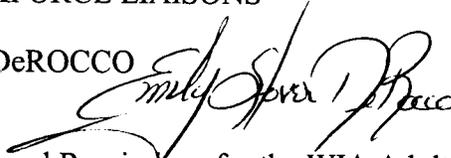


<b>EMPLOYMENT AND TRAINING ADMINISTRATION</b> <b>ADVISORY SYSTEM</b> <b>U.S. DEPARTMENT OF LABOR</b> <b>Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> WIA/Wagner-Peyser/Reemployment Services/WOTC/W-t-W Tax Credits
	<b>CORRESPONDENCE SYMBOL</b> OWI
	<b>DATE</b> March 25, 2005

**TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 23-04**

**TO:** ALL STATE WORKFORCE AGENCIES  
ALL STATE WORKFORCE LIAISONS

**FROM:** EMILY STOVER DeROCCO  
Assistant Secretary



**SUBJECT:** FY 2005 Congressional Rescissions for the WIA Adult and Dislocated Worker programs; Workforce Investment Act (WIA) Allotments for Program Year (PY) 2005; Additional Funding from WIA Section 173(e) for Adult/Dislocated Worker Activities for Eligible States; Wagner-Peyser Act Preliminary Allotments for PY 2005; Reemployment Services, Workforce Information Grants to States for PY 2005; and Work Opportunity Tax Credit (WOTC) and Welfare-to-Work (W-t-W) Tax Credit Allotments for FY 2005

1. **Purpose.** To provide states and outlying areas with FY 2005 Congressional Rescissions for the WIA Adult and Dislocated Worker program; WIA Title I Adult, Dislocated Worker Program, and Youth Activities allotments for PY 2005; additional PY 2005 WIA Section 173(e) funds for eligible states; preliminary allotments for PY 2005 public Employment Service (ES) activities, as required by Section 6(b)(5) of the Wagner-Peyser Act, as amended; Reemployment Services and Workforce Information Grants for PY 2005; and Work Opportunity Tax Credit and Welfare-to-Work (W-t-W) Tax Credit allotments for FY 2005.
2. **References.** Workforce Investment Act of 1998 (WIA), (29 U.S.C. 2801 et seq.) P.L. 106-113; Wagner-Peyser Act, as amended (29 U.S.C. 49 et seq.); Planning Guidance and Instructions for Submission of the Strategic Five-Year State Plan for Title I of the Workforce Investment Act of 1998 and the Wagner-Peyser Act (64 F.R. 9402 (February 25, 1999)); State Unified Planning Guidance (65 F.R. 2464 (January 14, 2000)); Training and Employment Guidance Letter (TEGL) No. 11-98 (February 17, 1999); TEGL 3-99 (January 31, 2000); TEGL 12-00 (March 6, 2001); TEGL 22-00 (May 23, 2001); TEGL 13-01 (March 15, 2002); and TEGL 26-03 (June 18, 2004).
3. **Background.** The funds for the allotments announced in the TEGL are part of the Fiscal Year 2005 funds appropriated in the Consolidated Appropriations Act, 2005, P.L 108-447, signed into law December 8, 2004. This appropriation also incorporated an across-the-board

<b>Rescissions:</b>	<b>Expiration Date:</b> Continuing
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reduction of 0.80 percent to all FY 2005 discretionary programs, including FY 2005 advance funds for the Adult and Dislocated Worker programs provided in the FY 2004 appropriation. Attachments III-A and IV-A reflect the distribution of the rescission to FY 2005 advance funds. Additional guidance on these rescissions will be provided in the near future.

The WIA allotments for states are based on formulas defined in the Act (see Attachment I for WIA and Wagner-Peyser formula descriptions). The WIA allotments for the outlying areas (e.g., American Samoa, Guam, Marshall Islands, Micronesia, Northern Marianas, Palau, and the Virgin Islands) are based on a discretionary formula as authorized under WIA Title I. Beginning in PY 2005, the Marshall Islands and Micronesia will no longer receive WIA Title I funding pursuant to P.L. 108-188, Compact of Free Association Amendments of 2003, (December 17, 2003); instead, these areas will receive funding from the Department of Education appropriation. The Compact also provides that Palau will continue to receive funding through September 2007 under WIA Title I funding provisions.

All allotments and descriptions of the allotment formulas were published in the Federal Register on March 25, 2005. Comments from the public on the formula used to distribute outlying areas funds are due April 25, 2005.

All current WIA State Plans will expire on June 30, 2005. New Two-Year State Plans are due to the Department of Labor by May 31, 2005, and must be approved by June 30, 2005, in order for state governments to receive their Program Year 2005 allocations.

#### **4. State Youth Activities Funds: Title I--Chapter 4--Youth Activities**

- A. State Allotments. Attachment II contains a breakdown of the WIA Youth Activities program allotments by state for PY 2005 and provides a comparison of these allotments to PY 2004.

The total amount available for states was below the required \$1 billion threshold specified in Section 127(b)(1)(C)(iv)(IV); therefore, as in PY 2004, the WIA additional minimum provisions were not applied. Instead, as required by WIA, the JTPA section 202(a)(3) (as amended by section 701 of the Job Training Reform Amendments of 1992) minimums of 90 percent hold-harmless of the prior year allotment percentage and 0.25 percent state minimum floor were used. Also, as required by WIA, the provision applying a 130 percent stop-gain of the prior year allotment percentage was used. The three formula factors required in WIA use the following data for the PY 2005 allotments:

- (1) The number of unemployed for areas of substantial unemployment (ASU's) are averages for the 12-month period, July 2003 through preliminary June 2004;
  - (2) The number of excess unemployed individuals or the ASU excess (depending on which is higher) are averages for the same 12-month period used for ASU unemployed data; and
  - (3) The number of economically disadvantaged youth (age 16 to 21, excluding college students and military) are from the 2000 census.
- B. PY 2005 Funding Agreement/Notice of Obligations (NOOs). States operating under an approved WIA state plan through June 30, 2005, will have the authority to begin to spend a portion of PY 2005 Youth funds beginning on April 1, 2005, under WIA Section 189(g)(1)(B). This authority will be provided through the WIA Annual Funding Agreement. States will be issued one-quarter ( $\frac{1}{4}$ ) of their Program Year 2005 allocation on April 1, 2005. Once a PY 2005 State Plan is approved, states will be issued the balance of their Youth program allocation on July 1, 2005, along with the Notice of Obligation, which provides the PY 2005 portion of the formula allocations for the Adult and Dislocated Worker programs.
- C. Within-State Allocations. Youth Activities funds are to be distributed among local workforce investment areas (subject to reservation of up to 15 percent for statewide workforce investment activities) in accordance with the provisions of WIA Section 128 and according to the approved state plan. The special 2000 census data provided to states to develop data by local area for the Youth within state allocations beginning in PY 2004 should continue to be used to develop the number of economically disadvantaged (higher of poverty level or 70% of Lower Living Standard Income Level, excluding college and military) youth, age 16 to 21, for the WIA statutory formula. There is an exception to this definition for four states with Rural Concentrated Employment Program grantee areas: for those areas, the four states are to use the higher of the number of individuals age 16 to 21 below the low-income level applicable for the state (special 2000 census tabulation data were also provided for these states), or the number of economically disadvantaged individuals, age 16 to 21, as described above.
- D. Transfers of Funds. There is no authority for local workforce investment areas to transfer funds to or from the Youth Activities program.
- E. Reallotment of Funds. Reallotment of Youth Activities formula funds, as provided for by WIA Section 127(c), will be based on completed program year financial reports submitted by the states. Reallotment of funds among states under WIA will occur during PY 2005 based on obligations made during PY 2004 (20 CFR §667.150 of the WIA interim final regulations). There was no recapture/reallotment of WIA youth funds in PY 2004.

5. State Adult Employment and Training Activities Funds: Title I--Chapter 5--Adult and Dislocated Worker Employment and Training Activities

- A. State Allotments. Attachment III-B shows the PY 2005 Adult Employment and Training Activities allotments and comparison to PY 2004 allotments by state.

As in the Youth Activities program, the WIA minimum provisions were not applied for the PY 2005 Adult Activities allotments because the total amount available for the states was below the \$960 million threshold required for Adults in Section 132(b)(1)(B)(iv)(IV). Instead, as required by WIA, the JTPA Section 202(a)(3) (as amended by section 701 of the Job Training Reform Amendments of 1992) minimums of 90 percent hold-harmless of the prior year allotment percentage and 0.25 percent state minimum floor were used. Also, like the Youth Activities program, a provision applying a 130 percent stop-gain of the prior year allotment percentage was used. The three formula factors use the same data as were used for the Youth Activities formula, except that data for the number of economically disadvantaged adults (age 22 to 72, excluding college students and military) from the 2000 census were used.

- B. NOO's. For the FY 2005 rescission applied to the FY 2005 advance funds appropriated in PY 2004, NOO's under the PY 2004 WIA grant agreement will be issued de-obligating the required amounts (see Attachment III-A). For PY 2005, Congress appropriated funds for this program in two portions: \$184,618,144 available for obligation on July 1, 2005 (PY 2005), and \$712,000,000 available for obligation on October 1, 2005 (FY 2006). Allotments to states are prorated based on these amounts and two NOO's will be issued: one for July 1, 2005, under the PY 2005 WIA grant agreement, and the other for October 1, 2005, (also under the PY 2005 WIA grant agreement) (see Attachment III-C).

- C. Within-State Allocations. Adult Activities funds for PY 2005 allotments are to be distributed among local workforce investment areas (subject to reservation of up to 15 percent for statewide workforce investment activities) in accordance with the provisions in WIA Section 133 and according to the approved state plan. States should also use the special 2000 census data to develop data by local area for the Adult within state allocations: the number of economically disadvantaged (higher of poverty level or 70% of Lower Living Standard Income Level, excluding college and military) adults, age 22 to 72. The same exception to this definition described for the Youth program above applies for the four states with Rural Concentrated Employment Program grantee areas: for those areas, the four states are to use the higher of the number of individuals age 22 to 72 below the low-income level applicable for the state (using special 2000 census data provided for this purpose), or the number of economically disadvantaged individuals, age 22 to 72, for the WIA statutory formula.

- D. Transfers of Funds. WIA Section 133(b)(4) provides the authority for workforce investment areas, with approval of the Governor, to transfer up to 20 percent of the Adult Activities funds to Dislocated Worker Activities, and up to 20 percent of Dislocated Worker Activities funds to Adult Activities. The 2005 appropriation enacted by Congress raised these transfer limits to 30 percent for appropriated 2005 funds, applicable for the life of the funds.
- E. Reallotment of funds. Reallotment of Adult Activities formula funds, as provided for by WIA Section 132(c), will be based on completed program year financial reports submitted by the states. Reallotment of funds among states under WIA will occur during PY 2005 based on obligations of PY 2004 funds made during PY 2004 (20 CFR §667.150 of the WIA interim final regulations). There was no recapture/reallotment of WIA Adult Activities funds in PY 2004.

**6. State Dislocated Worker Employment and Training Funds: Title I--Chapter 5--Adult and Dislocated Worker Employment and Training Activities**

- A. State Allotments. Attachment IV-B shows the PY 2005 Dislocated Worker Activities fund allotments by state.

The three formula factors required in WIA use the following data for the PY 2005 allotments:

- (1) number of unemployed are averages for the 12-month period, October 2003 through September 2004;
  - (2) number of excess unemployed are averages for the 12-month period, October 2003 through September 2004; and
  - (3) number of long-term unemployed are averages for calendar year 2003.
- B. NOO's. For the FY 2005 rescission applied to the FY 2005 advance funds appropriated in PY 2004, NOO's under the PY 2004 WIA grant agreement will be issued de-obligating the required amounts (see Attachment IV-A). For PY 2005, Congress appropriated funds for this program in two portions, \$416,063,648 available for obligation on July 1, 2005 (PY 2005), and \$1,060,000,000, available for obligation on October 1, 2005 (FY 2006). Allotments to states will be prorated based on these amounts (also as specified by Congress for the formula and Secretary's Reserve) and two NOO's will be issued: one for July 1, 2005, under the PY 2004 WIA grant agreement, and the other for October 1, 2005, (also under the PY 2005 WIA grant agreement) (see Attachment IV-C).
  - C. Within-State Allocations. Dislocated Worker Activities funds for PY 2005 allotments are to be distributed among local workforce investment areas (subject to reservations for

Rapid Response and statewide workforce investment activities) in accordance with the provisions in WIA Section 133 and according to the approved state plan.

- D. Transfers of Funds. WIA Section 133(b)(4) provides the authority for workforce investment areas, with approval of the Governor, to transfer up to 20 percent of the Adult Activities funds to Dislocated Worker Activities, and up to 20 percent of Dislocated Worker Activities funds to Adult Activities. The 2005 appropriation enacted by Congress raised these transfer limits to 30 percent for appropriated 2005 funds, applicable for the life of the funds.
- E. Reallotment of Funds. Reallotment of Dislocated Worker Activities formula funds, as provided for by WIA Section 132(c), will be based on completed program year financial reports submitted by the states. Reallotment of funds among states under WIA will occur during PY 2005 based on obligations made during PY 2004 (section 667.150 of the WIA interim final regulations). There were no funds available for reallotment of WIA Dislocated Worker Activities funds for PY 2004.

**7. Additional PY 2005 Funding from the Dislocated Worker National Emergency Reserve for WIA Adult/Dislocated Worker Activities for Eligible States**

- A. Background. Section 173(e) of WIA provides that up to \$15 million from the Dislocated Worker national reserve is to be made available to not more than eight states with the largest ratio of Adult program JTPA formula amount to WIA formula amount, in amounts equal to the difference between the allotment that a state would receive for adult training activities under the WIA formula and the state's allotment as calculated under JTPA Title II-A. Two states are eligible for these additional PY 2005 funds for a total of \$2,368,534. These additional funds are to be used for Adult or Dislocated Worker Activities, as required by Section 173(e). See paragraph 11 below for reporting requirements for these funds.
- B. NOO's. NOO's to the eligible states for the additional Section 173(e) 2004 funding amounts will be issued on July 1, 2005, under separate PY 2005 WIA grant agreements (see Attachment V).
- C. Within-State Allocations. In accordance with the requirements of Section 173(e), these additional funds are to be distributed among local workforce investment areas (with no reservation for statewide workforce investment activities) on the basis of the same formulas used by the state to allocate funds within the state for PY 2005 Adult Activities or Dislocated Worker Activities, as described above. The allocation formulas are also to use the same data as used for the Adult/Dislocated Worker formula funds and described above.

8. **Wagner-Peyser Act Preliminary Allotments.** Attachment VI shows the Wagner-Peyser preliminary allotments by state for PY 2005. These allotments have been calculated using the formula set forth at section 6 of the Wagner-Peyser Act (29 U.S.C. 49e). They are based on each state's share of monthly averages of the civilian labor force (CLF) and unemployment for the 12 months ending September 2004. Final allotments will be announced by May 15, 2005.

Under section 7(b) of the Wagner-Peyser Act, ten percent of the total sums allotted to each state shall be reserved for use by the Governor to provide performance incentives for ES offices, services for groups with special needs, and for the extra costs of exemplary models for delivering job services.

9. **Reemployment Services.** Reemployment Services Grants are provided to the states to enhance and target integrated core services to Unemployment Insurance (UI) claimants through the One-Stop Career Center system. The total funds available for PY 2005 are \$34,290,464. The allotment figures for the distribution of funds for each state for PY 2005 are listed in Attachment VII. The funds were distributed using the following administrative formula: each state received \$215,000, with the remaining funds distributed using each state's share of first payments for FY 2004 to UI claimants.

In PY 2004, seven states were approved to conduct a Personal Reemployment Account (PRA) demonstration. The seven states (West Virginia, Florida, Mississippi, Minnesota, Montana, Texas and Idaho) were approved as a result of requesting that their Reemployment Services formula allotment be provided as a special PRA Demonstration Grant. Detailed instructions will be published as part of this year's forthcoming Reemployment Services planning guidance on continuing the demonstration. Through such guidance, the Department of Labor will also entertain requests for up to two additional states to participate in the PRA demonstration.

10. **Workforce Information Grants.** Funds are distributed by administrative formula, with a reserve of \$1,055,488 for postage and \$187,938 for Guam and the Virgin Islands. The remaining funds are distributed to the states with 40% distributed equally to all states and 60% distributed on each state's share of CLF for the 12 months ending September 2004. The allotment figures are listed in Attachment VIII.
11. **Work Opportunity and Welfare-to-Work (WtW) Tax Credits Program:** Attachment IX shows the FY 2005 Work Opportunity and Welfare to Work Tax Credit grants by state. After reserving \$499,968 for postage and \$20,000 for the Virgin Islands, funds are distributed to states by administrative formula with a \$64,000 minimum allotment and a 95% stop-loss/120% stop-gain from the prior year allotment share percentage. The FY 2005 allotment formula is as follows:

- (1) 50% based on each state's relative share of total FY 2003 certifications issued for the WOTC/WtW Tax Credit programs;

- (2) 30% based on each state's relative share of the Civilian Labor Force (CLF) for the year ending September 2004; and
- (3) 20% based on each state's relative share of the adult recipients of Temporary Assistance for Needy Families (TANF) for FY 2003.

The legislative authority for the Work Opportunity and Welfare-to-Work Tax Credits was reauthorized on October 4, 2004. State Workforce Agencies are to use the Fiscal Year 2005 funds announced herein to process all WOTC/WtW Tax Credit certification requests for employer new hires made on or after January 1, 2004, and before January 1, 2006. Additional guidance on the use of these funds will be provided in a WOTC Annual Planning Guidance TEGL.

12. **Reporting.** For the WIA formula programs, states will be required to submit one WIA quarterly financial status report for each of the fund sources received (including a separate report for each of the funding periods for Adults and Dislocated Workers--July 1 funds and October 1 funds). This report will be divided into six separate sub-reports detailing statewide activities; statewide rapid response (Dislocated Worker Activities); local area administration; local area Youth program activities; local area Adult program activities; and local area Dislocated Worker program activities. For the additional Section 173(e) funding for Adult/Dislocated Activities, which are tracked separately, the affected states are not to combine these funds with regular WIA Adult, Dislocated Worker, and Local Administration fund reports. Instead, those states are required to submit separate quarterly financial status reports for these designated funds using the same Local Adult, Local Dislocated Worker, and the Local Administration report formats, depending on how the state chooses to distribute the funds. States are also to submit the designated financial report formats each quarter for the Wagner-Peyser funds, Reemployment Services, Workforce Information Grants, and Work Opportunity and Welfare-to-Work Tax Credits funds.
13. **Inquiries.** Questions regarding these allotments and planning requirements may be directed to the appropriate Regional Office. Information may also be found at the ETA Web site at <http://www.doleta.gov>.

**14. Attachments:**

- I. WIA and Wagner-Peyser Statutory Formula Descriptions
- II. Youth Activities Allotments,  
PY 2005 vs PY 2004
- III-A. Adult Employment and Training Activities,  
FY 2005 Advance Funds Congressional Rescission
- III-B. Adult Employment and Training Activities Allotments,  
PY 2005 vs PY 2004
- III-C. Adult Employment and Training Activities Allotments,  
July 1 and October 1 Funding
- IV-A. Dislocated Worker Employment and Training Activities,  
FY 2005 Advance Funds Congressional Rescission
- IV-B. Dislocated Worker Employment and Training Activities Allotments,  
PY 2005 vs PY 2004
- IV-C. Dislocated Worker Employment and Training Activities Allotments,  
July 1 and October 1 Funding
- V. Additional PY 2005 Funding from WIA Section 173(e)  
for Adult/Dislocated Worker Activities for Eligible States
- VI. Wagner-Peyser Act Allotments,  
PY 2005 Preliminary vs PY 2004 Final
- VII. Reemployment Services  
PY 2005 vs PY 2004
- VIII. Workforce Information Grants,  
PY 2005 vs PY 2004
- IX. Work Opportunity Tax Credit and Welfare to Work Tax Credit Programs,  
FY 2005 vs FY 2004