

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION TAA
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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: GERRI FIALA /s/ for ERIC M. SELEZNOW
 Acting Assistant Secretary

SUBJECT: 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

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 Initial Allocation 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 (TGAAA)), (Pub. L. 111-5);
- 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);

RESCISSIONS None	EXPIRATION DATE Continuing
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- Balanced Budget and Emergency Deficit Control Act (BBEDCA), as amended by the Budget Control Act of 2011(BCA) ;
- Training and Employment Guidance Letter (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. 31-12, *Fiscal Year (FY) 2013 State Initial Allocations and the Process for Requesting Trade Adjustment Assistance (TAA) Program Reserve Funds*;
- TEGL No. 15-12, *Delivery of Benefits and Services to Trade Adjustment Assistance (TAA) Program Recipients through the American Job Center Network Delivery System*;
- 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)*; and
- 20 CFR 618 Trade Adjustment Assistance, Subpart I.

3. Definitions.

- *The 2002 Program* means the TAA program carried out under of chapter 2 of title II of the Trade Act of 1974 as amended by TAARA and applies to workers covered by petitions filed before May 18, 2009 and to workers covered by petitions filed on or after February 13, 2011 and before October 21, 2011 who receive benefits under this program under section 231(a)(1)(B) of the TAAEA (the “election” provision).
- *The 2009 Program* means the TAA program carried out under chapter 2 of title II of the Trade Act of 1974 as amended by TGAAA and applies to workers covered by petitions filed on or after May 18, 2009 and on or before February 12, 2011.
- *The 2011 Program* means the TAA program carried out under chapter 2 of title II of the Trade Act of 1974 as amended by the TAAEA an applies to workers covered by petitions filed on or after February 13, 2011 and on or before December 31, 2013, and to workers covered by petitions filed on or after February 13, 2011 and before October 21, 2011 who receive benefits under this program under section 231(a)(1)(B) of the TAAEA (the “election” provision).
- *Reversion 2014* means the TAA program carried out under chapter 2 of title II of the Trade Act of 1974 as amended by section 233 of the TAAEA (the sunset provisions) and applies to workers covered by petitions filed on or after January 1, 2014 and on or before December 31, 2014.
- *Training and Other Activities* means training, job search allowances, relocation allowances, employment and case management services and related state administration.

4. Background. The Consolidated Appropriations Act, 2014, signed into law on January 17, 2014, appropriates funds to carry out the TAA program through Fiscal Year (FY) 2014. The appropriation of \$656 million (which is subject to sequestration as described below) is contained in the Department’s Federal Unemployment Benefits and Allowances (FUBA) account. Under

the language in the appropriations act, TAA program funds are available during the fiscal year for the payment of Trade Readjustment Allowances (TRA), Alternative/Reemployment Trade Adjustment Assistance (A/RTAA), training, employment and case management services, job search allowances, relocation allowances and related state administration. The language specifically provides by cross-reference that the use of these funds includes the provision of Training and Other Activities to workers who are eligible for these activities under the 2002 Program and 2009 Program, in accordance with the requirements of the TAA law relating to those activities that were in effect at the time of filing of the petitions for certification that cover these workers.

Under the sunset provisions of the TAAEA, workers covered by certifications of petitions filed after December 31, 2013, are eligible to apply for benefits and services available under Reversion 2014, while workers covered under the 2011 Program continue to be eligible for benefits and services in accordance with the TAA law in effect at the time their petitions were filed. In sum, the funds provided for FY 2014 are to be used to carry out the 2002 Program, the 2009 Program, the 2011 Program, and Reversion 2014. This TEGL addresses the availability of those funds to carry out the Training and Other Activities under the four TAA programs.

Training and Employment Guidance Letter (TEGL) No. 07-13, *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*, and other Operating Instructions referenced in Section 2, provide additional information that states must follow to operate the 2002 Program, the 2009 Program, the 2011 Program, and Reversion 2014.

5. Derivation of the FY 2014 Initial Allocation and Use of FY 2014 Funds. The Trade Act provides minimal guidance about overall limitations on the availability of funds for Training and Other Activities to be provided under all four TAA programs. The Department derived a framework for such limitations based on the analysis provided below, which is based on calculation of amounts before the application of the required sequestration for FY 2014. The application of the sequestration percentage reduction is described in Sections 6 and 7.

The TAAEA includes a funding limitation for the first quarter of FY 2014 of \$143.75 million for Training and Other Activities. Not more than 10 percent of that amount (a total of \$14.37 million) is available for related state administration, and not less than 5 percent of the FY 2014 first quarter funds (a total of \$7.19 million) is available for employment and case management services. That would leave a maximum of about 85 percent for training (a total of \$122.19 million), of which a portion may be used by the states for job search allowances, relocation allowances, and additional employment and case management services.

The Trade Act provisions relating to Reversion 2014 include an annual \$220 million cap only applicable to the use of funds for training. Since these provisions would be in effect for the last three quarters of FY 2014, a prorated (three-quarter) share of the funds available for training would be \$165 million. Previously under such Trade Act provisions for the 2002 Program, the Department had provided an additional 15 percent of the total amount of funds available in a fiscal year for training for related state administration. In addition, TAA funds are not available

to provide employment and case management services to workers covered under the 2002 Program and Reversion 2014, and those services are to be provided to these TAA participants through arrangements with and funding by other programs, as described in the Operating Instructions for those programs and in TEGL No. 15-12, *Delivery of Benefits and Services to Trade Adjustment Assistance (TAA) Program Recipients through the American Job Center Network Delivery System*. However, since workers covered under the 2009 Program and the 2011 Program retain their entitlement to the provision of employment and case management services from TAA funds throughout FY 2014, and we estimate that 75-80 percent of participants during FY 2014 will be covered by those programs, we have calculated an additional amount for funding the provision of employment and case management services (a total of \$13.97 million). We have also estimated an additional amount (a total of \$4.5 million), to provide job search allowances and relocation allowances for FY 2014.

Therefore, using those identified limitations as a framework, adding the \$143.75 million available for the first quarter to the \$209.75 million that would be available for quarters two, three, and four, we reach a pre-sequestration total of \$353.5 million available to carry out Training and Other Activities under the four TAA programs that states will operate during FY 2014.

6. Application of Sequestration. BBEDCA, as amended by the BCA, requires a reduction for FY 2014 of 7.2 percent in budget authority for direct spending (sometimes referred to as “mandatory”) programs, which includes the TAA program. Therefore, the \$656 million appropriation for FY 2014 to carry out the TAA programs must be reduced by 7.2 percent (\$47.23 million), leaving a total appropriation of \$608.77 million. The Department is applying this reduction exclusively to the funds for Training and Other Activities rather than applying reductions to each payment of TRA or A/RTAA. Therefore, the pre-sequestration amount of \$353.5 million for Training and Other Activities described in the preceding paragraph is reduced by the \$47.23 million required by sequestration, resulting in a total amount of \$306.27 million available for Training and Other Activities for FY 2014. Further details relating to available funding by activity and the initial allocations of the funds are provided in the sections below.

7. FY 2014 National Aggregate Amount Available for Training and Other Activities. The FY 2014 funding allocated to states is to be used to carry out the 2002 Program, the 2009 Program, the 2011 Program, and Reversion 2014. Therefore, in determining the funding available for FY 2014, we have taken into account: the funding limitations applicable to Training and Other Activities for the first quarter of FY 2014 under the TAAEA; the funding limitation for training under Reversion 2014 for the last three quarters of FY 2014; and the funds needed for additional activities relating to those last three quarters to carry out all four programs, and the application of sequestration. Accordingly, the funding available for FY 2014 is as follows:

- The total amount available for Training and Other Activities for FY 2014 to carry out all four TAA programs is \$306.27 million, (the pre-sequestration amount of \$353.5 million reduced by the sequestration amount of \$47.23 million).

- The amount available for the provision of training for FY 2014 is a maximum of \$248.82 million to carry out all four TAA programs. This amount is derived by first combining the \$122.19 million available under the applicable TAAEA provisions in the first quarter with the \$165 million available to carry out Reversion 2014 for quarters two, three, and four, for a total of \$287.19 million before sequestration. That amount is 81.2 percent of the total amount available for Training and Other Activities before sequestration, and that percentage is then applied to the amount available for Training and Other Activities after sequestration to produce the total amount available for training.
- The amount available for related state administration for FY 2014 is a maximum of \$35.22 million to carry out all four TAA programs, or 11.5 percent of the total FY 2014 funding available for Training and Other Activities after sequestration. This amount is derived by adding the \$14.37 million available under the applicable TAAEA provisions in the first quarter (10 percent of \$143.75 million) to the \$26.27 for quarters two, three, and four (based on approximately 15 percent added to the training amount), which results in an amount of \$40.65 million before sequestration, or 11.5 percent of the total for Training and Other Activities before sequestration. That 11.5 percent is then applied to the total available for Training and Other Activities after sequestration to produce the amount available for state administration.
- The amount available for employment and case management services is \$18.33 million (about 6 percent of the total amount for Training and Other Activities after sequestration) to provide such services to workers covered under the 2009 Program and the 2011 Program throughout FY 2014; however, not less than 5 percent of the total FY 2014 amount for Training and Other Activities after sequestration (\$15.21 million) must be made available to the states to provide such services to those workers. This 5 percent minimum amount is based on the 5 percent minimum requirement applicable to the 2009 Program and the 2011 Program to ensure TAA funds are available to provide the employment and case management activities to which workers under those programs are entitled. The additional one percent is based on our analysis of the amounts that have been necessary to provide these services.
- The amount available to provide job search allowances and relocation allowances under all four TAA programs is \$3.89 million. The amount available prior to sequestration was \$4.5 million, or 1.3 percent of the total amount available for Training and Other Activities before sequestration. That percentage is then applied to the total amount available for Training and Other Activities after sequestration to produce the amount available for these allowances.

8. Initial Allocations for FY 2014 Funds. We have determined the FY 2014 allocation of funds to states to provide training, job search allowances, relocation allowances and related state administration under all four TAA programs (and to provide TAA-funded employment and case management services for 2009 Program and 2011 Program participants) based on the regulations at 20 CFR 618.910 through 618.940. Under those regulations:

- Sixty-five (65) percent of the fiscal year funds are to be distributed by formula when the appropriation for the full fiscal year is available to the Department, with 35 percent of the FY 2014 funds held in reserve for distribution later in the fiscal year (or to be provided to a state in need of reserve funds at any time during the fiscal year as explained below);
- The *hold harmless* provision minimum allocation for the initial distribution is applied to ensure that a state receives at least 25 percent of the Initial Allocation that was made available to that state for the previous fiscal year;
- By July 15, 2014, at least 90 percent of the funds appropriated for the entire year must be allocated; and
- The formula factors that the Department must consider in determining the apportionment of the initial distribution of funds are specified in 20 CFR 618.910(f).

Note the regulations reference a “training cap” and for purposes of FY 2014, that reference will be applied to the amount available to provide training, job search allowances, relocation allowances and related state administration for all four TAA programs (including funds to provide TAA-funded employment and case management services for the 2009 Program and 2011 Program participants).

In addition to the national aggregate amounts described in Section 7, we have also identified and subtracted the amount of reserve funding that the State of Wyoming (WY) and the Commonwealth of Puerto Rico (PR) have requested in the first quarter of FY 2014 to carry out TAA Program activities in those states (\$1,604,800 and \$1,836,428, respectively). Therefore, the calculation of the total amount for the FY 2014 Initial Allocation (65 percent of the amount available for Training and Other Activities) is \$ 196.83 million.

The chart below provides the derivation of the aggregate amounts to be available in FY 2014 for Training and Other Activities, displaying both pre-sequestration and post-sequestration calculations, as well as the amounts we will provide to states in the Initial Allocation for FY 2014. We identify the amounts to be provided to each state under the Initial Allocation in Attachment A to this TEGL.

Benefit or Service	FY 2014 Funds Qtr. 1	FY 2014 Funds Qtrs. 2,3 & 4	Total Amount Pre-Sequester	Total Amount Post-Sequester
Training	\$122,187,500	\$165,000,000	287,187,500	\$248,815,675
Related State Administration	\$14,375,000	\$26,277,500	\$40,652,500	\$35,220,820
Employment and Case Management Services	\$7,817,500	\$13,972,500	\$21,160,000	\$18,332,761
Job Search Allowances and Relocation Allowances*	--	\$4,500,000	\$4,500,000	\$3,898,744
Total Consolidated Funding Available for Training and Other Activities	\$143,750,000	\$209,750,000	\$353,500,000	\$306,268,000
Less WY and PR Reserve Requests			-\$3,441,228	-\$3,441,228
Training and Other Activities			\$350,058,772	\$302,826,772
Amount to be Distributed in the Initial Allocation Amount (65% Percent of the FY 2014 Funds Available for Training and Other Activities)			\$227,538,202	\$196,837,402

9. Application of the Funding Formula and Process for Requesting Reserve Funds.

Attachment A to this TEGL provides the amounts of FY 2014 funds that we will distribute in the Initial Allocation, 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 2012 Quarter 4 through FY 2013 Quarter 3) 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 2012 Quarter 4 through FY 2013 Quarter 3) of data for workers participating in training by state, and the

* Funding for Job Search Allowances and Relocation Allowances are available under the total consolidated funding available for training and other activities for quarter 1 (\$143,750,000).

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 ETA'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) of the Trade Act includes a *hold harmless* provision. The statute 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. Following 20 CFR 618.910(c-e), allocations under \$100,000 will be removed, and the statutory 25 percent *hold harmless* provision will be applied, resulting in an adjusted FY 2014 Initial Allocations for the remaining states.

In those instances where the formula approach would give a state less than \$100,000, we apply 20 CFR 618.910(e)(2)(i), which provides that that state will not receive any initial allocation, but may request TAA program reserve funds in accordance with the procedures described below in Section B.

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.

11. 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.

12. 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 including the *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*. CSAs must inform all appropriate staff of the contents of this guidance.

13. Inquiries. CSAs should direct all inquiries to the appropriate ETA regional office.

14. Attachment. Attachment A: TAA FY 2014 Initial Allocation Amounts by State.