable under TAA. The designated weeks allowable includes time to complete remedial or High School Equivalency, etc. (do not count holidays and school scheduled breaks). Training begins on the first day of class and ends on the last day of class and must be completed from the original training start date within the allowable weeks. (I.e. Training starts on 8/25/19, training must be completed within 130 weeks from this date). The number of weeks allowed is defined by the TAW number:

- 70,000 and above = 130 weeks allowed
- 50,000 to 69,999 = 104 weeks allowed

#### ***Required Training Supplies, Books, Fees***

TAA will provide funding for supplies, books, and fees required for an OST not included in the tuition costs. Complete TAA Required Training Supplies, Books, Fees [Form 48](#) prior to purchase.

#### ***Benchmarks***

In South Dakota, required benchmarks are established in the Employment Plan and provided through monthly Progress Reports [Form 22](#) from the training institution to the case managers. Benchmarks must be entered into SDWORKS no less than every 60 days.

[Back to Table of Contents](#)

## **RE-EMPLOYMENT TRADE ADJUSTMENT ASSISTANCE**

Re-employment Trade Adjustment Assistance (RTAA) provides wage subsidies to TAA individuals who accept new employment at a lower wage they were making at their adversely affected employment, and are:

- Employed within 104 weeks from the qualifying separation date.
- Impacted by a petition with a TAW number greater than 70,000; and
- At least 50 years of age or older at the time of re-employment; and
- Re-employed making less than \$50,000 annually in gross wages; and
- Working full-time (36-40 hours per week), or if working part time, at least 20 hours per week, must be attending approved training; and
- Not re-employed with the firm where they were laid off.

If they are eligible, RTAA pays 50% of the difference between the wages at separation and wages in re-employment, with a maximum of \$10,000 paid over a period of up to two years. To receive RTAA, the individual must be enrolled in TAA for the duration of their benefits. RTAA eligible individuals may:

- Be eligible to enroll in TAA approved training.
- Receive Case Management Services.

- Not receive both TRA and RTAA at the same time.
- Work part time (at least 20 hours per week) and participating in a TAA approved training program and still receive RTAA payments.
- Receive RTAA payments if they have not exhausted TRA benefits upon completion of training if they meet the above listed eligibility criteria.

[Back to Table of Contents](#)

## TRADE READJUSTMENT ALLOWANCE

The federal Trade Readjustment Allowance (TRA) is a form of income support for individuals who have exhausted Reemployment Assistance (RA) Benefits and those who have jobs directly affected by foreign imports determined by U.S. DOL. **TRA is administered by the RA Division**, not the Workforce Training Division, however, the two work closely together.

Participants are notified when benefits transition from Basic to Additional and Additional to Completion through an application process. There are 3 types of TRA benefits:

- **Basic:** Is when regular unemployment benefits end. An individual may receive up to 52 weeks of combined regular and basic TRA benefits. An individual has two years (104 weeks) after separating from a trade-affected employer to use basic TRA benefits and receive payment, if eligible
- **Additional:** For petitions 80,000 and higher where Basic TRA has ended. Individuals may be eligible for up to 65 weeks of Additional TRA within the 78 calendar week period beginning with the first week of approved training following the last week of Basic TRA entitlement.
- **Completion:** For petitions 80,000 and higher, an individual that needs additional time to complete TAA approved training, may qualify for completion TRA. This is an additional 13 weeks of TRA benefits payable within a 20 week period during which time the training program must be completed. The claimant must have been making satisfactory progress in the training program. TRA cannot be paid for weeks during a scheduled break.

### **Breaks in Training**

To receive TRA benefits, individual must attend TAA training classes as scheduled. However, if the school has scheduled breaks for holidays or summer vacation that exceed 30 class days, TRA cannot pay any level of trade benefits for the weeks covered by those 30 days. Saturday, Sunday, and official State or national holidays are excluded from the 30-day count. Basic and Additional TRA may be paid during breaks less than 30 days.

Individuals are eligible to receive TRA payments if enrolled in a training program approved by the RA Division. Specific time frame limits apply to this benefit. Individuals must be enrolled full-time and:

- Enrolled in approved training 26 weeks after the certification date; or
- Enrolled 26 weeks after the last qualifying separation; or  
Must have worked for the employer for 26 weeks within the last 52-week period prior to separation and earned at least \$30 in each of the 26 weeks.
- Issued a waiver for a delay in training by DLR.

Participants of TRA are required to submit a monthly progress report to the RA Division to receive continued TRA payments and to qualify for Completion TRA, if needed, for completing the training program. Full-time enrollment is required to receive TRA.

### **Overpayments**

If DLR or a court determines an individual received any benefits to which they are not entitled, including TRA, the individual is liable to repay those benefits to DLR.

TRA overpayments may be recovered by deducted from sums payable under TRA, RA, or other benefits paid with respect to unemployment under a program administered by DLR.

Unless an overpayment is due to fraud, recovery of overpayments may be waived if:

1. The payment was made without fault; and
2. The requirement of such repayment could cause financial hardship\* for the adversely affected worker (or the adversely affected worker's household, if applicable) when taking into consideration their income, resources reasonably available, and ordinary living expenses.

### **Waivers**

The training enrollment deadline for TRA may be waived only if enrollment in approved training is not feasible or appropriate for one or more of the following reasons:

- Individual is unable to participate in or complete training due to the health of the individual. (This does not exempt the worker from requirements relating to the availability for work, active work search or refusal to accept work under Federal or State Reemployment Assistance benefits laws).
- The first available enrollment date for approved training is within 60 days after the issued date of the waiver, or if later, there are extenuating circumstances for the delay in enrollment must be approved by the Labor Program Specialist.
- Training is not reasonably available, suitable training at a reasonable cost is not available, or training funds are not available.

Individuals must apply for and be issued a waiver at a local Department of Labor and Regulation office on or before 26 weeks after certification or qualifying separation date, whichever is later. Waivers are issued in writing and have an expiration date. Waivers are not valid for more than 6 months from the issue date. It is the responsibility of the individual to enroll in Trade approved training or obtain a written renewal of the waiver before the waiver expires or is otherwise revoked. The waiver will be reviewed every 30 days after issuance for the duration of the waiver.

If a waiver expires without renewal, the individual will lose eligibility for TRA benefits. If the basis of a waiver is no longer applicable (individual is in training or does not make contact with the Employment Specialist at intervals required to maintain the waiver), Employment Specialist will notify in writing that the waiver is revoked.

A DLR Labor Program Specialist will determine that there is good cause for issuing a waiver with respect to time limitations in regards to training enrollment and must consider South Dakota good cause and Federal good cause guidelines before waiving time limitations.

### **Good Cause**

In order for good cause to exist, the participant must have acted diligently yet been unable to complete training enrollment because of specific circumstances. Good Cause will be determined on a worker-by-worker basis with the following factors in mind:

1. Whether the state failed to provide timely notice of the need to act before the deadline passed;
2. Whether factors outside the control of the worker prevented the worker from taking timely action to meet the deadline;
3. Whether the worker attempted to seek an extension of time by promptly notifying the state;
4. Whether the worker was physically unable to take timely action to meet the deadline;
5. Whether the employer warned, instructed, threatened, or coerced the worker in any way that prevented the worker's timely filing of an application for TRA or enrolling into Training.
6. Whether the state failed to perform its affirmative duty to provide advice reasonably necessary for the protection of the worker's entitlement to TRA; and
7. Other compelling reasons or circumstances that would prevent a reasonable person from meeting the deadline.

### **No Good Cause**

The Labor Program Specialist may determine good cause does not exist due to the participants own negligence, carelessness, or procrastination. In this case, a time limitation waiver may not be granted if the worker failed to meet the deadline to apply for TRA or enroll in training.

The TAA program follows the grievance process for all requests that is outlined on the Equal Opportunity [Form 2](#) that is signed by all TAA participants. The grievance process will be provided to TAA participants when requested.

### **Health Care Tax Credit (HCTC)**

HCTC is administered by the Internal Revenue Services (IRS). Eligible individuals can receive a tax credit to offset the cost of their monthly health insurance premiums for 2021 if they have qualified health coverage for the HCTC. A health plan offered through the Health Insurance Marketplace is not qualified coverage for the HCTC. For more information see: <https://www.irs.gov/credits-deductions/individuals/hctc>

[Back to Table of Contents](#)

## **APPEALS**

DLR Employment Specialist, will notify individuals who make a request for TAA services of either approval or denial of their request. If denied, this notification will provide a reason for the denial and the customer's right to appeal the determination. The Determination Notice Form 99 will be provided to the customer either in person or by mail. A copy of the Determination Notice will be saved to the participant's SDWORKS file. TAA determinations will be handled in the same manner as the states Reemployment Assistance appeals process. When completed, the Determination Notice will generate a notification to the Administrative Services Division for inclusion on the UI-3 report.

Individuals may appeal a determination in the following manner:

You can disagree with this determination by filing a written appeal within 15 days of the date on this determination notice. If you do not file your written appeal within 15 days, you must explain why you are late in filing. Unless you can show good cause for the late filing, your appeal may be dismissed as untimely. DLR cannot accept an appeal over the phone or by e-mail.

The following must be included in your request:

- Your name and address.
- The reason for the appeal.
- Your Social Security number.

Mail or fax your appeal to:

DLR Appeals Section  
Reemployment Assistance Division

SD Department of Labor and Regulation  
PO Box 4730  
Aberdeen, SD 57402-4730  
Fax: 605.626.2322

**DOLETA TAA**  
**20CFR 617 and 618**  
**20 CFR part 90**  
**IRS Website**  
**§ 618.820 Subpart H**

[Back to Table of Contents](#)