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ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 16-18

TO: STATE WORKFORCE AGENCIES
ALL STATE WORKFORCE LIAISONS

FROM: MOLLY E. CONWAY /s/
Acting Assistant Secretary

SUBJECT: Workforce Innovation and Opportunity Act (WIOA) Adult, Dislocated Worker and Youth Activities Program Allotments for Program Year (PY) 2019; Final PY 2019 Allotments for the Wagner-Peyser Act Employment Service (ES) Program Allotments; and the Allotments of Workforce Information Grants to States for PY 2019

1. **Purpose.** To provide information to states and outlying areas on WIOA Title I Adult, Dislocated Worker and Youth Activities program allotments for PY 2019; final PY 2019 allotments for the Wagner-Peyser Act ES Program, as required by section 6(b)(5) of the Wagner-Peyser Act, as amended; and the allotments of Workforce Information Grants to states for PY 2019.
2. **Action Requested.** States must follow the requirements in this guidance to obtain the federal funds needed to manage their programs.
3. **Summary and Background.**

Summary. This document provides grantees with guidance and information including:

- How to obtain the federal funds covered by the TEGP and financial reporting requirements;
- The potential for reallocation of PY 2019 funds based on unobligated balances of PY 2018 funds in excess of 20 percent of their allotment at the end of the first program year;
- Requirements when calculating sub-state allocations to local areas;
- Funds set aside for evaluations and activities related to program integrity;
- Salary caps at the Executive Level II; and
- Waivers of the competition requirement for outlying areas.

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Background. On September 28, 2018, the Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019, Pub. L. 115-245 was signed into law (from this point forward, referred to as “the Act”). The Act makes PY 2019 Youth Activities funds available for obligation on April 1, 2019, and funds the WIOA Adult and Dislocated Worker programs in two separate appropriations. The first appropriations for the Adult and Dislocated Worker programs become available for obligation on July 1, 2019; this portion is commonly referred to as “base” funds. The second appropriations for the Adult and Dislocated Worker programs become available for obligation on October 1, 2019; this portion is commonly referred to as “advance” funds because they are provided in the appropriations act passed during the fiscal year immediately before the fiscal year when the funds are available. For example, funds for PY 2019 that will be made available on October 1, 2019 were appropriated during FY 2019, but not made available until FY 2020, and are called the FY 2020 “advance” funds. See Attachment A for details.

The Act, Division B, Title I, secs. 106(b) and 107, allows the Secretary of Labor (Secretary) to set aside up to 0.5 percent of each discretionary appropriation for activities related to program integrity and 0.75 percent of most operating funds for evaluations. For 2019, as authorized by the Act, the Department has set aside \$7,774,000 of the Training and Employment Services (TES) and \$1,950,000 of the State Unemployment Insurance and Employment Services Operations (SUIESO) appropriations for these activities. ETA reserved these funds from the WIOA Adult, Youth, Dislocated Worker, Wagner-Peyser Act Employment Service, and Workforce Information Grant program budgets. Any funds not utilized for these reserve activities will be provided to the states.

ETA applied the reductions for evaluations and program integrity from the WIOA Adult and Dislocated Worker programs only to the FY 2020 “advance” funding levels; “base” funding is disseminated at the full amount appropriated in the Act.

The Act also specifies that the Secretary may reserve no more than 10 percent of the Dislocated Worker National Reserve funds to provide technical assistance and carry out additional activities related to the transition to WIOA. Lastly, salary caps are imposed under the Act, Division B, Title I, sec. 105. The funds provided to grantees in these allotments must not be used by a recipient or sub-recipient to pay the salary or bonus of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II. The rates of basic pay for the Executive Schedule are found at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>. States also may establish lower salary caps. See TEGL No. 5-06.

WIOA allotments for states are based on formula provisions contained in WIOA (see Attachment B for WIOA and Wagner-Peyser formula descriptions). The Act waives the competition requirement regarding funding to outlying areas (i.e., American Samoa, Guam, Commonwealth of the Northern Mariana Islands, the Republic of Palau, and the United

States Virgin Islands). For PY 2019, outlying area grant amounts are based on the administrative formula determined by the Secretary that was used under WIA.

WIOA specifically included the Republic of Palau as an outlying area, except during any period for which the Secretary of Labor and the Secretary of Education determine that a Compact of Free Association is in effect and contains provisions for training and education assistance prohibiting the assistance provided under WIOA. No such determinations prohibiting assistance have been made (WIOA sec. 3(45)(B)). WIOA updated the Compact of Free Association Amendments of 2003, Pub. L. 108-188 (December 17, 2003) so that the Republic of Palau remained eligible for WIOA Title I funding. See 48 U.S.C. 1921d(f)(1)(B)(ix). The Act, Division B, Title III, sec. 303 authorized WIOA Title I funding to Palau through FY 2019.

In addition to this TEGL, ETA will publish the allotments and descriptions of the allotment formulas in the Federal Register. In this Federal Register notice, ETA will invite comments on the allotment formula for outlying areas.

4. State WIOA Youth Activities Funds: Title I--Chapter 2--Youth Activities.

- A. State Allotments. The appropriated level for PY 2019 for WIOA Youth Activities totals \$903,416,000. After reducing the appropriation by \$2,625,000 for set asides authorized by the Act, \$900,791,000 is available for Youth Activities, which includes \$13,511,865 for Native American grantees, \$885,060,937 for states, and \$2,218,198 for outlying areas. Note that under WIOA the basis for calculating the 1/4 of one percent reserved for outlying areas is based on the total available for Youth Activities after the Native American reservation. The Native American reservation is calculated on the total available for Youth Activities. Attachment D contains a breakdown of the WIOA Youth Activities program allotments by state for PY 2019 and provides a comparison of these allotments to PY 2018. Please note that the Department will provide information on the Native American Youth allotments in a separate TEGL.

Formula funds are allotted for PY 2019 Youth Activities among the states, in accordance with WIOA formula requirements. For reference, the Department allots these funds to the states based on the following data factors:

1. The average number of unemployed individuals for Areas of Substantial Unemployment (ASUs) for the 12-month period, July 2017 through June 2018, as prepared by the states under the direction of the Bureau of Labor Statistics (BLS), in each state compared to the total number of unemployed individuals in ASUs in all states;
2. The number of excess unemployed individuals or excess unemployed individuals in ASU (depending on which is higher) averages for the same 12-month period, July 2017 through June 2018, compared to the total excess individuals or ASU excess in all states; and

3. The number of disadvantaged youth (age 16 to 21, excluding college students not in the workforce and military) from special tabulations of data from the American Community Survey (ACS) in each state compared to the total number of disadvantaged youth in all states. The Census Bureau collected the data used in the special tabulations for disadvantaged youth between January 1, 2011 and December 31, 2015.

Since the total amount available for states in PY 2019 is below the required \$1 billion threshold specified in WIOA sec. 127(b)(1)(C)(iv)(IV), which was also the case in PY 2018, the Department did not apply the WIOA additional minimum provisions (see Attachment B). Instead, the minimums of 90 percent of the prior year allotment percentage and 0.25 percent state minimum floor apply, as required by WIOA. This is the same methodology to set a floor on the annual variation in allotments as has been applied almost continuously for more than two decades. See sec. 262(b)(2) of the Job Training Partnership Act (JTPA) (Pub. L. 97-300), (as amended by sec. 207 of the Job Training Reform Amendments of 1992, Pub. L. 102-367); sec. 127(b)(1)(C)(iv)(IV) of the Workforce Investment Act of 1998 (Pub. L. 105-220). WIOA also maintains that no state may receive an allotment that is more than 130 percent of the allotment percentage for the state for the previous year.

- B. PY 2019 Funding WIOA Agreement/Notice of Award (NOAs). Youth program funds are available to states to use once the PY 2019 WIOA Annual Funding Agreement/NOA is complete.
- C. Sub-State Allocations. States must distribute WIOA Youth Activities funds among local workforce areas (subject to reservation of the 15 percent limitation for statewide workforce employment and training activities) in keeping with the provisions of WIOA sec. 128 and their approved Unified or Combined WIOA State Plan. In allocating Youth Activities funds to local areas for PY 2019, states may use either the allocation formula described in WIOA sec.128(b)(2) or the discretionary allocation formula in WIOA sec. 128(b)(3), and ensure the state policy articulated in the approved State Plan remains consistent with this guidance. Consistent with sec. 182(e) of WIOA, sub-state allocations must be made available to local areas not later than 30 days after the date funds are made available to the state or 7 days after the date the local plan for the area is approved, whichever is later. **See Attachment C-1 and C-2** for a description of sub-state allocation formulas.
 1. Allocation Formula. Thirty-three and 1/3 percent of the total funds available for local allocations are allocated based on each local area's relative share of each data factor listed below.
 - a. The relative number of unemployed individuals in Areas of Substantial Unemployment (ASUs) in each local area, compared to the total number of

unemployed individuals in ASUs in all local areas in the state. For this factor, the timeframe for comparison is the 12-month period, July 2017 to June 2018.

- b. The relative excess number of unemployed individuals in each local area, compared to the total excess number of unemployed individuals in all local areas in the state. See the definition of “excess number” below which requires a comparison of the excess unemployed in ASUs with excess unemployed in all areas. For this factor, the timeframe for comparison is the 12-month period, July 2017 to June 2018.
- c. The relative number of disadvantaged youth (age 16 to 21, excluding college students not in the workforce and military), in each local area, compared to the total number of disadvantaged youth in all local areas in the state. The number of disadvantaged youth comes from special tabulations of data from the ACS prepared in accordance with the definition provided in WIOA. The Census Bureau collected this data between January 1, 2011 and December 31, 2015.

For purposes of identifying ASUs for the Youth Activities sub-state allocation formula, states must use data made available by BLS (as described in LAUS Technical Memorandum No. S-18-15).

The term “excess number” means, used with respect to the excess number of unemployed individuals within a local area, the higher of (i) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the local area; or (ii) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in ASUs in such local area.

In order to determine the number of disadvantaged youth for the sub-state Youth formula, states must use the special tabulations of ACS data available at <http://www.doleta.gov/budget/disadvantagedYouthAdults.cfm>. ETA obtained updated data for use in PY 2018 and the same data must be used in PY 2019. See TEGL No. 14-17 for further information.

States must utilize a minimum percentage (or stop loss) to ensure that no local area receives an allocation percentage that is less than 90 percent of the average allocation percentage received by the local area for the previous two years. An allocation percentage is the local area’s share or percentage of funds allocated to all local areas. States must **not** use 90 percent of the average *amount* allocated to the local area for the last two years. States must obtain amounts necessary to increase allocations to local areas to comply with the minimum percentage requirement by proportionately reducing the allocations to be made to other local areas.

States must not use a maximum percentage (or stop gain).

2. Discretionary Formula. Alternatively, a state may use a discretionary formula. When using a discretionary formula, a state distributes a portion that is at least 70 percent of the funds according to the allocation formula described in subparagraph 4.C.1 of this TEGL, and the remainder on the basis of a formula that incorporates additional factors relating to:
 - a. excess youth poverty in urban, rural, and suburban areas; **and**
 - b. excess unemployment above the state average in urban, rural, and suburban local areas.

Of the portion of funds distributed according to the allocation formula described in subparagraph 1, a state must not assign unequal percentages to the ASU, excess unemployment, and disadvantaged data factors. These three data factors carry equal weights and must not total less than 70 percent of the formula.

Of the remainder, states may determine the percentage to allocate to data factors reflecting excess youth poverty and excess unemployment above the state average.

States also have flexibility in choosing what data they want to use related to youth poverty and excess unemployment above the state average. States **may not** reuse the allocation formula data factors (ASU, excess unemployment, and disadvantaged youth) to distribute the remainder. Using data factors such as high school dropout rate may be an acceptable reflection of youth poverty, but the state must articulate how such factors relate to youth poverty in the State Plan.

For the portion of funds distributed according to the allocation formula (which represent at least 70 percent of the distributed funds), the state must employ the minimum percentage (or stop loss), as described in subparagraph 1 on the allocation formula. The state may choose whether to apply the minimum percentage to the remainder portion of funds that the state distributes according to the discretionary formula (which represent not more than 30 percent of the distributed funds).

The State Board must develop the discretionary formula, and the Secretary must approve it as part of the State Plan.

- D. Transfer of Funds. Local workforce areas do not have the authority to transfer funds to or from the Youth Activities program.
- E. Re-allotment of Funds. WIOA sec. 127(c) requires the Secretary of Labor to recapture and reallocate Youth Activities program formula funds based on state obligation levels at the end of the first program year of use (ETA reallocates in accordance with 20 CFR 683.135). PY 2018 funds are only available for Federal obligation until the end of the program year, and so the Secretary does not have authority to reobligate PY 2018 funds after the first

program year. Therefore, any reallocation of funds requires the use of PY 2019 funds. In other words, recapture and reallocation of PY 2019 funds is based on obligation levels of PY 2018 funds at the end of PY 2018.

1. The obligation threshold a state must meet to avoid recapture under WIOA sec. 127(c)(2) is 80 percent. The term obligation is defined at 2 CFR 200.71. The funds that a state allocates to a local area are state obligations. WIOA requires states to allocate at least 85 percent of Youth Activities funds to local areas. Therefore, by making the required local allocations, the state has obligated more than 80 percent of its PY 2018 funds and no further action is required regarding reallocation of PY 2019 funds.
2. States report the aggregate amount of allocations to the local areas on the Local Youth ETA 9130 (B) financial reports, along with obligations by local areas of those funds.

F. Small State Minimum Allotment States. WIOA sec. 129(a)(4)(B) allows a state that receives a small state minimum allotment under WIOA sec. 127(b)(1) (relating to the youth formula program) or 132(b)(1) (relating to the adult formula program) to submit a request for approval to the Department to decrease the percentage of funds spent on out-of-school youth (OSY) to not less than 50 percent in a local area. To determine if a state receives a small state minimum allotment, review the PY 2019 columns in Attachments D and E. States that meet the criteria for PY 2019 as a minimum allotment state are those states that receive a PY 2019 WIOA Youth allotment of \$2,212,652 or receive a PY 2019 WIOA Adult allotment of \$2,103,446. If a state wishes to submit a small state OSY exception request, they must submit the request for PY 2019 by September 30, 2019. The request must be submitted to the appropriate ETA Regional Administrator and contain the required justification outlined in the WIOA final rule at 20 CFR 681.410(b).

5. State Adult Employment and Training Activities Funds: Title I--Chapter 3--Adult and Dislocated Worker Employment and Training Activities.

A. State Allotments. The total appropriated funds for Adult Activities in PY 2019 is \$845,556,000. After reducing the appropriated amount by \$2,069,000 for set asides authorized by the Act, \$843,487,000 remains for Adult Activities, of which \$841,378,282 is for states and \$2,108,718 is for outlying areas. Attachment E shows the PY 2019 Adult Employment and Training Activities allotments and a state-by-state comparison of the PY 2019 allotments to PY 2018 allotments.

The three formula data factors that the Department uses to distribute WIOA Adult Activities funds among the states are the same as those used for the Youth Activities formula, except that data is used for the number of disadvantaged adults (age 22 to 72, excluding college students not in the workforce and military), rather than the number of disadvantaged youth. Since the total amount available for the Adult Activities program for states in PY 2019 is below the required \$960 million threshold specified in WIOA

sec. 132(b)(1)(B)(iv)(IV), as was also the case in PY 2018, the WIOA additional minimum provisions (See Attachment B) are not applicable. Instead, as required by WIOA, the minimums of 90 percent of the prior year allotment percentage and 0.25 percent state minimum floor apply. As noted above, this is the same methodology to set a floor on the annual variation in allotments as has been applied almost continuously for more than two decades, under both JTPA and WIA. Like for the Youth program, WIOA also provides that no state may receive an allotment that is more than 130 percent of the previous year allotment percentage for the state.

- B. PY 2019 Funding WIOA Agreement/NOAs. For PY 2019, Congress appropriated funds for this program in two portions: \$133,556,000 is available for obligation on July 1, 2019 (PY 2019), and \$712,000,000 is available for obligation on October 1, 2019 (FY 2020). After reductions associated with evaluations and program integrity, the amount available for Adult Activities on July 1, 2019 (PY 2019) is \$133,556,000, and on October 1, 2019 is \$709,931,000. The Department prorated allotments to states and outlying areas based on these total amounts and will issue two NOAs (subject to the state submitting an approved State Plan under secs. 102 or 103 of WIOA). The first NOA covers the period starting July 1, 2019, under the PY 2019 WIOA grant agreement, and the other for October 1, 2019, also under the PY 2019 WIOA grant agreement (see Attachment F).
- C. Sub-State Allocations. States must distribute WIOA Adult Activities funds for PY 2019 allotments among local workforce areas (subject to reservation of the 15 percent limitation for statewide employment and training activities) in accordance with the provisions in WIOA section 133 and the approved State Plan. States must calculate the up to 15 percent available for statewide activities on the total allotment for PY 2019. In allocating WIOA Adult funds to local areas for PY 2019, states may use either the allocation formula described in WIOA sec. 133(b)(2)(A) or the discretionary allocation formula in WIOA sec. 133(b)(3). Also, states must ensure the state policy articulated in the approved State Plan remains consistent with this guidance. **See Attachments C-1 and C-2** for a description of sub-state allocation formulas.
1. Allocation Formula. Thirty-three and 1/3 percent of the total funds available for local allocations are allocated based on each local area's relative share of each data factor listed below.
 - a. The relative number of unemployed individuals in ASUs in each local area, compared to the total number of unemployed individuals in ASUs in all local areas in the state. For this factor, the timeframe for comparison is the 12-month period, July 2017 to June 2018.
 - b. The relative excess number of unemployed individuals in each local area, compared to the total excess number of unemployed individuals in all local areas in the state. See the definition of "excess number" below which requires a comparison of the excess unemployed in ASUs with excess unemployed in

all areas. For this factor, the timeframe for comparison is the 12-month period, July 2017 to June 2018.

- c. The relative number of disadvantaged adults (age 22 to 72, excluding college students not in the workforce and military) in each local area, compared to the total number of disadvantaged adults in all local areas in the state. The Census Bureau collected the data used in the special tabulations for disadvantaged adults between January 1, 2011 and December 31, 2015.

For purposes of identifying ASUs for the Adult Activities sub-state allocation formula, states should use data made available by BLS (as described in LAUS Technical Memorandum No. S-18-15).

The term “excess number” means, used with respect to the excess number of unemployed individuals within a local area, the higher of (i) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the local area; or (ii) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in ASUs in such local area.

In order to determine the number of disadvantaged adults for the sub-state Adult formula, states must use the special tabulations of ACS data available at <https://www.doleta.gov/budget/disadvantagedYouthAdults.cfm>. ETA obtained updated data for use in PY 2018 and the same data must be used in PY 2019. See TEGL No. 14-17 for further information.

States must utilize a minimum percentage (or stop loss) to ensure that no local area receives an allocation percentage that is less than 90 percent of the average allocation percentage of the local area for the previous two years. An allocation percentage is the local area’s share or percentage of funds allocated to all local areas. States must **not** use 90 percent of the average *amount* allocated to the local area for the last two years. States must obtain amounts necessary to increase allocations to local areas to comply with the minimum percentage requirement by proportionately reducing the allocations to be made to other local areas.

States must not use a maximum percentage (or stop gain).

In accordance with sec. 182(e) of WIOA, states must make sub-state allocations available to local areas not later than 30 days after the date funds are made available to the state, or 7 days after the date the local plan for the area is approved, whichever is later.

2. Discretionary Formula. Alternatively, a state may use a discretionary formula. When using a discretionary formula, a state distributes a portion that is at least 70 percent of the funds according to the allocation formula described in subparagraph 5.C.1 of this

TEGL and the remainder on the basis of a formula that incorporates additional factors related to:

- a. excess poverty in urban, rural, and suburban areas, **and**
- b. excess unemployment above the state average in urban, rural, and suburban local areas.

Of the portion of funds distributed according to the allocation formula described in subparagraph 1, a state must not assign unequal percentages to the ASU, excess unemployment, and disadvantaged data factors. These three data factors carry equal weights and must total at least 70 percent of the formula.

Of the remainder, states may determine the percentage to allocate to data factors reflecting excess poverty and excess unemployment above the state average.

States also have flexibility in choosing the data they want to use related to poverty and excess unemployment above the state average. States **may not** reuse the allocation formula data factors (ASU, excess unemployment, and disadvantaged adults) to distribute the remainder. Using data factors not directly describing poverty or excess unemployment may be acceptable, but the state must articulate how such factors relate to the statutory requirements in the State Plan.

The discretionary formula must also employ a minimum percentage, as described in subparagraph 1 on the allocation formula. The minimum percentage may be applied to the 70 percent (or greater) portion or to the entire allocation.

The State Board must develop the discretionary formula, and the Secretary must approve it as part of the State Plan.

- D. Transfers of Funds. WIOA sec. 133(b)(4) provides the authority for local workforce areas, with approval of the Governor, to transfer up to 100 percent of the Adult Activities funds for expenditure on Dislocated Worker Activities, and up to 100 percent of Dislocated Worker Activities funds for expenditure on Adult Activities. All other states and local workforce areas do not have the authority to transfer funds to or from the Youth Activities program.
- E. Re-allotment of Funds. WIOA sec. 132(c) requires the Secretary of Labor to recapture and reallocate Adult Activities program formula funds based on state obligation levels at the end of the first program year of use (ETA reallocates in accordance with 20 CFR 683.135). PY 2018 funds are only available for Federal obligation until the end of the program year, and so the Secretary does not have authority to re-obligate PY 2018 funds after the first program year. Therefore, any re-allotment of funds requires the use of PY 2019 funds.

In other words, re-allotment of PY 2019 funds is based on obligation levels of PY 2018 funds at the end of PY 2018.

1. The obligation threshold a State must meet to avoid recapture under WIOA sec. 132(c)(2) is 80 percent. The term obligation is defined at 2 CFR 200.71. The funds that a state allocates to a local area are state obligations. WIOA requires states to allocate at least 85 percent of Adult Activities funds to local areas. Therefore, by making the required local allocations, the state has obligated more than 80 percent of its PY 2018 funds and no further action is required regarding re-allotment of PY 2019 funds.
2. States report aggregate allocations to the local areas on the Local Adult ETA 9130 (D) financial reports, along with obligations by local areas of those funds.

6. State Dislocated Worker Employment and Training Funds: Title I--Chapter 3--Adult and Dislocated Worker Employment and Training Activities.

The amount appropriated for Dislocated Worker Activities in PY 2019 totals \$1,261,719,000. The total appropriation includes formula funds for the states, while the National Reserve is used for National Dislocated Worker Grants, technical assistance and training, demonstration projects, and the outlying areas' Dislocated Worker allotments. After reducing the appropriated amount by \$3,080,000 for set asides authorized by the Act, a total of \$1,258,639,000 remains available for Dislocated Worker Activities. The amount available for outlying areas is \$3,146,598, leaving \$217,131,402 for the National Reserve and a total of \$1,038,361,000 available for states.

- A. State Allotments. Attachment G shows the PY 2019 Dislocated Worker Activities allotments and a state-by-state comparison of the PY 2019 allotments to PY 2018 allotments.

WIOA prescribes different data factors for the federal allotment of Dislocated Worker funds by the Department to the states, and for the sub-state allocation of Dislocated Worker funds by the Governor within a state. The Department has allotted the PY 2019 Dislocated Worker program state allotments among the states in accordance with the factors required by WIOA. For reference, the three data factors that the Department considers in allocating these funds to the states are:

1. The relative number of unemployed individuals in each state, compared to the total number of unemployed individuals in all states. For this factor, the timeframe for comparison is the 12-month period, October 2017 through September 2018.
2. The relative number of excess unemployed individuals in each state, compared to the total excess number of unemployed individuals in all states. For this factor, the timeframe for comparison is the 12-month period, October 2017 through September 2018. No comparison to ASU excess is performed for this data factor.

3. The relative number of individuals in each state who have been unemployed for 15 weeks or more, compared to the total number of individuals in all states who have been unemployed for 15 weeks or more. For this factor, the timeframe for comparison is the 12-month period, October 2017 through September 2018.

WIOA sec. 132(b)(2)(B)(iii)(I) requires the Dislocated Worker formula to adopt a 90 percent minimum of the prior year allotment percentage (stop loss). WIOA also provides that no state may receive an allotment that is more than 130 percent of the allotment percentage for the state for the previous year (stop gain) under section 132(b)(2)(B)(iii)(II).

Low unemployment rates in the states have impacted the excess unemployment data factor in the WIOA Dislocated Worker formula. The excess unemployment rate of 4.5 percent and low unemployment result in all states triggering either their statutorily required stop loss or stop gain provision, with some PY 2019 funding undistributed. WIOA specifically prohibits distributing an amount to a state that is more than its stop gain limit. Based on this statutory limitation, the Department distributed the remaining balance of funds according to the formula driven relative share of all states triggering the stop loss provision.

- B. PY 2019 Funding WIOA Agreement/NOAs. For PY 2019, Congress appropriated funds for this program in two portions for both formula funds and National Reserve funds. For state formula funds, \$180,860,000 is available for obligation on July 1, 2019 (PY 2019), and \$860,000,000 is available for obligation on October 1, 2019 (FY 2020). For the National Reserve, which includes funds for the outlying areas, \$20,859,000 is available for obligation on July 1, 2019 (PY 2019), and \$200,000,000 is available for obligation on October 1, 2019 (FY 2020). After reductions associated with evaluations and program integrity, the amount available for state formula funds on July 1, 2019 is \$180,860,000 and on October 1, 2019 is \$857,501,000. For the National Reserve, the amount available on July 1, 2019 is \$20,859,000 and on October 1, 2019 is \$199,419,000. Allotments to states and outlying areas are prorated based on the two amounts for formula funds and National Reserve, respectively. ETA will issue allotments in two NOAs: one for July 1, 2019, under the PY 2019 WIOA grant agreement, and the other for October 1, 2019, also under the PY 2019 WIOA grant agreement (see Attachment H).
- C. Sub-State Allocations. States will distribute Dislocated Worker Activities funds for PY 2019 among local workforce areas (subject to the Governor's reservation of up to 25 percent for statewide Rapid Response activities under WIOA sec. 133(a)(2) and the 15 percent limitation for statewide employment and training activities), in accordance with the provisions in WIOA section 133 and the approved State Plan. States must calculate up to 15 percent for statewide activities on the total allotment for PY 2019.

In allocating WIOA Dislocated Worker funds to local areas for PY 2019, states must ensure the State policy articulated in the approved State Plan remains consistent with this guidance. See Attachment C-1 for a description of sub-state allocation formulas.

Governors continue to prescribe the Dislocated Worker formula for sub-state allocations. Under WIOA, the data factors that must be included are:

- insured unemployment data,
- unemployment concentrations,
- plant closing and mass layoff data,
- declining industries data,
- farmer-rancher economic hardship data, and
- long-term unemployment data.

A State may assign zero weight to a factor only where the state is able to demonstrate it does not have an appropriate data source to accurately reflect state needs for a given data factor. For example, the Bureau of Labor Statistics no longer produces the plant closing and mass layoff data, one of the six data factors WIOA requires. ETA recognizes that an accurate source of such data is no longer available at the national level. Some states have sub-state administrative data available and others do not. In order to assign a weight of zero to a data factor, such as the plant closing and mass layoff data factor, the state must include the following information in their State Plan:

- An inventory of available national or state-level data sources germane to the data factor;
- A discussion of why the available data sources are inadequate for the purposes of assigning a weight to a given data factor; and
- A description of how the Governor's formula is appropriate to distribute funds equitably throughout the state.

(Note that weighting a data factor at zero percent is not allowable under any other circumstance.)

WIOA requires the use of a minimum percentage (or stop loss) (see WIOA sec. 133(b)(2)(B)(iii)). A local workforce area must receive an **allocation percentage that is no less than 90 percent** of the average allocation percentage of the local area for the two preceding years. In the event of a shortage of funds, states must obtain the amounts necessary to increase the allocations to local areas to comply with this provision by proportionately reducing the allocations to other local areas. The minimum percentage methodology states use for Dislocated Worker funds is the same minimum percentage methodology used in the sub-state Youth and Adult allocation formulas. States are not required to use a maximum percentage (or stop gain), but may use one if desired.

D. Transfers of Funds. See 5.D. above.

E. Re-allotment of Funds. WIOA sec. 132(c) requires the Secretary of Labor to recapture and reallocate Dislocated Worker program formula funds based on State obligation levels at the end of the first program year of use (ETA reallocates in accordance with 20 CFR 683.135). PY 2018 funds are only available for Federal obligation until the end of the

program year, and so the Secretary does not have authority to re-obligate PY 2018 funds after the first program year. Therefore, any re-allotment of funds requires the use of PY 2019 funds. In other words, the Department will reallocate PY 2019 Dislocated Worker formula funds among states during PY 2019 based on state obligations of PY 2018 funds made during PY 2018. Likewise, obligation of PY 2019 funds will impact recapture and reallocation of PY 2020 funding.

1. WIOA sec. 134(a)(2)(A)(ii) gives states the flexibility to use PY 2018 Rapid Response funds that are not obligated by the end of PY 2018 for statewide activities. Per WIOA sec. 132(c), states must still obligate 80 percent of their PY 2018 Dislocated Worker program formula funds, which includes Rapid Response funds, by June 30, 2019 or potentially have PY 2019 funds recaptured and re-allotted to states who have obligated 80 percent of their PY 2018 funds.
2. The term obligation is defined at 2 CFR 200.71. The funds a state allocates to local areas are state obligations. States report aggregate allocations to the local areas on the Local Dislocated Worker ETA 9130 (F) financial reports, along with obligations by local areas of those funds.

7. **Wagner-Peyser Act ES Final Allotments.** The appropriated level for PY 2019 for grants for the ES programs totals was \$663,052,000. After reducing the appropriation by \$1,865,000 for set asides authorized by the Act, \$661,187,000 is available for the ES programs. After determining the funding for Guam and the United States Virgin Islands, ETA calculates allotments to states using the formula set forth at section 6 of the Wagner-Peyser Act (29 U.S.C. 49e). ETA based PY 2019 formula allotments on each state's share of calendar year 2018 monthly averages of the Civilian Labor Force (CLF) and unemployment. The distribution of Wagner-Peyser Act funds for PY 2019 includes \$659,575,256 for states, as well as \$1,611,744 for Guam and the United States Virgin Islands. Attachment I shows the distribution of PY 2019 ES formula amounts by state compared to PY 2018.

Section 7(a) of the Wagner-Peyser Act (49 U.S.C. § 49f(a)) authorizes states to use 90 percent of the funds allotted to a State for labor exchange services, and other career services such as job search and placement services to job seekers; appropriate recruitment services for employers; program evaluations; developing and providing labor market and occupational information; developing management information systems; and administering the work test for unemployment insurance claimants.

Section 7(b) of the Wagner-Peyser Act (49 U.S.C. § 49f(b)), states that 10 percent of the funds allotted to a state must be reserved for use by the Governor to provide performance incentives for public employment service offices and programs, provide services for groups with special needs, and provide for the extra costs of exemplary models for delivering services of the type described in section 7(a) and models for enhancing professional development and career advancement opportunities of state agency staff.

- 8. Workforce Information Grants (WIGs).** Total funds for PY 2019 are \$32,000,000. After reducing the total by \$85,000 for program integrity, \$31,915,000 is available for Workforce Information Grants. Funds are distributed to states by administrative formula with \$176,596 for Guam and the United States Virgin Islands. Guam and the United States Virgin Islands allotment amounts are partially based on CLF data from the BLS Current Population Study. The remaining funds are distributed to the states with 40 percent distributed equally to all states, and 60 percent distributed based on each state’s share of the CLF for the 12 months ending September 2018. Attachment J contains the allotment amounts.
- 9. Submission Requirements.** In order to achieve greater efficiency and as part of ETA’s ongoing effort to streamline the mandatory grant award process, all states and outlying areas are required to submit an electronically signed copy of an SF- 424, Application for Federal Assistance, through Grants.gov for **each** WIOA funding stream under Funding Opportunity Numbers (henceforth, in sections 9 through 11 of this TEGL, references to “states” shall be read to include outlying areas):
- **ETA-TEGL-16-18-YOUTH** [CFDA 17.259]
 - **ETA-TEGL-16-18-ADULT** [CFDA 17.258]
 - **ETA-TEGL-16-18-DW** [CFDA 17.278]

An electronically submitted SF-424 through Grants.gov constitutes an official signed document and must reflect the amount for **each** WIOA funding stream (Youth, Adult, and Dislocated Worker). The closing date for receipt of **each** SF-424 is 30 days from the issue date of this TEGL.

The PY 2019 “base” allotment of WIOA Adult and Dislocated Worker funds will be awarded during the period of availability beginning July 2019. The FY 2020 “advance” allotment will be awarded in the period of availability starting October 2019. ***A copy of the executed PY 2019 WIOA Agreement will be available upon award of funds.***

In addition, all states must submit an electronically signed SF-424, Application for Federal Assistance, through Grants.gov for **each** ES funding program under Funding Opportunity Numbers:

- **ETA-TEGL-16-18-ES** [CFDA 17.207]
- **ETA-TEGL-16-18-WIG** [CFDA 17.207]

States must follow the instructions in this TEGL to receive WIGs funding, including submission of SF-424s. Note that WIGs have specific grant deliverable requirements not outlined in this document. A forthcoming TEGL will list these grant deliverable requirements.

An electronically submitted SF-424 through Grants.gov constitutes an official signed document and must reflect the amount for **each** ES program (Wagner-Peyser ES Program and Workforce Information Grants). The closing date for receipt of **each** ES program SF-424 is 30 days from the issue date of this TEGL. ETA will award the Wagner-Peyser Employment

Service Program and Workforce Information Grant funds in July 2019. *A copy of the executed PY 2019 ES Agreement will be available upon award of funds.*

10. Grants.gov Submission Process. States must submit the SF-424, Application for Federal Assistance, through Grants.gov. States needing to register with Grants.gov may do so here: <https://www.grants.gov/web/grants/grantors/grantor-registration.html>. Registration is a one-time process, and States that already have a Grants.gov account do not need to register again.

To submit the required SF-424s, States must:

- Select the *SEARCH GRANTS* tab on the Grants.gov homepage.
- Under the section, *BASIC SEARCH CRITERIA*, States enter the Funding Opportunity Number referenced above in Section 9 for each WIOA funding stream (i.e. “ETA-TEGL”).
- Select the link to the applicable Opportunity Number provided in the search results.
- Select the *PACKAGE* tab.
- Under the *ACTIONS* column, select *APPLY*.

Submitting the SF-424 through Grants.gov constitutes an electronically signed SF-424, Application for Federal Assistance. For each funding stream, the Estimated Funding section of the SF-424 (item #18) must reflect the exact amount of the designated state allotment, referenced in the attachments to this TEGL. Additionally, Item #11 of the SF-424 must include the Catalog of Federal Domestic Assistance Number (CFDA) for the applicable WIOA funding stream, which is referenced above in Section 9.

This submission process can be complicated and time-consuming. As such, the Department strongly encourages states to initiate the process as soon as possible, in order to allow time to resolve unanticipated technical problems.

Submission requirements stipulate that all applicants for Federal grant and funding opportunities must have a Data Universal Numbering System (D-U-N-S®) number, and must supply their D-U-N-S® number on the SF-424.

Before submitting, states must also ensure its registration with the System for Award Management (SAM) is current. (SAM replaced the Central Contractor Registry.) States can find instructions for registering with SAM at <https://www.sam.gov>. An awardee must maintain an active SAM registration with current information at all times during which it has an active Federal award or an application under consideration. To remain registered in the SAM database after the initial registration, states must review and update the registration at least every 12 months from the date of initial registration. Failure to register with SAM and maintain an active account will result in Grants.gov rejecting your submission.

For technical issues encountered during application submission, states may call 800-518-4726 or 606-545-5035 to speak to a Customer Support Representative, or email

support@grants.gov. The Contact Center is open 24 hours a day, seven days a week, but closes on federal holidays.

States should e-mail all submission questions to Chanta Ferrell, Grants Management Specialist, at Ferrell.Chanta@dol.gov. The email must reference the specific Funding Opportunity Number, and include a contact name, email address, and phone number.

- 11. Reporting.** For the WIOA formula programs, states are required to submit the seven designated WIOA quarterly financial status reports covering funds received for each of the programs (including separate reports for each of the fund year periods for the Adult and Dislocated Worker Activities programs, July 1 funds and October 1 funds). These seven WIOA quarterly financial reports cover financial data for statewide Youth, statewide Adult, statewide Dislocated Worker, statewide Rapid Response (Dislocated Worker activities), local Youth, local Adult, and local Dislocated Worker activities. The Department also requires states to submit the designated financial reports each quarter for the Wagner-Peyser Act funds and the Workforce Information Grant funds.

See additional guidance and instructions in TEGl No. 2-16, Revised ETA-9130 Financial Report, Instructions, and Additional Guidance, at the following link:
https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5156.

Beginning in PY 2019, ETA will begin conducting a pilot to collect information about administrative costs at the State and local levels under the Wagner-Peyser Act, in accordance with the directive established in the FY 2019 Joint Explanatory Statement. This pilot will inform ETA and Congressional stakeholders about the services and costs of the Wagner-Peyser Act going forward. States can indicate their interest in the pilot by contacting their Regional Office.

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

13. References.

- Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019 (Pub. L. 115-245), and accompanying Conference Report, H.R. Rep. No. 115-952, page 518 (2018);
- Balanced Budget and Emergency Deficit Control Act of 1985, as amended (Title II of Pub. L. 99-177);
- Bipartisan Budget Act of 2018 (Pub. L. 115-123);
- Budget Control Act of 2011 (Pub. L. 112-25);
- Training and Employment Guidance Letter (TEGL) No. 14-17, *Updated Disadvantaged Youth and Adult Data for use in Program Year (PY) 2018 and future Workforce Innovation and Opportunity Act (WIOA) Youth and Adult Within-State Allocation Formulas*;

- Workforce Innovation and Opportunity Act (Pub. L. 113-128);
- Wagner-Peyser Act, as amended (29 U.S.C. 49 et seq.);
- Workforce Investment Act of 1998 (Pub. L. 105-220);
- Job Training Partnership Act (JTPA) (Pub. L. 97-300), as amended by the Job Training Reform Amendments of 1992 (Pub. L. 102-367);
- Compact of Free Association Amendments of 2003 (Pub. L. 108-188);
- TEGL No. 5-06, *Implementing the Salary and Bonus Limitations in Public Law 109-234*;
- TEGL No. 2-16, *Revised ETA-9130 Financial Report, Instructions, and Additional Guidance*; and
- *Local Area Unemployment Statistics (LAUS) Technical Memorandum No. S-18-15, Program Year 2019 Areas of Substantial Unemployment under the Workforce Innovation and Opportunity Act, dated July 31, 2018.*

14. Attachments.

- A. Program Year 2019 Funding
- B. WIOA and Wagner-Peyser Statutory Formula Descriptions for State Allotments
- C. WIOA Statutory and Discretionary Formulas for Sub-State Allocations
- D. WIOA Youth Activities Allotments,
PY 2019 vs PY 2018
- E. WIOA Adult Activities Allotments,
PY 2019 vs PY 2018
- F. WIOA Adult Activities PY 2019 Allotments,
July 1 and October 1 Funding
- G. WIOA Dislocated Worker Activities Allotments,
PY 2019 vs PY 2018
- H. WIOA Dislocated Worker Activities PY 2019 Allotments,
July 1 and October 1 Funding
- I. Employment Service (Wagner-Peyser) Allotments,
PY 2019 vs PY 2018
- J. Workforce Information Grants Allotments,
PY 2019 vs PY 2018