

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION TAA
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ADVISORY: **TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 13-11**

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS
ONE-STOP CENTER SYSTEM LEADS
STATE WORKFORCE ADMINISTRATORS
STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS
STATE LABOR COMMISSIONERS

FROM: JANE OATES /s/
Assistant Secretary

SUBJECT: Fiscal Year (FY) 2012 State Initial Allocations and the Process for
Requesting Trade Adjustment Assistance (TAA) Program Reserve Funds

1. Purpose. To provide State Workforce Agencies or agencies designated by Governors as “Cooperative State Agencies” (CSAs) (also jointly referred to as “states”) with the formula methodology used in developing the FY 2012 initial allocations, and to describe the process for states to use to request TAA program reserve funds for Training, Employment and Case Management Services, Job Search Allowances, and Relocation Allowances, including the State Administration of these benefits.

2. References.

- Chapter 2 of Title II of the Trade Act of 1974, as amended (Pub. L. 93-618) (1974 Act and, as amended, Trade Act);
- Trade and Globalization Adjustment Assistance Act of 2009, Division B, Title I, Subtitle I of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (TGAAA);
- Trade Adjustment Assistance Extension Act of 2011 (Pub. L. 112-40) (TAAEA);
- 20 CFR part 618;
- Training and Employment Guidance Letter (TEGL) No. 11-02, *Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Act of 2002*, and its Changes 1; 2, and 3;
- TEGL No. 1-10, *Promulgation of 20 CFR Part 618 Trade Adjustment Assistance: Merit Staffing of State Administration and Allocation of Training Funds to States*; and
- TEGL No. 10-11, *Operating Instructions for Implementing the Amendments to the Trade Act of 1974 Enacted by the Trade Adjustment Assistance Extension Act of 2011 (TAAEA)*.

RESCISSIONS NONE	EXPIRATION DATE CONTINUING
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3. Background. On October 21, 2011, President Obama signed the TAAEA into law. The TAAEA reauthorized and made substantial changes to the TAA program as explained in TEGL No. 10-11. The TAAEA amended Section 236(a)(2)(A) of the Trade Act to establish a \$575 million annual cap on TAA funding for Training, Job Search Allowances and Relocation Allowances, Employment and Case Management Services, including State Administration of these benefits for both FY 2012 and FY 2013, and established a \$143,750,000 cap for this funding for the first quarter of FY 2014 (October 1, 2013 through December 31, 2013). The TAAEA did not amend Section 236(a)(2)(B) and (C) of the Trade Act governing the allocation of funds, which:

- Requires 65 percent of the funds to be distributed by formula at the beginning of the fiscal year, with 35 percent of the fiscal year funds held in reserve for distribution later in the fiscal year;
- Provides a “hold harmless” minimum allocation for the initial distribution to ensure that a state receives at least 25 percent of the state’s initial allocation for the previous fiscal year;
- Sets a deadline for the distribution of 90 percent of the funds; and
- Establishes specific formula factors that the Department of Labor (Department) must consider in determining the apportionment of the initial distribution of funds.

The regulations that govern the distribution of funds are codified at 20 Code of Federal Regulations (CFR) 618.900 – 618.940. Nothing in the TAAEA or any subsequent guidance changed the methodology or formula for calculating the distribution of funds. Further, the process by which states may request reserve funds was also unchanged.

4. FY 2012 Distribution of Initial Allocation of TAA Funds and the Process for Requesting Reserve Funds. Consistent with 20 CFR 618.910(a), the Department, in Attachment A of this TEGL, announces the amount of each state's initial distribution of funds that will be provided to the states when the Department receives its full year appropriation. In the interim, if a state needs funds, it may request such funds by following the process for requesting reserve funds described below.

The initial allocation for each state was determined on the basis of the full amount that the TAAEA authorized to be appropriated (\$575 million) for Training, Job Search Allowances, Relocation Allowances, Employment and Case Management Services, including State Administration of these benefits and services.

A. Formula for Calculating State Initial Distribution Amounts. The state initial allocation amounts listed in Attachment A were derived using the formula factors described in 20 CFR 618.910, and apply to 65 percent of the total \$575 million cap, which is the maximum amount that the TAAEA authorized to be appropriated for FY 2012. The Department will consider the remaining 35 percent to be held in “reserve” for distribution to the states later in the fiscal year. Reserve funds will continue to be distributed to the states on an as-needed basis. This will provide needed funds to: 1) states experiencing large, unexpected layoffs; 2) states that did not receive an initial allocation; and 3) states with training needs that were not met by the initial allocation.

The initial allocation of 65 percent of TAA funds among the states follows the four factors set forth in Section 236(a)(2)(C)(ii) of the Trade Act and explained in 20 CFR 618.910(f), which are:

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 was calculated using the most recent four quarters (FY 2010 Quarter 4 through FY 2011 Quarter 3) of data for certified workers by state, then weighting this quarterly data by 40 percent, 30 percent, 20 percent, and 10 percent, respectively, from the most recent quarter to the earliest quarter. This approach established a trend giving the most recent quarters a greater impact on each factor than an earlier quarter.

Factor 2 was calculated using the most recent four quarters (FY 2010 Quarter 4 through FY 2011 Quarter 3) of data for workers participating in training by state, and weighting these quarters by 40 percent, 30 percent, 20 percent, and 10 percent, respectively, from the most recent quarter to the earliest quarter. As with Factor 1, this approach established a trend, giving the most recent quarters a greater impact on each factor than an earlier quarter.

Factor 3 was calculated 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 the Department's most recent budget submission or update.

Factor 4 was calculated by multiplying the estimated number of participants in Factor 3 by the average training cost for the state. The average training cost was 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 were determined for each state, all four factors were assigned an equal weight, in accordance with 20 CFR 618.910(f)(3). For FY 2012, the weight assigned will be 25 percent of the total for each factor. The "hold harmless" provision, 20 CFR 618.910(c), requires that a state's initial allocation be equal to at least 25 percent of the amount of that state's initial allocation in the most recent previous fiscal year.

The Department determined 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, the Department determined the unadjusted percentage that the state would receive of the amount available for initial allocations. As provided in 20 CFR 618.910 (c), (d) and (e), allocations under \$100,000 were removed and the 25 percent “hold harmless” minimum amount was applied to the state’s allocation, resulting in an adjusted FY 2012 allocation for the remaining states.

In those instances where application of the formula resulted in a state receiving less than \$100,000, 20 CFR 918.910(e)(2)(i) provides that that state will not receive any initial allocation, but may, where needed, request TAA reserve funds in accordance with the procedures described below in Section B.

B. TAA Reserve Funds. States may request reserve funds to cover the costs of training, Job Search Allowances and Relocation Allowances, Employment and Case Management Services and State Administration of these benefits. Reserve funds will be distributed to states in accordance with 20 CFR 618.920 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 Form ETA-9117 (OMB No. 1205-0275).

In order to be eligible to receive TAA reserve funds, a state must demonstrate that at least 50 percent of its total 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 addresses at least the following data:

- 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 that the state has available for training.

5. Use of Funds. A state’s allocation of FY 2012 funds will be provided in a single grant which may be used to pay the costs for the provision of Training, Job Search Allowances, Relocation Allowances, and Employment and Case Management Services, including State Administration of these benefits. Unlike previous years, there will not be a separate grant for State Administration funds. Use of the FY 2012 funds is subject to the following restrictions:

- State Administration. As provided by Section 235A(1) of the Trade Act, not more than 10 percent of a state’s allocation may be used for administration of the TAA program. The definition of State Administration has not changed, and continues to include costs that would previously have been charged to the administration grant. This includes the necessary and reasonable costs of administering TAA Training, Job Search Allowances, Relocation Allowances, and Employment and Case Management Services, and may include the administrative costs associated with processing waivers of the training requirement, collecting, validating and reporting data, and providing Reemployment Trade Adjustment Assistance or Alternative Trade Adjustment Assistance.
- Employment and Case Management Services. Under Section 235A(2) of the Trade Act, at least 5 percent of the funds received must be used to provide Employment and

Case Management Services. Therefore, a state may use more than 5 percent of its allocation to provide Employment and Case Management Services if it determines that greater funds are needed to provide such services to trade-affected workers in its state.

6. Recapture of TAA Funds. The TAAEA amended Section 245 of the Trade Act to add paragraph (c), “Reallotment of Funds,” which provides authority for the Employment and Training Administration (ETA) to recapture unobligated TAA funds that were allotted to a state from states that have not fully obligated their funding in the second and third year, and reallot those funds to states with a demonstrated pattern of need. Consistent with the TAAEA and the TAA FY 2012 Annual Cooperative Financial Agreement, funds provided in the initial allocation or any subsequent allocation including funds distributed to states in response to Reserve Fund requests may be deobligated in the event of underutilization. Underutilized funds will be recaptured only after consultation with, and subsequent notification to, the state. Further guidance will be provided by the Department regarding the recapture of funds.

7. Action Requested. States will inform all appropriate staff of the contents of these instructions.

8. Inquiries. States should direct all inquiries to the appropriate ETA Regional Office.

9. Attachment. Initial Distribution of TAA Funds to States for FY 2012

Attachment A

Trade Adjustment Assistance Fiscal Year (FY) 2012 Initial Allocation Amounts by State *

State	Total
Alabama	\$ 8,844,792
Alaska	\$ 101,445
Arizona	\$ 2,572,139
Arkansas	\$ 7,071,552
California	\$ 11,204,133
Colorado	\$ 2,514,635
Connecticut	\$ 5,199,081
Delaware	\$ 217,648
District of Columbia	\$ -
Florida	\$ 2,370,835
Georgia	\$ 7,458,240
Hawaii	\$ -
Idaho	\$ 3,001,046
Illinois	\$ 12,026,074
Indiana	\$ 14,204,524
Iowa	\$ 7,625,926
Kansas	\$ 5,212,072
Kentucky	\$ 11,197,439
Louisiana	\$ 1,518,317
Maine	\$ 4,592,919
Maryland	\$ 2,194,202
Massachusetts	\$ 6,765,400
Michigan	\$ 43,726,741
Minnesota	\$ 8,757,042
Mississippi	\$ 1,214,559
Missouri	\$ 8,391,024
Montana	\$ 2,743,884
Nebraska	\$ 1,580,834
Nevada	\$ 463,866
New Hampshire	\$ 1,216,658
New Jersey	\$ 3,762,883
New Mexico	\$ 2,262,461
New York	\$ 15,921,891
North Carolina	\$ 24,732,486
North Dakota	\$ 416,958
Ohio	\$ 21,523,700
Oklahoma	\$ 1,762,644
Oregon	\$ 11,385,137
Pennsylvania	\$ 22,257,501
Puerto Rico	\$ 280,869
Rhode Island	\$ 2,054,526
South Carolina	\$ 9,627,826
South Dakota	\$ 1,037,123
Tennessee	\$ 12,684,703
Texas	\$ 15,962,669
Utah	\$ 2,390,736
Vermont	\$ 456,772
Virginia	\$ 8,213,940
Washington	\$ 9,260,370
West Virginia	\$ 4,448,472
Wisconsin	\$ 19,319,306
Wyoming	\$ -
TOTAL	\$ 373,750,000

* State Funding Amounts are in dollars and are based on 65 percent of the FY 2012 \$575 million annual national cap established under the Trade Adjustment Assistance Extension Act of 2011 (TAAEA) in Section 236(a)(2)(A) of the Trade Act of 1974. The TAAEA also provided that funding for Training, Job Search Allowances, Relocation Allowances, Case Management and Employment Services, and State Administration of these benefit and services, is included under that cap.