

Attachment 3:
Program Requirements

A. Overview:

The TAA Program includes training, employment and case management services, job search allowances, relocation allowances, Trade Readjustment Allowances (TRA), Reemployment Trade Adjustment Assistance (RTAA), and Alternative Trade Adjustment Assistance (ATAA). TAA Program TaOA funds provided under this grant award may be used to cover the cost of training (and related costs), employment and case management services, job search allowances, relocation allowances, and related-state administration. Funds for TRA, RTAA, and ATAA are governed by the terms and conditions of the Unemployment Insurance Annual Funding Agreement.

B. States' Responsibilities:

TEGL No. 16-16, *One-Stop Operations Guidance for the American Job Center (AJC) network*, provides guidance on states' responsibilities for ensuring that the Workforce Innovation and Opportunity Act (WIOA) partner programs are integrated into the one-stop system. The TAA Program is a required one-stop partner under the WIOA statute and regulations. As a WIOA required partner, the TAA Program is responsible for providing access to TAA benefits and services to adversely affected workers through the AJC network. Under WIOA and the Trade Act, states must integrate TAA services into their one-stop delivery system; provide rapid response and appropriate career services to worker groups on whose behalf a petition has been filed; and disseminate benefit information that provides workers an accurate understanding of the TAA Program's benefits and services in such a way that it is transparent to the worker applying for them. CSAs must also use their state's AJCs as the main point of contact for participant intake and delivery of TAA benefits and services.

1) Program Access

If the TAA Program is carried out in a local area, the CSA must provide access to the TAA Program services in at least one of the Local Area's comprehensive AJCs. (20 CFR §678.305(d) and §678.415). Under WIOA, a CSA may provide access in one of three ways:

- a) Option 1. Having a program staff member physically present at the AJC;
- b) Option 2. Having a staff member from a different partner program physically present at the AJC appropriately trained to provide information to customers about the programs, services, and activities available through all partner programs; or
- c) Option 3. Making available a direct linkage through technology to a program staff member who can provide meaningful information or services.

The options above offer a wide range of possibilities to partners. Option 2 could require varying levels of assistance depending on the trade-affected worker's needs. For example, this could be as simple as having an adequately trained WIOA staff member providing basic program information to an AJC customer regarding group and individual eligibility requirements of the TAA Program. In this example, the partner staff member has been trained on TAA Program eligibility requirements, as well as how to search for

and file a TAA petition. Once a determination is rendered on a petition, the partner staff member will connect the worker to appropriately trained AJC staff who can further assist them. If the petition is certified, the worker is eligible to apply for individual benefits and appropriately trained AJC staff must guide them through the application and enrollment process. This option allows the customer to receive high-quality service through the AJC, in a timely manner. In this example, it would be essential that the Wagner-Peyser Act Employment Service staff person document his or her time and effort to ensure that the charges to the appropriate program, namely the TAA Program, for salaries and wages are based on records that accurately reflect the work performed, consistent with federal cost principles in the Uniform Guidance at 2 CFR §200.430.

The third option provided above, Option 3, a direct linkage, can take many forms as well. As described in 20 CFR §678.305(d)(3), a “direct linkage” means providing a direct connection at the AJC within a reasonable time, by phone or through a real-time Web-based communication, to a program staff member who can provide program information or services, including career services, to the customer. Solely providing a phone number, website, information, pamphlets, or materials does not constitute a “direct linkage.”

The flexibility provided through the three optional methods for assuring customer access to required AJC partner services and activities at the comprehensive centers ensures that the TAA Program remains accessible through the AJC network.

2) Compliance with Regulations and Guidance

In performing its responsibilities under the Governor-Secretary Agreement, as a condition for receipt of funds, the state agrees to fully comply with all program regulations and administrative directives, including, but not limited to:

- a) 20 CFR part 617, 29 CFR part 90, and 20 CFR part 618 and any succeeding regulations governing the TAA Program;
- b) Joint WIOA Final Rule published in the Federal Register at: <https://www.gpo.gov/fdsys/pkg/FR-2016-08-19/pdf/2016-15977.pdf>;
- c) DOL-Only WIOA Final Rule published in the Federal Register at: <https://www.gpo.gov/fdsys/pkg/FR-2016-08-19/pdf/2016-15975.pdf>;
- d) Consolidated Appropriations Act, 2018 (P.L. 115-141, March 23, 2018);
- e) 2 CFR part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) and 2 CFR part 2900 (DOL’s Supplement to 2 CFR part 200);
- f) Chapter 2 of Title II of the Trade Act of 1974, as amended (Pub. L. 93-618) (Trade Act) (codified at 19 U.S.C. §§ 2271 et seq.);
- g) 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);
- h) 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);

- i) Trade Adjustment Assistance Extension Act of 2011 (Pub. L. 112-40) (TAAEA);
- j) Balanced Budget and Emergency Deficit Control Act (BBEDCA), as amended by the Budget Control Act of 2011 (BCA);
- k) Trade Adjustment Assistance Reauthorization Act of 2015 (Pub. L. 114-27, Title IV)(TAARA 2015);
- l) TEGL No. 15-12, *Delivery of Benefits and Services to Trade Adjustment Assistance (TAA) Program Recipients through the American Job Center Network Delivery System*;
- m) 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)*;
- n) TEGL No. 05-15, *Change 1 to the Trade Adjustment Assistance (TAA) Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015)*;
- o) TEGL No. 16-16, *One-Stop Operations Guidance for the American Job Center Network*; and
- p) TEGL No. 17-16, *Infrastructure Funding of the One-Stop Delivery System*.

3) Compliance with Requirements

In performing its responsibilities under this award, the state hereby certifies and assures that it will fully comply with the following requirements:

- a) Real Property. The requirements and restrictions related to real property in 2 CFR §200.439, including compliance with 2 CFR § 200.439(b)(3). This provision provides that capital expenditures for improvements to land or buildings which materially increase their value or useful life are unallowable as a direct cost, except with the prior written approval of the Grant Officer.
- b) Equipment. Equipment purchases under the TAA Program are subject to the provisions at 2 CFR § 200.313. Consistent with 2 CFR §2900.16, prior approval is hereby provided for equipment purchases under the TAA Program.
- c) Oversight Roles and Responsibilities. Each recipient and subrecipient of funds under the Trade Act must conduct regular oversight and monitoring of its program and those of any subrecipients and contractors as required under Section 239(i) of the Act, as well as under 2 CFR part 200, including 2 CFR §200.328, § 200.330, §200.331, and Department exceptions at 2 CFR part 2900, in order to:
 - i. Determine that expenditures have been made against the proper cost categories and within the cost limitations specified in the Act, the regulations, and administrative guidance;
 - ii. Determine whether there is compliance with other provisions of the Act, the regulations, and administrative guidance;
 - iii. Assure compliance with 2 CFR part 200 and the Department's

- exceptions at 2 CFR 2900; and
- iv. Determine compliance with the nondiscrimination, disability, and equal opportunity requirements of sec. 188 of WIOA, including the Assistive Technology Act of 1998 (29 U.S.C. 3003).

d) Procedures and Resolution of Findings.

(a) Resolution of subrecipient-level findings.

(1) The Governor is responsible for resolving findings that arise from the monitoring reviews, investigations, other Federal monitoring reviews, and audits (including under 2 CFR part 200) of subrecipients awarded funds through the Trade Act.

(i) A State must use the written monitoring and audit resolution, debt collection and appeal procedures that it uses for other Federal grant programs.

(ii) If a State does not have such written procedures, it must prescribe standards and procedures to be used for this grant program.

(2) For subrecipients awarded funds through a recipient of grant funds, the direct recipient of the grant funds must have written monitoring and resolution procedures in place that are consistent with 2 CFR part 200.

(b) Resolution of state findings.

(1) The Secretary is responsible for resolving findings that arise from Federal audits, monitoring reviews, investigations, incident reports, and audits under 2 CFR part 200 for direct recipients of Federal awards under the Trade Act.

(2) The Secretary will use the Department's audit resolution process, consistent with 2 CFR part 2900, Subpart F.

(3) A final determination issued by a Grant Officer under this process may be appealed to the DOL Office of Administrative Law Judges under the procedures in 2 CFR § 2900.22.

- e) Nondiscrimination. Requirements and restrictions for nondiscrimination and equal opportunity, which are provided in 29 CFR part 38, Implementation of the Nondiscrimination and Equal Opportunity Provisions of WIOA.

C. Use of Funds:

Funds obligated under this grant award may be used for training (and related costs), employment and case management services, job search allowances, relocation allowances, and related state administration costs incurred in the provision of TAA Program benefits and services to trade-affected workers in accordance with the requirements of the Trade Act in effect at the time of filing of the petition under which the workers are covered.

The following limitations apply to FY 2018 appropriated funds obligated to the state under this grant award:

- 1) State expenditures for related state administration costs must not exceed ten percent (10%) of the total amount of TaOA funds awarded in a FY; and
- 2) State expenditures for employment and case management services costs must not be less than, but may exceed, five percent (5%) of TaOA funds awarded in a FY.

D. Deobligation of Funds:

The Recipient agrees to accept a deobligation of the TaOA funds, as set forth in the Notice Of Award, in the event of underutilization of those funds. The Grantor will consider underutilization of TaOA funds to exist when the Recipient will be unable to use some or all of the unexpended and/or unobligated balance of such funds provided to the recipient within a reasonable period of time. Underutilized funds will be recaptured only after notification to and consultation with the Recipient.

E. Recapture and Reallocation of FY Funds:

In addition to the information provided in the deobligation of funds clause above, section 245(c) of the Trade Act of 1974, as restored by the TAARA 2015, provides that the Secretary may recapture and reallocate funds that were allotted to any state to carry out employment and case management services, training, job search allowances, and relocation allowances, that remain unobligated by the state during the second or third fiscal year after the funds were obligated.

F. Remedies:

All TAA Program funds must be expended in accordance with the provisions of the AFA and any special terms and conditions of approved funding requests. Any expenditure of funds that does not comply with these provisions will be subject to the enforcement remedies at 2 CFR § 200.338 and 20 CFR § 617.52(c) and § 617.59(f), or any succeeding regulations. The state will take such action as is reasonably necessary to recover for the account of the United States all amounts paid out as program benefits or services which were erroneously paid to ineligible claimants or others, and to restore any losses or misapplication of funds allocated to the state for TAA Program benefits or services.

G. Merit Staff:

The state agrees that staff employed to carry out state administration of the TAA Program and funded by the TAA Program, including staff of the state agency and the state Employment Service agency that perform functions under both the TAA Program and the state unemployment compensation (UC) program and/or ES programs, and will comply with 20 CFR § 618.890.

H. Administrative Costs:

- 1) The administrative cost limit for the fiscal year program funding allocation for training, job search assistance, and relocation allowances is included above in paragraph C of Attachment 3 of this TEG, with which states must comply.
- 2) For purposes of the TAA Program, the costs of administration are the costs associated with performing the following:

- a) overall general administrative functions of the TAA Program and the coordination thereof within the AJC network established under WIOA:
 - i. Accounting, budgeting, financial, and cash management functions;
 - ii. Procurement and purchasing functions;
 - iii. Property management functions;
 - iv. Personnel management functions;
 - v. Payroll functions;
 - vi. Coordinating the resolution of findings arising from audits, reviews, investigations and incident reports;
 - vii. Audit functions;
 - viii. General legal services functions;
 - ix. Developing systems and procedures, including information systems, required for these administrative functions;
 - x. Processing applications for benefits under the Trade Act;
 - xi. Rendering and issuing eligibility determinations under the Trade Act;
 - xii. Processing waivers of training requirements under section 231 of the Trade Act;
 - xiii. Collecting, validating, and reporting data required under the Trade Act;
 - xiv. Administering Reemployment Trade Adjustment Assistance (RTAA) under section 246 of the Trade Act;
 - xv. Performing oversight and monitoring responsibilities related to administrative functions;
 - xvi. Costs of goods and services required for administrative functions of the program, including goods and services such as rental or purchase of equipment, utilities, office supplies, postage, and rental and maintenance of office space;
 - xvii. Travel costs incurred for official business in carrying out administrative activities or the overall management of the TAA Program; and
 - xviii. Costs of information systems related to administrative functions (for example, personnel, procurement, purchasing, property management, accounting and payroll systems) including the purchase, systems development and operating costs of such systems.
- 3) Awards to subrecipients or contractors that are solely for the performance of administrative functions are classified as administrative costs.
- 4) Personnel and related non-personnel costs of staff that perform both administrative functions are specified above. Programmatic services or activities must be allocated as administrative or program costs to the benefitting cost objectives/categories based on documented distributions of actual time worked or other equitable cost allocation methods.
- 5) Specific costs charged to an overhead or indirect cost pool that can be identified directly as a program cost are to be charged as a program cost. Documentation of such charges must be maintained. (Not all indirect costs are administrative and not all administrative costs are indirect).
- 6) Except as provided at above, all costs incurred for functions and activities of subrecipients and contractors are not considered administrative costs.

- 7) Costs of the following information systems capabilities including the purchase, systems development, and operational costs (e.g., data entry) are charged to the program category:
 - a) Tracking or monitoring of participant and performance information, including employment and case management services and activities; and
 - b) Tracking or reporting employment statistics information, including job listing information, job skills information, and demand occupation information.
- 8) Wherever possible, states must make efforts to streamline the administrative activities and services referenced in this section by minimizing duplication, effectively using information technology to improve services and leveraging resources across programs.
- 9) States should consult the appropriate Regional Office for additional technical assistance related to classification of costs under the Trade Act.