

APPENDIX G

AGENCY RESPONSE TO DRAFT REPORT


U.S. Department of Labor

Assistant Secretary for  
Employment and Training  
Washington, D.C. 20210



SEP 30 2005

MEMORANDUM FOR: ELLIOT P. LEWIS  
Assistant Inspector General  
for Audit

FROM: EMILY STOVER DeROCCO 

SUBJECT: Response to OIG Draft Audit Report  
No. 02-05-204-03-330: Audit of  
Trade-Health Coverage Tax Credit (HCTC)  
Bridge and Gap Programs

On behalf of the Secretary of Labor, thank you for the opportunity to comment on the draft audit report, "Performance Audit of Health Coverage Tax Credit (HCTC) Bridge and Gap Programs." In general, we agree with the findings of the OIG draft report and have responded with actions that the Department has taken or is taking to address the issues identified.

Thank you for the extension of the period to provide comments in light of our efforts to respond to Hurricane Katrina. Attached are the Employment and Training Administration's comments on the draft report.

Attachment

Comments on OIG draft Audit Report No. 02-05-204-03-330

**1. Did a Significant Number of Potentially Eligible Individuals Avail Themselves of the Program and Were Appropriated Funds Being Utilized?**

The Department agrees that participant and expenditure levels in the Bridge and Gap programs funded through the National Emergency Grant (NEG) process were low through the period of the OIG audit ending June 30, 2004. The NEG funds were appropriated effective August 6, 2002, and were to provide health premium benefits to eligible Trade Adjustment Assistance (TAA), Alternative Trade Adjustment Assistance (ATAA), and Pension Benefit Guaranty Corporation (PBGC) recipients beginning September 1, 2002, for those individuals who did not choose to claim a year-end tax credit for eligible premiums covered without reimbursement. "Potentially eligible" TAA participants are those who are receiving TRA or those who would receive TRA if they had exhausted their unemployment insurance benefits. "Potentially eligible" ATAA participants are those receiving an ATAA wage subsidy payment. "Potentially eligible" PBGC participants are aged 50 or over and recipients of PBGC pension benefits. Also, in order to qualify for premiums under the NEG program, states must have qualified insurance plans or workers must be eligible for COBRA. Initially, most states did not have qualified plans.

**2. What Were the Barriers That Resulted in Low Individual Participation?**

While the Department concurs in many of the reasons cited in the report as barriers to low participation, it is important to add that states were awarded infrastructure grants to establish mechanisms to process and report claims for health insurance premium assistance, including the bridge program. In order to receive funds to process premium claims under the bridge program, however, states had to establish (or have) qualified health plans as determined by the IRS. Most states did not possess qualified plans, and in many cases, state legislative actions were required, a complexity not initially envisioned.

The report indicates a primary barrier was the effective exclusion of PBGC and ATAA populations during the period of the report. The ATAA program was implemented on **August 3, 2003**, and state implementation of this option to TAA-eligible recipients was available in states on that date. While it is true that the ATAA program has never been widely used by eligible TAA applicants, who must give up any retraining options to avail themselves of the ATAA program, it does not necessarily follow that the ATAA population was effectively excluded from HCTC eligibility because TAA-eligible individuals did not enroll in the ATAA program.

-2-

### **3. Why Did Most States Not Participate in the Bridge and Gap Programs?**

As indicated earlier, funds were awarded to requesting states to develop infrastructure systems to implement HCTC, including the bridge programs. While states have expressed concerns regarding lack of funds to provide reports to the IRS on potential eligible recipients, this argument may be overstated because the bridge program includes administrative funds (some of which can be used to hire staff to run the bridge program). States receive funds for managing the TAA program, which includes outreach; referral to services available under the Trade program, including HCTC; and other program costs. Furthermore, WIA Rapid Response funds are used to provide information on TAA program services as a result in the Trade Adjustment Assistance Reform Act (TAARA) of 2002, which requires rapid response assistance (funded by the WIA formula program for statewide activities) to be provided for all layoffs for which a TAA petition has been filed. In many instances, it is our understanding that TAA petitions are filed as a result of rapid response activities. The Department believes that the provision of rapid response assistance for potentially TAA-certified workers permits workers to learn about HCTC and the requirements related to eligibility for premium assistance.

### **4. Did States Comply With Pertinent Provisions Set Forth in the Trade Adjustment Assistance Reform Act of 2002, ETA Implementation Guidance, and Federal Laws and Regulations?**

In general, states have complied with the pertinent provisions of the law, regulations, and ETA guidance. In some respects, states have had difficulty understanding how to implement some of the provisions due to various approaches each of the Federal partners use. ETA has worked directly with the states and IRS to help the grantees understand what is required of them in administering these grants. (See discussion below on the ETA-IRS-HCTC Office collaboration.)

#### **Recommendations**

The OIG Report made 19 recommendations, which it summarized under the headings below. This response will provide a status report of the progress that has been made since the conclusion of the OIG review on June 30, 2004.

-3-

- **Conduct an immediate needs assessment of NEG funds. Based upon the assessment, funds should be redirected as appropriate.**

While the Department believes there should be ongoing needs assessments on the use of funds available to the NEG, it is also concerned that funds be used as appropriated by the Congress and that, where there was a slow take-up rate of individuals eligible for HCTC premium assistance, funds be available to fill that gap. For example, there are confidentiality issues surrounding the release of information to states vis-à-vis PBGC eligibles. Since such individuals were more than likely not part of the TAA system, the state agencies have no way of easily identifying the workers to provide them with bridge premium payments. Several states and Federal agencies have been actively seeking solutions which are not overly burdensome to any one entity, and we believe progress is being made. Furthermore, Congress recently passed a bill which authorizes states to reprogram NEG funds previously awarded to assist victims of Hurricane Katrina. States will be advised of this opportunity where they determine that excess NEG resources awarded for the HCTC bridge program exist. In other instances, states with NEG funds have expressed interest in partnering with other states that do not have NEG bridge funds to provide premium assistance to eligible individuals not currently having access to such funds. We believe this option holds promise.

- **In consultation with state officials, Federal lawmakers and partnering Federal agencies should develop remedies to identified barriers related to participant share of premium cost and participant up-front cost. In addition, develop remedies applicable to the complexity of the eligibility process, lack of coordination with the PBGC, increasing awareness at the One Stop level, working with partners towards a seamless process, and providing NEG funds on a timely basis.**

The Department concurs that there are many opportunities for improvement. Some require Congressional action (e.g., portion of the premium for which the worker is responsible), while others require a review of current administrative processes (e.g., to streamline the eligibility process for determining whether an individual is eligible to receive a premium payment and whether the proposed health insurance is a qualified plan under the Trade Reform Act of 2002; enhancement of the rapid response system under WIA to better inform workers impacted by Trade; and more comprehensive information available through the more than 600 One-Stop Career Centers across the nation). We do not concur that there has not been coordination with the PBGC, which has been a partner with other government agencies since before the implementation of HCTC.

-4-

The Report indicates a take-up rate of approximately 4.8 percent of the cumulative potentially eligible trade-affected workers participating in the bridge or gap programs funded by NEGs through June 30, 2004. It is important to note that the take-up rate for the same period of time for individuals who enrolled in TAA-funded training was approximately 30 percent, and generally it is those enrolled in training who would be eligible for TRA. Data are not available on the number of workers whose spouses may be receiving health insurance benefits under a family plan, the number who may be eligible for Medicare, etc. Since the period covered by the OIG report, the IRS reports that approximately 7 percent of the potentially eligible individuals took advantage of the advance tax credit component in August 2005.

Page 14 of the report indicates that Maryland and Maine did not have a system in place to identify and report eligible ATAA participants. As indicated previously, ATAA participants can only be identified when they enroll in the program. For example, Maryland did not have any enrollees in the ATAA program at the time of the OIG review, and thus there was no need to identify any participants. Since the funding stream for ATAA individuals is separate, it is likely that they could easily identify them if any such participants existed. One of the factors to consider regarding low participation in ATAA is that the worker is no longer eligible for training.

The report indicated that some states portrayed the eligibility process as a long and cumbersome one. The Department will review the processes in place but notes that many parts of the process for Trade eligibility have been streamlined over the past two years. For example, the focus of rapid response assistance on the trade program has decreased the amount of time between the announcement of a layoff and the filing of a petition; the timeframe for making a determination on petitions has decreased from 103 days to less than 40 days; and the focus of the Department on the integration of services for all dislocated workers was to ensure early intervention assistance for workers who do not have to be TRA recipients in order to qualify for HCTC, once it was determined by the state that they would be eligible for TRA if their unemployment benefits had been exhausted. The period of time between layoff and enrollment in Trade training, however, may be a factor that needs to be reviewed. As with all dislocated workers, the period of time between layoff and employment-related service intervention (including training) has been shown to decrease the period of unemployment.

-5-

- **Work with non-participating states to address identified barriers to enhance participation. Clarify guidance pertaining to the use of administrative funds and availability of funds for the development of infrastructure systems. In addition, consider, where feasible, centralizing processing systems or utilizing systems already in place.**

The Department and its partner agencies will continue to address the issues raised by states to help them in: 1) the development of qualified health plans; 2) the development or modification of electronic systems to enable states to streamline applicable processes; and 3) the identification of potentially eligible individuals. It is important to note that DOL issued TEGL No. 10-02 on October 10, 2002, informing states of the availability of infrastructure funds and how to apply for them. Partner Federal agencies visited representatives in high impact states early in the process to discuss HCTC and offered help and guidance. In addition, DOL held forums at six locations across the country in late 2003 and early 2004 on integration of services for dislocated workers, which included segments on Trade and HCTC, with representatives of the IRS HCTC team. As indicated above, we are also working with some states with bridge funds that are willing to help other states and eligible TAA-eligible individuals with initial premium payments.

- **Work with the IRS-HCTC office to implement a consistent system of communication between the states and the IRS-HCTC and ensure that proper controls are instituted to safeguard Federal funds. Reinforce grant management policies, which require monitoring and assessments on a regular basis to ensure compliance with grant provisions, ETA guidance, and Federal laws and regulations.**

The Department has worked closely with the IRS-HCTC office since the passage of the Trade Reform Act of 2003 and the commencement of HCTC planning, and will continue to do so. There are monthly or bi-monthly conference calls which include representatives from the IRS-HCTC, ETA, and states. The IRS-HCTC has representatives available by region to work with states, and both the IRS and HHS have worked with states on developing qualified health plans. Regarding DOL monitoring of NEG HCTC grants, the Department has clarified the roles and responsibilities for monitoring all NEG projects since the OIG review ended in 2004, and the On-Site Review Guide is currently under review to update and clarify, as appropriate. Special attention will be given to the HCTC projects.