

FEDERAL REGISTER

Vol. 67, No. 233

Notices

DEPARTMENT OF LABOR (DOL)

Office of the Secretary of Labor

Submission for OMB Emergency Review; Comment Request

67 FR 72222

DATE: Wednesday, December 4, 2002

[*72222]

November 27, 2002.

The Department of Labor (DOL) has submitted the following (see below) information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). OMB approval has been requested by December 23, 2002. Attached is a copy of the proposed application procedures for the National Emergency Grants for Trade Health Insurance Assistance. A copy of this ICR, with applicable supporting documentation and application procedures, may be obtained by calling the Department of Labor. To obtain documentation, contact Darrin King on 202-693-4129 or e-mail: *king-darrin@dol.gov*.

Comments and questions about the ICR listed below should be forwarded by December 20, 2002 to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment and Training Administration, Room 10235, Washington, DC 20503. The Office of Management and Budget is particularly interested in comments which:

- . Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- . Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- . Enhance the quality, utility, and clarify of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Agency: Employment and Training Administration (ETA).

Title: Workforce Investment Act: National Emergency Grants for Trade Health Insurance Assistance-Application and Reporting Procedures.

OMB Number: 1205-0NEW.

Affected Public: State, Local, or Tribal Government.

Reference	Number of respondents *	Frequency	Annual responses *	Average time per response	Total annual burden hours *
Narrative Summary	50	On occasion	50	1.0 hour	50.0
ETA 9103	50	On occasion	50	90 minutes	75.0
ETA 9105	50	On occasion	50	30 minutes	25.0
ETA 9106	50	On occasion	50	1.0 hour	50.0
Reports: ETA 9104	50	Quarterly	200	30 minutes	100.0
Grant Modifications	40	On occasion	40	30 minutes	20.0
Total			440		320

* Actual number will vary, because the information collection is required to obtain a benefit.

Total Burden Cost (capital/startup): \$ 0.

Total Burden Cost (operating/maintaining): \$ 0.

Description: The Department of Labor/Employment and Training Administration announces proposed application and reporting procedures for states to enable them to access funds in order to implement Trade Health Insurance Assistance National Emergency Grant (NEG) programs. Trade Health Insurance Assistance NEG funds provide specialized assistance, including health insurance coverage, to trade-impacted workers and other individuals eligible under the Trade Adjustment Assistance Reform Act of 2002.

Ira L. Mills,

Departmental Clearance Officer.

Attachment--Workforce Investment Act: Application Procedures for Trade Health Insurance Assistance National Emergency Grants

Overview

This application package provides information and procedures by which states can apply for newly authorized National Emergency Grant (NEG) funds to provide health insurance assistance and related support services to certain eligible individuals. It consists of the following eight parts and two appendices:

- . Part I provides background regarding the purpose and use of National Emergency Grant (NEG) funds to provide health insurance assistance for eligible individuals under the Trade Adjustment Assistance Reform Act of 2002 (Pub. L. 107-210);

- . Part II describes key policies regarding eligible individuals for assistance, allowable uses of grant funds, eligible entities for grant awards, and coordination;

- . Part III identifies the policies governing administrative and project design requirements on Health Insurance Assistance NEGs;

. Part IV provides an overview of the application submission requirements for Health Insurance Assistance NEG projects;

. Part V identifies the elements in the application review process including the criteria that will be used to determine the appropriateness of the request for funds;

. Part VI describes alternative approaches to grant funding and the requirements associated with partial funding requests and actions;

. Part VII describes the follow-up planning, oversight and reporting requirements for awarded grants;

. Part VIII describes the grant modification process.

Appendix A contains copies of the required grant application forms. States are not required to submit these forms until OMB approval has been obtained. The forms are in an electronic format for ease of completion and timeliness of submission by the applicant. The Department seeks to establish a process that provides both timely submission of applications for funding, in relation to worker eligibility for assistance, and timely processing of such applications. The electronic formats have been developed to facilitate accomplishment of this objective.

Appendix B contains a directory of Regional Office contacts.

A companion piece to this document, Training and Employment Guidance Letter (TEGL) 10-02, was issued on October 10, 2002. It provides information and procedures by which states may apply for newly authorized NEG system-building funds to develop and implement the infrastructure needed to make the health insurance assistance authorized in the Trade Act of 2002 available.

Applications for NEG funds to provide the assistance described in this notice may be submitted at any time. The maximum allowable project performance period is defined by the months remaining in the Program Year in which the grant award is made plus the subsequent two Program Years. The Program Year for these projects is the twelve month period July 1-June 30. USDOL/ETA expects that the project performance period in any NEG application will reflect a time efficient approach to returning eligible individuals to appropriate employment consistent with the performance goals that apply to NEG projects.

The application procedures, application review process, and project oversight and reporting requirements described in this notice are issued under the WIA regulations at 20 CFR 671.125.

Applications may be filed electronically using the website <http://testetareports.doleta.gov>. To submit an application electronically, applicants will need to use a PIN # that has been assigned to them by USDOL. A PIN # can be obtained by contacting the appropriate Regional Office. Alternatively, applications may be mailed or hand-delivered to: Office of Grants and Contracts Management, Division of Federal Assistance, Employment and Training Administration, U.S. Department of Labor, Room S-4203, 200 Constitution Avenue, NW., Washington, DC 20210; Attention: E. Fred Tello, Grant Officer. Applications may also be FAXed to the attention of Mr. Tello at (202) 693-2879. Applicants submitting by mail should be aware that mail delivery in the Washington, D.C. area may be delayed due to decontamination procedures. For non-electronic applications, a copy of the application should be concurrently submitted (via e-mail, mail, or FAX) to the appropriate Regional Administrator of USDOL/ETA.

For further information you may contact Shirley M. Smith, Administrator, Office of National Response at (202) 693-3501. (This is not a toll-free number.) A user's guide on preparing and submitting an application electronically, and technical assistance on application requirements are available from Regional Offices of ETA and from the Office of National Response, Employment and Training Administration, U.S. Department of Labor, Room N-5426, 200 Constitution Avenue, NW., Washington DC 20210.

Part I: Background

The Trade Adjustment Assistance Reform Act of 2002 (Pub. L. 107-210), (the Act) was signed by the President on August 6, 2002. Title I of the Act amends the Trade Act of 1974 to consolidate the prior TAA and NAFTA-TAA programs into one comprehensive program of assistance. The Act expands the eligibility for TAA to additional groups of workers and enhances the assistance available under the program. Title II of the Act amends the Internal Revenue Code of 1986 and the Workforce Investment Act of 1998 (WIA) to

establish new mechanisms by which certain TAA participants, as well as eligible Pension Benefit Guaranty Corporation (PBGC) pension recipients, can receive assistance in covering the cost of health insurance.

The primary mechanism for such assistance is a federal tax credit to be administered by the Internal Revenue Service. The tax credit is equal to 65% of the amount paid by an eligible individual for coverage of the individual and certain family members under qualified health insurance. The tax credit is applicable to qualified health insurance coverage costs paid by eligible individuals beginning December 2002, and the credit is to be made available on an advance payment basis by August 1, 2003. The provisions related to this tax credit are contained in Sections 201 and 202 of the Act.

The Act also establishes an additional mechanism, which is intended to be used as a bridge to when eligible individuals can receive the tax credit on an advance basis, by authorizing the use of NEG funds under the WIA to assist in paying the cost of qualified health insurance coverage for eligible individuals. These provisions are contained in section 203 of the Act, which establishes a new section 173(g) of WIA.

Section 203 of the Act identifies the specific groups of individuals who are eligible to receive the health insurance coverage assistance and the types of health insurance coverage programs that can qualify for this assistance. They are described in more detail in Part II of this document.

The approach to Health Insurance Assistance NEG grant awards will be based on quick turnaround initial funding actions where the following can be demonstrated:

- . The individuals to receive assistance with grant funds are currently eligible to receive such assistance;
- . The costs of health insurance coverage assistance, processing payments to providers, and other allowable services are reasonable.

USDOL/ETA is committed to making a decision to approve or disapprove all submitted applications within 15 working days from receipt of a complete application. However, because of the variation between initial planning assumptions and subsequent implementation that has historically characterized NEGs, most applications for Trade Act Health Insurance coverage assistance will be partially funded at the outset. Approximately 90 days following grant award, a site review will be conducted to assess implementation status. This review will help verify the full amount of NEG funding needed.

Part II: Policies Governing the Award and Use of NEG Funds

A. Eligible Individuals for Assistance

In general, individuals eligible for health insurance coverage assistance under the Trade Adjustment Assistance Reform Act are:

- "An eligible TAA recipient" which is defined as an individual who is receiving a trade readjustment allowance (TRA) under the TAA program, or would be eligible for TRA except that he/she has not yet exhausted Unemployment Insurance benefits;

- "An eligible alternative TAA recipient" which is defined as an individual who is receiving benefits under a demonstration program of alternative trade adjustment assistance for older workers under section 246 of the Trade Act of 1974 (as amended by the Act), although it should be noted that the demonstration program does not commence until August 6, 2003; or

- "An eligible PBGC pension recipient" which is defined as an individual who is 55 years of age or older and is receiving a pension benefit paid in whole or part by the Pension Benefit Guaranty Corporation (PBGC).

Coverage may also be provided for the spouse and dependents of an eligible individual where such persons are not otherwise covered by health insurance. Dependents are limited under the law to those persons who are allowable dependent deductions on the eligible individual's tax return.

B. Allowable Uses and Limitations on the Use of NEG Funds

In general, NEG funds provided under section 173(g) may be used to provide assistance and support services to eligible individuals, including qualifying health insurance coverage, transportation, childcare, dependent care and income assistance. For both health insurance coverage and income support assistance, the assistance cannot supplant other federal, state, or local assistance for which the individual is eligible.

In order to promote consistency with, and a transition to, the advance payment tax credit and to conserve NEG resources in a manner that will allow broad participation by the states and eligible individuals, these NEG funds may be used to pay no more than 65% of the amount paid by an eligible individual for qualified health insurance coverage of the eligible individual and qualifying family members. This is the same level of assistance provided under the tax credit mechanisms and is intended to fulfill the objective of this NEG of providing a bridge to the advance payment tax credit mechanism.

In addition, the Department would generally expect the assistance provided under the NEG would be for prospective coverage, that is for payments for coverage for months after the individual has been determined eligible for assistance under the NEG. In extraordinary cases, as demonstrated by the applicant, the Department would consider the use of NEG funds to pay reimbursement for qualified health insurance coverage premium payments that were made for coverage on or after September 1, 2002. However, to qualify for such reimbursement, the individual would have to be determined to have met the eligibility requirements at the time such prior premiums were paid.

C. Qualified Health Insurance Coverage

In general, NEG funds can be used to pay for the following types of health insurance coverage assistance:

- (1) Coverage under a COBRA continuation provision.
- (2) Coverage under a state-based continuation provision.
- (3) Coverage through a qualified state high risk pool.
- (4) Coverage under a program offered to state employees.
- (5) Coverage under a state-based health insurance program comparable to a program for state employees.
- (6) Coverage through an arrangement between a state and

-A group health plan

-An issuer of healthcare coverage

-An administrator, or

-An employer

(7) Coverage offered through a state arrangement with a private sector healthcare coverage purchasing pool.

(8) Coverage under a state-operated health plan that does not receive any Federal financial participation.

(9) Coverage under a group health plan that is available through the employment of the eligible individual's spouse.

(10) Coverage under individual health insurance in which the eligible individual was enrolled during the entire 30 day period preceding the date of separation by which the individual became eligible for TAA assistance.

The health insurance coverage mechanisms described under items (2) through (8) will only qualify for assistance under an NEG if the state elects to establish and/or use those mechanisms and the coverage meets certain requirements. Those requirements are contained in the new section 173(f)(2)(B)(i) of WIA, and require that under such coverage a "qualifying individual" is (1) guaranteed enrollment; (2) no pre-existing conditions are imposed; (3) the premium charged is nondiscriminatory (*i.e.*, a qualifying individual is not charged a greater amount than a similarly situated individual who is not a qualifying individual); and (4) the benefits are the same or substantially similar to similarly situated individuals who are not qualifying individuals. The term "qualifying individual" is defined in the new section 173(f)(2)(B)(ii) of WIA, and means an individual who is eligible for assistance under the NEG and who, as of the date the individual seeks to enroll in one of these elected coverage mechanisms, had an aggregate period of creditable health insurance coverage (as defined in section 9801(c) of the IRC) of three months or longer. The individual also must not have other specified coverage or be imprisoned.

States must decide whether to elect to include all, some, or none of the coverage mechanisms described in items (2) through (8). States are encouraged to give consideration to these optional coverage mechanisms and evaluate their appropriateness in light of the particular circumstances in the state. The elected coverage mechanisms must be identified in the NEG application. The coverage mechanisms described in items (1), (9), and (10) qualify for assistance under the NEG without election by the state.

D. Eligible Entities for Grant Awards

In order to ensure coordination with the state system-building grants described in TEGL 10-02, eligible applicants for Health Insurance Assistance projects under this notice are limited to states.

The award of these grants will be expedited where the application for the NEG funds is submitted by the grant recipient under the current NEG Master Agreement between the Department and the State. This is not intended to limit the State regarding the participation in, or administration of, activities carried out under the NEG by other entities, including appropriate State agencies. For example, through subgrants or the interagency transfer of NEG funds, the Governor may decide to have other agencies provide aspects of the health insurance coverage assistance. However, the use of the currently designated grant recipient as the applicant ensures that the procedures necessary to facilitate the award of funds are in place.

E. Coordination

The Department strongly encourages efforts by the State to coordinate the provision of assistance under this NEG with the activities of appropriate State agencies, such as the State insurance commission, the State health licensing and regulatory board or entity, and other departments or entities involved in the provision of health insurance coverage.

Part III: Administrative and Project Design Requirements

1. General

Grantee organizations, administrative entities and service providers are subject to the WIA law, regulations, grant application instructions, the terms and conditions of the grant and any subsequent modifications, and to all other applicable Federal laws (including provisions in Federal appropriations law). Since eligible applicants are limited to states, Health Insurance Assistance NEG grantees will be subject to all administrative system requirements that apply to the use of WIA formula funds for dislocated workers, except as otherwise provided in these instructions.

2. Cost Limitations

Administrative cost limitations apply to all NEG grant awards. Cost limitations shall apply to actual expenditures.

Although administrative cost limits on NEG projects are subject to negotiation with the Grant Officer, in general, a ten percent (10%) limit will apply. Any request for a higher limit will have to be clearly and fully justified in terms of unusual project operating circumstances. Applicants should recognize that any such request will have to be negotiated with the Grant Officer and will delay the timing of the funding action.

Any costs associated with administering a system of health insurance coverage payments must be separately identified in the application budget and justified in the narrative.

3. Indirect Costs

If an indirect cost rate is applied in calculating administrative costs, the applicant must include information from the most recent approval document that identifies the approved indirect cost rate and base, the cognizant approval agency, and the date of the approval. Generally, indirect costs will only be approved at the grantee level.

4. Allowable Activities and Services

For Health Insurance Assistance projects, funds may be used for the services described in WIA section 173(g).

5. Project Design and Service Operations

Provision of services, in addition to health insurance coverage assistance, should be consistent with similar services provided under WIA including established policies and procedures of the state and local area(s) in which the project is to operate.

Part IV: Application Submission Requirements

In order to be considered for funding, a Health Insurance Assistance NEG application will need to include the following information:

a. Completed and signed *SF 424-Application for Federal Assistance*. This form is the required application for federal funds. Where the electronic submission option is used, the authorized signatory of the applicant will be issued a unique Personal Identification Number (PIN). The entry of this PIN on the SF 424 will constitute authorized signature.

b. *Project Synopsis (ETA 9106)*. This form summarizes key aspects of the proposed project such as project type, planned number of participants, and contact information. It also includes identification of the types of health insurance coverage options that will be available to project participants.

c. *Employer Data (ETA 9105)*. This form provides information on the TAA petition and certification through which individuals are eligible for assistance.

d. *Planning Form (ETA 9103)*. This form provides cumulative quarterly estimates on project scope (*e.g.*, number of participants, exits), design (*e.g.*, mix of services), and budget (*e.g.*, costs by type of activity, administrative costs).

e. *Narrative Statement*. A narrative explanation must be provided in cases where one or more of the following are reflected in the project plan:

-Indirect costs are included in the budget, which requires identifying the following: cognizant approval agency, approved cost rate and base, and date of approval.

-"Other" costs are included in the budget, which requires identifying the specific cost items and amounts.

-Administrative costs related to processing payments for qualified healthcare coverage and/or income support are included in the budget, which requires explaining how the administrative cost estimate was derived (*i.e.*, based on number of check payments and check processing costs).

In addition, the application must include a narrative description of coordination activities and arrangements among appropriate state agencies. The applicant is free to include narrative explanations of other special factors, but the narrative should not exceed five pages.

A copy of forms that can be used to submit one or more the above requirements is provided in Attachment A.

Part V: Application Review Process

To be considered for funding, a Health Insurance Assistance NEG Project application must demonstrate that the proposed project meets the purpose of and is consistent with the Act and Regulations and provides all of the information required by these guidelines. Applications that are not completely in accordance with the requirements or do not contain all required submission forms will not be considered as submitted and will not be evaluated for funding until all required information and documentation is provided. Complete applications will be evaluated for responsiveness to the criteria identified in this part.

1. *Eligibility*: To ensure that NEG funds are only awarded where there is a verifiable group that is both eligible and in need of assistance.

a. TAA certifications and/or other appropriate documentation to demonstrate eligibility is either provided in the application or can be accessed from other sources in DOL/ETA.

2. *Reasonableness of Proposed Services and Costs*: To ensure that NEG projects are designed and operated in accordance with the federal requirements and the state and local policies that apply to trade adjustment assistance programs in the proposed project area.

a. The indirect costs are justified by identifying: (1) The approved indirect cost rate and base; (2) the cognizant approval agency; (3) the date of the approval.

b. "Other" expenditures that are included in the budget are identified and justified in the narrative.

c. Total administrative costs, exclusive of health insurance premium processing costs, are within the cost limitation, OR are explained and justified.

d. The basis for administrative costs to process health insurance premium payments is justified.

Part VI: Funding Approaches

Applications for NEG funds can be funded in whole or in part. Full or partial funding can be at the applicant's request or at the Secretary's discretion. In order to ensure the effective use of NEG resources, in general these requests, when approved, will be funded partially. Where the grant award reflects a partial funding action, the grantee will be required to submit, at a later date, supplemental information to request the balance of funds. This information will be specified in the grant award letter but will include, at a minimum, current information on actual participant levels, performance outcomes, and expenditures.

Part VII: Post-Grant Award Requirements

A. Followup Planning Requirements

Recipients of a NEG will be required to develop a more complete project operational plan as followup to the grant award. This plan should be completed within 90 days of grant award and be available for review at the office of the grant recipient. The information in this plan will be used to verify the need for the full amount of requested funds and the feasibility of the planned levels of performance based on actual project implementation experience. The content of the plan will vary by type of project but, in general, will need to address factors such as participant enrollments, needs of participants for specific services, implementation schedules, project operator agreements and budgets, and project management structure.

B. Project Oversight

In addition to the 90 day review of the Project Operational Plan, each project will be reviewed at the project midpoint. The purpose of this review will be to verify core compliance factors such as participant eligibility and adequate financial management, and to assess the effectiveness of participant service policies and processes in achieving project performance goals.

C. Project Performance Reporting

Each grant recipient will be required to submit to the Grant Officer a Quarterly Report (ETA 9104) on actual performance to-date. The report will include the same factors as the Planning Form in the grant document. A copy of this form is included in Appendix A.

Part VII: Grant Modifications

Grant modifications will be required in the following circumstances:

-When end-of-project performance is expected to vary by more than 10% from the approved plan regarding: Total participants, participants to be enrolled in training, or expenditures for retraining;

-To increase the number of participants receiving health insurance premium assistance and/or the amount of expenditures for health insurance premium assistance;

-To increase the approved amounts of administrative costs;

-To change the performance period for the project;

-When actual end-of-project expenditures will be less than the amount of awarded funds.

Grant modifications must be submitted to the Grant Officer. They may be submitted in writing or electronically.

Grant modifications will not be accepted within 90 days prior to the scheduled expiration date of the project.

Where there is a need to increase the amount of approved funding and/or to expand the target group to include additional layoffs, these will have to be submitted as a new request for funds.

Appendix A--e-Application and Reporting Forms

A. Application for Federal Assistance Form (SF 424)

See Application for Federal Assistance forms on Pages 72227-72228 in Original Document

See OMB forms on Pages 72229-72233 in Original Document

[FR Doc. 02-30660 Filed 12-3-02; 8:45 am]

BILLING CODE 4510-30-C