SECRETARY OF LABOR
WASHINGTON

JUL 10 2009

Mr. Tom Cochran
CEO and Executive Director
The United States Conference of Mayors
1620 Eye Street, Northwest
Washington, D.C. 20006

Kathy A.

Dear Mr. Cochran: Tom

Thank you for your letter regarding the Department of Labor's intent to issue a Notice of Proposed Rulemaking (NPRM) on the use of merit staff by states in the administration of the Trade Adjustment Assistance (TAA) for Workers program. I appreciate receiving your views and I believe we share the objective of ensuring that the services and benefits available under the TAA program are effectively administered so that workers adversely affected by trade will successfully transition to new employment.

As you know, TAA is an important and complex entitlement program that requires states to make substantive determinations, acting as agents of the Secretary, regarding the benefits and services that are to be provided to workers. The goal of the Department is to ensure that the administration of the TAA program is carried out in a consistent, efficient, accountable and transparent manner.

The issue of merit staffing has historically been addressed in the TAA program administratively under the general authority to execute the Secretary-Governor agreements rather than through an explicit statutory requirement. Prior to 2005, the Secretary-Governor agreements included the requirement that the TAA program be administered only by merit staff employees. The previous Administration modified that provision to allow the use of other employees in the Secretary-Governor agreements executed in 2005. It is the intent of this Administration to issue an NPRM proposing to restore the long-standing practice of using merit staff employees in the TAA program.

Neither the amendments to the TAA program in the American Recovery and Reinvestment Act (Recovery Act) nor the accompanying Conference Report indicate a Congressional intent to preclude the Secretary of Labor from exercising the authority regarding the use of merit staffing that Secretaries of Labor have exercised previously. It is not the view of the Department that the Secretary's discretionary authority is eliminated simply because an explicit merit staffing provision in a prior House-passed bill during the previous Administration was not included in the TAA provisions of the Recovery Act.

While the details of the merit staffing proposal and the supporting rationale will be provided in the NPRM, I want to assure you, in response to the programmatic concerns described in your letter, that the use of merit staff in the TAA program has not impeded, and will not impede, the provision of services to TAA workers in local One-Stop Career Centers. The TAA program is and will continue to be a One-Stop partner, as are other merit staffed programs, including the Unemployment Insurance program and the Employment Service, that are integrally related to TAA.

Under the amendments included in the Recovery Act, the TAA program will for the first time be able to devote its own funds to the provision of employment and case management services. The Department intends to ensure that these and other TAA-funded services are provided in a high quality and in-depth manner. TAA workers currently receive many services, such as the skill assessments you describe in your letter, supportive services, and other wrap-around services that are funded and provided under other programs for which TAA workers also qualify. The Department will continue to encourage the provision of services to TAA workers by such other programs in order to supplement TAA-funded services. In fact, the Secretary-Governor agreements require coordination with activities carried out under the Workforce Investment Act to help ensure that a comprehensive array of services is available to TAA workers.

For purposes of the planning and administration of the TAA program by the states, the Department provided information on its intentions regarding the merit staffing issue in the new Secretary-Governor agreement which was sent to the states on May 5, 2009. The new agreement indicates that the Department will begin rulemaking on the use of merit standards in the state administration of the TAA program. In the interim, the agreement urges states to apply state merit standards to the selection and employment of all new staff funded by TAA, while not requiring states to do so. In accordance with the Administrative Procedure Act, all interested parties will have the opportunity to review and comment on the Department's proposed rule. The Department will give full and fair consideration to those views.

Again, I appreciate receiving your views and hope to work with you in the future to ensure that the TAA program provides effective benefits and services that will help trade-impacted workers obtain reemployment.

Sincerely,

HILDA L. SOLIS
Secretary of Labor