

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WIA/Wagner-Peyser/WOTC/WtW Tax Credits
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TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 25-05

TO: ALL STATE WORKFORCE AGENCIES
ALL STATE WORKFORCE LIAISONS

FROM: EMILY STOVER DeROCCO
Assistant Secretary



SUBJECT: Fiscal Year (FY) 2006 Congressional Rescissions for the Workforce Investment Act (WIA) Adult and Dislocated Worker Programs; WIA Adult and Youth Programs Planning Estimates for Program Year (PY) 2006; WIA Allotments for the Dislocated Worker Program for PY 2006; Wagner-Peyser Act Final Allotments for PY 2006; Workforce Information Grants to States for PY 2006; and Work Opportunity Tax Credit (WOTC) and Welfare-to-Work (WtW) Tax Credit Allotments for FY 2006

- Purpose.** To provide states and outlying areas with FY 2006 Congressional Rescissions for the WIA Adult and Dislocated Worker programs; WIA Title I Adult and Youth Activities Programs Planning Estimates for PY 2006; WIA Title I Dislocated Worker Program Activities allotments for PY 2006; final allotments for PY 2006 public Employment Service (ES) activities, as required by Section 6(b)(5) of the Wagner-Peyser Act, as amended; Workforce Information Grants for PY 2006; and Work Opportunity Tax Credit and Welfare-to-Work (WtW) Tax Credit allotments for FY 2006.
- References.** Workforce Investment Act of 1998, (29 U.S.C. 2801 et seq.) P.L. 105-220; Wagner-Peyser Act, as amended (29 U.S.C. 49 et seq.); Planning Guidance and Instructions for Submission of Two Years 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 (April 12, 2005)); Workforce Investment Act: Revisions to the Workforce Investment Act Title I, Wagner Peyser Act and the Senior Community Service Employment Program Unified Planning Guidance (65 F.R. 2464 (April 12, 2005)); Training and Employment Guidance Letter (TEGL) No. 11-98 (February 17, 1999);

Rescissions:	Expiration Date: Continuing
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TEGL 3-99 (January 31, 2000); TEGL 12-00 (March 6, 2001); TEGL 22-00 (May 23, 2001); TEGL 13-01 (March 15, 2002); TEGL 26-03 (June 18, 2004); TEGL 23-04 (March 25, 2005); TEGL 14-05 (February 9, 2006); TEGL 20-05 (March 14, 2006); and TEGL 22-05 (March 30, 2006).

3. **Background.** The funds for the allotments announced in this TEGL are part of the FY 2006 funds appropriated in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006, P.L. 109-149, signed into law December 30, 2005.

The Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006, P.L. 109-148, Division B, Title III, Chapter 8 (December 30, 2005), required a government-wide reduction of 1.0 percent to all FY 2006 discretionary programs, including FY 2006 advance funds for the adult and dislocated worker programs provided in the FY 2005 appropriation. Attachments III-A and IV-A reflect the distribution of the rescission to FY 2006 advance funds. Additional guidance on these rescissions will be provided in the near future. The Congressionally-mandated \$125 million rescission to the FY 2006 advance amount of the Dislocated Worker National Reserve for Community-Based Job Training Grants is also included in these tables.

The WIA allotments for states are based on formula provisions 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, Northern Marianas, Palau, and the Virgin Islands) are based on a discretionary formula as authorized under WIA Title I. The Marshall Islands and Micronesia 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 now 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 April 11, 2006. Comments from the public on the formula used to distribute outlying areas funds are due May 12, 2006.

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

- A. State Planning Estimates. The appropriated level for PY 2006 for the WIA Youth Activities totals \$940,500,000, which includes \$14,107,500 for Native Americans, \$924,041,250 for states, and \$2,351,250 for outlying areas. Attachment II contains a breakdown of the WIA Youth Activities planning estimates by state for PY 2006.

The three factors required in WIA for the youth state allotment formula use the following data for the PY 2006 allotments:

- (1) number of unemployed for areas of substantial unemployment (ASUs), averages for the 12-month period, July 2004 through preliminary June 2005;
- (2) number of excess unemployed individuals or the ASU excess unemployed individuals (depending on which is higher), averages for the same 12-month period as used for ASU unemployed data; and
- (3) number of economically disadvantaged youth (age 16 to 21, excluding college students and military), 2000 census.

The computation of full state allotments for the Youth program is delayed while states identify their ASU data for the PY 2006 allotments under revised guidance issued by the Employment and Training Administration (ETA) in TEGGL No. 20-05, March 14, 2006. The states' initial identification of the PY 2006 ASUs was based on guidance from ETA and the Bureau of Labor Statistics (BLS) that did not allow the use of 2000 decennial census data because of problems identified by the Bureau of Census. An analysis of the initial state PY 2006 ASU data by ETA revealed a significant impact on state funding that was very likely due to the methodology rather than changes in unemployment. As a result of this analysis and consideration of concerns raised by several states, ETA has issued revised guidance (as indicated above) to states to identify ASUs using the only data satisfactory to ETA for this purpose, the 1990 census data, albeit dated. Since revised ASU data will not be available in time to compute youth allotments before the April 1, 2006, availability of funds, states will initially receive amounts based on the minimum amounts states are guaranteed under the WIA formula minimum provisions, described below.

Because the total amount available for this program for states in PY 2006 is below the required \$1 billion threshold specified in WIA Section 127(b)(1)(C)(iv)(IV), similar to PY 2005, the WIA additional minimum provisions are not applicable. Instead, as required by WIA, the JTPA section 262(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 are applicable. Consistent with these minimum provisions, states will initially receive amounts equivalent to the higher of: 90 percent of their prior year allotment percentage applied to the PY 2006 total funds available for states, or, if higher, 0.25 percent of the PY 2006 total funds available for states. When revised ASU data are submitted by states and certified by BLS, full formula allotments for the states for the WIA Youth Activities program will be calculated and announced in the Federal Register, and eligible states will receive their remaining formula funds.

- B. PY 2006 Funding Agreement/Notice of Obligations (NOOs). Pursuant to WIA section 189(g)(1)(B), youth program planning estimates are being issued in early April with an effective date of April 1, 2006. In preparation for this action, funding documents have been transmitted to the state WIA signatory officials for their completion and return to DOL for execution by the ETA Grant Officer. When revised ASU data are submitted by states and certified by BLS, full formula allotments for the states will be calculated, and NOOs with an effective date of April 1, 2006, will be issued for any remaining funds for applicable states.
 - C. Within-State Allocations. Youth program funds for PY 2006 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. For purposes of identifying ASUs for the within-state youth allocation formula, the revised ETA guidance in TEGL 20-05 as described above and requiring the use of 1990 census data as the only data satisfactory to ETA for this purpose is to be used. For purposes of developing 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 statutory formula, the special 2000 census data provided to states for the youth within-state allocations beginning in PY 2004 should continue to be used. 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 that are 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 program.
 - E. Reallotment of Funds. Reallotment of Youth program 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 2006 based on obligations made during PY 2005 (20 CFR §667.150). There was no recapture/reallotment of WIA Youth funds in PY 2005.
5. State Adult Employment and Training Activities Funds: Title I--Chapter 5--Adult and Dislocated Worker Employment and Training Activities.
- A. State Planning Estimates. The total appropriation for PY 2006 for the Adult program is \$864,198,640, of which \$862,038,143 is for states and \$2,160,497 is for outlying areas. Attachment III-B shows the PY 2006 Adult program planning estimates by state. The three formula factors for the Adult program use the same

data as used for the Youth program formula, except that data for the number of economically disadvantaged adults (age 22 to 72, excluding college students and military) are used. As described above for the Youth program, the computation of the full state Adult program allotments is delayed while states identify their ASU data for the PY 2006 allotments under revised guidance issued by ETA in TEGL No. 20-05, March 14, 2006. Should final allotments not be announced before July 1, ETA will initially issue amounts based on the minimum amounts states are guaranteed under the WIA formula minimum provisions, described below.

Since the total amount available for the Adult program for states in PY 2006 is below the required \$960 million threshold specified in WIA Section 132(b)(1)(B)(iv)(IV), similar to PY 2005, the WIA additional minimum provisions are not applicable. 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 are applicable. Consistent with these minimum provisions, states will receive amounts based on the higher of: 90 percent of their prior year allotment percentage applied to the PY 2006 total funds available for states, or, if higher, 0.25 percent of the total PY 2006 funds available for states. When revised ASU data are submitted by states and certified by BLS, full formula allotments for the states for the WIA Adult program will be calculated and announced in the Federal Register, and eligible states will receive their remaining formula funds.

- B. NOOs. For the FY 2006 rescission applied to the FY 2006 advance funds appropriated in PY 2005, NOOs under the PY 2005 WIA grant agreement will be issued to deobligate the required amounts (see Attachment III-A). For PY 2006, Congress appropriated funds for this program in two portions: \$152,198,640 available for obligation on July 1, 2006 (PY 2006) and \$712,000,000 available for obligation on October 1, 2006 (FY 2007). Formula allotments to states are calculated on a full year basis and then prorated based on these amounts, with funds issued to states in two NOOs: July 1 and October 1. Should final allotments not be announced before July 1, the July 1 NOO amount to be issued under the PY 2006 WIA grant agreement will be based on the state minimum amount described above and prorated using the total state funds appropriated for the July 1 portion. Attachment III-C displays the July 1 portion and October 1 portion for each state calculated based on each state's minimum amount described above. When full allotments are recalculated after revised ASU data is received, the remaining July 1 funds will be issued in NOOs with an effective date of July 1, 2006, to applicable states. NOOs for October 1, 2006, (also under the PY 2006 WIA grant agreement) are expected to reflect the full October 1 portion of the final allotments.

- C. Within-State Allocations. Adult program funds for PY 2006 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. Similar to the Youth program, for purposes of identifying ASUs for the within-state Adult allocation formula, the revised ETA guidance in TEGL No. 20-05, as described above, is to be used. For purposes of developing 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, for the statutory formula, the special 2000 census data provided to states for the Adult within-state allocations beginning in PY 2004 should continue to be used. 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 2006 appropriation enacted by Congress raised these transfer limits to 30 percent for appropriated 2006 funds, applicable for the life of the funds.
- E. Reallotment of Funds. Reallotment of Adult program 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 2006 based on obligations of PY 2005 funds made during PY 2005 (20 CFR §667.150). There was no recapture/reallotment of WIA Adult program funds in PY 2005.

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

Appropriated funds for PY 2006 for the Dislocated Worker program total \$1,471,903,360, with \$1,189,811,360 for states, \$3,679,758 (part of the National Reserve) for outlying areas, and \$278,412,242 for the remainder of the National Reserve.

- A. State Allotments. Attachment IV-B shows the PY 2006 Dislocated Worker fund allotments by state and comparison to PY 2005.

The three formula factors required in WIA use the following data for the PY 2006 state allotments:

- (1) number of unemployed, averages for the 12-month period, October 2004 through September 2005;
 - (2) number of excess unemployed, averages for the 12-month period, October 2004 through September 2005; and
 - (3) number of long-term unemployed, averages for calendar year 2004.
- B. NOOs. For the FY 2006 rescission applied to the FY 2006 advance funds appropriated in PY 2005, NOOs under the PY 2005 WIA grant agreement will be issued to deobligate the required amounts (see Attachment IV-A). For PY 2006, Congress appropriated funds for this program for states in two portions, \$341,811,360 available for obligation on July 1, 2006 (PY 2006), and \$848,000,000, available for obligation on October 1, 2006 (FY 2007). Formula allotments to states are calculated on a full year basis and then prorated based on these amounts. Two NOOs will be issued: One for July 1, 2006, under the PY 2006 WIA grant agreement, and the other for October 1, 2006 (also under the PY 2006 WIA grant agreement) (see Attachment IV-C).
- C. Within-State Allocations. Dislocated Worker program funds for PY 2006 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 program funds to the Dislocated Worker program, and up to 20 percent of Dislocated Worker program funds to the Adult program. The 2006 appropriation enacted by Congress raised these transfer limits to 30 percent for appropriated 2006 funds, applicable for the life of the funds.
- E. Reallotment of Funds. Reallotment of the Dislocated Worker 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 2006 based on obligations made during PY 2005 (section 667.150). Recapture/reallotment of the WIA Dislocated Worker program funds for PY 2005 were announced in TEGP No. 22-05, March 30, 2006.
7. **Additional PY 2006 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. The determination of state eligibility for these funds will be made when final full WIA Adult formula allotments are calculated after revised ASU data are received.

8. **Wagner-Peyser Act Final Allotments.** The appropriated level for PY 2006 for Employment Service grants totals \$815,882,860, which includes \$18,000,000 for postage, \$696,181,664 for states, and \$1,701,196 for the outlying areas. Attachment V shows the Wagner-Peyser final allotments by state for PY 2006 and comparison to 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 Calendar Year 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. **Workforce Information Grants.** Total funds for PY 2006 are \$33,180,000. Funds are distributed to states by administrative formula, with a reserve of \$962,200 for postage and \$177,323 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 2005. The allotment figures are listed in Attachment VI.

10. **Work Opportunity and Welfare-to-Work (WtW) Tax Credits Program.** Attachment VII shows the FY 2006 Work Opportunity and Welfare to Work Tax Credit grants by state. After reserving \$512,646 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 2006 allotment formula is as follows:

- (1) 50% based on each state's relative share of total FY 2005 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 2005; and
- (3) 20% based on each state's relative share of the adult recipients of Temporary Assistance for Needy Families (TANF) for FY 2004.

The legislative authority for the Work Opportunity and Welfare-to-Work Tax Credits expired on December 31, 2005. TEGL No. 14-05, Work Opportunity Tax

Credit and Welfare-to-Work Tax Credit Program Guidance for Period of Authorization Lapse, (February 9, 2006), was issued to the state workforce agencies with specific guidance on processing of employer certification requests filed during the authorization lapse. State workforce agencies are to use the FY 2006 funds announced herein according to the guidance in TEGL No. 14-05, which covers the period January 1, 2006, through September 30, 2006. Additional guidance on the use of these funds will be provided in a WOTC Annual Planning Guidance TEGL.

11. **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. 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.
12. **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>.

13. Attachments.

- I. WIA and Wagner-Peyser Statutory Formula Descriptions
- II. Youth Activities Planning Estimates,
PY 2006
- III-A. Adult Employment and Training Activities,
FY 2006 Advance Funds Congressional Rescission
- III-B. Adult Employment and Training Activities Planning Estimates,
PY 2006
- III-C. Adult Employment and Training Activities Planning Estimates,
July 1 and October 1 Funding
- IV-A. Dislocated Worker Employment and Training Activities,
FY 2006 Advance Funds Congressional Rescission
- IV-B. Dislocated Worker Employment and Training Activities Allotments,
PY 2006 vs PY 2005
- IV-C. Dislocated Worker Employment and Training Activities Allotments,
July 1 and October 1 Funding
- V. Wagner-Peyser Act Allotments,
PY 2006 Final vs PY 2005 Final
- VI. Workforce Information Grants,
PY 2006 vs PY 2005
- VII. Work Opportunity Tax Credit and Welfare to Work Tax Credit Programs,
FY 2006 vs FY 2005