

TRAINING AND EMPLOYMENT NOTICE	NO. 40-11
	DATE April 19, 2012

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS
ONE-STOP CAREER CENTER SYSTEM LEADS
STATE WORKFORCE ADMINISTRATORS
STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS

FROM: JANE OATES /s/
Assistant Secretary

SUBJECT: Electronic Posting of Petitions for Trade Adjustment Assistance

1. Purpose. To improve public access to frequently requested federal records and contribute to an accountable and transparent government, the Department of Labor (Department) will take steps to post all Forms ETA-9042/OMB No. 1205-0342 petitions for Trade Adjustment Assistance (TAA) (hereinafter, referred to as “petition”) on the Department’s Web site.

2. References.

- The Trade Act of 1974, as amended, Pub. L. 93-618, as amended (Trade Act);
- Freedom of Information Act, 5 U.S.C. 552, as amended;
- 20 CFR part 90, Certification of Eligibility to Apply for Worker Adjustment Assistance;
- ETA-9042 (Rev. October 2011), Petition for Trade Adjustment Assistance (TAA);
- ETA-9042A-1 (Rev. October 2011), Online Petition for Trade Adjustment Assistance, available online at <https://www.etareports.doleta.gov/petition/index.cfm?reset=true>;
- Executive Order 13392, Improving Agency Disclosure of Information, December 14, 2005;
- Presidential Memorandum for the Heads of Executive Departments and Agencies Concerning the Freedom of Information Act, 74 Fed. Reg. 4683, January 21, 2009;
- Attorney General Holder's Memorandum for Heads of Executive Departments and Agencies Concerning the Freedom of Information Act (Mar. 19, 2009), available at <http://www.usdoj.gov/ag/foia-memo-march2009.pdf>;
- OMB Memorandum M-07-16, Safeguarding Against and Responding to the Breach of Personally Identifiable Information, May 22, 2007;
- OMB Memorandum M-06-15, Safeguarding Personally Identifiable Information, May 22, 2006; and
- OMB Memorandum M-06-16, Protection of Sensitive Agency Information, June 23, 2006.

3. Background. To obtain TAA reemployment services and benefits, a group of workers must first file a “petition” with the Department's TAA program (and the Governor of the State) requesting certification as workers adversely affected by foreign trade. Once a complete petition is filed, the Department initiates an investigation to determine whether a group of workers meets the group eligibility requirements. If the worker group meets the group eligibility criteria, a group eligibility certification will be issued. This certifies that the workers of the group are eligible to apply for Trade Adjustment Assistance benefits. After a determination is rendered (either a certification or denial), the Department sends a copy of the determination to each of the applicable petitioners, the company official identified during the investigation, and the state workforce agencies; and the Department publishes the determination in the Federal Register.

President Obama signed a memorandum directing the United States Attorney General to issue new guidelines governing the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended, reaffirming the commitment to government accountability and transparency. To achieve this goal, the memorandum directed that “all agencies should adopt a presumption in favor of disclosure The presumption of disclosure also means that agencies should take affirmative steps to make information public, [instead of waiting for] specific requests from the public. All agencies should use modern technology to inform citizens about what is known and done by their Government.”

Currently, the Department provides information about TAA determinations through publication in the Federal Register and postings on the Department’s Web site, but does not publish the actual petition filed. In lieu of making individual responses to the many FOIA requests to the Department for the disclosure of TAA petitions or information submitted on those petitions, the Department has decided to post the petitions.

4. Petition Posting. To comply with the Presidential commitment to Presumption of Openness, the Department will take steps to post all petitions filed with and instituted by the Department since February 15, 2011, on its Web site at: http://www.doleta.gov/tradeact/taa/taa_search_form.cfm, effective immediately. This process will help contribute to an accountable and transparent government. Posting petitions will allow potential petitioners to be able to determine if they are represented by a petition that has already been filed on their behalf. It will also serve to inform the public of the form for a properly completed petition for TAA eligibility. Last, posting petitions online will obviate the need for company officials or petitioners to request this information through the FOIA process.

Since the petition form has been modified several times over the past two years in response to the 2009 and 2011 amendments to the Trade Act of 1974, there will be several versions of completed petition forms posted on the above Web site. However, the OMB Approval Number and ETA Form Number remained the same when the forms were updated to take into account these amendments to the Trade Act.

The Department will redact all personal contact information of a petitioning group of workers, except for the workers’ names, before posting the petitions to the ETA Web site to avoid disclosure of information considered Personally Identifiable Information (PII), as identified by OMB Memorandum M-07-16. This is in accordance with OMB Memorandums M-07-16, M-06-15, and M-06-16, which directs the Department to safeguard PII. PII is also excluded from release to the public under Exemption 6 of the FOIA to guard against the disclosure of

information “which would constitute a clearly unwarranted invasion of personal privacy” (5 U.S.C. 552(b)(6)).

Further, the Department will redact all telephone numbers and e-mail addresses from the contact information provided on company officials to protect against the inadvertent release of PII (e.g., PII may be provided for these officials in instances where a small company has shut down).

5. Inquiries. Inquiries should be directed to the appropriate ETA Regional Office.