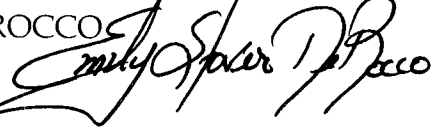


<b>EMPLOYMENT AND TRAINING ADMINISTRATION          ADVISORY SYSTEM          U.S. DEPARTMENT OF LABOR          Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> National Emergency Grants
	<b>CORRESPONDENCE SYMBOL</b> Office of National Response
	<b>DATE</b> July 13, 2006

TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 16-03, CHANGE 4

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

**FROM:** EMILY STOVER DeROCCO   
 Assistant Secretary

**SUBJECT:** National Emergency Grants (NEGs) - Use of NEG Funds Under the Workforce Investment Act (WIA), as Amended, to Support Employment-Related Assistance for Workers Affected by the 2005 Defense Base Realignment and Closure (BRAC 2005) Actions

**1. Purpose.**

- a. To provide additional guidance to the workforce investment system regarding the modification of NEG BRAC 2005 strategic planning grants.
- b. To provide guidance to the workforce investment system regarding new applications for NEG-funded assistance for individuals, military installations and communities affected by BRAC 2005 once the Department of Defense (DoD) timelines are available and well-articulated reemployment strategies are in place.

**2.. References .**

- Workforce Investment Act (WIA), section 173, 29 U.S.C. 2918
- WIA Regulations at 20 CFR part 671
- Announcement by Secretary Chao of the Department of Labor initiative, Workforce Innovation in Regional Economic Development (WIRED), November 2005. <http://www.dol.gov/opa/media/press/eta/eta20060329.htm>
- Training and Employment Guidance Letter (TEGL) No. 16-03, Change 2, "Use of National Emergency Grant (NEG) Funds Under the Workforce Investment Act, as

<b>RESCISSIONS:</b>	<b>EXPIRATION DATE:</b>
---------------------	-------------------------

NONE	CONTINUING
------	------------

- Amended, to Support Activities Related to the 2005 Defense Base Realignment and Closure (BRAC 2005) Commission," issued May 24, 2005, [http://wdr.doleta.gov/directives/attach/TEGL16-03\\_Ch2.pdf](http://wdr.doleta.gov/directives/attach/TEGL16-03_Ch2.pdf)
- Training and Employment Guidance Letter (TEGL) No. 16-03, "National Emergency Grant (NEG) Policy Guidance," issued January 26, 2004, <http://wdr.doleta.gov/directives/attach/TEGL16-03.pdf>
  - Training and Employment Guidance Letter (TEGL) No. 2-05, "Workforce Investment System Support of Actions of the 2005 Base Realignment and Closure (BRAC) Commission," issued August 11, 2005, <http://wdr.doleta.gov/directives/attach/TEGL2-05.pdf>
  - Grant Officer Notice to NEG BRAC 2005 grantees, dated November 10, 2005
  - "Workforce Investment Act: National Emergency Grants - Application Procedures," Federal Register Notice, 69 Fed. Reg. 23051 (April 27, 2004); [http://www.doleta.gov/NEG/apply\\_neg.cfm](http://www.doleta.gov/NEG/apply_neg.cfm)
  - Defense Base Closure and Realignment Act of 1990, as Amended, Pub. L. 101-510
  - Training and Employment Guidance Letter No. 22-04, "Serving Military Service Members and Military Spouses under the Workforce Investment Act Dislocated Worker Formula Grant," issued March 22, 2005, <http://wdr.doleta.gov/directives/attach/TEGL22-04.pdf>
  - Department of Defense BRAC Web site: <http://www.defenselink.mil/brac/> Final BRAC 2005 report: <http://www.brac.gov/docs/final/Volume2BRACReport.pdf>
  - Department of Defense Website for Listing of BRAC 2005 actions by state: "Economic Area/Region of Influence Installation
  - Department of Defense, Office of Economic Adjustment Web site: <http://www.oea.gov/oeaweb.nsf/Home?OpenForm>
  - Training and Employment Guidance Letter No. 10-91, "Recognition of the Office of Personnel Management's Certification of Expected Separation as a Notice of Termination," issued June 22, 1992, <http://wdr.doleta.gov/directives/attach/TEGL10-91.pdf>
  - Department of Defense, Office of Economic Adjustment, Recognized Local Redevelopment Authorities (LRAs) for BRAC 2005 closures and realignments (listing will be updated as LRAs are named. Web site: <http://www.oea.gov/oeaweb.nsf/LRA?readform>
  - Training and Employment Guidance Letter (TEGL) No. 17-05, "Common Measures Policy for the Employment and Training Administration's (ETA) Performance Accountability System and Related Performance Issues," issued February 17, 2006, [http://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=2195](http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2195)

3. **Background.** The Base Realignment and Closure (BRAC) Commission's Report for 2005 was approved by the President on September 15, 2005, and became effective November 9, 2005, when Congress did not reject the report within the required timeframe. The Department of Labor's (DOL) NEG BRAC policies were articulated in TEGL No. 16-03, Change 2, issued May 24, 2005, following the Secretary of Defense's recommendations to the BRAC Commission on May 13, 2005. Subsequently, nearly \$29 million in NEG funds were awarded to 37 states, the District of Columbia and Guam to initiate early strategic planning to respond to the anticipated closure and realignment actions (including communities where employment gains are projected) of BRAC 2005. DOL prepared a fact sheet for DoD to provide guidance to its system on the use of the NEG BRAC Workforce Planning Grant funds. It may be viewed at the DOL ETA Web site: <http://www.doleta.gov/layoff/>. This TEGL –

- Supplements guidance provided in TEGL No. 16-03, Change 2, regarding the use of NEG funds for strategic planning to respond to BRAC 2005 (NEG BRAC Planning Grants);
- Provides guidance regarding the modification of NEG BRAC Workforce Planning Grants to include an implementation phase, and/or request supplemental funds, when certain requirements (discussed below) have been met; and
- Describes the NEG e-application procedures and prerequisites for new grants for states that did not apply for NEG BRAC Workforce Planning Grants in June 2005, but now have pending BRAC 2005 actions.

Generally, this TEGL does not repeat NEG policies contained in TEGL No. 16-03, which provides the framework for applying for and operating NEG, nor does it repeat the policies and principles outlined in TEGL No. 16-03, Change 2 regarding NEG BRAC Workforce Planning Grants. Therefore, it is important to read this TEGL in conjunction with earlier such guidance. The three sections (paragraphs 4-6) of this TEGL deal with the following –

- Modifications to Existing NEG BRAC Workforce Planning Grants, including requests for supplemental funding (paragraph 4);
- New NEG BRAC Applications (paragraph 5) ; and
- General policies that apply to all NEG BRAC 2005 Workforce Grants (i.e., for both modifications to existing grants and applications for new BRAC 2005 NEG as described in paragraph 6, below).

4. **Modifications to Existing NEG BRAC Planning Grants, including requests for supplemental funds.** The following general principles apply to grantees with NEG BRAC Workforce Planning Grants who wish to request a modification to begin implementation or apply for supplemental funds –

- NEG BRAC Workforce Planning grantees should submit a request to the NEG Grant Officer to modify the planning grant to incorporate the implementation (services to participants) phase of responding to BRAC 2005, when appropriate, as discussed below.
- All requests for **implementation** modifications to a current NEG BRAC 2005 Planning Grant must be submitted to the NEG Grant Officer via the e-application system, in accordance with the instructions contained in the NEG Application Procedures at <http://www.doleta.gov/layoff/>. If technical problems are experienced with the NEG e-application system, please contact the NEG e-application Help Desk (Telephone Number: 202-693-3925 (not a toll-free number)). **It is important to note that earlier guidance that BRAC modifications should be submitted on paper or by e-mail does not apply when participants are to be served.**
- As the BRAC actions progress, including facilities affected and changes in timelines, grantees are required to identify such changes. Requests for modifications to remove and/or add installations must be submitted to the NEG Grant Officer via the NEG e-application system. Grantees with questions on this issue should contact the appropriate Federal Project Officer (FPO), as identified in the Grant Award Letter or Modification Letter. The FPOs will work with grantees to help resolve any issues related to modifications.
- Requests for supplemental NEG funds for BRAC 2005 implementation will be considered when quarterly financial accrued expenditures for the applicable NEG BRAC grant approaches 80 percent of funds awarded.
- The following paragraphs outline requirements for submitting several types of modifications that grantees of NEG BRAC Workforce Planning Grants may wish to submit--
  - a. **Modifications to BRAC 2005 Planning NEGs to Incorporate the Implementation Phase.**
    - (1) We understand that grantees may wish to request modifications to begin the implementation phase during PY 2006, even though planning activities may still be ongoing. However, at this time,

much of the planning will focus on the timing of layoffs and closures as well as workforce gains. A revised DoD listing of projected community impact (including indirect impacts) has been prepared, entitled: "Final Recommendations: Employment Impact by Economic Areas and States," (Appendix O). It may be viewed on the Web at:

<http://www.brac.gov/docs/final/AppendixO.pdf>. This will assist states and affected local areas in developing service plans for actions that will occur over the next two to three years. A U.S. map prepared by DoD showing the locations of realignments and closures (Appendix T: 2005 Defense Base Closure and Realignment Commission Actions) can also be viewed at the DoD Web site: <http://www.brac.gov/docs/final/AppendixT.pdf>. The latter will also assist in identifying affected military installations in states which border one another and that impact Metropolitan Statistical Areas (MSAs) in grantee states.

- (2) The Appendix O report delineates by installation within each state the projected net job changes broken down by (a) military, (b) civilian, (c) contractor and (d) indirect job changes. It should be noted that these data alone may not be sufficient for workforce development purposes if the impacted workers have different skill sets/requirements. Thus, one layoff would not necessarily cancel one new job gain. Therefore, the number of workers requiring transition assistance will depend upon data shared locally between the military installation and the workforce investment system to reach the appropriate level for NEG purposes.
- (3) As grantees prepare to enter the implementation phase, a reassessment of the initial strategic planning strategies may be required in order to respond to the final actions of BRAC 2005. For example, many states that had large proposed closures or realignments removed from the recommended list, based upon final BRAC 2005 decisions, may still have smaller actions that will occur within the state or be affected by BRAC 2005 actions in region or in its bordering states.

(4) In those states that received NEG BRAC Workforce Planning Grants based upon earlier projections but with less final BRAC activity than originally anticipated, grantees are encouraged to utilize available NEG funds to respond to the final BRAC actions, even where the number of workers projected to be affected (losses or gains) in a single community or regional area would not normally qualify a state for NEG assistance. Funds expended on BRAC 2005 actions that were later reversed or amended by the approved recommendations of the BRAC Commission are allowable NEG expenditures. If grantees have questions, please contact the FPO for the project. DOL intends to work with states to the extent practicable to use NEG funds already awarded for BRAC Workforce-related purposes.

**b. Eligible BRAC 2005 Events for Modification of NEG BRAC Workforce Planning Grants to Include an Implementation Phase.**

Implementation modifications may be submitted when the grantee is able to identify impending BRAC-impacted actions and the number of eligible individuals available to commence services. At least five categories of BRAC-related events have been identified that may result in individuals being eligible for assistance under a NEG as a result of BRAC 2005 actions. These categories include businesses and individuals indirectly affected by BRAC. A more detailed discussion of each of these events is contained in section 5, below.

- Closures of military installations
- Realignments (layoffs)
- Realignments (gains)
- Conversion/diversification of operations from defense to non-defense applications for specific contractors identified by DoD
- Layoffs or gains at companies indirectly affected by BRAC 2005, e.g., businesses in a community or on a base that depended primarily on the military for revenue, which close or downsize as a result of BRAC 2005, or which need new workers to grow or open a business as a result of expansions of military personnel due to BRAC 2005

**c. Eligible Target Populations for NEG BRAC projects.** There are also five broad categories of directly or indirectly BRAC 2005-affected individuals who can be targeted under a NEG project as BRAC 2005 actions proceed –

- DoD Civilian Employees

- Members of the Armed Forces
- Contractors of DoD and/or the military installation
- Military spouses and family members who qualify as dislocated workers
- Others directly or indirectly affected by BRAC 2005

The attachment to this TEGL provides guidance on the categories of individuals eligible to participate in NEG BRAC workforce projects, the WIA eligibility criteria that apply, a discussion of how these events relate to BRAC, as well as information on participant eligibility requirements and documentation. Some of the categories of individuals conform to WIA section 173(2) while others describe those covered under WIA sections 101(9) and (10). If a grantee identifies additional categories, please consult with the project FPO and include them in a grant modification or application request.

- d. **Requests for Supplemental Funds to a NEG BRAC Workforce Planning Grant that has been converted.** A modification of the project to request supplemental NEG funds (i.e., funds to expand the resources in a converted NEG BRAC Planning Grant) may be submitted via the e-application system when accrued expenditures approach 80 percent of available NEG BRAC funds, and there is a demonstrated need for funds in addition to the converted planning grant funds and formula dislocated worker funds. The request must include revised implementation schedules, a SF 424 and any other changes requested from the prior modification. Applications for supplemental funds will be considered for award when all needed information has been submitted.

## 5. Applications from States that do not have NEG BRAC Workforce Planning Funds

**States that were not awarded NEG BRAC Workforce Planning Grants.** Any state that did not request NEG BRAC Workforce Planning Grant funds in 2005 that wishes to obtain NEG funds to address the effects of BRAC 2005 must submit an application for NEG BRAC workforce funding in accordance with the NEG Application Procedures and the guidance provided below and in TEGL No. 16-03, Change 2. Such requests can only be made when WIA formula Dislocated Worker, Adult and Youth funds, as appropriate, are not sufficient or targeted to serve the individuals impacted by such events.

- a. **Eligible Events for Requesting New NEG Funds for BRAC 2005 Implementation** – This section clarifies the circumstances for which states may submit applications for NEG funds to address BRAC

2005-related events and the eligible circumstances for funding under the NEG Application Procedures at 59 Fed. Reg. 23051, 23059 (April 27, 2004). Applications must identify an eligible BRAC-related action meeting the requirements set forth in this section. As part of its review of the BRAC-related action identified in the application, DOL will coordinate with the Office of Economic Adjustment (OEA) at DoD for verification. **One or more events may apply to a single state and may be covered in a single application** if the BRAC action timelines make this administratively efficient. However, there may be large closures or realignments where it is more administratively efficient to submit separate applications for separate BRAC projects, e.g., timelines vary, size of event/impact, duration of transition, complexity of an event, etc.

- **BRAC Closure**

States may submit an application when:

- DoD has advised that one or more BRAC 2005 closures in a state as identified on the BRAC 2005 final list are scheduled to close no later than two years after the date of the NEG application, **and**
- The affected installation commander has advised the state or local workforce investment board that a minimum of 50 individuals (including spouses) will be available to commence services within 60 days of the NEG application.

- **BRAC Realignment (Layoffs)**

States may submit an application when:

- DoD has announced that one or more BRAC 2005 realignments in a state will be completed no later than 2 years after the date of the NEG application, **and**
- Notices of expected terminations will be issued by the military installation to 50 or more workers (including military spouses) within 60 days of the NEG application, and those individuals will be available (release time to participate in transition activities, including training, as appropriate) to commence services at that time.

- **BRAC Realignment (Gains)**

States may submit an application when:

- BRAC 2005 strategic planning activities have documented a need to train eligible dislocated workers for occupations to support a community's ability to accommodate the growth resulting from BRAC 2005 realignments, e.g., civilian employee openings, military spouses, service workers, construction workers, etc., **and**
- WIA formula Adult, Dislocated Worker or Youth funds are not sufficient to undertake such training.



- **BRAC-related DoD Contractors**

States may submit an application when:

- DoD has identified specific contractors with workers eligible for skills upgrading to avoid layoff and enable the contractor to convert its operations from defense to non-defense applications, pursuant to WIA sections 173(c)(2)(A)(iii) and 173(c)(2)(B), **or**
- A layoff or closure has been announced by a DoD contractor as a result of BRAC 2005.

- **Companies/Workers Indirectly Impacted by BRAC.** States may submit an application when the applicant has identified fifty or more workers that the state determines are being laid off from businesses indirectly affected by BRAC 2005 actions, e.g., businesses where the revenues were dependent upon the existence of the military installation, as determined by the state. Although this group may be integrated as part of other layoffs in order to qualify for NEG funds, a stand-alone request for NEG funds must demonstrate that there are not sufficient WIA formula funds to assist the target group(s). The target population must be enrolled in services within six months of the NEG application, as discussed in TEGL No. 16-03.

6. **General Policies Applicable to NEG BRAC Workforce Grants (for both Modifications to Existing NEG Workforce Planning Grants and New NEG BRAC applications).** The following policies will apply to the identified topics.

- a. **Financial Prerequisites for New Funding.** Prior to the award of new NEG BRAC funds, the following financial requirements and assurances must be met by the applicant –
  - The resources being requested are in addition to those being provided or made available by DoD, the state's WIA formula programs and other employment and training resources.
  - The grantee of a NEG BRAC 2005 Workforce Planning Grant reports accrued expenditures of 80 percent in its most recent quarterly financial status report, or reported accrued expenditures in the last quarterly report were sufficient to expect that 80 percent would be achieved by the end of the current quarter.
  - The state's accrued expenditures of the total available for the formula Dislocated Worker program in PY 2004 (or most recent year-end report, as applicable) were 80 percent or higher of total available Dislocated Worker funds (see <http://www.doleta.gov/budget/063005diswkrspend.pdf> for PY 2004), and the most recent PY quarterly financial report reflects

accrued expenditures in an amount that one could reasonably project to reach 80 percent of total available funds by the end of the program year. This report is posted at the end of each quarter on the DOL Web site at <http://www.doleta.gov/budget/qtrlyspend.cfm> as soon as it is available.

- b. **BRAC 2005 Closure and Realignment Dates.** States or project operators must receive from the base commander the projected closure or realignment dates for military installations in order to modify a grant to include an implementation plan or for states to request funds for a NEG BRAC 2005 workforce project. Such dates will be confirmed with DoD by DOL when an application or modification is submitted. It should be noted that planned dates may be modified even after activities begin, as may be the case with any employer layoff or closure action. Such action will not generally affect the eligibility of individuals already being served, even though there may be delays in planned layoffs. The individual re-employment plans of participants should be modified to accommodate such actions.
- c. **Program Design/Collaboration Requirements for Implementation of Services.** The following are the minimum elements that must be contained in a new application or a modification request to provide employment-related assistance to individuals affected by BRAC 2005.
  - (1) The program design and retraining initiatives proposed must reflect: (a) strategic planning that has been conducted in partnership with key stakeholders in the community; (b) the goals for responding to BRAC 2005 with regard to high growth, high skill occupations in the area; and (c) support for a community's economic development initiatives for new and/or expanding businesses in the geographic area, including those that are the result of BRAC 2005 actions.
  - (2) In states where a grant will operate at more than one project site, the grantee must have in place a financial management system that permits the grantee to transfer funds from one local project operator to another in cases of under-expenditure and/or decreased participant activity. In this regard, it is important to note that the release of any incremental funds will be based, in part, upon the accrued expenditures of a grant, rather than on one or more sub-agreements.
  - (3) TEGL 16-03, Change 2 (Paragraphs 7(d) and 7(e)) indicates that a BRAC action affecting (a) more than one state or (b) more than one local area within a state requires a multi-state or multi-local area (as appropriate) workforce development response with NEG funds. To respond to this requirement, the request should also include—

- How the principles of the Workforce Innovation in Regional Economic Development (WIRED) initiative recently announced by the U.S. Department of Labor are reflected in the responses to the regional impacts of BRAC 2005, as discussed by Secretary Chao in her November 18, 2005, letter to the Governors of every state.
  - Workforce development strategies being undertaken in collaboration with state and local economic development agencies, to further the growth or revitalization of an area (see paragraph 6(d), below).
  - How the design of services will promote the WIRED principles and economic development strategies.
  - How managers of the workforce system will ensure that workers are provided a comprehensive set of services through collaborative efforts to minimize duplication while enhancing the quality of assistance being provided by partnering entities.
  - How it will be assured that workers have access to similar services regardless of residence.
  - How contact points are in place to promote efficiency, ensure the flow of consistent information, resolve issues before they become problems, etc., by establishing communication channels between the project operator contact (including in the case of a regional area that covers more than one workforce investment board) and the base commander and human resource personnel, etc.
  - How funds will flow and service providers will be informed of expenditure and enrollment requirements to ensure continued participation, or so that funds can be transferred from one provider--where the need for resources is below originally anticipated--to another provider where there is greater need.
- d. **Economic Development.** In response to numerous inquiries from states regarding how NEG funds can be expended for economic development, this TEGP clarifies that the workforce investment system's role is to focus on talent development as a necessary pillar of a region's economic strategy. An educated and skilled workforce is among the most critical assets a region can possess in creating, attracting, and growing jobs and economic prosperity. WIA (including NEG) funds are not appropriately used for surveying or funding needs for community infrastructure such as roads, schools, housing, water systems, community centers, feasibility surveys, etc. However, training for jobs created as a result of such successful initiatives is not only appropriate but also an essential component of helping employers get qualified workers and helping workers become qualified to work when such demand or high growth jobs are created. DOL promotes talent development in collaboration with economic development. An ETA advisory related to economic development activities is forthcoming.

- e. **NEG BRAC Budget and Expenditure Implementation Plan.** For each sub-project implementing a BRAC action (local area or regional area, as appropriate), an implementation plan must be submitted via e-application to the ETA NEG Grant Officer, as well as an overall plan for the grant. The instructions for the completion of this form on the NEG e-system are contained in the NEG Application Procedures, referenced above.
- f. **NEG Cost Limit for Administration.** For awards made pursuant to this notice, the administrative cost limit will be negotiated for each grant under 20 CFR 671.170(b)(2).
- g. **Grant Period.** All NEG BRAC 2005 Workforce Planning Grants (awarded in PY 2004) were modified to extend the operational period from December 31, 2005, to June 30, 2006, pursuant to the Grant Officer Notice issued November 10, 2005. Subsequent modification requests have extended the period of operation beyond June 30, 2006, depending upon the status of the grants and/or any implementation plans submitted. However, NEG BRAC planning funds awarded in June 2005 must be fully expended no later than June 30, 2007. Any subsequent NEG funds awarded for BRAC 2005 projects, including those in response to new NEG BRAC applications, will be available for expenditure as indicated in the grant award letter (or as amended), but no longer than the program year of obligation, plus two additional program years.
- h. **Reporting.** For funds awarded under modifications to NEG Workforce Planning Grants, the monthly progress report, discussed in TEG L No. 16-03, Change 2, will be required until participant enrollments commence and the implementation phase of the project has been approved. Thereafter, only the quarterly program and financial reporting requirements for all NEG projects (ETA Forms 9104 and 9099) will be required. These are due 45 days after the end of each quarter for all NEG, including BRAC projects. Prior to the enrollment of participants, the entry for total enrolled will be zero. ETA Form 9104 (NEG quarterly program report) must be submitted on the NEG e-system.

All participants enrolled in a NEG BRAC 2005 project will be reported in the Workforce Investment Act Title 1-B Standardized Record Data (WIASRD) and subsequent reporting systems. If NEG BRAC 2005 participants are co-enrolled in the Adult or Dislocated Worker formula programs, the appropriate reporting WIASRD must also be completed. Although co-enrolled individuals may have completed services under a NEG project, the exit date reported in the WIASRD occurs when the participant has completed all partner services. Therefore, accurate entry of NEG project information (including the applicable NEG project number) in the WIASRD is crucial for determining final outcomes for NEG BRAC participants.

- i. **Individual Employment Plan (IEP).** IEPs are important documents for both the participant and the workforce system to plan and record an individual's assessment and progress in meeting goals and supporting other recordkeeping systems, including reporting. Many eligible dislocated workers served through BRAC NEG's may experience a window of pre-layoff employment (during which time they are eligible for core, intensive and training services under NEG's) prior to their actual layoff. In order to provide such individuals with a full array of early intervention services, they may receive assistance, including through partner programs, over a longer period of time than is typical for a NEG project. Therefore, it is important that each participant's IEP be developed to reflect longer term services and to identify how the services will be phased to accommodate continued employment and a smooth transition to post-BRAC employment. This should help ensure that individuals will not encounter an automatic exit because there were not planned services for 90 days and avoid the necessity to re-enroll an individual in order to continue and complete services prior to re-employment, as discussed in TEG L No. 17-05.
7. **Action Required.** Please distribute this information to all appropriate state and local officials, including local workforce investment board chairs, administrative entities, chief elected officials and One-Stop Career Centers.
8. **Inquiries.** All inquiries should be addressed to the appropriate Regional Administrator.

Attachment:  
Participant Eligibility Requirements

## BRAC National Emergency Grants (NEGs)

### Eligible BRAC-Related Actions

#### Participant Eligibility Requirements

1. Following are four categories of individuals who may receive employment and training assistance to find or qualify for new jobs with NEG funds, and other WIA resources, as part of the national workforce development response to BRAC 2005.
  - a. **DoD Civilian Employees and Members of the Armed Forces.** This category relates primarily to employees of DoD and members of the Armed Forces, although it is expected that most individuals requiring WIA assistance will be civilian employees. As indicated in paragraph 4 of this TEGL, DoD has resources and transition programs in place to assist many of the civilian and military individuals being directly impacted by BRAC.
  - b. **Contractors of DoD and/or the military installation.** Generally, DoD transition assistance does not extend to its contractors; therefore, it is likely that any employment-related assistance needed will be accessed through One-Stop Career Centers, including those affiliated transition centers located on-site with the base transition centers. WIA sections 173(c)(2)(A)(iii)<sup>1</sup> and 173(c)(2)(B) authorize retraining assistance for employees of certain defense contractors to upgrade their skills to support conversion activities of their employer. This group will be identified by DoD and provided to the workforce investment system. When this target group is included in a NEG modification or application, there will be verification with DoD to ensure they qualify for contractor conversion activities. At this point, it is not clear how many contractors, if any, will be involved in the type of product diversification/conversion activities authorized, while maintaining their defense-related capability. As more information becomes available, it will be provided through a TEGL update.

---

<sup>1</sup> WIA section 173(c)(2)(A)(iii) and (B) provide that "an individual who is employed in a non-managerial position with a Department of Defense contractor, who is determined by the Secretary of Defense to be at-risk of termination from employment as a result of reductions in defense expenditures, and whose employer is converting operations from defense to non-defense applications in order to prevent worker layoffs, . . . shall be eligible for retraining assistance to upgrade skills by obtaining marketable skills needed to support the conversion [activities]."

Additionally, any employees of DoD contractors that close or downsize as a result of BRAC 2005 may be eligible for re-employment assistance through WIA formula dislocated worker funds or NEG funds if they meet the criteria established in WIA section 101(9).<sup>2</sup>

- c. **Military spouses and family members** being transferred into or out of an installation as a result of BRAC may require assistance beyond that available through the DoD Family Assistance Centers. As discussed in paragraph 4 of this TEGL, the services provided must be coordinated with DoD. In order to receive assistance under a NEG, such individuals must qualify as dislocated workers under WIA section 101(9) or (10).<sup>3</sup> TEGL No. 16-03, paragraph 4(o), page 11, discusses services for military spouses with NEG funds, and provides that an individual who was required to quit a job to accompany a spouse to another location may receive NEG assistance. This applies to services provided under a NEG, even if there is a local eligibility policy that precludes assistance to individuals whose termination from a job is based upon a decision by the worker to resign.
  
- d. **Others, directly or indirectly affected by BRAC 2005.** For those individuals indirectly impacted by BRAC (i.e., those who are not employees of DoD, members of the armed forces or contractors of DoD), WIA formula funds and NEG dislocated worker resources will be a primary source of assistance since such individuals are not eligible for DoD transition assistance. This group may include individuals needing to be trained to meet growth and hiring needs of the military installation or of businesses in the community in order to accommodate economic development, as well as others whose jobs are being lost as a result of a closure under BRAC.

---

<sup>2</sup> WIA section 101(9)(A) also defines an eligible "dislocated worker" to include an individual who: (A) has been terminated or laid off, or who has received a notice of layoff or termination; and (B) is eligible for or has exhausted entitlement to unemployment compensation, or has been employed for a duration sufficient to demonstrate attachment to the workforce but is not eligible for unemployment compensation; and (C) is unlikely to return to a previous industry or occupation. N.B. A state or local policy may define "unlikely to return" to include those who require skill enhancements due to obsolete skills in order to qualify for 21<sup>st</sup> century employment, even in the same occupation or industry. See additional definitions of dislocated workers for individuals affected by mass layoffs and closures, including realignments and closures as a result of BRAC in Footnote 4.

<sup>3</sup> A displaced homemaker qualifies as a "dislocated worker" and is defined under WIA section 101(10) as an individual who has been providing unpaid services to family members in the home and who has been dependent on the income of another family member but is no longer supported by that income, and is under-employed or unemployed and is experiencing difficulty in obtaining or upgrading employment.

2. **Eligibility Criteria.** Generally, WIA section 101(9)(B)<sup>4</sup> contains the statutory requirements for the determination of eligibility for individuals affected by mass layoffs and closures, including those affected by BRAC. However, WIA section 173(c)(2)<sup>5</sup> provides additional eligibility criteria for certain individuals covered under a BRAC action. Additionally,
- The DoD definitions for installation, closure and realignment can be found at [http://www.defenselink.mil/brac/definitions\\_brac2005.html](http://www.defenselink.mil/brac/definitions_brac2005.html).
  - For NEG BRAC projects, “gains” at military installations or in communities for NEG projects as a result of BRAC 2005 should be classified under “realignments” which include relocations, and which may result in gains at some installations or in commuting areas where the military installation growth occurs. More detailed information is contained in the attached eligibility matrix, and as discussed below.
  - For the receipt of intensive and training services under WIA, “dislocated workers” as defined in WIA section 101(9) or 173(c), **are not** considered “employed” if they have not yet been laid off but have received a notice of layoff or are working at a facility where a closure or mass layoff has been announced, or at a BRAC impacted- facility scheduled to under go a closure or realignment.
3. **Eligibility Matrix.** The attached matrix is a tool that may be utilized to assist workforce investment professionals to identify categories of individuals within these groups and the types of WIA services that may be available to individuals in an seamlessly integrated, customer-friendly One-Stop Career Center system. This chart does not attempt to delineate all of the services available through DoD; however, that information is contained in a booklet that can be downloaded from the DoD Web site at <http://www.cpms.osd.mil/bractransition/>, and should be available to staff and individuals visiting One-Stop Career Centers and affiliates.

---

<sup>4</sup> WIA section 101(9)(B) also defines “dislocated worker” to include an individual who “(B)(i) has been terminated or laid off, or has received a notice of termination or layoff from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise; or (ii) is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or (iii) for purposes of eligibility to receive services other than training services. . .intensive services. . .or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close.” An exception to the 180 day rule applies for certain individuals affected by BRAC and is discussed in WIA section 173(c)(2)(A)(ii).

<sup>5</sup> Included among workers affected by closures and realignments of military installations are civilian employees of “[DoD] or the Department of Energy employed at a military installation that is being closed, or that will undergo realignment, within the next 24 months after the date of the determination of eligibility.” (WIA section 173(c)(2)(A)(ii))



- 4. Eligibility Documentation.** Normal WIA documentation procedures apply for NEG BRAC grants. However, local workforce investment boards are encouraged to approve policies that streamline the processes so that applications for services and documentation from the employer(s) and workers can be shared to avoid the provision of duplicate sets of information to various entities, e.g., project operators, One-Stop Career Centers, service providers, etc. In some instances, data from the military installations may be able to streamline the process as developed with the affected installation.

**Individual layoff notices.** For individuals working at locations that will not close, but a mass layoff will occur over a period of time, Notices of Expected Termination, as discussed in TEGL No. 10-91, are allowable documentation of eligibility and are a useful strategy for early intervention to limit the period of post-layoff time required to transition from employment to re-employment. However, in order for such a notice to be issued by a federal agency for federal civilian personnel, it must be cleared by the Office of Personnel Management (OPM). Such a review is currently being undertaken between OPM and DoD to ensure that federal employees at military facilities are authorized to use such a notification under BRAC 2005. The local military commander is responsible for determining, as authorized by DoD and OPM, when and whether such notices will be issued.

It is ETA policy that dislocated workers who are appropriately determined eligible under (1) an individual layoff notice (WIA section 101(9)(A), i.e., individuals not affected by a closure or mass layoff), (2) WIA section 101(9)(B), i.e., individuals affected by a closure or substantial layoff), or (3) WIA section 173(c)(2)(ii) for DoD civilian employees affected by BRAC), do not lose that eligibility if their situation changes. Specifically--

*The determination of eligibility for any of the services and activities of the dislocated worker program is based upon the best information available at the time of application when eligibility is determined. If the circumstances change upon which the eligibility and service decision(s) were based, a re-evaluation of the continued need for the services/activities is appropriate, as part of the individual reemployment plan. During any re-evaluation, it is expected that consideration would be given to such factors as (1) the exact nature of the employer action (e.g., postponement or reversal of closure or layoff); (2) where the participant is in the system (e.g., whether the participant is enrolled and participating in a training activity), and (3) the impact of an exit on the individual (e.g., will the tuition already paid be lost or withdrawal from the classes result in lack of credit for those already completed, etc.). However, expenditures for services/activities for a participant who was correctly determined to be eligible but whose circumstances change, are not, in and of themselves, disallowed costs. Services provided are expected to result in the enhancement of any individual's future employability and competitiveness in the workforce.*

If a participant is recalled to the layoff employer, an evaluation will need to be made regarding whether the recall is temporary (e.g., for reclamation work at a coal mine or to do a short term assignment) or whether it is permanent. If the recall is permanent, the participant generally would not be expected to need continuing assistance; however, it would not preclude the completion of a training program for which funds had already been expended.

If a participant accepts interim or temporary employment for the purpose of income maintenance, it does not affect WIA dislocated worker program participant eligibility status (prior to or subsequent to enrollment), and in some instances may provide training-related experience as well as necessary financial support to enable the individual to complete services (in lieu of needs-related payments or other income support), and typically would be recorded as part of the individual plan.

**BRAC and BRAC-related ELIGIBLE INDIVIDUALS\***

\*Veterans priority applies to all WIA programs.

WORKER STATUS	NEG BRAC Grant WIA 173 (2)(A)—BRAC or WIA Sec. 101(9) or (10)	WIA Governor’s DW Reserve for Rapid Response	WIA Dislocated Worker Formula Program	WIA Adult Formula Program	One Stop Core Services
<b>Primary BRAC Impact as defined in WIA Sec. 173(c)(2)(A) and (B)</b>					
1 DoD or DoEnergy civilian employed at a military installation where BRAC announcement has been made that facility will <b>close within 24 months</b> of application. No individual notice issued.	Yes, no individual notice required, but published DoD date of closure required. Eligible for all services 24 months prior to scheduled closure or realignment.	Yes, rapid response assistance is initiated when BRAC list is published which identifies facility as scheduled for closure or realignment.	Yes, for core services at time of announcement, and for all services within 180 days (six months) of announced closure, as supported by assessment. (WIA Sec. 101(9)(B))	Yes, <i>if</i> individual qualifies as an “employed adult” and fits within the local policy for priority of service for low income and public assistance recipients required under the adult program.	Yes
2 DoD or DoEnergy civilian employed at a military installation where BRAC announcement has been made that facility will undergo realignment by reducing jobs.	Yes, individual notice of termination or expected termination is required.	Yes	Yes, individual notice required.	Yes, as above.	Yes

	WORKER STATUS	NEG BRAC Grant WIA 173 (2)(A)—BRAC or WIA Sec. 101(9) or (10)	WIA Governor's DW Reserve for Rapid Response	WIA Dislocated Worker Formula Program	WIA Adult Formula Program	One Stop Core Services
3	BRAC-affected civilian or military employee (as identified above) who is eligible for retirement benefits but does not plan to leave the workforce.	Yes, with #1 or #2 above and is not leaving the labor force, and is assessed as needing employment-related assistance.	Yes	Yes, with individual notice.	Yes, as above.	Yes
4	Non-managerial DoD contract employee, determined by DoD to be at risk of termination due to reduced defense expenditures, AND whose employer is converting operations from defense to non-defense in order to avoid layoffs.	Yes, with DoD documentation, incumbent worker is eligible for upgrade training with NEG funds to help implement conversion under WIA 173(c)(2)(A)(iii) and Sec. 173(c)(2)(B).	Yes, for rapid response as soon as DoD provides notification that facility as being converted as a result of BRAC 2005.	Yes, with 15% incumbent worker funds, since such individuals will not be laid off but whose skills are being upgraded to enable the contractor to undertake non-military functions.	Possibly, <i>if</i> "self sufficiency" for "employed worker" and "priority of service" criteria are met.	Yes
5	Member of armed forces on active duty or full-time national guard duty who is involuntarily separated pursuant to USC title 10, section 1141, and is NOT entitled to retired or retained pay incident to the separation, and does not seek assistance within 180 days of separation.	Yes, under WIA Sec. 101(9).	Yes, when included in part of an announcement of a closure or realignment.	Yes	Yes	Yes

WORKER STATUS	NEG BRAC Grant WIA 173 (2)(A)—BRAC or WIA Sec. 101(9) or (10)	WIA Governor's DW Reserve for Rapid Response	WIA Dislocated Worker Formula Program	WIA Adult Formula Program	One Stop Core Services
<p>Member of armed forces on active duty or full-time national guard duty who is involuntarily separated pursuant to USC title 10, section 1141, and is <b>NOT entitled to retired or retained pay incident to the separation, and applies for services within 180 days of separation.</b></p> <p>6</p>	<p>Yes, with documentation from military, eligible pursuant to WIA Sec. 173(c)(2)(A)(iv). (See #4, below, which covers individuals eligible for retirement pay but does not plan to leave the workforce.)</p>	<p>Yes, when BRAC announcement is made that facility will have significant layoff or closure. All employees can receive rapid response assistance.</p>	<p>Yes</p>	<p>Yes</p>	<p>Yes</p>
<p><b>Other BRAC-impacted Events NOT included in above section</b></p>					
<p>Member of armed forces on active duty or full-time national guard duty who is involuntarily separated and IS entitled to retired or retained pay, incident to the separation.</p> <p>7</p>	<p>Yes, under WIA sec. 101(9).</p>	<p>Yes</p>	<p>Yes</p>	<p>Yes</p>	<p>Yes</p>
<p>DoD or DoEnergy civilian worker who has received an individual notice that he/she will be laid off/ or is expected to be laid off on a certain date.</p> <p>8</p>	<p>Yes, as soon as individual notice is received.</p>	<p>Yes, when a mass layoff/closure is involved, and when the state's policy covers less than 50 workers (beyond TAA).</p>	<p>Yes, as soon as notice is received, all levels of services as supported by assessment.</p>	<p>Yes, <b>if</b> individual qualifies as an "employed adult" prior to being laid off. OR Yes, <b>if</b> after layoff.</p>	<p>Yes</p>

	WORKER STATUS	NEG BRAC Grant WIA 173 (2)(A)—BRAC or WIA Sec. 101(9) or (10)	WIA Governor's DW Reserve for Rapid Response	WIA Dislocated Worker Formula Program	WIA Adult Formula Program	One Stop Core Services
9	DoD contractor employee indirectly affected by BRAC who has received a notice of expected layoff.	Yes	Yes, as applicable by state/local policy.	Yes	Yes	Yes
10	DoD contractor employee whose employer has announced that the facility will close, and indirectly affected by BRAC, but not part of BRAC list.	Yes, 6 months (180 days) prior to announced closure, or as soon as individual layoff notice is received, whichever is earlier.	Yes, <i>if</i> qualifies as significant layoff under state policy.	Yes, 6 months (180 days) prior to announced closure, or as soon as individual notice is received.	Yes	Yes
<b>BRAC-related Family Members</b>						
11	Spouse of civilian or military member who is affected by BRAC closure or realignment and was required to leave job due to BRAC actions, including those being transferred from one installation to another.	Yes, coordination with LWIB at original or new location likely to be prudent. May be considered as part of the mass layoff or closure that affected the member of the military or civilian DoD employee.	Yes, should be included in population for whom assistance is provided through Rapid Response.	Yes	Yes	Yes
12	Unemployed spouse (and does not qualify as DW) or family member of BRAC-impacted individual.	Possibly, under WIA Sec. 101(10)	Yes, spouses of those directly affected should be included in Rapid Response assistance initiatives.	Yes	Yes	Yes

WORKER STATUS	NEG BRAC Grant WIA 173 (2)(A)—BRAC or WIA Sec. 101(9) or (10)	WIA Governor's DW Reserve for Rapid Response	WIA Dislocated Worker Formula Program	WIA Adult Formula Program	One Stop Core Services
<p>Member of armed forces on active duty or full-time national guard duty who is separated pursuant to special separation benefits program under USC Title 10, section 1174a, or the voluntary separation incentive program under section 1175.</p> <p>13</p>	<p>Yes, with documentation from the military.</p>	<p>Yes, same as above.</p>	<p>Yes</p>	<p>Yes</p>	<p>Yes</p>
<b>Indirect Impact – BRAC-related</b>					
<p>Employee (including self-employed individuals who qualify under WIA Sec. 101(9)(C)), and qualifying spouses of workers, laid off (or scheduled for layoff) from a business as a result of BRAC, e.g., depended upon the workers or products used by closed/reassigned military base or installation such as restaurants, cleaners, etc., as determined by the Governor.</p> <p>14</p>	<p>Yes, as soon as individual notice is received or 6 months (180 days) prior to announced closure of a facility.</p>	<p>Yes, rapid response assistance is available as soon as layoff or closure is announced.</p> <p>Small businesses, or groups of small businesses are covered based upon state policy.</p>	<p>Yes</p>	<p>Yes</p>	<p>Yes</p>