

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	<b>CLASSIFICATION</b> TAA
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	<b>DATE</b> July 11, 2014

**ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO: 1-14**

**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  
 TRADE ADJUSTMENT ASSISTANCE LEADS

**FROM:** PORTIA WU /s/  
 Assistant Secretary

**SUBJECT:** Second Distribution of Fiscal Year (FY) 2014 Trade Adjustment Assistance (TAA) Training and Other Activities Funds and the Process for Requesting TAA Program Reserve Funds

**1. Purpose.** To assist State Workforce Agencies or agencies designated by Governors as “Cooperating State Agencies” (CSAs) (also jointly referred to as “states”) in administering the TAA program by identifying the FY 2014 Second Distribution amounts to states and describing the formula methodology the Department of Labor (Department or We) used to calculate these amounts; and to describe the process for states to request TAA program reserve funds for training, employment and case management services, job search allowances, relocation allowances, and related state administration.

**2. References.**

- Chapter 2 of Title II of the Trade Act of 1974, as amended (Pub. L. 93-618) (1974 Act, as amended, 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) (TAARA));
- 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) (TGAAA);
- Omnibus Trade Act of 2010 (Pub. L. 111-344) (Omnibus Trade Act);
- Trade Adjustment Assistance Extension Act of 2011 (Pub. L. 112-40) (TAAEA);
- Consolidated Appropriations Act, 2014 (Pub. L. 113-76);

<b>RESCISSIONS</b> None	<b>EXPIRATION DATE</b> Continuing
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- Training and Employment Guidance Letter (TEGL) No. 11-02, *Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Act of 2002, and its Changes 1, 2, and 3*;
- TEGL No. 2-03, *Interim Operating Instructions for Implementing the Alternative Trade Adjustment Assistance (ATAA) for Older Workers Program Established by the Trade Adjustment Assistance Reform Act of 2002, and its Change 1 and 2*;
- TEGL No. 22-08, *Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009 and Change 2*;
- TEGL No. 6-09, *Instructions for Implementing the Revised 2010 Trade Adjustment Assistance Trade Activity Participant Report (TAPR)*;
- TEGL No. 10-11, *Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Adjustment Assistance Extension Act of 2011 (TAAEA) and its Changes 1 and 2*;
- TEGL No. 7-13, *Operating Instructions for Implementing the Sunset Provisions of the Amendments to the Trade Act of 1974 Enacted by the Trade Adjustment Assistance Extension Act of 2011 (TAAEA or the 2011 Amendments)*;
- TEGL No. 12-13: *Fiscal Year (FY) 2014 State Initial Allocations for Trade Adjustment Assistance (TAA) Training and Other Activities and the Process for Requesting TAA Program Reserve Funds*; and
- 20 CFR 618 Trade Adjustment Assistance, Subpart I.

**3. Background.** The states continue to operate four TAA programs under the Trade Act (the 2002 Program, the 2009 Program, the 2011 Program, and Reversion 2014) as established under TAARA, TGAAA and the Omnibus Trade Act, and TAAEA, in accordance with the Operating Instructions contained in TEGL No. 11-02 and its Changes, TEGL No. 02-03 and its Changes; TEGL No. 22-08 and its Changes, TEGL No. 6-09, TEGL No. 10-11 and its Changes, and TEGL No. 7-13. On February 7, 2014, after the Department received the full year appropriation under Consolidated Appropriations Act, 2014, we issued TEGL No. 12-13 to announce the dollar amounts of funds available to states for “Training and Other Activities” in FY 2014 Initial Allocation.

TEGL No. 12-13 explained that the regulations codified at 20 Code of Federal Regulations (CFR) 618.900 – 618.940 continue to govern the distribution of funds allocated for the purposes of “Training and Other Activities,” which it defined as training, job search allowances, relocation allowances, employment and case management services and related state administration costs, as applicable under all four TAA programs operated by states during FY 2014.

TEGL No. 12-13 also explained that the regulations provide that 65 percent of the fiscal year funds are to be distributed by formula when the appropriation for the full fiscal year is available. The remaining 35 percent of the funds are held in reserve for later distribution or provided to states in need of reserve funds. By July 15, 2014, at least 90 percent of the funds appropriated for the entire fiscal year must be allocated. This Second Distribution is the subject of this TEGL. No later than September 30, 2014, the Department will announce each state’s share of the amount of funds, if any, that remain after distributions in response to reserve fund requests

received after the Second Distribution. Further, the process by which states may request reserve funds during FY 2014 also is unchanged.

**4. Second Distribution of FY 2014 Funds.** In accordance with 20 CFR 618.930, at least 90 percent of the full FY 2014 appropriation will be distributed to states by July 15, 2014. We derived the total amount of the FY 2014 Second Distribution by using 90 percent of the FY 2014 appropriation as the starting point. Next, we subtracted the sum of the Initial Allocation and all accepted reserve fund requests received by the Department on or before June 1, 2014, from this amount. The remaining amount is the total Second Distribution amount to be distributed by formula to states, as announced in the Attachment of this TEGL. The Second Distribution of funds will be distributed to those states that received an Initial Allocation in an amount greater than their hold harmless amount, using the same methodology as used for the Initial Allocation and according to the requirements set forth in 20 CFR 618.930 and explained below:

- 20 CFR 618.930: Second distribution. The Department will distribute at least 90 percent of the total training funds for a fiscal year to the States no later than July 15 of that fiscal year. The Department will first fund all acceptable requests for reserve funds filed before June 1. If there are any funds remaining to be distributed after these reserve fund requests are satisfied, those funds will be distributed to those States that received an Initial Allocation in an amount greater than their hold harmless amount, using the methodology described in § 618.910.

**5. Funding Formula Application and the Process for Requesting Reserve Funds.** The Attachment to this TEGL provides the amounts of FY 2014 funds that we will distribute in the Second Distribution, by state. These amounts were determined under the TAA funding formula as described in 20 CFR 618.910(f) and 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 2013 Quarter 2 through FY 2014 Quarter 1) of data for certified workers by state, and the quarters will be weighted 40 percent; 30 percent; 20 percent; and 10 percent, respectively, from the most recent to the earliest quarter. This approach will establish a trend, giving the most recent quarters a greater impact on each factor than an earlier quarter.

Factor 2 will be established using the most recent four quarters (FY 2013 Quarter 2 through FY 2014 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, respectively, from the most recent quarter to least recent quarter. As with Factor 1, this approach will establish a trend, giving the most recent quarters a greater impact on each factor than an earlier quarter.

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 and multiplying the resulting ratio by the projected national average of training participants for the fiscal year, using the estimates underlying 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 2014, the weight will be 25 percent of the total for each factor.

20 CFR 618.910(c) includes a *hold harmless* provision. The regulation provides that a state's Initial Allocation be at least 25 percent of the amount the state received in its Initial Allocation for the prior fiscal year.

The Department will determine each state's percentage of the national total for each factor. Using each state's percentage of each of these weighted factors, we will determine the unadjusted percentage that the state will receive of the amount available for initial allocations.

**B. TAA Program Reserve Funds:** States may request reserve funds in accordance with 20 CFR 618.920(b) before the distribution of the Initial Allocation, and at any other time during the fiscal year. States must use the Reserve Funding Request Form ETA-9117 (OMB No. 1205-0275) to request these funds.

To be eligible for TAA program reserve funds, a state must demonstrate that at least 50 percent of TAA 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 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 fiscal year. States must base their 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 and Other Activities through the end of the fiscal year; and
- The remaining funds the state has available for Training and Other Activities.

6. **Use of Funds.** A state's allocation of FY 2014 funds in this distribution may be used to pay the costs for the provision of Training and Other Activities, including costs of related state administration and employment and cases management services that states incur in the provision of these benefits and services. However, use of the FY 2014 funds is subject to the following restrictions:
- **State Administration.** As explained in TEGL No. 12-13, not more than 11.5 percent of a state's allocation may be used for administration of the TAA programs. The definition of State Administration has not changed, and continues to include costs previously charged to this and includes the necessary and reasonable costs of administering Training and Other Activities, and may include the administrative costs associated with processing waivers of the training requirement, collecting, validating and reporting data, and providing Reemployment Trade Adjustment Assistance (RTAA) or Alternative Trade Adjustment Assistance (ATAA).
  - **Employment and Case Management Services.** Under Section 235A(2) of the Trade Act, at least 5 percent of the FY 2014 funds a state receives must be used to provide employment and case management services to workers covered by petitions certified under the 2009 Program and the 2011 Program. Therefore, a state may use more than 5 percent of its FY 2014 allocation to provide employment and case management services if it determines that greater funds are needed to provide such services to 2009 Program and the 2011 Program participants in its state. FY 2014 funds may not be used to provide employment and case management to 2002 Program or Reversion 2014 program participants. See TEGL No. 12-13 for further information on the restrictions on use of FY 2014 funds for employment and case management services.
7. **Recapture of TAA Funds.** Consistent with the FY 2014 TAA Annual Cooperative Financial Agreement, the Department may recapture any funds distributed to any state in the same fiscal year as they were appropriated if it determines that the state will not expend the funds, but only after consultation with, and appropriate notification to, state officials.
8. **Action Requested.** CSAs are required to implement the guidance set forth herein and must continue to administer the 2002 Program, the 2009 Program, the 2011 Program, and Reversion 2014 in accordance with applicable Operating Instructions referenced in section 2 above. CSAs must inform all appropriate staff of the contents of this guidance.
9. **Inquiries.** CSAs should direct all inquiries to the appropriate ETA regional office.
10. **Attachment.** TAA FY 2014 Second Distribution Amounts by State.