

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WIOA OWI
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ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER WIOA NO. 26-14
 OPERATING GUIDANCE for the WORKFORCE INNOVATION AND
 OPPORTUNITY ACT (referred to as WIOA or the Opportunity Act)

TO: STATE AND LOCAL STAKEHOLDERS IN THE WORKFORCE
 INNOVATION AND OPPORTUNITY ACT

FROM: PORTIA WU /s/
 Assistant Secretary

SUBJECT: Workforce Innovation and Opportunity Act Transition Authority for Flexible
 Use of State Rapid Response Funds

- Purpose.** This guidance announces flexible uses of Rapid Response funds to ensure an orderly transition to Workforce Innovation and Opportunity Act (WIOA or the Opportunity Act) for Program Year (PY) 2012 through 2015.

WIOA was signed into law on July 22, 2014. WIOA is designed to help job seekers access employment, education, training, and support services to succeed in the labor market and to match employers with the skilled workers they need to compete in the global economy. WIOA supersedes the Workforce Investment Act of 1998 and amends the Adult Education and Family Literacy Act, the Wagner-Peyser Act, and the Rehabilitation Act of 1973. In general, the Act takes effect on July 1, 2015, the first full program year after enactment, unless otherwise noted.

The Departments of Labor and Education are working to publish a set of regulations implementing WIOA. On April 9th, the Federal Register posted five Notices of Proposed Rulemaking (NPRMs) implementing the Opportunity Act on its Web site for public inspection, <https://www.federalregister.gov/public-inspection>, which offers a preview of documents scheduled to publish soon in the Federal Register. The NPRMs will be formally published in the Federal Register on April 16th. Comments should be submitted in accordance with the process outlined in the NPRMs, including by visiting <http://www.regulations.gov>. The comment period will be open for 60 days, and will close on June 15, 2015.

In order to continue implementation prior to the final rule, a series of WIOA Operating Guidance documents that provide the needed implementation information will be issued in the form of Training and Employment Guidance Letters (TEGLs). These Operating Guidance

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documents on WIOA will inform the workforce system how to begin the important planning and reorganization necessary to comply with new WIOA statutory requirements for the upcoming Program Year 2015 (beginning July 1, 2015). The Operating Guidance TEGs will provide a framework for program activities until the regulations are finalized. This TEG is one in the ongoing series of Guidance.

2. **References.** See Attachment I.
3. **Background and Application of WIOA Transition Provisions.** Rapid Response is a critical component of the workforce system's approach to addressing economic transition. An effective Rapid Response system allows states and local areas to play an active role in shaping and maintaining a competitive, resilient regional workforce. The inclusion of layoff aversion as part of a comprehensive Rapid Response strategy is an investment of immeasurable value to the business community. The planning and information gathering necessary for effective Rapid Response also establishes an awareness of and familiarity with the talent needs of a region, and allows the workforce community the ability to strategically meet the needs of both hiring employers and dislocated workers. Rapid Response is the first step for many workers and employers whose needs can be addressed by the larger workforce system. WIOA also includes greater flexibility in the use of funds reserved for rapid response under either WIOA or WIA that remain unobligated after the first program year in which they were available may be used by the Governor to carry out the other statewide activities. Without diminishing the value of the Rapid Response program and its services, and in order to accelerate and expand the new flexibility WIOA provides, the Department recognizes that further expanding flexibility in the use of these funds for WIOA implementation will maximize the opportunity for more timely and effective transition to WIOA.

Section 503 (a) (and (b) of WIOA provides the Secretary of Labor with the authority to take such actions as the Secretary determines to be appropriate to provide for the orderly transition from the Workforce Investment Act of 1998 to any provision of WIOA Title I. The Department is applying this transition authority to further provide flexibility in the use of Rapid Response funds.

4. **Flexibility in the Use of Rapid Response Funds.** The Department recognizes that there may be significant costs associated with successful implementation of WIOA. As Boards work to operationalize the new statute, strong partnership and collaboration among the State Board, local boards, and program partners are critical to maximize impact and effectively manage resources. States and local areas must strategically align and invest a variety of resources to successfully implement the changes expected by WIOA. We encourage States to assess the variety of resources available to them and target them where they will most impact success.

As discussed in TEG 12-14, WIOA authorizes States to use up to two percent of Program Year (PY) 2014 formula resources to conduct activities for implementation of WIOA. This two percent limit likely represents less funding than most States will need to conduct critical implementation activities such as those described in Section 4B of this TEG as well as activities that may be necessary beyond PY 2014. In the absence of additional

appropriations, the Department has considered several alternatives for making additional resources available to States for WIOA implementation activities with the goal of increasing the resources available to States for WIOA implementation activities while also minimizing potential negative impacts on service delivery.

The Department has decided to provide States additional flexibility in the use of their Rapid Response funds for WIOA implementation. Based on past trends in the expenditure rate for the Rapid Response program, in the first year availability, which averaged approximately 50 percent annually, we believe there is opportunity to use a portion of these funds for WIOA implementation. Like other WIA formula resources, Rapid Response funds are available for expenditure for three program years.

While we are allowing States to use a portion of their Rapid Response funds for WIOA implementation activities, the priority remains to meet statutory requirements for the Rapid Response program. The Department understands States may face competing priorities; however, these funds should only be used for WIOA implementation activities when sufficient funds have been set aside for operation of the Rapid Response program. The use of these funds represents a one-time flexibility to support the transition to a new law.

The Department understands this is not an ideal solution for many States, since the amount of Rapid Response funds that will be available may vary by State and there are a number of States that do not have significant amounts of unexpended Rapid Response funding to use for WIOA implementation activities. The Department will continue to assess other funding alternatives that may be available to these States.

A. Allowable Amounts for Use. To maximize the resources available to States for WIOA implementation activities while also minimizing potential negative impacts on service delivery, the Department is authorizing States to use the following amounts of Rapid Response funds to carry out WIOA implementation activities. States may provide these funds to local areas.

- Up to 100 percent of unexpended PY 12 WIA Rapid Response carry-in funds as of June 30, 2013
- Up to 100 percent of unexpended PY 13 WIA Rapid Response carry-in funds as of June 30, 2014
- Up to 100 percent of the PY14 WIA Rapid Response funds
- Up to 50 percent of the PY15 WIOA Rapid Response funds

B. Allowable Uses of the Funds. These flexible funds must be used for the following priority WIOA-implementation activities. While States have flexibility to use the funds for the uses identified, the Department expects that they will prioritize the use of the funds for items identified in Category 1 described below, which focus on system infrastructure for performance data and reporting. The Department believes these items are critical for ensuring effective resource and performance management, and are the most costly to implement. Items listed in Category 2 are also critical to support short and long-term planning and are

allowable. The Department expects that States will coordinate where appropriate with local areas on these activities and may allot these flexible Rapid Response funds to conduct these activities where necessary. As with any costs incurred, States and local areas must adhere to OMB's Uniform Administrative Requirements and Uniform Cost Principles that were in effect at the time the monies were awarded to ensure compliance.

Category 1 Allowable Uses:

- Upgrading and revising state management information systems to include: collection of new data elements specified in WIOA; building integrated or bridged cross program data systems to facilitate WIOA implementation; updating data infrastructure to provide integration with financial and accounting systems; and creating common methods and forms to create an integrated intake mechanism for WIOA core programs (i.e. Adults, Dislocated Workers, Youth, Wagner-Peyser, Adult and Family Literacy Act, and Rehabilitation Act of 1973).
- Supporting the building of state-based wage matching infrastructure to enable and/or streamline WIOA performance reporting, including Eligible Training Provider performance reporting.
- Preparing a methodology to collect Eligible Training Provider (ETP) data and to create mandated ETP reports.
- Assessing and reengineering of case management systems to include common intake/registration.
- Assessing management information systems, including ability to integrate performance accountability information and fiscal systems across core and other programs. Although specific data elements may not be completely known, States could begin procurement process for information technology enhancements including procurement of necessary software and/or hardware.
- Establishing memoranda of understanding among core programs for sharing of data within the State for performance accountability and evaluation purposes.
- Planning with regard to co-location with Wagner-Peyser (which may include costs for terminating leases or modifying space).

Category 2 Allowable Uses:

- Training staff for new WIOA requirements and activities.
- Conducting new procurements or revising existing contracts.
- Hiring of additional staff to support program implementation.
- Conducting strategic planning efforts, including convening relevant program and stakeholder discussions and meetings.
- Addressing costs associated with the identification of economic regions, which may include statewide economic and labor market information analyses.
- Addressing costs associated with the renegotiating all One-Stop MOU's and resource sharing agreements.

C. **Financial Reporting.** For the Rapid Response funds that States opt to use for WIOA-implementation activities identified in Section 4B, expenditures related to these activities must be reported separately on the applicable ETA-9130 form. Specifically, expenditures are to be reported on Line 12, Remarks. These expenditures must be traceable through the entity's accounting system; additionally we suggest that entities use separate expense codes for tracking purposes. Use of Rapid Response funds for WIOA implementation activities will not count against the State's 5% administrative limitation.

5. **Requested Action.** States that opt to use Rapid Response fund for the purposes discussed in Section 4 must notify their ETA regional office in writing. States must include the estimated amount of funding it proposes to use and for what purposes.
6. **Inquiries.** Please direct any questions about WIOA implementation to the appropriate ETA regional office.
7. **Attachment.**
 - Attachment I: References