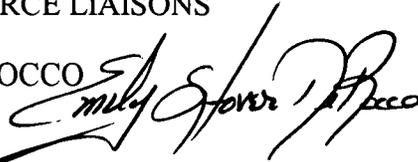


<b>EMPLOYMENT AND TRAINING ADMINISTRATION</b> <b>ADVISORY SYSTEM</b> <b>U.S. DEPARTMENT OF LABOR</b> <b>Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> WIA/Wagner-Peyser/WOTC/W-t-W Tax Credits
	<b>CORRESPONDENCE SYMBOL</b> OWI
	<b>DATE</b> June 18, 2004

**TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 26-03**

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

**FROM:** EMILY STOVER DeROCCO  
Assistant Secretary



**SUBJECT:** FY 2004 Congressional Rescissions for the WIA Adult and Dislocated Worker Programs; Workforce Investment Act (WIA) Allotments for Program Year (PY) 2004; Additional Funding from Dislocated Worker National Reserve for Adult/Dislocated Worker Activities for Eligible States; Wagner-Peyser Act Final Allotments for PY 2004; and Work Opportunity Tax Credit (WOTC) and Welfare-to-Work (W-t-W) Tax Credit Allotments for FY 2004

1. **Purpose.** To provide a revised TEGL rescinding TEGL 20-03, dated March 25, 2004, and reflecting corrections to errata in TEGL 20-03. The corrections relate to references to attachments, definitions of economically disadvantaged individuals for the Youth and Adult program formulas, and clarification of the changes in transfer authority for PY 2004.
2. **References.** Wagner-Peyser Act, as amended (29 U.S.C. 49 et seq.); Workforce Investment Act of 1998 (WIA), (29 U.S.C. 2801 et seq.) P.L. 106-113; 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; TEGL 3-99, dated January 31, 2000; TEGL 12-00, dated March 6, 2001; TEGL 22-00, dated May 23, 2001; and TEGL 13-01, dated March 15, 2002.
3. **Background.** The WIA allotments, the Wagner-Peyser Act final allotments, and the Work Opportunity and W-t-W Tax Credit allotments are part of the Fiscal Year 2004 funds appropriated in the Consolidated Appropriations Act, 2004, Public Law 108-199, signed into law January 23, 2004. This appropriation also incorporated an across-the-board reduction of 0.59 percent to all FY 2004 discretionary programs, including FY 2004 advance funds for the Adult and Dislocated Worker programs appropriated in the FY 2003 appropriation. Attachments III-A and IV-A reflect the distribution of the rescission to FY 2004 advance funds. Additional guidance on these rescissions will be provided in the near future.

<b>Rescissions: TEGL 20-03</b>	<b>Expiration Date: Continuing</b>
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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 outlying areas are based on a discretionary formula as authorized under WIA Title I. The Freely Associated States (Marshall Islands, Micronesia, and Palau) continue to receive WIA funding pursuant to P.L. 108-188, Compact of Free Association Amendments of 2003 (December 17, 2003), which supercedes WIA Section 127(b)(1)(B)(i)(IV). This is the first year that 2000 census data are used in the allotment formulas for the outlying areas. These allotments and descriptions of the allotment formulas were published in the Federal Register on March 25, 2004. Comments from the public on the formula used to distribute outlying areas funds were due April 26, 2004.

#### 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 2004 and provides a comparison of these allotments to PY 2003.

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 2003, 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 2004 allotments:

- (1) The number of unemployed for areas of substantial unemployment (ASU's) are averages for the 12-month period, July 2002 through preliminary June 2003;
- (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) is from the 2000 census. This is the first year that 2000 census data are used in the allotment formula.

- B. PY 2004 Funding Agreement/Notice of Obligations (NOOs). Pursuant to WIA Section 189(g)(1)(B), youth program allotments were issued on April 1, 2004.

- 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. Special 2000 census data were recently provided to states by Social Policy Research, Inc., to develop data by local area for the Youth within-state allocations. States should use this data 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. Transfer 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. Pending the outcome of the President's Fiscal Year 2005 budget request or proposed WIA reauthorization legislation, reallotment of funds among states under WIA will occur during PY 2004 based on obligations made during PY 2003 (20 CFR §667.150 of the WIA interim final regulations). There was no recapture/reallotment of WIA Youth funds in PY 2003.

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 2004 Adult Employment and Training Activities allotments and comparison to PY 2003 allotments by state.

As with the Youth Activities program, the WIA minimum provisions were not applied for the PY 2004 Adult Activities allotments because the total amount available for the states was below the \$960 million threshold required for the Adult program 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. This is the first year that 2000 census data is used in the allotment formula.

- B. NOO's. For the FY 2004 rescission applied to the funds appropriated for PY 2003, NOO's under the PY 2003 WIA grant agreement will be issued de-obligating the required amounts (see Attachment III-A). For PY 2004, Congress appropriated funds for this program in two portions: \$186,890,800 available for obligation on July 1, 2004 (PY 2004), and \$712,000,000 available for obligation on October 1, 2004 (FY 2005). Allotments to states are prorated based on these amounts and two NOO's will be issued: one for July 1, 2004, under the PY 2004 WIA grant agreement, and the other for October 1, 2004, (also under the PY 2004 WIA grant agreement) (see Attachment III-C).
- C. Within-State Allocations. Adult Activities funds for both the FY 2004 rescissions and PY 2004 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 provided by Social Policy Research, Inc., 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. Transfer 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 2004 appropriation enacted by Congress raised these transfer limits to 30 percent for appropriated 2004 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. Pending the outcome of the President's Fiscal Year 2005 budget request or WIA reauthorization legislation, reallotment of funds among states under WIA will occur during PY 2004 based on obligations of PY 2003 funds made during PY 2003 (20 CFR §667.150 of the WIA interim final regulations). There was no recapture/reallotment of WIA Adult Activities funds in PY 2003.

**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 2004 Dislocated Worker Activities fund allotments by state.

The three formula factors required in WIA use the following data for the PY 2004 allotments:

- (1) Number of unemployed are averages for the 12-month period, October 2002 through September 2003;
- (2) Number of excess unemployed are averages for the 12-month period, October 2002 through September 2003; and
- (3) Number of long-term unemployed are averages for calendar year 2002.

- B. NOO's. For the FY 2004 rescission applied to the funds appropriated for PY 2003, NOO's under the PY 2003 WIA grant agreement will be issued de-obligating the required amounts (see Attachment IV-A). For PY 2004, Congress appropriated funds for this program in two portions, \$330,192,303 available for obligation on July 1, 2004 (PY 2004), and \$848,000,000 available for obligation on October 1, 2004 (FY 2005). 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 2004, under the PY 2004 WIA grant agreement, and the other for October 1, 2004 (also under the PY 2004 WIA grant agreement) (see Attachment IV-C).
  - C. Within-State Allocations. Dislocated Worker Activities funds for both the FY 2004 rescissions and PY 2004 allotments are to be distributed among local workforce investment areas (subject to reservation 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. Transfer 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 2004 appropriation enacted by Congress raised these transfer limits to 30 percent for appropriated 2004 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. Pending the outcome of the President's Fiscal Year 2005 budget or proposed WIA reauthorization legislation, reallotment of funds among states under WIA will occur during PY 2004 based on obligations made during PY 2003 (section 667.150 of the WIA interim final regulations). Recapture/ reallotment of WIA Dislocated Worker Activities funds for 2003 was announced in TEGL 17-03, dated February 23, 2004.
7. **Additional PY 2004 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 emergency 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. Three states are eligible for these additional PY 2004 funds for a total of \$7,872,467. The additional funding will be provided from the Dislocated Worker National Emergency Grants reserve funds and are to be used for Adult or Dislocated Worker Activities, as required by Section 173(e). See paragraph 10 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 under separate PY 2004 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 2004 Adult Activities or Dislocated Worker Activities, as described above. The allocation formulas are to use the same data as used for the Adult/Dislocated Worker formula funds, including the new 2000 census data, also described above.
8. Wagner-Peyser Act Final Allotments. Attachment VI shows the Wagner-Peyser final allotments by state for PY 2004. 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 2003.

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. Work Opportunity and Welfare-to-Work Tax Credits Programs. Attachment VII shows the FY 2004 Work Opportunity and Welfare-to-Work Tax Credit grants by state. After reserving \$580,745 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 2004 allotment formula is as follows:

- (1) 50% based on each state's relative share of total FY 2003 certifications issued for the WOTC/W-t-W Tax Credit programs;
- (2) 30% based on each state's relative share of the Civilian Labor Force (CLF) for the year ending September 2003; and
- (3) 20% based on each state's relative share of the adult recipients in the Temporary Assistance for Needy Families (TANF) program for FY 2002.

The legislative authority for the Work Opportunity and Welfare-to-Work Tax Credits expired on December 31, 2003. While bills are being considered in Congress to reauthorize these tax credits, the lack of reauthorization has caused a lapse of continuity, or hiatus. TEGL 18-03 assumed no funding after December 31, 2003, and provided guidance to states for handling WOTC matters during the hiatus. This TEGL, by announcing full year FY 2004 funding, supercedes the funding information in TEGL 18-03. State Workforce Agencies are to use the Fiscal Year 2004 funds announced herein to: (1) fully process all WOTC/W-t-W Tax Credit certification requests for employer hires made prior to January 1, 2004; (2) accept, date stamp, log, and process employers' requests for certifications received after December 31, 2003, up to, but not including, issuance of the actual certification or denial (Note: States may

not issue eligibility certifications or denials until the program is reauthorized); (3) continue issuing Conditional Certifications; and (4) process any existing backlogs.

Additional guidance on the use of these funds will be provided in a separate TEGL.

- 10. 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 Adult and Dislocated Worker programs--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 Worker Activities, the affected states are not to include these funds on the above mentioned financial status reports, since the funds come from the Dislocated Worker National Reserve. Instead, those states will be required to submit separate financial status reports applicable for Dislocated Worker National Reserve funds; specific instructions will be provided in the grant award document.

Performance Reporting: The Employment and Training Administration issued TEGL 15-03, Common Measures Policy, in December 2003, informing states and grantees about ETA's policy on common performance measures for Federal job training programs. ETA will implement the common measures through a revised reporting system -- an integrated performance information system that would replace current reporting requirements with a single, comprehensive system. This proposed reporting system will be published in the Federal Register in the near future for comment.

- 11. Inquiries.** Questions regarding these allotments and planning requirements may be directed to the appropriate Regional Office. Information may also be found at the Web site <http://www.doleta.gov>.

**12. Attachments**

- I. WIA and Wagner-Peyser Statutory Formula Descriptions
- II. Youth Activities Allotments, PY 2004 vs PY 2003
- III-A. Adult Employment and Training Activities, FY 2004 Advance Funds Congressional Rescission
- III-B. Adult Employment and Training Activities Allotments, PY 2004 vs PY 2003
- III-C. Adult Employment and Training Activities Allotments, July 1 and October 1 Funding
- IV-A. Dislocated Worker Employment and Training Activities, FY 2004 Advance Funds Congressional Rescission
- IV-B. Dislocated Worker Employment and Training Activities Allotments, PY 2004 vs PY 2003

**IV-C. Dislocated Worker Employment and Training Activities Allotments, July 1 and October 1 Funding**

**V. Additional PY 2004 Funding from the Dislocated Worker National Reserve for Adult/Dislocated Worker Activities for Eligible States**

**VI. Wagner-Peyser Act Allotments, PY 2004 Final vs PY 2003 Final**

**VII. Work Opportunity Tax Credit and Welfare-to-Work Tax Credit Programs, FY 2004 vs FY 2003**