

ATTACHMENT

**Instructions for Closeout of State Formula-Funded Activities
Under the Job Training Partnership Act (JTPA)**

This attachment provides detailed instructions concerning the various aspects of the closeout of formula-funded JTPA grants, as well as related activities that have an impact on closeout. States must follow the instructions contained herein.

1. Use of Funds and Cost Limitations

a. Use of 2% Transition Planning Funds. Up to two percent (2%) of JTPA PY 98 and PY 99 allotments may be used for transition planning activities. In accordance with Section 506(d) of the Workforce Investment Act (WIA), these funds are to be expended before July 1, 2000. They may come from any title or combination of titles under JTPA and must be reported on the appropriate JTPA reporting form. At least half of the amount, or up to one percent (1%), must be provided to local entities for transition planning. States will determine from which funding stream(s) the 2% transition planning funds will be taken. Any PY 98 and PY 99 funds expended for transition planning will not be counted as JTPA administrative costs and will be reported separately in the remarks section of the appropriate quarterly financial status reports. Any funds reserved but not used for transition planning activities should be transferred to WIA.

b. Use of Remaining 98% JTPA Funds. Upon full implementation of WIA, States should reserve an adequate amount of PY 98 and PY 99 funds to be used to cover the costs of JTPA closeout. Any other funds remaining from either of those two (2) program years are to be carried forward into WIA. The funds so carried forward retain their JTPA year of appropriation designation and the full amount of the three (3) year fund availability period that remains. They will be carried forward by JTPA funding stream (II-A, II-B/IIC, III); not by JTPA expenditure category (e.g., Administration, Direct training services, Training-related and supportive services). Upon transfer, all other WIA rules apply to these funds.

The costs incurred during the closeout period for closing out the JTPA programs will not be subject to the administrative cost limitations and will not be reported as JTPA administrative costs. Rather they will be reported separately in the remarks section of the applicable JTPA financial status report. Costs incurred prior to the closeout period but paid during the closeout period will continue to be reported according to the appropriate cost category. States are encouraged to first use PY 98 funds for closeout costs because of the shorter fund availability period remaining for those funds.

States will need to calculate compliance with the administrative cost limit requirements for PY 1998 and 1999 by comparing actual administrative costs incurred with the total local area allocation for each funding stream. There is no need to calculate compliance with the minimum training expenditure requirements.

Any funds reserved, but not expended, for closeout activities will be transferred to WIA upon conclusion of the closeout period. Conversely, should the State underestimate the amount of funds needed for closeout activities, these funds may be transferred back from the PY 98 and PY 99 amount previously transferred to WIA, to the extent that these funds remain available.

2. Closeout Procedures

a. Establishment of a Framework. It is the responsibility of the States to establish policy and set timelines to assist their subrecipients and contractors with closeout. The timelines established must provide sufficient time to allow the State to comply with those set by the Department of Labor (DOL).

b. Local Plans. Each State should obtain from its subrecipients a plan for the closeout of all JTPA activities. It is suggested that the local plan(s) include, at a minimum, the following:

(1) planned program closeout time schedule;

(2) planned transfer of participants to new Local Board-administered programs where applicable;

(3) estimated costs for closeout activities. These costs may include late claims, unfunded liabilities, termination costs associated with subrecipient agreements, penalties for breaking leases, uncharged accrued leave, possible severance pay and unemployment insurance costs, records' retention and storage costs, as well as the costs of audit, and those costs required to complete the closeout process. These costs must be itemized by category, i.e., accrued leave, severance pay, estimated UI costs, and estimated storage costs.

(4) planned estimate(s) of the portion of unobligated PY 98 and PY 99 allocation (obligational authority) that will be needed to pay for closeout costs. The local areas should retain this estimated amount on their books of account to pay for these costs during the 180-day closeout period following the full implementation of WIA. Cash needed to support closeout costs will be drawn down as needed for immediate disbursement needs.

(5) estimated preliminary transfer of PY 98 and PY 99 JTPA obligational authority to WIA in accordance with Item 1.b. of these instructions.

3. Participant Transfer

a. Participants Receiving Services. All JTPA participants who are enrolled and receiving services should be grand-fathered into WIA. These participants should be allowed to complete the JTPA services specified in their individual service strategy, even if the service strategy is not allowable under WIA, or if the participant is not otherwise eligible to receive these services under WIA.

b. Participants Not Receiving Services. Those participants who are enrolled, but have not yet received JTPA services, except for initial assessment, should also be grand-fathered into WIA. These participants should be assessed, if necessary, and provided services under a WIA service strategy.

4. Subrecipient and Vendor Agreements

a. In General. Existing deliverers of services for current JTPA participants must be allowed to continue to provide services under local agreements between the new Local Board and the appropriate chief elected official(s) in a local workforce investment area. All arrangements for continuation of current participants and associated service delivery programs must be worked out in advance via local agreements and included in the local area plan to be approved by the Governor.

All other JTPA agreements must be terminated as of the date on which WIA is fully implemented in a

State, or no later than June 30, 2000. States are responsible for ensuring that these arrangements for participants receiving services at the time of WIA implementation are in place. This includes situations in which the local operating entity changes.

b. Provision of Services. All service deliverers who are providing JTPA services to enrolled participants should be allowed to continue providing those services. All JTPA participants being served under these contracts are to be provided all services called for under the terms of the contract. No additional services may be added, and no additional participants may be added to the contract.

All contracts scheduled to expire on or before June 30, 2000 under which all services to enrolled JTPA participants will be completed by that date should be allowed to end on their expiration date. In addition, all contracts for JTPA administrative functions, i.e., contracts which do not provide services to JTPA participants, are to be terminated not later than June 30, 2000.

c. Termination vs. Modification. Awarding agencies might have contracts that will expire on June 30, 2000 that would have been re-awarded for completion of services or contracts that will expire after June 30, 2000 upon completion of services to participants. Under either scenario, local areas must provide for the continuation of services called for in the participants plan of service. No matter which methodology an awarding agency chooses to use for the completion of services to JTPA participants, the process should occur in a manner which ensures that the participants are unaware of the change in the contractual arrangement.

Contracts for participant services that would normally expire on June 30, 2000 and be re-awarded for continuation of services will not incur early termination costs. Local areas have the option of issuing a new contract for the completion of services to the covered participants only or modifying the existing contracts to extend the period of performance until the services to the covered participants are completed.

Contracts for participant services that extend beyond June 30, 2000 must either be terminated or modified at the option of the local area. Local areas that terminate existing JTPA contracts early will most likely incur additional contract termination costs, and will have to simultaneously award new WIA contracts to cover the same services for already enrolled JTPA participants.

If the local areas modify existing contracts to end the JTPA program and implement WIA, they will most likely have to change one or more of the following:

- a. the contractual designation from JTPA to WIA;
- b. the number of participants to be served to reflect the actual number of JTPA participants;
- c. perhaps, the level of funding to reflect the actual reduced amount required to serve the specified number of participants; and
- d. perhaps, the designated awarding agency.

The procurement rules governing the local entity(s) may have a bearing on which option is selected.

If a subrecipient refuses to agree to either terminate or modify its JTPA contract, the awarding entity must terminate the contract as of the date on which WIA is fully implemented for the State or local area but not later than June 30, 2000. The entity will also need to either move the participants to another training provider or award a sole-source contract to complete their training.

5. Financial Reconciliation/Closeout. When JTPA is repealed on June 30, 2000, the fund availability

period for all JTPA formula funds allotted through program year 1997 will have expired. Thus, all grants through PY 97 should be closed in accordance with the regular closeout procedures specified at 20 CFR 627.485. However, the JTPA funds from PY 98 and PY 99 would still be available, and it is those funds that these closeout procedures address. The JTPA obligational authority transferred to WIA is not subject to these closeout procedures.

When obligations, costs and drawdowns are not equal and the discrepancies cannot be reconciled, or where other violations are evident, the grant officer's initial and final determination process will be used to resolve the findings.

The final quarterly financial status reports for each of the JTPA funding streams (Titles II-A, II-B, II-C, and III) and for both PY 98 and PY 99 must be submitted with the closeout package no later than 180 days following the full implementation program of WIA, but no later than December 31, 2000, unless an extension has been granted. This final report will be in addition to the regularly required quarterly reports due 45 days after the end of the quarter. After the closeout process has been completed, there will be no Federal funds available to pay for allowable JTPA late claims. State and/or local funds will be necessary to pay for any such costs.

The objective of the financial reconciliation/closeout is to achieve the status where obligated funds, allowable reported costs, and payments (for most recipients the amount of drawdowns) are equal or in balance. Adjustments will have to be made to reflect the portion of obligated funds and drawdowns which relate to the JTPA funds being transferred into the WIA program. Because it constitutes the final closeout of the JTPA program, this financial reconciliation must be carefully performed in a manner that pays particular attention to detail. It is imperative to ensure that all JTPA costs have been accurately reported and paid, and that the balance of available JTPA obligational authority is properly transferred to WIA.

6. Liabilities Associated With the Closeout Process. There are certain responsibilities and liabilities associated with the termination of a legislatively mandated program. The organizational responsibilities are described below:

a. Local Chief Elected Official's Liability. The local SDA, including the local chief elected official(s), will remain responsible for all costs related to the JTPA subgrants that they have received. All closeout activities must be fulfilled locally. In areas where an existing SDA is being reorganized or reconfigured, States are expected to work with the subrecipients to ensure a smooth transition.

b. Consortium Member Liability. There may be instances where there is a dissolution of a consortium at the expiration of the JTPA program. The liability and accountability of the members should already be specified under the terms of the consortium agreement. If this is not the case, the units of government involved should execute an agreement delineating their responsibilities and liabilities prior to dissolution. Otherwise, pursuant to State or local law, each consortium member jointly and severally accepts responsibility for the liabilities of the program.

c. Governor's Liability. The ultimate objective of this process is the closeout of the Governor/Secretary Agreement with ETA. As the recipient of a JTPA grant, the Governor is ultimately responsible for the resolution and closeout of all subgrants issued by the State. Therefore, it is in the Governor's best interest to ensure that all local closeout plans are fully developed and have adequate time frames for completing the required tasks.

d. DOL's Liability. DOL will not be liable for any costs that States and their subrecipients failed to pay before closeout. Furthermore, DOL will not be liable for any late claims received by the States. DOL will not have the funds available for such claims.

7. Unpaid Bills (Liabilities). Unpaid bills as defined in the JTPA Financial Management Technical Assistance Guide are allowable JTPA costs which have resulted from the operation of the programs that have not been paid. Funds required to pay these bills should be included in the amount reserved for the completion of the closeout process. These are not closeout costs referenced in Item 1.b. and should be charged to the appropriate cost category. States are expected to ensure that all JTPA liabilities are paid before closeout. No unpaid bills can be paid with Federal funds after closeout. Any such bills will have to be paid from non-Federal funds.

8. Prepaid Expenses. The prepayment of necessary, reasonable, and allocable costs is allowable. States and subrecipients are authorized to pay for the storage of records for a period of three (3) years from the submittal of the final expenditure report to comply with JTPA regulatory requirements. They are also authorized to pay the allocable share of the single audit(s) which covers the program year(s) to be closed.

9. Self-Insurance Funds. Grantees may have established self-insurance funds to cover the costs of workers compensation, unemployment compensation, severance pay and similar employee benefits. Claims submitted during the period allowed for closeout will be paid by the entity from those funds. Upon termination of the closeout period and submittal of the final expenditure report, the self-insurance account option may be continued unless the local entity is going out of business, in which case the fund should be transferred to the State. Unpaid claims or those received after the closeout of the grant should be paid by the local entity or the State from the fund. Payment of claims will be limited to unexpended funds remaining in each subrecipient self-insurance fund. Any balance of funds remaining in the self-insurance accounts should not be transferred into WIA. Instead, after all possible payments have been made from the account, any residual amount attributable to JTPA staff members should be refunded to DOL/ETA in accordance with 20 CFR 627.490(b).

10. Staff Benefit Costs. States and subrecipients must treat staff leave costs in the same manner as staff leave costs are treated in the individual organization's existing written leave policies and procedures.

a. Costing Systems. The two most prevalent leave systems are:

(1) unfunded systems wherein the costs are incurred when cash payment is made to the employee at the time the leave is taken, and

(2) funded systems wherein the cost is incurred at the time leave is earned by the employee and payment is made to the employee at the time leave is taken.

b. Lump Sum Payments. When a JTPA staff person is terminated from the employing entity, a lump sum payment for accrued leave will be borne by JTPA as a closeout cost in an unfunded system and as a cash payment (unpaid bill) in a funded system. An escrow account may be utilized if necessary.

c. Continued Service. When a JTPA staff person is retained by the same employing entity, the liability for leave will be borne by the receiving program/fund source in an unfunded system. An escrow account may be utilized for payment purposes in a funded system. In instances where staff is retained and is working on JTPA closeout as well as WIA implementation, the cost of leave must be pro-rated

between the programs based on an appropriate allocation method, e.g., time distribution.

d. Personnel Policies. Local personnel policies will govern the payment of fringe benefits other than leave costs, including severance pay.

11. UI Costs. UI costs properly chargeable to JTPA will be paid from each State or subrecipient agreement until final closeout. Once the JTPA grant is closed, State and local funds must be used to pay such UI costs. Organizations and jurisdictions on a contribution basis of UI coverage will not recover any costs associated with a higher organization-wide experience rating as a result of JTPA layoffs.

12. Audits. States and subrecipients must complete normal annual audit cycles in accordance with OMB Circular A-133. Commercial subrecipients must meet the audit requirements specified at 20 CFR 627.480(a)(3). No additional Federal funds will be provided to cover audit costs.

13. Complaints and Grievances. In accordance with Section 144(a) of JTPA, States and service delivery areas must continue to provide a system for receiving complaints for up to one year after the expiration of the program. Prior to closeout, the costs associated with JTPA complaints being handled by this system should be charged to JTPA. After the closeout of JTPA, such costs may be charged to WIA until the completion of action on complaints received within the required one-year period. After this period, the costs associated with JTPA complaints must be paid from non-Federal funds.

14. Equipment and Supplies Subject to Transfer to WIA. The provision at 20 CFR 627.465 of the JTPA regulations describes property management standards for the program. All equipment, whether transferred from the Comprehensive Employment and Training Act (CETA) or purchased under JTPA, with a fair market value of \$5000 or more and needed by the WIA program must be transferred to the WIA program. Fair market value will be established by each State or local area using existing local procedures.

Equipment with a fair market value of more than \$5000 that is not needed by the WIA program for any reason may be retained or sold, and the JTPA program must be reimbursed from the proceeds of the sale, less any costs of disposition. Items of equipment with a current fair market value of less than \$5000 may be retained, sold or otherwise disposed of with no further obligation to the JTPA program. Such equipment may remain in place to be used for other Federally or non-Federally funded programs, or it may be disposed of in accordance with local procedures.

States should obtain accurate inventories containing the information required under 29 CFR 97.32 and 29 CFR 95.34, as applicable, from their subrecipients. A determination must be made concerning which equipment will be transferred to the WIA program and which will be disposed of in accordance with the above instructions. An equipment inventory list certified by a designated official of the State must be submitted with the State's closeout documents.

If there is a residual inventory of unused supplies with an aggregate total fair market value of \$5000 or more, these supplies must also be transferred into WIA if needed. If the residual supplies are not needed for the WIA program, they should be retained, sold or disposed of, and the JTPA program compensated for its share. Governors should provide guidance to local areas concerning the transfer of equipment and supplies.

NOTE: The timing of the disposal of JTPA property (equipment and supplies) is critical for establishing how the proceeds are to be used. Any proceeds from property disposed of up to the date of

full implementation of WIA are to be used to reimburse the JTPA program. This reimbursement is to be reflected as a reduction of JTPA expenditures on the applicable quarterly financial status report. This will have the effect of freeing up obligational authority for transfer to WIA. The disposal of any property after the full implementation of WIA must follow the disposition requirements of 29 CFR 97.32(e) or 29 CFR 95.34(g) as appropriate. These regulations require that proceeds be returned to ETA.

15. Real Property. If a State or local JTPA entity has purchased real property using JTPA funds, but failed to notify the Secretary (Grant Officer) in accordance with 20 CFR 627.465(d), they should do so at this time. Any JTPA purchased real property that is to be used for WIA must be transferred to the WIA program and listed on the Governor's inventory of accountable property. For any JTPA real property that will not continue to be used for the WIA program, there are three disposition options which might be requested:

- a. Sell the property and remit the proceeds to ETA after deducting any actual and reasonable selling and fix-up expenses;
- b. Sell the property and use the proceed to acquire replacement property to be used for the WIA One-Stop operating center; or
- c. Retain title to the property and compensate ETA for the proportionate share of the current fair market value attributable to the JTPA participation in the purchase of the property.

If the entity chooses the first option, no request for disposition instructions is required. For either the second or third option, the entity must submit its request to:

Director, Office of Grants and Contracts Management
200 Constitution Avenue, NW, N-4716
Washington, D.C. 20210

Note that if the second option is used, no WIA funds can be used to supplement the proceeds from the sale for the purchase of a replacement property. Under the first option, all proceeds are to be remitted to DOL/ETA within 30 days of their receipt by the entity. Under the third option, the proceeds are to be remitted to DOL/ETA in accordance with the approval instructions provided by the Department.

16. Combined Property. Equipment as described in Item 14 and Real Property as described in Item 15, which has been acquired through joint funding will be transferred in the same manner as other accountable JTPA property. If there is no use under WIA for the property, JTPA or DOL/ETA, as appropriate, must be compensated by applying the percentage of participation in the cost of the original purchase to the current fair market value of the property.

17. Refunds. Any funds remaining in the State's JTPA account after closeout that cannot be transferred to WIA because the fund availability period has lapsed, plus any other refunds received after closeout, must be remitted to ETA. During the closeout period, States should use the HHS-PMS and submit refunds electronically, to the extent possible. Subsequent to the end of the approved closeout period, all refunds must be remitted directly to ETA.

18. Program Income. Program income generated with JTPA funds prior to the full implementation of WIA, but not used by the termination of the JTPA program, may be rolled forward and used during the period of fund availability of the program year in which it was earned (20 CFR 627.450(c)(3)). Rental

income and user fees on real and personal property acquired with JTPA funds and transferred into the WIA program shall be considered WIA program income in subsequent funding periods. There are no Federal requirements governing the disposition of other JTPA program income that is earned after the full implementation of WIA.

19. Records Retention. States are responsible for ensuring that all records associated with the JTPA program are retained for three (3) years after submission of the final expenditure report for each year of appropriation. Records must be kept longer if any litigation or audit is begun, or if a claim is instituted involving the appropriated funds or agreement covered by the records. In these instances, records will be retained until the issue has been finally resolved. However, the only authorized closeout cost for record storage is the amount required to meet the three (3) year retention requirement. Because they would constitute an estimated contingency, costs for any longer retention period required must be paid with non-Federal funds. States are responsible for ensuring the retention of records for subrecipients who are disbanding or otherwise unable to retain records. States must also ensure that this requirement is passed on to all subrecipients to ensure compliance.