

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION TAA
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ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO: 40-14

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) 2015 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 2015 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.**

- Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) (FY 2015 Omnibus Appropriations Act) and accompanying explanatory statement regarding the House Amendment to the Senate Amendment H.R. 83, 160 Cong. Rec. H9307, H9827 (daily ed. Dec. 11, 2014);
- 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);

RESCISSIONS None	EXPIRATION DATE Continuing
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- WIOA, Public Law (Pub. L.) 113-128, enacted July 22, 2014;
- 20 CFR 618 Trade Adjustment Assistance, Subpart I;
- 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 Changes 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 its Change 1*;
- TEGL No. 6-09, *Instructions for Implementing the Revised 2010 Trade Adjustment Assistance Trade Activity Participant Report (TAPR), and its Changes 1 and 2*;
- 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*;
- TEGL No. 19-14: *Vision for the Workforce System and Initial Implementation of the Workforce Innovation and Opportunity Act*;
- TEGL 20-14: *Fiscal Year (FY) 2015 State Initial Allocations for Trade Adjustment Assistance (TAA) Training and Other Activities and the Process for Requesting TAA Program Reserve Funds*; and
- *Trade Adjustment Assistance (TAA) Annual Cooperative Financial Agreement (CFA) Fiscal Year 2015*.

3. **Background.** The states continue to operate four TAA programs under the Trade Act (the 2002 Program, the 2009 Program, the 2011 Program, and the Reversion 2014 Program) 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 Change, TEGL No. 6-09, TEGL No. 10-11 and its Changes, and TEGL No. 7-13. TEGL No. 16-14 advised states that the FY 2015 Omnibus Appropriations Act was signed into law on December 16, 2014, and had the effect of continuing the full operation of the TAA program through September 30, 2015. TEGL No. 20-14 explained the calculation for determining the funds available to states for TAA Training and Other Activities in the FY 2015 Initial Allocation and the process for requesting TAA program reserve funds.

TEGL No. 20-14 also explained that the regulations codified at 20 CFR 618.910 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, in accordance with 20 CFR 618.920.

4. **Second Distribution of FY 2015 Funds.** In accordance with 20 CFR 618.930, by July 15, of each fiscal year, at least 90 percent of the funds appropriated for the entire fiscal year will be distributed. This Second Distribution is the subject of this TEGL. Any funds that remain after the Second Distribution of funds and any subsequent reserve requests will be allocated to the states before the end of the fiscal year.

We derived the FY 2015 Second Distribution amount by using 90 percent of the FY 2015 Federal Unemployment Benefits and Allowances (FUBA) appropriation amount, post-sequestration, as the starting point. *Note: The FY 2015 FUBA appropriation is described in TEGL No. 20-14 including a discussion of the derivation of pre-sequestration and post-sequestration amounts.* Next, we subtracted the sum of the Initial Allocation and all accepted reserve fund requests received by the Department on or before June 1, 2015, 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, using the same methodology as used for the Initial Allocation and according to the requirements set forth in 20 CFR 618.930.

5. **Funding Formula and the Process for Requesting Reserve Funds.** The Attachment to this TEGL provides the amounts of FY 2015 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 was established using the most recent four quarters (FY 2014 Quarter 2 through FY 2015 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 establishes a trend, giving the most recent quarters a greater impact on each factor than an earlier quarter.

Factor 2 was established using the most recent four quarters (FY 2014 Quarter 2 through FY 2015 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 establishes a trend, giving the most recent quarters a greater impact on each factor than an earlier quarter.

Factor 3 was 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 was 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 was 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 were determined for each state under 20 CFR 618.910(f)(3), all four factors will be assigned an equal weight. For FY 2015, the weight is 25 percent of the total for each factor.

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

B. TAA Program Reserve Funds: States may request reserve funds in accordance with 20 CFR 618.920(b) at any other time during the fiscal year. The procedures for requesting reserve funds and the eligibility for receiving reserve funds have not changed since the issuance of TEGL No. 20-14.

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 2015 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 case management services that states incur in the provision of these benefits and services. However, use of the FY 2015 funds is subject to the following restrictions under the FY 2015 TAA Annual Cooperative Financial Agreement:

- State Administration. Not more than 20 percent of funds a state receives for Training and Other Activities, including this distribution, may be used for administration (related state administration) of the TAA programs. The definition of related state administration has not changed. It continues to include 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). However, if a state does not need all the funds allocated for related state administration for that purpose and needs additional funds for training, the state may use related state administration funds for training.

- **Employment and Case Management Services.** At least 5 percent of the total FY 2015 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 the total FY 2015 Training and Other Activities' allocation, including this distribution, 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. However, FY 2015 funds may not be used to provide employment and case management services to 2002 Program or Reversion 2014 Program participants.

TEGL No. 19-14 explains that the Workforce Innovation and Opportunity Act (WIOA) seeks to modernize the workforce system to provide comprehensive, integrated and streamlined services, which requires linking and aligning the different one-stop center partners. As a required one-stop center partner, (one-stop centers are currently branded as American Job Centers), the TAA program is a vital resource within the workforce system. TAA participants will continue, under WIOA, to be customers in the system and therefore, states may use their employment and case management funds for TAA's share in an appropriate cost-allocation of system enhancements that allow for the successful integration, including monitoring and reporting of TAA-funded employment and case management services. Technical assistance is provided on OTAA's website at www.doleta.gov/tradeact/taafiscal.cfm on allowable expenditures of the TAA program's related state administration and employment and case management funds, and all guidance related to WIOA and ETA programs may be found at www.doleta.gov/wioa.

7. **Action Requested.** CSAs are required to implement the guidance in this TEGl and must continue to administer the 2002 Program, the 2009 Program, the 2011 Program, and the Reversion 2014 Program in accordance with applicable Operating Instructions referenced in section 2 above. CSAs must inform all appropriate staff of the contents of this guidance.
8. **Inquiries.** CSAs should direct all inquiries to the appropriate ETA regional office.
9. **Attachment.** TAA FY 2015 Second Distribution Amounts by State