| EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210 | CLASSIFICATION TAA |
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TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS
STATE TRADE COORDINATORS

FROM: JANE OATES
Assistant Secretary

SUBJECT: Fiscal Year (FY) 2010 State Initial Allocations and the Process for Requesting Additional Trade Adjustment Assistance (TAA) Program Reserve Funds

1. **Purpose.** To provide states with the formula methodology used in developing the Fiscal Year (FY) 2010 initial allocations and to describe the process for requesting additional TAA program reserve funds for training, job search, and relocation allowances.

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" and Change 1, "FY 2009 State Supplemental Training Fund Distributions Including Case Management Funds 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 "American Recovery and Reinvestment Act of 2009" (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 of 1974, as amended (Trade Act) (P.L. No. 93-618, as amended); 20 CFR Part 618 "Trade Adjustment Assistance; Merit Staffing of State Administration and Allocation of Training Funds to States; Proposed Rule," 74 Federal Register 39197 - 39209 (August 5, 2009) (2009 NPRM).

| RESCISSIONS None | EXPIRATION DATE Continuing |
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**3. Background.** On October 1, 2003, TEGL No. 6-03 implemented a new TAA training funding methodology providing for the distribution by formula of 75 percent of the funds available each year. 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 base allocation that state received in the previous year.

On February 17, 2009, President Obama signed the Recovery Act. The TGAAA, a part of the Recovery Act, reauthorized and made substantial changes to the TAA program, requiring modification of the above funding methodology. 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.

The TGAAA further amended Section 236(a)(2)(B) and (C) of the Trade Act to:

- Require 35, rather than 25, percent of the training funds to be held in reserve;
- To provide for a "hold harmless" of 25, rather than 85, percent;
- To set timelines for the distribution of training funds; and
- To establish specific formula factors that the Employment and Training Administration (ETA) must consider in making those distributions.

These statutory provisions for distributing training funds go into effect October 1, 2009, for fiscal year 2010. However, section 236(g) of the Trade Act, added by the TGAAA, does not require regulations implementing these provisions until February 17, 2010. On August 5, 2009, ETA published in the Federal Register proposed regulations to implement these new statutory provisions on the allocation of training funds to states. As this rulemaking proceeds and ETA receives comments and additional data, it may modify the funding methodology established by this TEGL. This TEGL governs the initial distribution of the FY 2010 training funds and any subsequent distributions until final regulations are effective.

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 Consolidated Omnibus Appropriations Act, 2009, P. L. No. 111-8, appropriated TAA administrative and program funds to the Federal Unemployment Benefits and Allowances (FUBA) account. The FY 2010 distributions of funds under the TEGL will also be FUBA appropriations. 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 this, and future, FUBA appropriations. However, as discussed in TEGL No. 22-08, the TGAAA established new reporting requirements specific to the TAA program to increase the transparency and accountability of the program. ETA issued additional guidance on those requirements in TEGL No. 6-09, "Instructions for implementing the revised 2010 Trade Adjustment Assistance Trade Activity Participant Report (TAPR)."

**4. FY 2010 Fund Allocation Process.** As noted above, the TGAAA increased the cap on TAA training funds from $220 million annually to $575 million for both FY 2009 and FY

2010. For FY 2010, an amount equal to 65 percent of the annual training funds are initially distributed to states by formula, and 35 percent will be held in reserve, as required by the amendments.

A. **TAA Formula Funds:** The initial allocation of 65 percent of training funds among the states will follow the proposed rule published in the Federal Register on August 5, 2009, using the four factors set forth in the new Section 236(a)(2)(C)(ii) of the Trade Act:

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 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 will have.

Factor 2 will be established using the most recent four quarters 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 will have.

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 for 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 time period.

Once each of the four factors have been determined for each state, all four factors will be assigned an equal weight, which for FY 2010, will be 25 percent of the total for each factor.

Section 236(a)(2)(C)(iii) of the Trade Act includes a hold harmless feature, but at a much lower level than ETA has been using. In past years, the allocation to each state has been at least 85 percent of the amount the state received in its initial distribution in the prior fiscal year. The statute now provides that a state's allocation be only at least 25 percent of the amount the state received in its initial allocation for the prior fiscal year.

ETA will determine the national total and each state's percentage of the national total for each factor. Using each state's percentage of each of these weighted factors, ETA will determine the unadjusted percentage that the state will receive of the amount available for initial allocations. Allocations under $100,000 will be removed, and the statutory 25 percent hold harmless factor will be applied, resulting in an adjusted FY 2010 allocation for the remaining states. The percentages for all the states will total 100 percent of $373,750,000, which is 65 percent of the training cap.

In those instances where the formula approach would give a state less than $100,000, that state will not receive any initial allocation, but may, where needed, request TAA reserve funds in accordance with the procedures described in Section B.

The initial allocations for each state are attached.

B. **TAA Reserve Funds:** Reserve funds will be distributed to states on an as-needed basis to provide monies to those states that experience large, unexpected layoffs or otherwise have training needs that are not met by their initial allocation. These funds must be requested using the ETA-9117 (OMB No. 1205-0275).

In order to be eligible for TAA reserve funds, a state must demonstrate that at least 50 percent of its training funds have been expended or that it needs more funds to meet unusual or unexpected events. A state requesting reserve funds also must provide a documented estimate of expected funding needs through the end of the fiscal year. That estimate must be based on an analysis that includes at least the following:

- The average cost of training in the state;
- The expected number of participants in training through the end of the fiscal year; and
- The remaining funds the state has available for training.

C. **Job Search and Relocation Allowances:** States may also request job search and relocation allowances for adversely affected workers who have no reasonable expectation of obtaining suitable employment within their local commuting areas. These funds must also 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, as provided by Section 235A(a)(1) of the Trade Act. 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, as provided by Section 235A(a)(2) of the Trade Act. 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. **Employment and Case Management Services Funds:** Each state that receives FY 2010 TAA funds will receive $350,000 for the purpose of providing employment and case management services to TAA participants, as provided by Section 235A(b)(1) of the Trade Act. A state that does not receive the $350,000 for case management services because it received no initial allocation will receive those funds, if it subsequently receives a reserve funding allocation.

5. **Recapture of TAA Funds.** Consistent with the FY 2010 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 determines that the state will not expend the funds, but only after consultation with, and appropriate notification to, state officials.

6. **Action Requested.** States will make sure that all trade and workforce investment program staff is informed of and knowledgeable about this funding methodology.

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

8. **Attachment.** State Initial Allocations for FY 2010.

## Attachment: State Initial Allocations for FY 2010

| State | FY 2010 Training Initial Allocation | FY 2010 Administrative Allotment* | FY2010 Case Management Funds | Total FY 2010 TAA Initial Allocation** |
|---|---|---|---|---|
| Alabama | $6,982,647 | $1,047,397 | $350,000 | $8,380,044 |
| Alaska | $239,023 | $35,853 | $350,000 | $624,876 |
| Arizona | $1,846,532 | $276,980 | $350,000 | $2,473,512 |
| Arkansas | $11,825,695 | $1,773,854 | $350,000 | $13,949,549 |
| California | $12,853,474 | $1,928,021 | $350,000 | $15,131,495 |
| Colorado | $2,554,844 | $383,227 | $350,000 | $3,288,070 |
| Connecticut | $4,336,505 | $650,476 | $350,000 | $5,336,980 |
| Delaware | $458,936 | $68,840 | $350,000 | $877,777 |
| District of Columbia | $0 | $0 | $0 | $0 |
| Florida | $1,536,361 | $230,454 | $350,000 | $2,116,815 |
| Georgia | $9,857,325 | $1,478,599 | $350,000 | $11,685,923 |
| Hawaii | $0 | $0 | $0 | $0 |
| Idaho | $5,232,339 | $784,851 | $350,000 | $6,367,189 |
| Illinois | $14,432,032 | $2,164,805 | $350,000 | $16,946,836 |
| Indiana | $18,839,406 | $2,825,911 | $350,000 | $22,015,317 |
| Iowa | $3,470,628 | $520,594 | $350,000 | $4,341,223 |
| Kansas | $851,910 | $127,786 | $350,000 | $1,329,696 |
| Kentucky | $9,577,695 | $1,436,654 | $350,000 | $11,364,349 |
| Louisiana | $2,118,976 | $317,846 | $350,000 | $2,786,823 |
| Maine | $2,610,791 | $391,619 | $350,000 | $3,352,410 |
| Maryland | $881,786 | $132,268 | $350,000 | $1,364,054 |
| Massachusetts | $9,330,947 | $1,399,642 | $350,000 | $11,080,588 |
| Michigan | $44,863,288 | $6,729,493 | $350,000 | $51,942,782 |
| Minnesota | $5,654,466 | $848,170 | $350,000 | $6,852,636 |
| Mississippi | $3,785,666 | $567,850 | $350,000 | $4,703,516 |
| Missouri | $12,326,515 | $1,848,977 | $350,000 | $14,525,492 |
| Montana | $2,260,384 | $339,058 | $350,000 | $2,949,442 |
| Nebraska | $925,313 | $138,797 | $350,000 | $1,414,110 |
| Nevada | $205,966 | $30,895 | $350,000 | $586,860 |
| New Hampshire | $918,927 | $137,839 | $350,000 | $1,406,767 |
| New Jersey | $4,032,279 | $604,842 | $350,000 | $4,987,121 |
| New Mexico | $2,376,234 | $356,435 | $350,000 | $3,082,669 |
| New York | $7,727,854 | $1,159,178 | $350,000 | $9,237,032 |
| North Carolina | $37,411,563 | $5,611,734 | $350,000 | $43,373,297 |
| North Dakota | $230,704 | $34,606 | $350,000 | $615,310 |
| Ohio | $16,829,504 | $2,524,426 | $350,000 | $19,703,930 |
| Oklahoma | $3,261,038 | $489,156 | $350,000 | $4,100,194 |
| Oregon | $11,050,072 | $1,657,511 | $350,000 | $13,057,583 |

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| Pennsylvania | $21,502,967 | $3,225,445 | $350,000 | $25,078,411 |
| Puerto Rico | $151,043 | $22,656 | $350,000 | $523,699 |
| Rhode Island | $2,498,263 | $374,739 | $350,000 | $3,223,002 |
| South Carolina | $12,778,865 | $1,916,830 | $350,000 | $15,045,695 |
| South Dakota | $664,626 | $99,694 | $350,000 | $1,114,320 |
| Tennessee | $9,306,386 | $1,395,958 | $350,000 | $11,052,344 |
| Texas | $13,388,959 | $2,008,344 | $350,000 | $15,747,302 |
| Utah | $2,341,670 | $351,251 | $350,000 | $3,042,921 |
| Vermont | $350,427 | $52,564 | $350,000 | $752,991 |
| Virginia | $6,951,856 | $1,042,778 | $350,000 | $8,344,634 |
| Washington | $9,313,577 | $1,397,037 | $350,000 | $11,060,614 |
| West Virginia | $3,634,775 | $545,216 | $350,000 | $4,529,992 |
| Wisconsin | $17,168,963 | $2,575,344 | $350,000 | $20,094,307 |
| Wyoming | $0 | $0 | $0 | $0 |
| **US Total** | **$373,750,000** | **$56,062,500** | **$17,150,000** | **$446,962,500** |

* Each state's administrative allotment represents 15% of its FY 2010 base allocation.

** Each state's allocation represents the sum of its FY 2010 base allocation and administrative allotment.