

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSI FI CATI ON TAA
	CORRESPONDENCE SYMBOL ONR
	DATE June 9, 2009

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO: 4-08, Change 1

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS
STATE TRADE COORDINATORS

FROM: DOUGLAS F. SMALL /s/
Deputy Assistant Secretary

SUBJECT: Fiscal Year (FY) 2009 State Supplemental Training Fund Distributions Including Case Management Funds and the Process for Requesting Additional Trade Adjustment Assistance (TAA) Program Reserve Funds

1. Purpose. The American Recovery and Reinvestment Act of 2009 (Recovery Act) amended the Trade Act of 1974 (Trade Act) to increase the maximum annual amount of TAA funds that may be spent on training. The Department will use some of the funds appropriated for TAA in FY 2009 under the Consolidated Omnibus Appropriations Act, 2009 (P.L. No. 111-8) (Omnibus Appropriations) for a supplemental distribution to the states, and will also hold funds in reserve. This program letter explains the formula methodology used in distributing this supplemental distribution and describes the process for states to request additional TAA program reserve funds for training.

2. References. Training and Employment Guidance Letter (TEGL) No. 4-08, "FY 2009 State Base Allocations and the Process for Requesting Additional TAA Program Reserve Funds"; TEGL No. 6-03, "FY 2004 State Planning Estimates and Process for Requesting Additional TAA Funds for Training and Administration"; TEGL No. 2-04, "Trade Adjustment Assistance (TAA) Program Reserve Funds"; 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"; The Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA) (Division B, Title I, Subtitle I of the Recovery Act, Public Law (P.L.) No. 111-5 (enacted February 17, 2009); Trade Adjustment Assistance Reform Act of 2002 (P.L. No. 107-210); the Trade Act, as amended (P.L. No. 93-618, as amended).

3. Background. On October 1, 2003, the Employment and Training Administration (ETA) revised its fund allocation process for the TAA program to implement an annual formula-based methodology for distributing training funds. TEGL No. 6-03 announced this formula methodology. Under this approach, the annual allocation process used a set formula for distributing 75 percent of available TAA training funds. The remaining 25 percent were held in reserve for distribution to states to meet unanticipated needs. Additionally, the formula contained a "hold harmless" provision which guaranteed each state a base formula allocation of at least 85 percent of the total base allocation that state received in the previous year.

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On October 28, 2008, ETA announced the FY 2009 base allocations of TAA training funds in TEGL No. 4-08, based on the \$220 million in training funds expected to be available in FY 2009. These allocations were based on the formula articulated in TEGL No. 4-08.

On February 17, 2009, President Obama signed the Recovery Act. The Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA), a part of the Recovery Act, reauthorized and made substantial changes to the TAA program. Section 1828 of the TGAAA amended Section 236(a)(2)(A) of the Trade Act to increase the cap on TAA training funds from \$220 million to \$575 million annually in both FY 2009 and FY 2010, and capped the first quarter of FY 2011 (October 1, 2010 through December 31, 2010) at \$143,750,000.

Although the Recovery Act reauthorized the TAA program and raised the cap on training funds, it did not appropriate any funds for the TAA program. Rather, the Omnibus Appropriations Act 2009, Pub. L. 111-8, appropriated to the Department administrative and program funds for the TAA program under the Employment and Training Administration's Federal Unemployment Benefits and Allowances account. Therefore, separate tracking and reporting requirements, which apply specifically to Recovery Act funds, do not apply to the TAA funds provided to the states from the later appropriation. However, as discussed in TEGL No. 22-08, the TGAAA provides new reporting requirements specific to the TAA program that increase the transparency and accountability of the program. The Department will soon be issuing additional guidance on those requirements.

The TGAAA also amended Section 236(a)(2)(B) and (C) of the Trade Act of 1974 by further directing the distribution of training funds and providing specific formula factors that the Secretary must consider. These provisions for distributing training funds go into effect October 1, 2009, for fiscal year 2010. ETA has elected to distribute the remaining FY 2009 training funds using a preliminary version of the factors identified for the FY 2010 formula.

4. Overview of Funding Process. As noted above, the TGAAA increased the cap on TAA training funds from \$220 million annually to \$575 million in both FY 2009 and FY 2010. TEGL No. 4-08 distributed a base allocation for FY 2009 of \$165 million using the methodology then in effect.

Based upon the increased training cap and the Omnibus Appropriations Act, 2009, ETA is making a supplemental distribution by formula for FY 2009 in the amount of \$381,250,000, in order to ensure states have funds available to implement the changes to the program made by the TGAAA and to address anticipated high levels of enrollment through the remainder of FY 2009. The training funds will be distributed based on a formula using the four factors set forth in the new Section 236(a)(2)(C)(ii) of the Trade Act of 1974, as amended, specifically: (1) the trend in the number of workers covered by certifications of eligibility during the most recent four consecutive calendar quarters for which data is available; (2) the trend in the number of workers participating in training during the most recent four consecutive calendar quarters for which data is available; (3) the number of workers estimated to be participating in training during the fiscal year; and (4) the amount of funding estimated to be necessary to provide approved training during the fiscal year. ETA has decided not to use the discretionary fifth factor "such other factors as the Secretary considers appropriate," in this preliminary formula.

Given the unique nature of this supplemental distribution, with the majority of the need falling in the final quarter of the fiscal year, the version of the formula used for this distribution will differ from the formula used for the FY 2010 distribution, when the factors in

the new Section 236 (a)(2)(C)(ii), become mandatory. ETA is developing regulations implementing the amendments to Section 236 (a)(2)(A)-(C), and, as this rulemaking proceeds and ETA gathers comments and additional data, the formula may be modified.

Five percent of the total training funds available will be reserved for distribution to states experiencing large, unexpected layoffs, to states that did not receive either a base or supplemental allocation, and to states that otherwise have training needs that exceed their base and supplemental allocations. States that would receive less than \$100,000 in supplemental distribution funds will not receive funds in this additional distribution. States that do not receive a supplemental distribution may submit a reserve-funding request, if existing funds in the state are insufficient to address their remaining 2009 activity levels.

In accordance with the new Section 235A(a), an additional 15 percent will be added on to the amount states receive for training funds to be used for program administration and the delivery of reemployment and case management services. Not more than two-thirds of these additional funds may be used to cover administrative expenses, and not less than one-third of such funds may be used to provide employment and case management services.

Also as provided by the new Section 235A, each state that received either a base or supplemental allocation will receive \$350,000 in funds specifically for the provision of employment and case management services for FY 2009. States that do not receive the \$350,000 for case management services will likely receive funds if they submit a reserve funding request.

As described in TEGl No. 22-08, at a minimum, TAA participants must be offered the following as employment and case management services: comprehensive and specialized assessments of skill levels and needs; individual employment plans for each impacted worker; information on available training and how to apply for training (if appropriate); information on how to apply for financial aid; short-term prevocational services (if appropriate); individual career counseling; employment statistics information (labor market information); and information on the availability of supportive services.

5. FY 2009 Supplemental Distribution Process. Because it is so late in the year for FY 2009, ETA is only keeping 5 percent of the FY 2009 training funds in reserve and is distributing \$381,250,000 through this supplemental process.

A. TAA Formula Funds: Of the available TAA training funds in FY 2009, the remaining training funds will be distributed to states using the following formula factors:

- Trend in Number of Workers Covered by Certifications
- Trend in Number of Workers Participating In Training
- Number of Workers Estimated to be Participating In Training
- Estimated Amount of Funding Needed to Provide Approved Training

The trend in the number of certified workers will be established using the most recent four quarters of data for certified workers by state, and the trend in workers participating in training will use the most recent four quarters of data for workers participating in training by state. For each of these factors, the most recent quarters will be given a greater weight to establish the trend giving those quarters a larger share of the factor. This will enable the most recent state activity to influence the trend in activity and meet Congress's intent of not relying too heavily on historical data. The number of

workers estimated to be participating in training will use the most recent four quarters of data on workers that entered training by state, but with an additional 30 percent added of that number to account for actuarial predictions for growth of the program as newly reauthorized. The estimated amount of funding needed to provide approved training will be determined using the total FY 2008 training expenditures by state, and again adding 30 percent of that amount as a projected growth rate. Each of the four factors will be weighted equally for the 2009 supplemental distribution.

A “hold-harmless” provision does not apply to this FY 2009 Supplemental Distribution since the 85 percent hold harmless factor was applied to the initial \$165 million base allocation in October of 2008.

As noted above, in those instances where the formula approach would give a state less than \$100,000, that state will not receive a supplemental distribution and will need to use WIA formula funds for TAA training and/or request TAA reserve funds in accordance with the procedures described in Section B.

The supplemental allocations for each state are attached.

- B. **TAA Reserve Funds:** Reserve funds will be distributed to states on an as-needed basis and are designed to provide monies to those states that experience large, unexpected layoffs or otherwise have training needs which are not met by their base or supplemental allocation (including those states that did not receive either a base allocation or a supplemental allocation for FY 2009). In order to be eligible for TAA reserve funds, states must demonstrate that at least 50 percent of all available TAA training funds during FY 2009 have been accrued as expenditures, or otherwise demonstrate need. States should follow the procedures outlined in TEGL No. 4-08 and TEGL No. 2-04 to submit a request for reserve funds.
- C. **Job Search and Relocation Allowances:** States may also request job search and relocation allowances for trade-affected workers who have no reasonable expectation of obtaining suitable employment within their local commuting area. These funds must be requested using the ETA-9117 (OMB No. 1205-0275) and may be submitted at any time or in combination with a request for reserve training funds.
- D. **TAA Program Administration Funds:** States will receive an additional 15 percent of all supplemental allocation and reserve funds for program administration. Not more than two-thirds of these additional funds may be used to cover administrative expenses, and not less than one-third of such funds may be used for the purpose of providing employment and case management services. The administrative funds will be included each time funds are obligated to states by ETA. The program administration allocations for each state are also included in the attachment.
- E. **Case Management Funds:** Each state that received FY 2009 TAA funds will receive \$350,000 for the purpose of providing employment and case management service to TAA participants. But, as noted above, states that do not receive these funds may submit a reserve funding request.

6. Recapture of TAA Funds. Consistent with the TAA Annual Cooperative Financial Agreement, ETA may recapture any funds distributed to any state in the same fiscal year as

they were given if it is determined that the state will not expend the funds, but only after consultation with, and appropriate notification to, state officials.

7. Action Requested. States should ensure that all trade and workforce investment program staff are informed and knowledgeable of this funding methodology.

8. Inquiries. States should direct all inquiries to the appropriate ETA regional office.

9. Attachment. FY 2009 Supplemental Distribution and Administrative Allotments.