

(60) days before the end of the period of performance of the cooperative agreement. The final report is due to DOL ten (10) days before the end of the period of performance of the cooperative agreement.

The Department will arrange for an independent evaluation of the outcomes, impacts, accomplishments, and benefits of each funded project. All grantees must agree to cooperate with this evaluation and must make available records on all parts of project activity, including available data on employment and wages of participants in the self-employment service delivery models being studied, and provide access to personnel, as specified by the evaluator(s), under the direction of ODEP. This independent evaluation is separate from the ongoing evaluation for continuous improvement required of the grantee for project implementation.

Technical assistance efforts will be coordinated with and will complement those of ODEP's National Center on Workforce and Disability for Adults (NCWD/A), as well as ODEP's other technical assistance efforts, including: The National Consortium on Workforce and Disability for Youth (NCWD/Y), the Job Accommodation Network (JAN), the Employer Assistance and Recruiting Network (EARN), and the Small Business and Self-Employment Service (SBSES) (a service of ODEP implemented through JAN which provides information, counseling, and referrals about self-employment and small business ownership opportunities for people with disabilities). Grantees must also agree to work with the ODEP in its various technical assistance efforts in order to freely share with others what is learned about delivering self-employment services to individuals with disabilities. Grantees must agree to collaborate with other research institutes, centers, studies, and evaluations that are supported by the DOL and other relevant Federal agencies, as appropriate. Finally, Grantees must agree to actively utilize the programs sponsored by the ODEP, including the Job Accommodation Network (<http://www.jan.vvu.edu>), and the Employer Assistance and Recruiting Network (<http://www.earnworks.com>).

Each successful applicant will be required to prepare a strategic plan for achieving the goals of the cooperative agreement during the first year of the agreement and submit it to ODEP for approval.

#### VIII. Agency Contacts

Any questions regarding this SGA should be directed to Cassandra Mitchell, e-mail address:

[mitchell.cassandra@dol.gov](mailto:mitchell.cassandra@dol.gov), tel: 202-693-4570 (note that this is NOT a toll-free number). To obtain further information about the Office of Disability Employment Policy of the U.S. Department of Labor, visit the USDOL Web site of the Office of Disability Employment Policy at <http://www.dol.gov/odep>.

#### IX. Appendices

*The appendices are as follows:*

Appendix A. Application for Federal Assistance, Form SF-424.

Appendix B. Budget Information Sheet, Form SF-424A.

Appendix C. Assurances and Certifications Signature Page.

(Appendices D and E are not applicable).

Appendix F. Survey on Ensuring Equal Opportunity for Applicants.

*Detailed information and document locations:*

Appendix A. Application for Federal Assistance, Form SF-424 (OMB No. 4040-0004).

Appendix B. Budget Information Sheet, Form SF-424A (OMB No. 0348-0044).

Both forms SF-424 and 424A can be obtained at the following Web address: <http://apply.grants.gov/agency/FormLinks?family=7>.

Appendix F. Survey on Ensuring Equal Opportunity for Applicants (OMB No. 1890-0014).

The Survey on Ensuring Equal Opportunity for Applicants form can be obtained at the following Web address: <http://www.ed.gov/fund/grant/apply/appforms/surveyeo.pdf>. (If you are viewing this in an electronic format and are receiving "page not found", please cut and paste the URL into your browser window)

Appendix C. Assurances and Certifications Signature Page.

#### Certifications and Assurances

*Assurances and Certifications Signature Page*

The Department of Labor will not award a grant or agreement where the grantee/recipient has failed to accept the assurances and certifications contained in this section. By signing and returning this signature page, the grantee/recipient is providing the certifications set forth below:

A. Certification Regarding Lobbying, Debarment, Suspension, Other Responsibility Matters—Primary Covered Transactions and Certifications Regarding Drug-Free/Tobacco-Free Workplace,

B. Certification of Release of Information,

C. Assurances—Non-Construction Programs,

D. Applicant is not a 501(c)(4) organization.

*Applicant Name and Legal Address:*

If there is any reason why one of the assurances or certifications listed cannot be signed, please explain. Applicant need only submit and return this signature page with the grant application. All other instruction shall be kept on file by the applicant.

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

*Please Note:* This signature page and any pertinent attachments which may be required by these assurances and certifications shall be attached to the applicant's Cost Proposal.

Signed at Washington, DC this 12th day of May, 2006.

**Eric Vogt,**

*Grant Officer.*

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#### DEPARTMENT OF LABOR

#### Employment and Training Administration

[TA-W-58,583]

#### Air Products and Chemicals, Inc. Including On-Site Leased Workers of Shaw Maintenance, Inc., Pace, FL; Notice of Revised Determination on Reconsideration

By letter dated March 10, 2006, a company official requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The Notice of Affirmative Determination Regarding Application for Reconsideration was issued on April 20, 2006, and was published in the **Federal Register** on May 5, 2006 (71 FR 26563).

The Department's negative determination was based on the findings that the subject company did not shift production of ammonia nitrate abroad or increase imports of ammonia nitrate during the relevant period. A survey of the subject company's major declining customers did not reveal increased

imports of ammonia nitrate during the relevant period.

To support the request for reconsideration, the company official supplied additional information regarding increased imports of ammonia nitrate by other major declining customers of the subject firm.

During the reconsideration investigation, the Department conducted a survey of the additional customers provided by the company official. The survey revealed increased reliance on imported ammonia nitrate during the period of sales and production declines at the subject firm.

In accordance with section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of section 246 of the Trade Act, as amended, must be met. The Department has determined in this case that the requirements of section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

### Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at the subject firm contributed importantly to the sales and production declines and to the separation of workers at the subject firm.

In accordance with the provisions of the Act, I make the following certification:

All workers of Air Products and Chemicals, Inc., including On-Site Leased Workers of Shaw Maintenance, Inc., Pace, Florida, who became totally or partially separated from employment on or after January 5, 2005 through two years from the date of this certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974, as amended.

Signed in Washington, DC this 12th day of May 2006.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-50,129; TA-W-50,129A]

#### IBM Corporation Global Services Division, Piscataway, NJ; Middletown, NJ; Notice of Revised Determination on Remand

On April 10, 2006, the United States Court of International Trade (USCIT) granted a consent motion for partial voluntary remand in *Former Employees of IBM Corporation, Global Services Division v. U.S. Secretary of Labor*, Court No. 03-00656.

On November 13, 2002, a petition for Trade Adjustment Assistance (TAA) was filed with the U.S. Department of Labor (Department) on behalf of workers at IBM Corporation, Global Services Division, Piscataway, New Jersey, and Middletown, New Jersey (the subject firm). The petitioning workers alleged that the subject firm was shifting computer software production to Canada and importing those products from Canada. Workers are software developers who write and test computer software.

The Department determined that the workers did not produce an article within the meaning of section 222 of the Trade Act. The Department's determination was issued on March 26, 2003. The Notice of determination was published in the **Federal Register** on April 7, 2003 (68 FR 16834).

On April 29, 2003, a petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for the subject workers to apply for TAA. The Department's Notice of Negative Determination Regarding Application for Reconsideration was issued on June 26, 2003, and published in the **Federal Register** on July 15, 2003 (68 FR 41845).

On September 11, 2003, the Plaintiffs requested review by the USCIT. On December 9, 2005, the Department issued its Notice of Negative Determination on Remand, finding that the subject workers are not engaged in the production of an article or support of an article. The Notice was published in the **Federal Register** on December 21, 2005 (70 FR 75837).

Since the publication of the last remand determination, the Department has revised its policy to acknowledge that, at least in the context of this case, there are tangible and intangible articles and to clarify that the production of intangible articles can be distinguished from the provision of services. Software

and similar intangible goods that would have been considered articles, for the purposes of the Trade Act, if embodied in a physical medium will now be considered to be articles regardless of their method of transfer.

The Department stresses that it will continue to implement the longstanding precedent that firms must produce an article to be certified under the Trade Act. This determination is not altered by the fact the provision of a service may result in the incidental creation of an article. Because the revised policy may have implications beyond this case of which the Department is not fully cognizant, it will be further developed in rulemaking.

Therefore, due to the Department's policy change, the Department requested the second remand to conduct an investigation to determine whether the subject workers are eligible to apply for trade adjustment assistance.

Reviewing previously-submitted information through the lens of the revised policy, the Department has determined that, for purposes of the Trade Act, the subject workers produce an article (computer software). During the relevant period, a significant portion of workers was separated from the Piscataway, New Jersey facility and production shifted to an affiliated facility located in Canada; a significant portion of workers was separated from the Middletown, New Jersey facility and production shifted to an affiliated facility located in Canada.

### Conclusion

After careful review of the facts generated through the second remand investigation, I determine that a shift in production of software like or directly competitive to that produced at the subject facilities to Canada contributed to the total or partial separation of a significant number or proportion of workers at the subject facilities. In accordance with the provisions of the Act, I make the following certification:

All workers of IBM Corporation, Global Services Division, Piscataway, New Jersey (TA-W-50,129), and Middletown, New Jersey (TA-W-50,129A), who became totally or partially separated from employment on or after November 13, 2001, through two years from the issuance of this revised determination, are eligible to apply for Trade Adjustment Assistance under section 223 of the Trade Act of 1974.

Signed in Washington, DC this 10th day of May 2006.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

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