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. 15-12**

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS
AMERICAN JOB CENTER LEADS
STATE WORKFORCE ADMINISTRATORS
STATE AND LOCAL WORKFORCE BOARD CHAIRS AND DIRECTORS
STATE LABOR COMMISSIONERS

FROM: JANE OATES
Assistant Secretary

SUBJECT: Delivery of Benefits and Services to Trade Adjustment Assistance (TAA) Program Recipients through the American Job Center Network Delivery System

1. Purpose. To assist State Workforce Agencies (SWAs) or agencies designated by Governors as "Cooperating State Agencies" (CSAs) and States in providing services to TAA program participants through the American Job Center network. This guidance supersedes TEGL No. 5-00, Attachment B, incorporating the changes to the program since the issuance of that TEGL, including the expanded funding source options.

2. References.

- Chapter 2 of Title II of the Trade Act of 1974, as amended (Pub. L. No. 93-618) (1974 Act and, as amended, Trade Act), 19 U.S.C. 2271- 2323;
- Trade Adjustment Assistance Reform Act of 2002, Division A, Title I, Subtitle A of the Trade Act of 2002 (Pub. L. No. 107-210) (Reform Act or 2002 Amendments);
- 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. No. 111-5) (TGAAA or 2009 Amendments);
- Omnibus Trade Act of 2010 (Pub. L. No. 111-344) (Omnibus Trade Act);
- Trade Adjustment Assistance Extension Act of 2011 (Pub. L. No. 112-40) (TAAEA or 2011 Amendments);
- Wagner-Peyser Act, as amended (29 U.S.C. 49) (Wagner-Peyser);
- The Workforce Investment Act of 1998, as amended (Pub. L. 105-220) (29 U.S.C. 2801 et seq.) (WIA);
- Section 303(a)(1) of the Social Security Act (42 U.S.C. 503(a)(1));

- 20 Code of Federal Regulations (CFR) Part 617;
- 20 CFR Part 618.890;
- 29 CFR Part 90;
- 20 CFR 652.215;
- Training and Employment Guidance Letter (TEGL) No. 4-08, Change 1, *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;*
- TEGL No. 5-00, Attachment B: *Funding Source Matrix for the Trade Act Program's Benefits and Services Activities;*
- TEGL No. 2-03, *Interim Operating Instructions for Implementing the Alternative Trade Adjustment Assistance (ATAA) Program for Older Workers Established by the Trade Adjustment Assistance Reform Act of 2002*
- 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. 4-08, Change 1, *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;*
- 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, and its Changes (2009 Program);*
- TEGL No. 16-10, *Instructions for Phasing Out Changes to the Trade Act of 1974 Enacted by the Trade and Globalization Adjustment Assistance Act of 2009, and its Change 1*;
- TEGL No. 15-10, *Increasing Credential, Degree, and Certificate Attainment Participants of the Public Workforce System;*
- 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;*
- 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, and Change 1;*
- TEGL No. 13-11, *Fiscal Year (FY) 2012 State Initial Allocations and the Process for Requesting Trade Adjustment Assistance (TAA) Program Reserve Funds;*
- TEGL No. 36-11, *Announcement of American Job Center Network;* and
- TEGL No. 1-12, *Fiscal Year (FY) 2012 Second Distribution of Trade Adjustment Assistance (TAA) Program Funding to States and the Process for Requesting TAA Program Reserve Funds.*

3. **Background.** The Trade Adjustment Assistance (TAA) program under Chapter 2 of Title II of the Trade Act (19 U.S.C. 2271 et seq.) provides adjustment assistance for workers whose jobs

have been adversely affected by international trade. Benefits and services under the TAA program include training, employment and case management services, income support, job search allowances, relocation allowances, wage supplements for certain older workers, and eligibility for a health coverage tax credit to help workers pay for the costs of qualified health insurance. The TAA program is a required partner in the American Job Center network established under section 121 of the Workforce Investment Act (WIA). TEGL No. 36-11 announced the introduction of the American Job Center network, a unifying name and brand that identifies virtual and in-person publicly-funded workforce development services as part of a single network. This TEGL strongly encourages states to begin immediately using the name American Job Center network for their One-Stop system, and for the activities delivered in American Job Centers, including Wagner-Peyser Act and WIA Adult, Youth, or Dislocated Worker activities. States may also use the name American Job Center network to refer to locations where workers may apply for and receive TAA program benefits and services.

The States provide benefits and services in the TAA program as agents of the United States. Each State does so through one or more State agencies, one of which is designated as the CSA in an agreement between the State's Governor and the United States Secretary of Labor (Secretary), under section 239 of the Trade Act. The CSA operates the TAA program in the State in coordination with the State agency that administers the unemployment insurance laws for the State (if the CSA is a different agency) and other State agencies that cooperate in the administration of the TAA program, as provided in the Governor-Secretary Agreement. In many cases, the CSA is also the WIA grantee. Under the Agreement: the state will ensure integration of the TAA program into its American Job Center network; the state will use the centers in this system or network as the main point of participant intake and delivery of benefits and services; and the terms of the Memoranda of Understanding (MOU) with the Local Workforce Investment Boards, as established under WIA sec. 121(c) (19 USC 2841(c)), will apply to the assistance provided by other center partners to trade-affected workers.

TAA Funding Limitations

The Trade Adjustment Assistance Extension Act of 2011 (TAAEA), as explained in TEGL No. 10-11, authorizes a $575 million national annual cap in funding for FY 2012 and FY 2013, and a pro-rated portion of this amount for the first quarter of FY 2014. These amounts must be used for training, job search allowances, relocation allowances, employment and case management services, and associated state administration costs of providing these benefits and services to trade-affected workers. The TEGL also explained that this funding is subject to two limitations, under section 235A of the Trade Act:

- not more than 10 percent of a state's allocation may be used for administration; and,
- at least 5 percent 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 more funds are needed to provide such services to adversely affected workers in its state. However, the state administrative cost to provide TAA benefits and services to adversely affected workers must not exceed 10 percent of the state's allocation.

4. **Scope.** This TEGL addresses funding changes for the TAA program made under the TAAEA, as well as the merit staffing regulations at 20 CFR Part 618. This TEGL does not address the types of services and benefits available to workers covered by TAA certifications. States will continue to apply TEGL No. 10-11, TEGL No. 10-11, Change 1, TEGL 2-03 and TEGL No. 2-03, Change 1 to determine the benefits and services for workers covered under TAA certifications resulting from petition numbers TA-W-80,000 to 80,999 and petition numbers TA-W-81,000 and above and also will apply 20 CFR 618.890. States will apply TEGL No. 22-08 and TEGL No. 22-08 Change 1 to determine the benefits and services for workers covered under TAA certifications resulting from petition numbers TA-W- 70,000 to 79,999, and will apply 20 CFR part 617. States will also continue to apply TEGL No. 11-02 and TEGL No. 11-02 Changes 1, 2, and 3 to determine the benefits and services for workers covered under TAA certifications resulting from petitions numbers TA-W-50,000 to 69,000. In determining the source of funding for these activities, this TEGL will apply.

5. **Merit Staffing.** As explained in TEGL No. 01-10, 20 CFR 618.890(c) provides that CSAs must operate their TAA programs entirely in accordance with merit principles, except for the CSAs in three States, Colorado, Massachusetts, and Michigan, whose Employment Service is exempt from applying the merit staffing requirement in delivering services under the Wagner-Peyser Act. Under this regulation, the Department expects CSAs to use TAA funds to hire merit-staffed employees to provide services to trade-affected workers, and apply to these personnel the standards for a merit system of personnel administration in accordance with Office of Personnel Management regulations at 5 CFR Part 900, subpart F. CSAs may use TAA program funds to provide employment and case management services to trade-affected workers, subject to the merit-staffing requirement. However, trade-affected workers who participate in the TAA program continue to be eligible for services delivered by other partner programs in the American Job Center network delivery system and subject to terms and conditions executed in Governor-Secretary agreements, states continue to have the flexibility to serve TAA participants through co-enrollment in those programs.

The regulation on the use of merit-staffed personnel in carrying out the TAA program does not require states to establish a new benefit delivery system for the provision of employment and case management services to TAA participants. In fact, the Governor-Secretary Agreements (as required by section 239(f) of the Trade Act) require coordination with activities carried out under the Wagner-Peyser Act and WIA to help ensure that a comprehensive array of services is available to TAA participants. CSAs already apply the merit staffing requirements of Section 303(a)(1) of the Social Security Act (42 U.S.C. 503(a)(1)), and 20 CFR 652.215 when carrying out, respectively, the State Unemployment Insurance program, and Wagner-Peyser Act services, using funds made available for those programs. Accordingly, we encourage states to use existing structures based on effective co-enrollment and applicable MOUs to coordinate the delivery of services by partner programs to TAA participants using both existing partner program staff and state merit-staffed employees funded by the TAA program.

In addition, the merit-staffing regulation does not specifically address activities that may be performed by partner program staff using partner program funding (discussed in number 6. below). Under co-enrollment, even partner program staff who are not merit staff personnel may provide to trade-affected workers any activity or service authorized by that program using its

own program funds. This delivery of services is consistent with the merit staffing regulation, since those regulations govern only services provided with TAA funds. Nothing in this TEGL changes the guidance that TAA funds may also be used to pay its fair share for the physical structure, utilities and other shared American Job Center costs.

6. **Integrated Service Delivery for Trade-Affected Workers.** Trade-affected workers currently receive many services, such as skill assessments, supportive services, and other wrap-around services, that are funded and provided under other programs for which trade-affected workers also qualify. In most cases, trade-affected workers meet the definition of a "dislocated worker" under WIA and are eligible to receive rapid response activities and core, intensive, and training services under the WIA Dislocated Worker program. In addition, section 221(a)(2)(A) of the Trade Act specifically requires that, upon receipt of a petition, the Governor must ensure that rapid response activities and appropriate core and intensive services, as described in section 134 of WIA, are made available to the workers covered by the petition to the extent authorized under the WIA and other Federal laws. This requirement, implemented in TEGL No. 11-02, has not changed.

While we expect the TAA program to be the primary funding source for services to trade-affected workers covered by approved petitions, we recognize that in many cases these workers will have begun to receive services through one or more American Job Center network partner programs before certification and may have an existing service plan that incorporates partner program services. Services that workers receive from partner programs must not be duplicated using TAA funds. Thus, if a trade-affected worker is co-enrolled in the WIA dislocated worker program and the service plan for that worker includes a WIA-funded assessment, that assessment may be provided by a local WIA staff member, and must not be duplicated by a state merit-staffed employee to meet the TAA program requirement that these services must be made available to TAA participants.

The attached chart will help guide the States in developing plans of service consistent with the merit staffing regulation, and the array of American Job Center network partner programs available to serve workers in the State. This matrix provides an overview of the activities related to providing TAA program benefits and services and may not be all-inclusive. It identifies which funding sources may be used to provide these activities.

7. **Inquiries.** CSAs should direct all inquiries to the appropriate Employment and Training Administration Regional office.

8. **Attachment.** Attachment, *Commonly Used Funding Sources for the American Job Centers in the Provision of Trade Adjustment Assistance (TAA) Benefits and Services Activities to Trade-Affected Workers*, is a chart that maps TAA benefits and services activities to a variety of funding sources. When referring to this chart, CSAs have the option to determine which funding source they will use, consistent with the terms of applicable MOUs that have been developed in local areas, to conduct such activities and within the guidelines of the respective funding streams and this Attachment.

Commonly Used Funding Sources[1] for the American Job Centers[2] (AJC) in the Provision of Trade Adjustment Assistance (TAA) Benefits and Services Activities to Trade-Affected Workers

CATEGORY	Benefits and Services Activities	Comments	TAA Program[3] *Note: Generally, except for the provision of training, these activities must be performed by Merit Staff*[4]	Unemployment Insurance (UI)[5] *Note: Activities performed by Merit Staff*	Wagner-Peyser (W-P) *Note: Activities performed by Merit Staff*	WIA Title I *including* Rapid Response Dislocated Worker Funds
Benefits and Services Activities	Notification of Certification	Individual letter to trade-affected workers	x	x		x
	Outreach	Legal notice/public notice, including newspaper notice	x	x	x	x
	Initial Intake	Initial visit and/or registration with the AJC	x		x	x
	Individual Eligibility Determination for TAA Benefits and Services	Decision on individual eligibility for TAA program	x			
	Determination of Eligibility for Unemployment Insurance (UI) and/or Trade Readjustment Assistance (TRA)	Decision on eligibility for monetary benefits e.g., UI and/or TRA		x		
	Determination of Eligibility for Alternative Trade Adjustment Assistance/Reemployment Trade Adjustment Assistance	Decision on eligibility for monetary benefits e.g., ATAA or RTAA		x		
and Services Activities	UI, TRA, ATAA and RTAA Benefit	Payment of benefits		x		

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	Submission of Health Coverage Tax Credit (HCTC) record to the Internal Revenue Service (IRS)			x		

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CORE EMPLOYMENT & CASE MANAGEMENT SERVICES	Assessment	All activities to determine need	x		x	x
	Career Counseling		x		x	x
	Job Development and/or Placement		x		x	x
	Employment Registration	Registration for labor exchange	x		x	x
	Staff-Assisted Job Search	Job search workshop, job finding clubs	x		x	x
	Information on Available Training and the Application Process		x		x	x
	Information on How to Apply for Financial Aid		x		x	x
	Employment Statistics Information		x		x	x

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INTENSIVE EMPLOYMENT & CASE MANAGEMENT SERVICES	Testing	Any test deemed acceptable by partners of the AJC, i.e., any suitable aptitude, interest, or academic test	x		x	x
	Reemployment Plan Development	Any individual service strategy adopted by the AJC	x		x	x
	Job Search Allowance Application	Taking the application for a job search allowance	x		x	x
	Job Search Allowance Determination	The actual approval or denial of the job search allowance application	x			
	Job Search Allowances[6]	Payment of benefit	x			
	Relocation Allowance Application	Taking the application for a relocation allowance	x		x	x

Commonly Used Funding Sources[1] for the American Job Centers[2] (AJC) in the Provision of Trade Adjustment Assistance (TAA) Benefits and Services Activities to Trade-Affected Workers

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INTENSIVE EMPLOYMENT & CASE MANAGEMENT SERVICES	Relocation Allowance Determination	The actual approval or denial of the relocation allowance application	x			
	Relocation Allowance[6]	Payment of benefit	x			
	Recommending and Reviewing of Training Waiver Actions		x			
	Issuing, Approving, Continuing and Revoking Training Waivers		x			

Commonly Used Funding Sources[1] for the American Job Centers[2] (AJC) in the Provision of Trade Adjustment Assistance (TAA) Benefits and Services Activities to Trade-Affected Workers

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TRAINING BENEFITS & SERVICES	Development of Training Plans and/or Contracts (dependent on the point of entry)(see approval and denial of a training program below)	Including application for transportation and subsistence	x		x	x
	Training Plan (including Training program and related Transportation and Subsistence)		x			x
	Approval or Denial of a Training Program		x			
	Transportation and/ or Subsistence while in Training Program		x			x
	Training Program Benefit[4]	Payment of benefit	x			x
OTHER BENEFITS & SERVICES	Appellate activity associated with any TAA benefit or service denial		x	x		
	Books, Tools, Supplies, Testing, Licensing, Mandatory College Fees including Health Insurance Coverage[7]		x			

[1] CSAs have the option to determine which funding source they will use, consistent with the terms of applicable Memoranda of Understanding (MOU) that have been developed in local areas, to conduct such activities and within the guidelines of the respective funding streams and this Attachment. Where a funding source column is not checked, that funding source may not be used for the function in that row. Additionally, some of these funding sources may not be available in all states or local areas. The MOU may provide that TAA Program funds may be used to reimburse Wagner-Peyser staff costs when that staff performs TAA program functions. In states/local areas where WIA Title I programs are

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provided by state merit staff, all services that Wagner-Peyser staff perform for the TAA program may also be performed by WIA Title I staff and TAA Program funds may be used to reimburse the WIA Title I programs.

[2]American Job Center network is a unifying name and brand that identifies virtual and in-person publicly-funded workforce development services as part of a single network. In order to increase jobseeker and employer awareness of workforce development resources available across the country, the Department of Labor Employment and Training Administration (ETA) strongly encourages states and local workforce investment areas to begin using the name American Job Center network for their One-Stop system. ETA is taking initial steps now to establish a well-known unified brand, the American Job Center brand, to make it easier for workers and businesses to find and use One-Stop Career Centers.

[3] TAA Program provides training, job search allowances, relocation allowances, employment and case management services, reemployment/alternative training adjustment assistance and the state administration cost of providing these benefits and services to trade-affected workers. TAA Program funds are provided to states from the Federal Unemployment Benefits and Allowances (FUBA) account through the Trade Adjustment Assistance Program Annual Cooperative Financial Agreement with each state. Payment of UI/TRA/RTAA is also a part of the FUBA account; however, these funds are not allocated to states, but provided as requested by states as-needed.

[4] Provision of training does not require merit staff; however the approval of training must be provided by merit staff. Refer to 20 CFR 618.890(c). The merit system standards, established by Office of Personnel Management regulation at 5 CFR 900.603, are:(a) Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment.(b) Providing equitable and adequate compensation.(c) Training employees, as needed, to assure high quality performance.(d) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.(e) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, religious creed, age or handicap and with proper regard for their privacy and constitutional rights as citizens. This "fair treatment" principle includes compliance with the Federal equal employment opportunity and nondiscrimination laws.(f) Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office. There is a partial exemption from the use of merit staff for three states which have received an exemption from the Employment Service merit staffing requirements under the Wagner-Peyser Act. Those three states are Colorado, Massachusetts, and Michigan. The merit staffing requirement also does not prevent a state from outsourcing functions that are not inherently governmental, as defined by the Office of Management and Budget Circular number A-76. Non-inherently governmental functions are, generally, those that do not involve the exercise of discretion in program administration, such as janitorial and information technology services.

[5] Funds needed to administer UI/TRA/RTAA (administration funds), also known as the base and contingency funds, provided to the states from the State Unemployment Insurance and Employment Security Operations (SUIESO) account, are provided through the Unemployment Insurance Program Annual Funding Agreement with each state.

[6]This service may be funded by partner programs when TAA program funds are not available.

[7]Regulatory guidance for determining "reasonable cost" is found at 20 CFR Part 617.22(6). See 617.22(a)(iii)(A) "academic fees".