

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. 20-14

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
RAPID RESPONSE COORDINATORS
TRADE ADJUSTMENT ASSISTANCE LEADS

FROM: PORTIA WU /s/
Assistant Secretary

SUBJECT: 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

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 Initial Allocation 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 (TGAAA), (Pub. L. 111-5);

RESCISSIONS None	EXPIRATION DATE Continuing
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- Omnibus Trade Act of 2010 (Pub. L. 111-344) (Omnibus Trade Act);
- Trade Adjustment Assistance Extension Act of 2011 (Pub. L. 112-40) (TAAEA);
- Balanced Budget and Emergency Deficit Control Act (BBEDCA), as amended by the Budget Control Act of 2011(BCA);
- 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. 02-03, *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)*;
- 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. 31-12, *Fiscal Year (FY) 2013 State Initial Allocations and the Process for Requesting Trade Adjustment Assistance (TAA) Program Reserve Funds*;
- TEGL No. 15-12, *Delivery of Benefits and Services to Trade Adjustment Assistance (TAA) Program Recipients through the American Job Center Network Delivery System*;
- 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. 01-14, *Second Distribution of Fiscal Year (FY) 2014 Trade Adjustment Assistance (TAA) Training and Other Activities Funds and the Process for Requesting TAA Program Reserve Funds*;
- TEGL No. 14-14, *Trade Adjustment Assistance (TAA) for Workers and Alternative Trade Adjustment Assistance (ATAA) and Reemployment Trade Adjustment Assistance (RTAA) program operations after December 31, 2014*; and
- TEGL No. 16-14, *Appropriations to Continue the Trade Adjustment Assistance (TAA) for Workers and Alternative Trade Adjustment Assistance (ATAA) and Reemployment Trade Adjustment Assistance (RTAA) Program Operations for Fiscal Year (FY) 2015*.

3. Definitions.

- *The 2002 Program* means the TAA program carried out under chapter 2 of title II of the Trade Act of 1974, as amended by the TAARA, and applies to workers covered by petitions filed before May 18, 2009, and to workers covered by petitions filed on or after February 13, 2011, and before October 21, 2011, who receive benefits under this program under section 231(a)(1)(B) of the TAAEA (the “election” provision).
- *The 2009 Program* means the TAA program carried out under chapter 2 of title II of the Trade Act of 1974 as amended by the TGAAA and applies to workers covered by petitions filed on or after May 18, 2009, and on or before February 12, 2011.

- *The 2011 Program* means the TAA program carried out under chapter 2 of title II of the Trade Act of 1974 as amended by the TAAEA and applies to workers covered by petitions filed on or after February 13, 2011, and on or before December 31, 2013, and to workers covered by petitions filed on or after February 13, 2011, and before October 21, 2011, who receive benefits under this program under section 231(a)(1)(B) of the TAAEA (the “election” provision).
- *Reversion 2014* means the TAA program carried out under chapter 2 of title II of the Trade Act of 1974 as administered under section 233 of the TAAEA (the sunset provisions) and applies to workers covered by petitions filed on or after January 1, 2014, and on or before September 30, 2015.
- *Training and Other Activities* means training, job search allowances, relocation allowances, employment and case management services and related state administration.

4. Background. TEGL No. 16-14 advised states that the FY 2015 Omnibus Appropriations Act was signed into law on December 16, 2014. Under the language in this Act and the accompanying explanatory statement, the TEGL explained that the appropriation of \$710.6 million (which is subject to sequestration, as described below) in the Department’s Federal Unemployment Benefits and Allowances (FUBA) account had the effect of continuing the full operation of the TAA, ATAA, and RTAA programs (collectively the TAA Program) through FY 2015, and suspending until October 1, 2015, the phase-out termination provisions that had been due to take effect on January 1, 2015. Specifically, the language in the explanatory statement for Division G, title I provides the following description of the intent of this appropriation for TAA for FY 2015:

“The agreement provides funding to carry out the Trade Adjustment Assistance for Workers program at the requested level to allow for the full operation of the program throughout fiscal year 2015, including the provision of benefits to groups of workers certified after December 31, 2014.”

TEGL No. 16-14 also explained the purpose of the funds provided under the appropriation for TAA for FY 2015 as follows: TAA program funds are available during the fiscal year for the payment of Trade Readjustment Allowances (TRA), Alternative/ Reemployment Trade Adjustment Assistance (A/RTAA), training, employment and case management services, job search allowances, relocation allowances, and related state administration. This TEGL directed states to use funds provided under this appropriation to carry out the 2002 Program, the 2009 Program, the 2011 Program, and Reversion 2014 and is the starting point for the discussion of FY 2015 TAA funding, including the amounts provided in the Initial Allocation of TAA funds for Training and Other Activities.

5. Application of Sequestration. BBEDCA, as amended by the BCA, requires a reduction for FY 2015 of 7.3 percent in budget authority for direct spending (sometimes referred to as “mandatory”) programs, which includes the TAA program. Therefore, the \$710.6 million appropriation for FY 2015 to carry out the TAA programs must be reduced by 7.3 percent (or \$51.9 million), leaving a total appropriation of \$658,726,200 available for distribution to the states. As it has done in previous years, the Department is applying the entire \$51.9 million reduction to the funds for Training and Other Activities rather than applying reductions to each

payment of TRA or A/RTAA. The pre-sequestration amount of \$287.6 million for Training and Other Activities described in the preceding paragraph is reduced by the \$51.9 million required by sequestration, resulting in a FY 2015 national aggregate amount of \$235.7 million available for Training and Other Activities. Further information relating to available funding by activity and the amounts of the funds provided to states in the FY 2015 Initial Allocation is provided in the sections below.

6. FY 2015 National Aggregate Amount Available for Training and Other Activities. The FY 2015 funding allocated to states is to be used to carry out the 2002 Program, the 2009 Program, the 2011 Program, and Reversion 2014. In determining the FY 2015 funding available for TAA Training and Other Activities, we have taken into account both the funds appropriated to continue the operation of the four programs, and the application of sequestration. The FY 2015 funds available for the initial allocation are as follows:

- The national aggregate amount available for expenditures for Training and Other Activities for FY 2015 to carry out all four TAA programs after sequestration is \$235.7 million (\$287.6 million pre-sequestration).
- The portion of the national aggregate amount available for training for FY 2015 is \$171.9 million after sequestration.
- The portion of the national aggregate amount available for related state administration for FY 2015 is \$47.1 million to carry out all four TAA programs, or 20 percent of the total FY 2015 funding available for Training and Other Activities after sequestration or \$235.7 million. This percentage represents the maximum amount of FY 2015 funds that can be used for expenditures for state administration for FY 2015 and was established to ensure that states have sufficient resources to provide continuity of service in FY 2015 for the programs. *Note: A State may NOT use more than 20 percent of its FY 2015 Training and Other Activities Allocation for costs related to state administration. However, a State may use a portion of the funds available for state administration for training, if needed, as long as these funds are not needed for state administration.*
- The portion of the national aggregate amount available to provide employment and case management services under the 2009 Program and 2011 Program is 5 percent of the funds available for Training and Other Activities in FY 2015 after sequestration (\$235.7 million) or \$11.8 million. This percentage represents the minimum amount of FY 2015 funds that can be used to provide employment and case management services to eligible participants, and is based on the Department's analysis of historical data of states' use of funds to provide these benefits. However, states must use not less than 5 percent of the total amount of FY 2015 funds provided for Training and Other Activities to provide such services to workers in those programs. *Note: A State may use more than the 5 percent (minimum) of the amount allocated to it for Training and Other Activities to provide TAA-funded employment and case management services, but must use at least 5 percent of its FY 2015 allocation for these purposes.*

- The portion of the national aggregate amount available to provide job search allowances and relocation allowances under all four TAA programs is \$4.9 million or 2.1 percent of the total amount available for Training and Other Activities after sequestration or (\$6 million pre-sequestration).

7. Initial Allocations for FY 2015 Funds. We have determined the FY 2015 allocation of funds to states to provide training, job search allowances, relocation allowances and related state administration (also referred to as Training and Other Activities) under all four TAA programs, and to make available TAA-funded employment and case management services for 2009 Program and 2011 Program participants, based on the regulations at 20 CFR 618.910 through 618.940, as follows:

- Sixty-five (65) percent of the fiscal year funds are to be distributed by formula when the appropriation for the full fiscal year is available to the Department, with 35 percent of the FY 2015 funds held in reserve for distribution later in the fiscal year (or to be provided to a state in need of reserve funds at any time during the fiscal year as explained below);
- The *hold harmless* provision minimum allocation for the initial distribution is applied to ensure that a state receives at least 25 percent of the Initial Allocation that was made available to that state for the previous fiscal year;
- By July 15, 2015, at least 90 percent of the fiscal year funds are to be distributed; and
- The formula factors that the Department must consider in determining the apportionment of the initial distribution of funds are specified in 20 CFR 618.910(f) and further described below in Section 9.

From the national aggregate amounts described in Section 7, we have subtracted the amount of reserve funding that the State of Delaware (DE) and the State of Vermont (VT) requested in the first quarter of FY 2015 (\$337,500 and \$180,000 respectively) to carry out TAA Program activities in those states in anticipation of making these funds available to DE and VT before the initial allocations of FY 2015 funds. The calculation of the national aggregate amount for the FY 2015 Initial Allocation (65 percent of the amount available for Training and Other Activities) is \$152.9 million.

FY 2015 Training and Other Activities Funds By Benefit or Service

The chart below provides the derivation of funds available in FY 2015 for Training and Other Activities, displaying both pre-sequestration and post-sequestration calculations, as well as the amounts we will provide to states in the Initial Allocation for FY 2015. We identify the amounts to be provided to each state under the Initial Allocation in Attachment A to this TEGL.

Benefit or Service	Total Amount Pre-Sequester	Total Amount Post-Sequester
Training	\$209,700,000	\$171,876,857
Related State Administration	\$57,520,000	\$47,145,240
Employment and Case Management Services Minimum	\$14,380,000	\$11,786,310
Job Search Allowances and Relocation Allowances-	\$6,000,000	\$4,917,793
Total Funding Available for Training and Other Activities	\$287,600,000	\$235,726,200
DE and VT Reserve Requests		\$517,500
Training and Other Activities Less Reserve Requests		\$235,208,700
Amount to be Distributed in the Initial Allocation Amount (65 Percent of the FY 2015 Funds Available for Training and Other Activities)		\$152,885,655

8. Application of the Funding Formula and Process for Requesting Reserve Funds.

Attachment A to this TEGL provides the amounts of FY 2015 funds that we will distribute in the Initial Allocation, 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 will be established using the most recent four quarters (FY 2014 Quarter 1 through FY 2014 Quarter 4) 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 will establish a trend, giving the most recent quarters a greater impact on each factor than an earlier quarter.

Factor 2 will be established using the most recent four quarters (FY 2014 Quarter 1 through FY 2014 Quarter 4) 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 will establish a trend, giving the most recent quarters a greater impact on each factor than an earlier quarter.

Factor 3 will be 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 ETA's most recent budget submission or update.

Factor 4 will be 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 will be 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 have been 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 will be 25 percent of the total for each factor.

20 CFR 618.910(c) of the Trade Act includes a *hold harmless* provision. The regulation provides that a state's Initial Allocation must be at least 25 percent of the amount the state received in its Initial Allocation for the prior fiscal year.

The Department will determine each state's percentage of the national total for each factor. Using each state's percentage of each of these weighted factors, we will determine the unadjusted percentage that the state will receive of the amount available for initial allocations. Following 20 CFR 618.910(c) through (e), a state's allocation amount less than \$100,000 will be removed from the calculation, as described below, and the statutory 25 percent *hold harmless* provision will be applied, resulting in the adjusted FY 2015 Initial Allocations for the remaining states.

In those instances where the formula approach would give a state less than \$100,000, we apply 20 CFR 618.910(e)(2)(i). Under that regulation, a state with an allocation calculated under the formula to be an amount less than \$100,000, will not receive any initial allocation. Those states may request TAA program reserve funds in accordance with the procedures described below in Section B.

B. TAA Program Reserve Funds: States may request reserve funds in accordance with 20 CFR 618.920(b) before the distribution of the Initial Allocation, and at any other time during the fiscal year. 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.

9. Action Requested. CSAs are required to implement the guidance set forth herein and must continue to administer the 2002 Program, the 2009 Program, the 2011 Program, and Reversion 2014 in accordance with applicable Operating Instructions. CSAs must inform all appropriate staff of the contents of this guidance.

10. Inquiries. Inquiries regarding this guidance should be directed to the appropriate Regional Office.

11. Attachment. Attachment A: TAA FY 2015 Initial Allocation Amounts by State