

<b>EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> WIA/Wagner-Peyser
	<b>CORRESPONDENCE SYMBOL</b> OWI
	<b>DATE</b> October 26, 2011

**ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 9-11**

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

**FROM:** JANE OATES /s/  
Assistant Secretary

**SUBJECT:** Revised Fiscal Year (FY) 2012 “Advance” Funding Levels Available  
October 2011 for Workforce Investment Act (WIA) Programs and  
Clarification on the Level of Governor’s Reserve

**1. Purpose.** Per recent Congressional action, this Training and Employment Guidance Letter (TEGL) has two purposes:

- a) To provide states with revised allotment levels for the WIA Adult and Dislocated Worker Fiscal Year 2012 “advance” funds which become available to states in October 2011. The revised levels are based on the 1.503 temporary rate of operations reduction included in the short-term Continuing Appropriations Acts of 2012.
- b) To clarify that the Governors’ Reserve is set at *five* percent for all Performance Year 2011 WIA funds.

**2. References.**

- Continuing Appropriations Act, 2012, Public Law (P.L.) 112-33, Sections 101, 115, and 133, enacted September 30, 2011, and Continuing Appropriations Act, 2012, P.L. 112-36, Sections 101, 115, and 133, enacted October 5, 2011
- Training and Employment Guidance Letter (TEGL) 26-10 (May 10, 2011)
- Full-Year Continuing Appropriations Act, 2011, P.L. 112-10, Division B, Title I, Section 1101, 1104, and 1119, and Section 1801 of Title VIII, signed April 15, 2011
- Department of Labor Appropriations Act, 2010, P.L. 111-117, Division D, Title I
- Training and Employment Guidance Letter (TEGL) 23-10 (May 3, 2011)
- Workforce Investment Act of 1998, (29 United States Code (U.S.C) 2801 et seq.), Public Law 105-220, as amended
- Wagner-Peyser Act, as amended (29 U.S.C. 49 et seq.)
- WIA Final Rule, 20 Code of Federal Regulations parts 660-671
- Planning Guidance for the Strategic State Plan for Title I of the Workforce

<b>RESCISSIONS</b> None	<b>EXPIRATION DATE</b> Continuing
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Investment Act of 1998 and the Wagner-Peyser Act [(73 FR 72853) (Dec. 1, 2008)] (OMB No. 1205-0398)

3. **Background.** TEGL 26-10, issued May 10, 2011, announced Program Year (PY) 2011 WIA allotments to states. In this Change 1 TEGL, we inform states that recent Congressional actions, contained in the two short-term Continuing Appropriations Acts of 2012, P.L. 112-33 and P.L. 112-36, have caused the Employment and Training Administration to adjust some of these initial figures. It should be noted that there were no changes made to the WIA Youth Activities funds (available April 1, 2011), nor to the “base” portion of funding for Adult and Dislocated Worker activities that were made available July 1, 2011. However, the short-term Continuing Appropriations Acts put into effect a temporary rate of operations reduction (1.503 percent) for the FY 2012 “advance” WIA Adult and Dislocated Worker program funds (see sections 101 and 115 of both Acts). The revised allotment levels are listed in the attachments to this TEGL.

Additionally, in TEGL 26-10 states were informed that Congress decreased the level of PY 2011 base funds that Governors may reserve for statewide activities by 10 percentage points, from 15 percent to 5 percent. At that time there was some uncertainty whether this reduction also would apply to the FY 2012 “advance” portion of Adult and Dislocated Worker PY 2011 funding which typically becomes available in October 2011. Pursuant to section 133 in each of the Continuing Appropriations Acts of 2012, this TEGL clarifies that **the reduction in the Governors’ Reserve does apply to all (“base” and “advance”) PY 2011 funds.**

4. **Distribution of WIA Funds in PY 2011.**

- a) Within State Allocations of *Adult* and *Youth* Allotments. The distribution of the PY 2011 allotments must conform with the requirement that:
- 1) A minimum of 95 percent of each state’s revised Adult allotment will be allocated to local area activities; and
  - 2) A maximum of 5 percent of each state’s revised Adult allotment may be used for statewide activities as authorized under WIA.
- b) Within State Allocations of *Dislocated Worker* Allotments. The distribution of the PY 2011 allotments must conform with the requirement that:
- 1) A minimum of 70 percent of each state’s revised dislocated worker allotment will be allocated to local areas;
  - 2) A maximum of 5 percent of each state’s revised dislocated worker allotment may be used for statewide activities as authorized under WIA; and
  - 3) A maximum of 25 percent of each state’s revised dislocated worker allotment may be used for statewide rapid response activities as authorized under WIA.

The following table summarizes this information to show the formula breakdown for PY 2011 WIA funds:

	<b>WIA Youth</b>	<b>WIA Adult</b>	<b>WIA Dislocated Worker</b>
Statewide Activities (including State Admin)	Maximum 5%	Maximum 5%	Maximum 5%
Local Allocations	Minimum 95%	Minimum 95%	Minimum 70%
Rapid Response	-	-	Maximum 25%

Regarding funds set aside for statewide activities, states are authorized to reserve for state administration no more than five percent of each of the total allotments for WIA Youth, Adult, and Dislocated Worker programs

5. **Guidance on the Funding of Statewide Activities.** Over the past several months, states have been anticipating how the reductions in the Governor's Reserve would impact the state's ability to carry out required statewide workforce investment activities as described in WIA Section 134(a)(2)(B) and 20 C.F.R. 665.200 (b)-(i). States must continue to make investments in statewide activities central to state management of funds such as,
- operating fiscal and management accountability information systems (WIA Section 134(a)(2)(B)(vi) and 20 C.F.R. 665.200(b)(1)),
  - submitting required reports (WIA Section 136(f)),
  - disseminating the list of eligible training providers for adults and dislocated workers (WIA Section 134(a)(2)(B)(i) and 20 C.F.R. 665.200 (b)(1)), and youth activities (20 C.F.R. 665.200(b)(4)), and
  - providing technical assistance to poor performing local areas (WIA Section 134(a)(2)(B)(iv) and 20 C.F.R. 665.200(f)).

ETA is unlikely to approve a waiver of the above required activities. ETA realizes that some states may be unable to fund all required activities due to a lack of funding. Except for the activities listed above, States may request a waiver to exempt them from the requirement to carry out some of the required statewide activities described at 20 C.F.R. 665.200 (b)-(i) that would have been financed with PY 2011 funds.

In particular, ETA will approve a waiver from the requirement to:

- conduct evaluations (WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d)),
- provide incentive grants to local areas (WIA Section 134(a)(2)(B)(iii) and 20 CFR 665.200(e)), and

- disseminate training provider performance and cost information (20 CFR 665.200(b)(3)).

States may use the waiver templates provided in Attachment III if they wish to request any of the above waivers.

For other required statewide activities that states may want to waive, ETA will review and consider waiver requests on a case-by-case basis and in the context of each state's unique circumstances. These requests must include a justification that describes estimated costs to carry out the required activity for which the waiver is needed, how statewide funds are being used, and the extent to which the funding levels are insufficient to cover the activity. The request must also address the anticipated impact of not funding the activity, and whether it may directly affect WIA participant services.

States wishing to request new waivers must submit full waiver plans to ETA. The waiver plan must include all of the required elements listed in the WIA regulations at 20 CFR 661.420(c) and discussed in TEGL 26-09. States may use a submission form available at <http://www.doleta.gov/waivers/pdf/waiver-template.doc> which provides a description of each element and submittal instructions.

6. **Notice of Obligation (NOO)**. The Department will issue a NOO with the new FY 2012 "advance" amounts for the Adult and Dislocated Worker programs. Because the temporary rate of operations reduction will be taken into account when the NOO is issued, no further accounting action is required of the state.
7. **Other Policies and Reporting Pertaining to PY 2011 Funds**. See TEGL 26-10.
8. **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>.
9. **Attachments**.
  - I. WIA Dislocated Program *Revised* FY 2012 "Advance" Allotments, Based on 1.503 Temporary Rate of Operations Reduction
  - II. WIA Adult Program *Revised* FY 2012 "Advance" Allotments, Based on 1.503 Temporary Rate of Operations Reduction
  - III. Waiver Request Template