

**WIA Rescissions
Q&As**

Contents

1. *Effective Dates of Rescissions* 2

2. *Federal Flexibility*..... 3

3. *Youth Programs* 3

4. *Rescission Calculations* 4

5. *Other Programs Affected* 5

6. *State Flexibility* 6

7. *Insufficient Funds for the Rescission* 8

8. *Release of PY 2008 Allotments* 9

9. *Further Rescissions* 9

10. *Redesignation of Local Areas*..... 10

11. *Performance Re-Negotiations* 10

12. *Waivers* 10

13. *Modification of State WIA/WP Plans* 11

These Q&A's pertain to three different rescission provisions applicable to various WIA funds that DOL is required to apply during FY 2008, based on the Revised Continuing Appropriations Resolution, 2007 (P.L. 110-5) and the Consolidated Appropriations Act, 2008 (P.L. 110-161). The rescissions apply as follows:

- a) To the FY 2007 Advance , a 1% across-the-board (ATB) rescission (see P.L. 110-5 which appropriated funds for the FY 2007, including the FY 2007 Advance, at the FY 2006 levels, which included the 1% ATB rescission that applied to all FY 2006 funds. It is that 1% ATB rescission amount that is now being rescinded from the FY 2007 Advance.) This rescission will be referred to as "2007 ATB"
- b) To the FY 2008 Advance (appropriated in the FY 2007 appropriation act), a 1.747% across-the-board rescission, required by P.L. 110-161. This rescission requires both a retroactive rescission to the FY 2008 advance funding and a prospective reduction to the PY 2008 funding to be distributed in July, 2008. This rescission will be referred to as "2008 ATB".
- c) To Program Year (PY) 2005 and PY 2006 unexpended balances, a rescission of \$250 million, required by P.L. 110-161. This rescission will be referred to as "Rescission of Unexpended Balances"

The 2007 ATB and 2008 ATB will be collectively referred to as "the ATBs."

1. Effective Dates of Rescissions

Question: When will the rescissions occur; all three at the same time or over three different periods of time?

Answer: The rescissions are effective immediately, but implementation will require a three step process because of the fact that the ATBs affect availability balances which must be taken into consideration when implementing the Rescission of Unexpended Balances. Thus, the various rescissions need to be applied in the proper order; first the 1 percent and the 1.747 percent rescissions to their respective funds, and then the Rescission of Unexpended Balances. Each state will have to process all adjustments required for the 2007 ATB and the 2008 ATB before determining and processing adjustments for the Rescission of Unexpended Balances. All of the various adjustments have to be completed by the due date specified in the Training and Employment Guidance Letter (TEGL) which promulgates the procedures and final calculations for the rescissions

2. Federal Flexibility

Question: What flexibility does DOL have in applying the reduction/rescissions?

Answer: The ATBs will be applied using the state allotment formula similar to past rescissions and there is no flexibility in the application of the formula to those rescissions.

DOL has some flexibility in the application of the \$250 million rescission of unexpended balances of PY 2005 and PY 2006 funds in order to minimize the burden on states and local areas. The Secretary of Labor has authority to permit states to apply a portion of the amount to be rescinded to available PY 2007 WIA youth, adult or dislocated worker funds. This flexibility must be requested by the state. Further details about filing such a request are contained within the TEGL (Section 6C and Appendix C). In addition, the appropriation act provides flexibility in the application of certain state- and local-level WIA funding allocation requirements and limits (e.g., limits on the percentage of funds reserved for statewide activities, limits on administrative costs, and 30 percent out-of-school expenditure requirement for WIA local areas) – these specifications will be considered to have been met if the original, pre-rescission allocations met the specifications, regardless of the situation after the rescissions are taken.

Question: How does a state request the Secretary of Labor’s approval to apply a portion of the amount to be rescinded under the Rescission of Unexpended Balances to available PY 2007 WIA Youth, Adult, and Dislocated Worker funds?

Answer: Requests to use 2007 funds to satisfy the Rescission on Unexpended Balances can be accomplished in the WIA \$250 Million Rescission Electronic Reporting System (WRERS) by checking the Waiver Request check-box on the WRERS input page. Further information about the use of WRERS is contained in Appendix C of the TEGL.

3. Youth Programs

Question: Why was the Youth Program affected in the PY 2005/06 unexpended balances - and not affected in the FY 2007 Advance and FY 2008 Advance rescissions?

Answer: The Rescission of Unexpended Balances is specified to pertain to Youth, Adult and Dislocated Worker formula programs. Since Youth Activities do not receive advance funding, the 2007 ATB and the 2008 ATB for the Advances does not apply to this program

4. Rescission Calculations

Question: Will the 1 percent FY 2007 advance reduction be calculated against the PY 2006 October 1, 2006 state allotment?

Answer: Yes

Question: Are there any protections for minimally funded states?

Answer: The Rescission of Unexpended Balances makes no such provisions. The ATBs are applied proportionately according to the WIA allotment formulas at all levels and therefore incorporate any protections or hold harmless provisions currently in the formula.

Question: Is the 70 percent expenditure level calculated on the basis of:

- The amount of PY05 and PY06 funds available on July 1, 2006 and the percentage of those funds spent by June 30, 2007?
- Alternatively, is there a different methodology? If so, please specify.

Answer: We calculated the availability, at June 30, 2007, of funding available during PY 2006, as directed by the applicable committee report language. This is comprised of unexpended balances from PY 2004 and PY 2005 carried into PY 2006, plus new PY 2006 funds. To calculate the unexpended carry-out balances in excess of 30 percent of the funds available for the Rescission of Unexpended Balances calculations, the unexpended balances used at that date are the unexpended balances pertaining to only PY 2005 and 2006, per the appropriation language.

Question: Must the proportionate methodology be used in both parts 1 and 2 of the calculation, or will the state have flexibility in how part 2 is applied?

Answer: The allocation of the rescission between the statewide activities and local areas must be in proportion to their contribution to the rescission calculation amount in each of the formula programs, so there is no flexibility in the application of steps 1 and 2 of the Rescission of Unexpended Balances. The TEGL provides the summarized state and local amounts used in its overall calculations; the states will have to perform the local area calculations using the local area detailed data to determine to what extent local areas will receive a portion of the rescission. In the TEGL's attachments and appendices, DOL provided states specific instructions, calculations and tools to use in calculating these local area amounts.

Question: How do the revised WIA spending summaries published by DOL on the ETA budget website relate to this Rescission on Unexpended Balances?

Answer: The tables now published reflect revised financial report data submitted by states after our initial spending summary (and rescission estimates) which used data in the system as of September 14, 2007. These revised tables also include Navajo Nation data for the states of Arizona and New Mexico, not normally included in the regular spending tables, but needed for this rescission. Another adjustment to the data is the removal of the 2007 ATB rescission amounts from the available funds, at program and within-state levels. The total availability and unexpended carryout columns are used in the 2-step calculations of the rescission for program, state, and within-state levels.

States should also note that these WIA spending tables published on the website display an expenditure rate calculated using all three funding years of expenditures, not just PY 2005 and PY 2006 as used for the rescission. Therefore, spending rates in these tables are not a good standard by which to verify the rescission calculations.

5. Other Programs Affected

Question: Since Dislocated Worker funding has been cut, will our NEG projects funded with Dislocated Worker money also be receiving notice of rescissions?

Answer: DOL is currently reviewing the situation and will contact affected states at a later time.

Question: Can a state apply for a NEG to cover the costs of the rescissions?

Answer: No. NEG awards are made in response to specific qualifying dislocation events.

Question: Are the Wagner-Peyser programs being cut for the current year or will they just be affected with the upcoming 1.747 percent cut that will take effect with the 2008-09 funding to be released in April?

Answer: Wagner-Peyser will be affected only by the 2008 ATB reduction to the PY 2008 funding. It is not affected by the retroactive rescissions.

Question: Are other programs besides WIA Title IB programs affected by the rescissions?

Answer: The Rescission of Unexpended Balances affects the WIA Youth, Adult and Dislocated Worker formula programs only. It does not affect national programs or unexpended balances for non-WIA programs such as

Wagner-Peyser grants, Senior Community Service Employment Program or Trade Assistance Act training or benefits. The 1 percent and 1.747 percent rescissions are ATB rescissions to the 2007 and 2008 advance funds, respectively, and will affect state WIA Adult and Dislocated Worker grants (the Youth program does not receive advance funds) funded by the affected accounts, along with certain Dislocated Worker National Reserve programs such as National Emergency Grants which also receive funding from the advance funds.

Question: Are Veteran's Programs going to experience any rescissions?

Answer: Veterans Employment and Training Service (VETS) funding for FY 2008 will be affected by the FY 2008 ATB, including the Local Veteran Employment Representative (LVER) program and the Disabled Veteran Outreach Program (DVOP). VETS is responsible for providing guidance to the Workforce Investment System on the rescissions for these programs.

6. State Flexibility

Question: Can the reduction or rescission be from program dollars in cases where all administrative funds have been spent?

Answer: There is flexibility for this in all rescissions. This flexibility is discussed in the TEGL under section 5: *Within-State Rescissions Amount Calculations to be Performed by the States*.

Question: Are these cuts to be taken strictly from our program year dollars and not fiscal year dollars?

Answer: The ATBs must be taken from the advance funds which became available in October of 2006 and 2007 respectively.

The cuts associated with the Rescission of Unexpended Balances may be taken from any or all of the WIA formula funds received from July 2005 through June 2008, whether PY or FY advance funds, after the application of the ATB rescissions.

Question: What flexibility will states have in applying the reductions to the years of funding? Is it possible for states to absorb some of the retroactive rescissions in the upcoming PY 2008 allocations?

Answer: The ATB rescissions must be applied to the FY 2007 advance and the FY 2008 advance fund years, just as previous ATB rescissions have been applied. The Rescission of Unexpended Balances may be applied to all

fund sources for program years 2005, 2006 and 2007. The law does not allow the use of PY 2008 funds to absorb the rescission of unexpended balances.

Question: Assuming it is possible that a state's distribution of the local admin and statewide expenditures among the funding streams differed from how DOL's national office treated these expenditures/ unexpended balances in the Rescission of Unexpended Balances calculation, will the states have some flexibility in applying the rescission dollars?

Answer: A major requirement for the Rescission of Unexpended Balances is that the rescission be split between the funds reserved for statewide activities and the funds allocated to local areas proportionately based on the extent to which the unexpended balances from each of those funds contributed to the rescission calculation. ETA has developed a methodology for allocating the expenditure data from states into the three funding streams. This method is used for the Rescission of Unexpended Balances calculation for both the state level and the sub-state level breakouts which will be provided to the states. These amounts provided by DOL must be applied to the categories as specified. However, the state may apply the statewide portion to the statewide components in any manner it prefers. One of the flexibilities provided in the law relaxes the limits on administration costs and other WIA provisions within the adjusted statewide allocations.

Question: Can a state absorb a larger share of the rescission allowing locals to have more funds available?

Answer: No, for the Rescission of Unexpended Balances, the amounts rescinded within each state are to be in proportion to the extent that the unexpended balances of funds allocated to each local area and the funds reserved for statewide activities contributed to the amount to be rescinded in the state. After the rescission process is completed the states could re-evaluate their inter-program transfer and allocation decisions within the WIA framework and possibly provide some relief to some local areas.

Question: If the state requests use of PY 2007 funds to offset a portion of the \$250 million rescission, will the state have flexibility in choosing which pots of PY 2007 money are used or must the state use the proportionate methodology required with the PY 2005 and PY 2006 funds?

Answer: In the TEGL, DOL is providing totals for each program with splits between total local programs and statewide activities, but not broken out by fund year source. States are to provide DOL with the distribution by fund year source. The state may de-obligate the rescission amounts within those categories as it pleases between fund year sources, including PY

2007 and FY 2008 advance. However, only the PY 2005 and PY 2006 unexpended balances must be used in the actual calculations, per DOL instructions provided to states in the TEGL.

Question: Can the local formula grantees take their share of the Rescission of Unexpended Balances against their local incentive funds that are funded by 15 percent statewide activity funds?

Answer: No, statewide activities and local area must meet their own rescission totals.

Question: Please clarify that both the state and local levels will only be held to the cost limitation imposed on the original allocations. Does that mean that our state level 5 percent can still be 5 percent of the original allocation? Likewise, the locals can still have 10 percent administration based on their original allocation, is this correct? If so, is that true for only the money cut from budgets related to 05/06?

Answer: The Rescission of Unexpended Balances language provides for relaxation of WIA percentage limitations; therefore for the amounts taken as a result of the rescission of unexpended balances, these percentage limitations are relaxed, as explained in the TEGL. Consequently, a state or local area could decide to maintain the original amount of administrative funding and reduce other funding within that program. Should the state request that some or all of the unexpended balances rescission be taken against its PY 2007 funding, the limitations would be relaxed for PY 2007 funding also.

7. Insufficient Funds for the Rescission

Question: If the state does not have the amount listed in the rescission document available, what will DOL do? Likewise, if the state has the funds available, and rescission would cause the state to have to shut down the WIA program for the remainder of the year, what would DOL's stance be?

Answer: If the funds to be rescinded have already been expended, the state will still be required to refund the rescission amounts. It will be the responsibility of the states to decide how to do that, using the DOL guidance contained in the attached TEGL. The flexibility provided in the appropriation law, which provides options to states in how to apply the rescission amounts among three program years, is intended to mitigate this problem.

Question: If, after rescissions and reductions occur, a state runs out of funding mid-year, what options are available to a state to continue to operate?

Answer: States should work through their appropriate regional office to communicate rescission impacts and explore alternatives to address specific circumstances if the state is facing significant challenges in maintaining operations.

8. Release of PY 2008 Allotments

Question: When does DOL intend to release FY 2008 allocations to the states? Having this information earlier than usual will assist the states with planning/budgeting for the upcoming year, and will aid mitigating the impact of the rescission.

Answer: DOL is releasing the PY 2008 WIA formula allotments separately but concurrently with the rescissions release, so that states may be informed of their full level of funding available.

Question: Will the 1.747 funding cut that will go into effect with April 08 funding be taken from the reduced amount of 07-08 funding (after the 1.747) or will it be taken from the original allocations coming out and disregard the funding cut from this year?

Answer: The PY 2008 state WIA formula allotments (funds available July 1, 2008, including Youth funds available April 2008) which are being announced separately and concurrently with the rescissions, are already adjusted separately for the 2008 ATB reduction contained in the FY 2008 appropriations bill. The retroactive FY 2008 ATB is taken from the 07-08 funding and will not affect the PY 2008 formula allotment calculations.

9. Further Rescissions

Question: Is there the possibility of additional rescissions during PY2008/Advance 2009?

Answer: The 2008 ATB is also applicable to WIA funding for PY 2008 that is available on July 1, 2008, and these reduced levels are reflected in the PY 2008 WIA allotments being published separately. As to the FY 2009 advance funds, DOL currently has no information on whether additional rescissions will be enacted, but that could happen.

10. Redesignation of Local Areas

Question: Will Governors have the ability to do local area redesignations, especially if there are not sufficient funds to maintain all local areas?

Answer: The rescissions have not changed the authority and procedures for local area designation.

11. Performance Re-Negotiations

Question: Will DOL consider performance re-negotiations in response to program design and service level changes?

Answer: Yes, we consider these retroactive rescissions to constitute a significant, unanticipated change in economic conditions which may be sufficient for a request for revisions to be made under WIA section 136(b)(3)(A)(vi)

12. Waivers

Question: Will ETA develop an expedited waiver process? Some regions have waivers pending that have not been approved dating back to the State Plan review timeframe.

Answer:

ETA is committed to expediting the waiver process as much as possible

ETA encourages states to consider using waiver authority as described at WIA Section 189(i)(4) and 20 CFR 661.400-420 to provide state and local flexibility for use of funds after the rescission is applied. States may consult ETA's Web site at <http://waivers.doleta.gov/> for waivers that have been approved in other states, particularly those related to funding flexibility, and are encouraged to consult with their Regional Offices if they are considering a waiver request. Additionally, states may request waivers that are not included on the above website. Requests that are new to DOL or that have complex policy issues associated with the request may take some additional time, but all waivers will be processed within the 90 day timeframe established at WIA section 189(i)(4)(c).

Waiver requests must be submitted through either the Governor or the designated Workforce Investment Act state official, i.e. the State Workforce Administrator overseeing WIA. Waiver requests being submitted in response to the rescissions should be submitted by the Governor or designated WIA official via electronic mail to WIA-Rescissions@dol.gov.

13. Modification of State WIA/WP Plans

Question: Will ETA develop an expedited modification approval process for changes to state's WIA/WP plans?

Answer: Yes, ETA intends to institute new procedures to expedite the review and approval of modification requests for WIA/Wagner-Peyser Act Strategic State Plans.

Requests should be sent electronically to Janet Sten (Sten.Janet@dol.gov), the Federal Coordinator for Plan Review and Approval, with a copy to the appropriate ETA Regional Administrator. Submitting modification requests to other offices in ETA's National or Regional Offices will result in unnecessary delays.