

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION Trade Adjustment Assistance
	CORRESPONDENCE SYMBOL OTAA
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ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 1-20

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS
AFFILIATE AMERICAN JOB CENTER MANAGERS
COMPREHENSIVE AMERICAN JOB CENTER MANAGERS
STATE WORKFORCE ADMINISTRATORS
STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS
STATE LABOR COMMISSIONERS
RAPID RESPONSE COORDINATORS
TRADE ADJUSTMENT ASSISTANCE LEADS

FROM: JOHN PALLASCH /s/
Assistant Secretary

SUBJECT: Second Distribution of Fiscal Year (FY) 2020 Trade Adjustment Assistance (TAA) Training and Other Activities (TaOA) Funds and Process for Requesting TAA Reserve Funds

1. **Purpose.** To assist State Workforce Agencies or agencies designated by Governors as “Cooperating State Agencies” (also jointly referred to as “states”) by: 1) identifying the FY 2020 Second Distribution of TaOA funding amounts to states; 2) describing the formula methodology used by the Department of Labor (Department) to calculate these amounts; and 3) providing the process for states to request TAA Program reserve funds for TaOA. TaOA includes training, job search allowances, relocation allowances, employment and case management services, and related state administration.
2. **Action Requested.** States are required to implement the guidance set forth herein and must continue to administer the TAA Program in accordance with applicable regulations and administrative guidance. States must inform all appropriate staff of the contents of this guidance.
3. **Summary and Background.**
 - a) Summary - The Department distributes TaOA funding according to regulations at 20 CFR 618.900 through 618.940, which provide, among other things, for an initial allocation according to a prescribed formula (the Initial Allocation), potential reserve fund distributions in response to state requests, and a “second distribution” of TaOA funds. The second distribution is implemented according to 20 CFR 618.930, which provides that at least 90 percent of the funds appropriated for TaOA must be distributed by July 15

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of the FY (the Second Distribution) according to the prescribed formula, which specifies distribution of such funds to those states that received an Initial Allocation. The Department will distribute the remaining 10 percent of FY TaOA funds not distributed in the Second Distribution to states in a “final distribution” of FY 2020 TaOA funds before the end of the FY (Final Distribution). The Second Distribution, as described at 20 CFR 618.930, is the subject of this Training and Employment Guidance Letter (TEGL).

- b) Background - The Trade Act of 1974 (Pub. L. No. 93-618), as amended (the Trade Act) (codified at 19 U.S.C. §§ 2271 et seq.), Title II, Chapter 2, established the TAA for Workers, Alternative Trade Adjustment Assistance (ATAA), and Reemployment Trade Adjustment Assistance (RTAA) programs. These programs, collectively referred to as the TAA Program, provide assistance to workers who have been adversely affected by foreign trade.

TEGL No. 18-19 describes provisions of the Further Consolidated Appropriations Act of 2020 (Pub. L. 116-94) (2020 Appropriations Act), enacted on December 20, 2019, that govern the use of FY 2020 TaOA funds. States may use these funds to provide TaOA to workers certified under the 2002 Program, the 2009 Program, the 2011 Program, and the 2015 Program, in accordance with the requirements of the TAA law in effect at the time of filing of a petition for certification. Please refer to TEGL No. 18-19 for the definitions of these programs.

Funds provided under the FY 2020 FUBA appropriation for TaOA are available for expenditure for three fiscal years (i.e., FY 2020, FY 2021, and FY 2022). The expenditure period for funds provided under the FY 2020 FUBA appropriation for Trade Readjustment Assistance (TRA), ATAA, and RTAA is one fiscal year (i.e., through September 30, 2020). States may refer to the FY 2020 TAA Annual Funding Agreement and Notice of Award for additional information on the expenditure period for TaOA funds, and the Unemployment Insurance (UI) Annual Funding Agreement for additional information on TRA, ATAA, and RTAA expenditure periods.

TEGL No. 18-19 also describes the application of sequestration, the FY 2020 national aggregate TaOA amounts, the process for requesting reserve funds, and the Initial Allocation. Please refer to TEGL No. 18-19 for detailed information regarding these aspects of TaOA funding.

4. **Second Distribution of FY 2020 TaOA Funds.** In accordance with 20 CFR § 618.930, by July 15 of each FY, the Department will distribute at least 90 percent of the funds appropriated for the entire FY for TaOA to the states. To allow adequate processing of these funds, the Department interprets this requirement to mean that it will announce the amount of funds available to states in the Second Distribution by July 15 of each FY. The Department will allocate any funds that remain after the Second Distribution to the states before the end of the fiscal year.

- a) FY 2020 Second Distribution State Amounts of TaOA Funds — The Department applies the same formula and methodology used to determine the state amounts of TaOA funds in the FY 2020 Initial Allocation to determine the amounts available in the FY 2020 Second Distribution of TaOA funds. This formula and methodology are based on the regulations at 20 CFR 618.910 through 618.940. For FY 2020, the amounts to be provided to states in the Second Distribution are set out in the Attachment to this TEGl and were determined under the TAA funding formula as described in 20 CFR 618.910(f) and summarized below:

A. TAA Formula Funds:

1. Trend in number of workers covered by certifications during the most recent four consecutive calendar quarters for which data are available;
2. Trend in number of workers participating in training during the most recent four consecutive calendar quarters for which data are available;
3. Number of workers estimated to be participating in training during the fiscal year; and
4. Estimated amount of funding needed to provide approved training to such workers during the fiscal year.

Factor 1 will be established using the most recent four quarters (FY 2019 Quarter 2 through FY 2020 Quarter 1) of data for certified workers by state, and the quarters will be weighted 40 percent, 30 percent, 20 percent, and 10 percent from the most recent to the earliest quarter. This approach will establish a trend, giving the most recent quarters a greater impact on the factor than earlier quarters.

Factor 2 will be established using the most recent four quarters (FY 2019 Quarter 2 through FY 2020 Quarter 1) of data for workers participating in training by state, and the quarters will be weighted 40 percent, 30 percent, 20 percent, and 10 percent from the most recent quarter to the earliest quarter. As with Factor 1, this approach will establish a trend, giving the most recent quarters a greater impact on the factor than earlier quarters.

Factor 3 will be determined by dividing the weighted average number of training participants for the state determined in Factor 2 by the sum of the weighted averages for all states. The next step in determining this factor is to multiply the resulting ratio by the projected national average of training participants for the fiscal year, using estimates from the Department's most recent budget submission or update.

Factor 4 will be calculated by multiplying the estimated number of participants in Factor 3 by the average training cost per participant in the state. The average training cost will be calculated by dividing total training expenditures for the most recent four quarters by the average number of training participants for the same period.

Once each of the four factors have been determined for each state, under 20 CFR 618.910(f)(3), all four factors will be assigned an equal weight. For FY 2020, the weight is 25 percent of the total for each factor.

The Department determined each state's percentage of the national aggregate amount for each factor. Using each state's percentage of each of these weighted factors, the Department determined the unadjusted percentage that the state will receive of the total amount available for the Second Distribution.

B. States that did not Receive Funds in the Initial Allocation:

As TEGL No. 18-19 explains, consistent with 20 CFR 618.910(e)(2)(i), in instances where the formula approach would give a state less than \$100,000, the state will not receive funds in the Initial Allocation of FY 2020 TaOA funds. In addition, as provided in 20 CFR 618.930, only states that received funds in the Initial Allocation may receive funds in the Second Distribution. Those states that do not receive funds through the Initial Allocation or Second Distribution may request TAA Program TaOA reserve funds in accordance with 20 CFR 618.920(b) and the procedures described in TEGL No. 18-19 and in Section 4.a.D below. The Attachment to TEGL No. 18-19 identifies Alaska, Delaware, the District of Columbia, Nevada, and Wyoming as states that did not receive an FY 2020 Initial Allocation; however, using the reserve fund process, the State of Wyoming requested and the Department approved \$36,995 in FY 2020 TaOA reserve funds on January 21, 2020. The Department will deduct the sum of all FY 2020 TaOA funds provided to states via reserve fund requests from the amount of funds available in the Final Distribution.

C. TaOA Funds Available as of the Second Distribution:

The total amount of FY 2020 TaOA funds available in the Second Distribution is comprised of 90 percent of the aggregate FY 2020 TaOA funds after sequestration (i.e., 90 percent of \$409,880,000)¹ minus the Initial Allocation (\$266,422,000) or \$102,470,000.

D. Process for Requesting TaOA Reserve Funds:

States may request TaOA reserve funds in accordance with 20 CFR 618.920(b) at any time during this fiscal year. States must use the Trade Adjustment Assistance (TAA) for Workers Funding Request Form, ETA-9117 (OMB No. 1205-0275), Expiration Date September 30, 2022 to request these funds.

To be eligible for TaOA reserve funds, a state must demonstrate that at least 50 percent of TaOA funds made available to that state in the current fiscal year and the two preceding fiscal years have been expended or that the state needs additional funds

¹ See section 4.b. of TEGL No. 18-19 for more information on the National Aggregate of TaOA funds and the application of sequestration for FUBA funds.

to meet unusual or unexpected events. A state requesting reserve funds must also provide a documented estimate of expected funding needs through the end of the current fiscal year.

A state must base its estimate on an analysis that includes at least the following:

- The average cost of training in the state;
- The expected number of participants in training through the end of the fiscal year; and
- The remaining funds the state has available for TaOA.

E. Recapture and Reallocation of TaOA Funds — Section 245(c) of the Trade Act provides authority for the Department to recapture unobligated TaOA funds from states that have not fully used their funding in the second and third fiscal year after the fiscal year in which the funds were provided to the state, and reallocate those funds to other states to provide and administer TaOA. The Department may implement Section 245(c) by establishing procedures for recapture of these funds and reallocating them to meet state funding needs for TaOA.

5. **Inquiries.** Direct inquiries regarding this guidance to the appropriate Regional Office.

6. **References.**

a. References

- Further Consolidated Appropriations Act of 2020 (2020 Appropriations Act), Division B, Title I (Pub. L. 116-94), enacted on December 20, 2019;
- Chapter 2 of Title II of the Trade Act of 1974, as amended (Pub. L. 93-618) (Trade Act);
- Trade Adjustment Assistance Reform Act of 2002, Division A, Title I, Subtitle A of the Trade Act of 2002 (Pub. L. 107-210) (as amended by the Miscellaneous Trade and Technical Corrections Act of 2004 (Pub. L. 108-429));
- Trade and Globalization Adjustment Assistance Act of 2009, Division B, Title I, Subtitle I of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5);
- Trade Adjustment Assistance Extension Act of 2011 (Pub. L. 112-40);
- The Balanced Budget and Emergency Deficit Control Act of 1985 (Pub. L. 99-177), as amended by the Budget Control Act of 2011 (Pub. L. 112-25), and further amended by The American Taxpayer Relief Act of 2012 (Pub. L. 112-240);
- Trade Adjustment Assistance Reauthorization Act of 2015 (Pub. L. 114-27, Title IV);
- 20 CFR part 618, Trade Adjustment Assistance, subpart I;
- Training and Employment Guidance Letter (TEGL) No. 05-15, *Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015)*, and its *Change 1*;

- *TEGL No. 17-19, Fiscal Year (FY) 2020 Trade Adjustment Assistance (TAA) Training and Other Activities (TaOA) Grant Management Guidance; and*
- *TEGL No. 18-19, Initial Allocation of Fiscal Year (FY) 2020 Trade Adjustment Assistance (TAA) Program Training and Other Activities (TaOA) Funds and Process for Requesting TAA Reserve Funds.*

7. Attachment.

- Attachment I: FY 2020 TAA TaOA Second Distribution Amounts, by State