

<b>EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> WIA/Wagner-Peyser
	<b>CORRESPONDENCE SYMBOL</b> OWI
	<b>DATE</b> May 10, 2011

**ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 26-10**

**TO:** ALL STATE WORKFORCE AGENCIES  
ALL STATE WORKFORCE LIAISONS

**FROM:** JANE OATES /s/  
Assistant Secretary

**SUBJECT:** Workforce Investment Act (WIA) Adult, Dislocated Worker and Youth Activities Program Allotments for Program Year (PY) 2011; Final PY 2011 Allotments for the Wagner-Peyser Act Employment Service Program Allotments; and Workforce Information Grants to States Allotments for PY 2011.

1. **Purpose.** To provide states with WIA Title I Adult, Dislocated Worker and Youth Activities program allotments for PY 2011; final allotments for PY 2011 Wagner-Peyser Employment Service (ES) Program, as required by section 6(b)(5) of the Wagner-Peyser Act, as amended; and the Workforce Information Grants to States allotments for PY 2011.
2. **References.**
  - Full-Year Continuing Appropriations Act, 2011, Public Law (P.L.) 112-10, Division B, Title I, Section 1101, 1104, and 1119, and Section 1801 of Title VIII, signed April 15, 2011
  - Department of Labor Appropriations Act, 2010, P.L. 111-117, Division D, Title I
  - Training and Employment Guidance Letter (TEGL) 23-10 (May 3, 2011)
  - Workforce Investment Act of 1998, (29 United States Code (U.S.C) 2801 et seq.), Public Law 105-220, as amended
  - Wagner-Peyser Act, as amended (29 U.S.C. 49 et seq.)
  - WIA Final Rule, 20 Code of Federal Regulations parts 660-671
  - Planning Guidance for the Strategic State Plan for Title I of the Workforce Investment Act of 1998 and the Wagner-Peyser Act [(73 FR 72853) (Dec. 1, 2008)] (OMB No. 1205-0398)
3. **Background.** The funds for the allotments announced in this TEGL are part of the funds appropriated in the Full-Year Continuing Appropriations Act, 2011, (PL) 112-10, Division B, Titles I and VIII, signed April 15, 2011 (from this point forward, referred to as "the Act"). The Act incorporated a mandatory across the board (ATB)

<b>RESCISSIONS</b> None	<b>EXPIRATION DATE</b> Conti nui ng
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rescission of 0.2 percent impacting the PY 2011 funding for the programs covered by this TEGL. For the Adult and Dislocated Worker programs, the 0.2 percent rescission only impacted the “base” funds that states receive on July 1, 2011. Additionally, Section 1801 of Title VIII applied additional reductions to WIA Youth, Adult, and Dislocated Worker PY 2011 funding. For the Adult and Dislocated Worker funds, again the reductions impacted the “base” funds that states receive on July 1, 2011.

Section 1104 of the Act also states that unless otherwise specified, the requirements, conditions, limitations and authorities in the Department of Labor Appropriations Act, 2010, continue to be in effect for FY 2011. For instance, with FY 2011 funds:

- A local board may still transfer up to 30 percent of funds between the Adult and Dislocated Worker funding streams if approved by the Governor.
- A local board may still award contracts for “class-size training,” that is, a local board may still award a contract to an institute of higher education or other eligible training provider if the local board determines that it would facilitate the training of multiple individuals in high-demand occupations, if such contract does not limit customer choice.
- Salary caps from FY 2010 are maintained (i.e., \$179,700). No funds under the header “Employment and Training Administration” may be used by a recipient or sub-recipient to pay the salary and bonus of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II, and states may establish lower salary caps.

The WIA allotments for states are based on formula provisions defined in WIA (see Attachment A for WIA and Wagner-Peyser formula descriptions). In addition to this TEGL, allotments and descriptions of the allotment formulas will be published in the Federal Register. Comments may be submitted to the Employment and Training Administration (ETA).

Additionally, ETA will release a separate TEGL and notice in the Federal Register announcing the WIA formulas and allotment levels for each of the outlying areas. At this time, we note only the overall WIA funds set aside for the outlying areas. For Wagner-Peyser and Workforce Information Grants, amounts for outlying areas are specified in the tables attached to this TEGL.

As alluded to at the beginning of this *Background* section, the Adult and Dislocated Worker programs receive two allotments. The first becomes available for obligation on July 1; this portion is commonly referred to as the “base” funds. The second allotment becomes available for obligation on October 1; this portion is commonly referred to as “advance” funds. Section 1801 of the Act specifies changes to the amount of WIA program funds from what was provided in the Department of Labor Appropriations Act, 2010. The Act decreased Youth program funds, the “base” portion of Adult and Dislocated Worker funding that states receive on July 1, 2011 and decreased the portion of the formula grant funds the Governors may reserve for statewide activities by 10 percentage points, from 15 percent to 5 percent. The decrease in the Governors’ reserve seems to have been intended to mitigate the

burden that the reduction in PY 2011 formula funding will have on local services. The appropriations language that established the new lower limit on the Governors' reserves was placed in Section 1801 of Title VIII of the Act, which is the section that describes PY 2011 funds that become available during the current Federal fiscal year, including the funds for Youth Activities (which are available beginning April 1, 2011), and to the "base" portion of funding for Adult and Dislocated Worker activities that will be available on July 1, 2011. *The placement of this language in the Act does not appear to apply the limitation on the Governors' reserves to the "advance" funds for WIA Adult and Dislocated Worker activities that become available for obligation on October 1, 2011.*

The Department is in the process of seeking clarification from Congress on which limit (i.e., 5 or 15 percent) should be applied to the "advance" portion of the Governors' reserve and will provide guidance on the use of the "advance" funds as soon as more information is known. States are advised to plan accordingly in the event that Congress clarifies that the 5 percent limit also applies to the "advance" funds for the Adult and Dislocated Worker programs which become available to states on October 1, 2011.

If Congress provides a clarification that the 5 percent limit applies to all funds, the formula breakdowns would be as follows:

	<b>WIA Youth</b>	<b>WIA Adult</b>	<b>WIA Dislocated Worker</b>
Statewide Activities (including State Admin)	Maximum 5%	Maximum 5%	Maximum 5%
Local Allocations	Minimum 95%	Minimum 95%	Minimum 70%
Rapid Response	-	-	Maximum 25%

Regarding funds set aside for statewide activities, states are authorized to reserve for state administration no more than five percent of each of the total allotments for WIA Youth, Adult, and Dislocated Worker programs.

#### **4. State WIA Youth Activities Funds: Title I--Chapter 4--Youth Activities.**

A. State Allotments. The appropriated level for PY 2011 for WIA Youth Activities totals \$825,913,862, which includes \$12,388,708 for Native Americans, \$811,460,369 for states, and \$2,064,785 for outlying areas. These amounts include the ATB 0.2 percent rescission. Attachment B contains a breakdown of the WIA Youth Activities program allotments by state for PY 2011 and provides a comparison of these allotments to PY 2010. Please note that the Department will provide the Native American Youth allotments in an upcoming TEGF.

The three data factors required by WIA for the PY 2011 Youth Activities state formula allotments are:

1. The number of unemployed for Areas of Substantial Unemployment (ASUs), averages for the 12-month period, July 2009 through June 2010, as prepared by the states since PY 2006 using special 2000 Census data based on

households, obtained under contract with the Census Bureau and provided to states by the Bureau of Labor Statistics (BLS);

2. The number of excess unemployed individuals or the ASU excess (depending on which is higher), averages for the same 12-month period as used for ASU unemployed data; and,
3. The number of economically disadvantaged youth (age 16 to 21, excluding college students and military), from special 2000 Census tabulations.

Since the total amount available for states in PY 2011 is below the required \$1 billion threshold specified in WIA section 127(b)(1)(C)(iv)(IV), which was also the case in PY 2010, the WIA additional minimum provisions are not applicable. Instead, as required by WIA, the JTPA section 262(a)(3) (as amended by section 701 of the Job Training Reform Amendments of 1992) minimums of 90 percent hold-harmless of the prior year allotment percentage and 0.25 percent state minimum floor apply. WIA also requires the application of a 130 percent stop-gain of the prior year allotment percentage.

- B. PY 2011 Funding WIA Agreement/Notice of Obligations (NOOs). Upon execution of the PY 2011 WIA Annual Funding Agreement, Youth program funds will be available for use by states.
- C. Within-State Allocations. States must distribute WIA Youth Activities funds among local workforce investment areas (subject to reservation of the new 5 percent limitation for statewide workforce investment activities as discussed in the Background Section of this TEGL) in accordance with the provisions of WIA section 128 and the approved WIA/Wagner-Peyser Act State Plan. For purposes of identifying ASUs for the within-state Youth Activities allocation formula, as done since PY 2006, states should continue to use the special 2000 Census data based on households which were obtained under contract with the Census Bureau and provided to states in October 2006 by BLS. States must use such data for this purpose until further notice. For purposes of developing the number of economically disadvantaged Youth Activities for the statutory formula, states should continue to use the special 2000 Census data provided to them for the within-state youth allocations beginning in PY 2004.

It should be noted that the most current Census, conducted in 2010, did not include the long form survey which ETA would have used to update the data from the 2000 Census. Instead, ETA will be working with the Census Bureau over the next year to use data from the American Community Survey (ACS). ETA will alert states when data from the ACS are available for use in within-state allocation formulas; however, updated data will not be available for use with PY 2011 funding.

- D. Transfers of Funds. Local workforce investment areas lack the authority to transfer funds to or from the Youth Activities program.

- E. Reallotment of Funds. The Secretary reallots Youth Activities program formula funds, as provided for by WIA Section 127(c), based on completed PY financial reports submitted by the states. Reallotment of funds among states under WIA will occur during PY 2011 based on state obligations made during PY 2010 (20 CFR §667.150).

**5. State Adult Employment and Training Activities Funds: Title I--Chapter 5--Adult and Dislocated Worker Employment and Training Activities.**

- A. State Allotments. The total appropriated funds for PY 2011 for Adult Activities are \$770,921,920 of which \$768,994,615 is for states and \$1,927,305 is for outlying areas. These amounts include the ATB 0.2 percent rescission. Attachment C shows the PY 2011 Adult Activities allotments and a comparison to PY 2010 allotments by state.

The three formula data factors for the Adult Activities program are the same as those used for the Youth Activities formula, except the Department used data for the number of economically disadvantaged adults (age 22 to 72, excluding college students and military). Since the total amount available for the Adult Activities program for states in PY 2011 is below the required \$960 million threshold specified in WIA section 132(b)(1)(B)(iv)(IV), as was also the case in PY 2010, the WIA additional minimum provisions are not applicable. Instead, as required by WIA, the JTPA section 262(a)(3) (as amended by section 701 of the Job Training Reform Amendments of 1992) minimums of 90 percent hold-harmless of the prior year allotment percentage and 0.25 percent state minimum floor apply. Also, like the Youth program, the Department used the provision applying the 130 percent stop-gain of the prior year allotment percentage.

- B. PY 2011 Funding WIA Agreement/NOOs. For PY 2011, Congress appropriated funds for this program in two portions: \$58,921,920 available for obligation on July 1, 2011 (PY 2011) (including 0.2 percent rescission), and \$712,000,000 available for obligation on October 1, 2011 (FY 2012). The Department prorated allotments to states and outlying areas based on these total amounts and will issue two NOOs: one for July 1, 2011, under the PY 2011 WIA grant agreement, and the other for October 1, 2011, also under the PY 2011 WIA grant agreement (see Attachment D).
- C. Within-State Allocations. States must distribute WIA Adult Activities funds for PY 2011 allotments among local workforce investment areas (subject to reservation of the new 5 percent limitation for statewide workforce investment activities as discussed in the Background Section of this TEGL) in accordance with the provisions in WIA section 133 and the approved WIA/Wagner Peyser Act State Plan.

Similar to the Youth Activities program, for purposes of identifying ASUs for the within-state Adult Activities allocation formula, states must use the special 2000

Census data provided to them by BLS in October 2006 until further notice. For purposes of developing the number of economically disadvantaged adults for the statutory formula, states should continue to use the special 2000 Census data provided to them for the within-state Adult Activities allocations beginning in PY 2004.

It should be noted that the most current Census, conducted in 2010, did not include the long form survey which ETA would have used to update the data from the 2000 Census. Instead, ETA will be working with the Census Bureau over the next year to use data from the ACS. ETA will alert states when data from the ACS are available for use in within-state allocation formulas; however, updated data will not be available for use with PY 2011 funding.

D. Transfers of Funds. WIA section 133(b)(4) provides the authority for local workforce investment areas, with approval of the Governor, to transfer up to 20 percent of the Adult Activities funds to Dislocated Worker Activities, and up to 20 percent of Dislocated Worker Activities funds to Adult Activities. The Department of Labor Appropriations Act, 2010, provided that notwithstanding section 133(b)(4), up to 30 percent of these funds could be transferred between programs. The 2011 Act continues to allow the transfer limits to be 30 percent, which is applicable for the life of the funds.

E. Reallotment of Funds. Reallotment of Adult Activities program formula funds, as provided for by WIA section 132(c), is based on completed PY financial reports submitted by the states. Reallotment of funds among states under WIA will occur during PY 2011 based on state obligations of PY 2010 funds made during PY 2010 (20 CFR §667.150).

## **6. State Dislocated Worker Employment and Training Funds: Title I--Chapter 5-Adult and Dislocated Worker Employment and Training Activities.**

Appropriated funds for PY 2011 for the Dislocated Worker Activities program total \$1,287,544,000, with \$1,063,432,320 for states, \$3,218,860 for outlying areas, and \$220,892,820 for the National Reserve. These amounts include the 0.2 percent rescission.

A. State Allotments. Attachment E shows the PY 2011 Dislocated Worker Activities fund allotments by state and a comparison to PY 2010.

The three data factors required in WIA for the PY 2011 Dislocated Worker state formula allotments are:

1. The number of unemployed, averaged for the 12-month period, October 2009 through September 2010;
2. The number of excess unemployed, averaged for the 12-month period, October 2009 through September 2010; and

3. The number of long-term unemployed, averaged for the 12-month period, October 2009 through September 2010.
- B. PY 2011 Funding WIA Agreement/NOOs. For PY 2011, Congress appropriated funds for this program in two portions for both formula funds and National Reserve funds. For formula funds, \$203,432,320 is available for obligation on July 1, 2011 (PY 2011), and \$860,000,000 is available for obligation on October 1, 2011 (FY 2012). For the National Reserve, \$24,111,680 is available for obligation on July 1, 2011 (PY 2011) (including the 0.2 percent rescission), and \$200,000,000 is available for obligation on October 1, 2011 (FY 2012). Allotments to states and outlying areas are prorated based on the two amounts for formula funds and National Reserve, respectively. Allotments will be issued in two NOOs: one for July 1, 2011, under the PY 2011 WIA grant agreement, and the other for October 1, 2011, (also under the PY 2011 WIA grant agreement) (see Attachment F).
- C. Within-State Allocations. Dislocated Worker Activities funds for PY 2011 allotments are to be distributed among local workforce investment areas (subject to the governor's reservation of up to 25 percent for statewide rapid response activities and the new 5 percent limitation for statewide workforce investment activities as discussed in the Background Section of this TEGL) in accordance with the provisions in WIA section 133 and the approved WIA/Wagner-Peyser Act State Plan.
- D. Transfers of Funds. WIA section 133(b)(4) provides the authority for local workforce investment areas, with approval of the Governor, to transfer up to 20 percent of the Adult Activities funds to Dislocated Worker Activities, and up to 20 percent of Dislocated Worker Activities funds to Adult Activities. The Department of Labor Appropriations Act, 2010, provided that notwithstanding section 133(b)(4), up to 30 percent of these funds could be transferred between programs. The 2011 Act continues to allow the transfer limits to be 30 percent, which is applicable for the life of the funds.
- E. Reallotment of Funds. Reallotment of Dislocated Worker program formula funds, as provided for by WIA section 132(c), is based on completed PY financial reports submitted by the states. Reallotment of funds among states under WIA will occur during PY 2011 based on state obligations made during PY 2010 (20 CFR §667.150).
7. **Wagner-Peyser Employment Service Final Allotments**. The appropriated level for PY 2011 for grants for the Employment Service programs totals \$702,168,848 (including the 0.2 percent rescission). After determining the funding for outlying areas, allotments to states are calculated using the formula set forth at section 6 of the Wagner-Peyser Act (29 U.S.C. 49e). PY 2011 formula allotments are based on each state's share of calendar year 2010 monthly averages of the Civilian Labor Force and unemployment. The distribution of Wagner-Peyser Act funds for PY 2011 includes \$700,457,204 for states, as well as \$1,711,644 for outlying areas. Attachment

G shows the distribution of PY 2011 ES formula amounts by state compared to PY 2010.

Under section 7(b) of the Wagner-Peyser Act, ten percent of the total sums allotted to each state shall be reserved for use by the governor to provide performance incentives, services for groups with special needs, and for the extra costs of exemplary models for delivering job services.

8. **Workforce Information Grants.** Total funds for PY 2011 are \$31,936,000 (including the 0.2 percent rescission). Funds are distributed to states by administrative formula with \$176,646 for Guam and the Virgin Islands. The remaining funds are distributed to the states with 40 percent distributed equally to all states, and 60 percent distributed based on each state's share of the Civilian Labor Force for the 12 months ending September 2010. The allotment figures are listed in Attachment H. Policy guidance on the use of workforce information grants will be forthcoming.
9. **Reporting.** For the WIA formula programs, states are required to submit the seven designated WIA quarterly financial status reports covering funds received for each of the programs (including separate reports for each of the fund year periods for the Adult and Dislocated Worker Activities programs -- July 1 funds and October 1 funds). These seven WIA reports provide financial data for statewide Youth, statewide Adult, statewide Dislocated Worker, statewide Rapid Response (Dislocated Worker Activities), local Youth, local Adult, and local Dislocated Worker activities. States are also required to submit the designated financial reports each quarter for the Wagner-Peyser Act funds and the Workforce Information Grant funds.
10. **Inquiries.** Questions regarding these allotments may be directed to the appropriate Regional Office. Information on allotments and planning requirements may also be found on the ETA Web site at <http://www.doleta.gov>.
11. **Attachments.**
  - A. WIA and Wagner-Peyser Statutory Formula Descriptions
  - B. WIA Youth Activities Allotments, PY 2011 vs PY 2010
  - C. WIA Adult Activities Allotments, PY 2011 vs PY 2010
  - D. WIA Adult Activities Allotments, July 1 and October 1 Funding
  - E. WIA Dislocated Worker Activities Allotments, PY 2011 vs PY 2010
  - F. WIA Dislocated Worker Activities Allotments, July 1 and October 1 Funding

- G. Employment Service (Wagner-Peyser) Allotments,  
PY 2011 Final vs PY 2010 Final
- H. Workforce Information Grants,  
PY 2011 vs PY 2010