

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WtW State Formula Program
	CORRESPONDENCE SYMBOL OFAM
	DATE February 27, 2004

TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 19-03

TO: ALL STATE WORKFORCE AGENCIES
ALL STATE WORKFORCE LIAISONS

/s/

FROM: EMILY STOVER DeROCCO
Assistant Secretary

SUBJECT: Rescission of Fiscal Year 1999 Welfare-to-Work (WtW) State Formula Program

1. Purpose. To provide states and grantees of the Employment and Training Administration (ETA) policy and procedures relating to program termination, transition of participants and closeout pursuant to the rescission of the Welfare-to-Work (WtW) State formula program funded in Fiscal Year 1999 under Section 403(a)(5)(H)(i)(II) of the Social Security Act. A list of the applicable grants (30) and their expiration dates prior to the rescission is provided in Attachment B.

2. References. Section 105 of the Department of Labor (DOL) 2004 Appropriation, Public Law 108-199, Consolidated Appropriations Act, 2004 Division E, Title I, 118 Stat. 3 (January 23, 2004); Subpart D of 29 CFR, Part 97, the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (July 1, 2003); Subpart D of 29 CFR, Part 95, Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations, and with Commercial Organizations, Foreign Governments, Organizations under the Jurisdiction of Foreign Governments, and International Organizations (July 1, 2003); and the Welfare-to-Work Financial Management Technical Assistance Guide (October 1, 1999) which is available at <http://wtw.doleta.gov/techassist/tag/>.

3. Background. Pursuant to the above referenced legislation, the remaining WtW State formula grants are rescinded, effective January 23, 2004, the date of enactment. The language of the legislation is as follows:

SEC. 105. Of the funds appropriated for fiscal year 1999 under section 403(a)(5)(H)(i)(II) of the Social Security Act (42 U.S.C. 603(a)(5)(H)(i)(II)) that were allotted as welfare to work formula grants to the States under section 403(a)(5)(A) of such Act (42 U.S.C. 603(a)(5)(A)), there is hereby rescinded any funds that are unexpended by the States as of the date of enactment of this section, except for such funds as the Secretary of Labor determines are necessary for

RESCISSIONS	EXPIRATION DATE Continuing
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States to carry out administrative activities relating to the close out of such grants. Notwithstanding section 403(a)(5) of the Social Security Act (42 U.S.C. 603(a)(5)), the Secretary of Labor may take such actions as the Secretary determines are appropriate to facilitate the orderly and equitable close out.

The conference report contained the following clarifications regarding Congressional intent:

The conference agreement modifies a provision proposed by the Senate that rescinds funds appropriated for fiscal year 1999 for the Welfare-to-Work program. The conference agreement rescinds any amounts allotted to the States from funds appropriated for fiscal year 1999 for the Welfare-to-Work program that are unexpended as of the date of enactment of the section, except for certain close out costs. Unexpended funds would consist of funds allotted to the States that are unobligated by the States, or obligated by the States, but not expended. Only funds to pay for goods and services that have already been provided as of the date of enactment are generally considered expended. Grantees would be required to terminate any agreements providing for the provision of goods and services beginning after the date of enactment unless alternative funding sources are identified.

Since this rescission would accelerate the termination of the Welfare-to-Work grants to the states that are all due to expire during fiscal year 2004, the provision does not rescind funds that the Secretary of Labor determines are necessary for the states to carry out administrative activities relating to closeout. Such cost could include such items as penalties for early termination of leases, and personnel costs relating to the final reporting and closeout of grant activities. Authority is also provided in this provision for the Secretary of Labor to take necessary actions to facilitate the orderly and equitable closeout of the state grants, notwithstanding the programmatic requirements of the Welfare-to-Work program. The conferees expect the Employment and Training Administration to assist states in establishing a transition process to help the remaining Welfare-to-Work participants easily and seamlessly assimilate into Workforce Investment Act programs that allow them to continue to receive assistance.

Accordingly, on January 23, 2004, the ETA Regional Offices were provided with an alert from the national office and were asked to verbally inform all state grantees of the congressional rescission and to provide some preliminary guidance while this TEGP was being prepared. This was followed by a letter from the Grant Officer which transmitted a unilateral grant modification to all applicable state grantees to terminate all active FY 1999 WtW State grants, effective January 23, 2004.

4. Transition Policy. The language of the rescission and legislative conference report clearly indicates the intent of Congress for states and local communities to ease the impact of this early termination of the FY 1999 WtW program by establishing a transition process that helps any remaining active WtW participants easily and seamlessly assimilate into Workforce Investment Act (WIA) programs or other appropriate One-Stop services.

The enactment of the WtW program represented a major investment in the lives of the most challenged individuals moving from public assistance to employment, and many have accessed a wide range of pre- and post-employment services and been placed in unsubsidized jobs. Although a significant proportion of WtW participants have become employed through the program, the rescission leaves a substantial number who have not yet completed their employability plans or otherwise need additional workforce development services. Congressional intent is that significant gaps in service should be avoided, and where possible, the investment of services already made to active WtW participants should be completed using other resources.

The legislation creating the WtW program purposefully designated the same service delivery system that currently operates the local WIA program as the presumptive deliverer of WtW Formula Grant services. This common infrastructure allows for easy movement from WtW to WIA and among federal program partners in the One-Stop system. In addition, current WIA legislative requirements have made two public commitments to this target population: 1) a stated goal for WIA Title I is to reduce welfare dependency; and 2) WIA provides in section 134 (d)(4)(E) and regulations at 20 CFR 663.600 that in the event funds allocated to a local area for adult employment and training activities are limited, priority for intensive and training services funded under Title I Adult funds must be given to recipients of public assistance and other low-income individuals. A formal transition to WIA and/or other appropriate program services is the natural progression both necessary and expected for active WtW participants.

ETA recognizes, however, that the rescission, with its simultaneous termination of all WtW services, may pose significant transition challenges for the WIA Adult program. Regarding program performance, ETA is prepared to consider state requests to renegotiate WIA performance standards in order to accommodate the unanticipated, sudden influx of WtW participants into WIA. Please note that since WIA performance is judged relative to a negotiated level, states with appropriate levels will not be penalized under any possible incentive grant process. Regarding funding source, states and local areas are also reminded that there is flexibility in WIA funding that should be considered. The WIA statute at 133(b)(4) and regulations at 20 CFR 667.140 give local boards the option, with approval from the governor, to transfer up to 30 percent of the Dislocated Worker program year allocation to the Adult program for the provision of employment and training activities. In addition, WIA Title I at 134(a) and regulations at 20 CFR 667.130 allow the governor to reserve up to 15 percent of the WIA Title I allocation for statewide workforce investment activities. Such activities include services to adults and dislocated workers thus making the majority of active WtW participants eligible for services funded with this reserve.

5. Requests for Administrative Relief. To the extent that certain programmatic limitations such as the 70/30 expenditure ratio, the matching requirement, or administrative cost limitations are impacted by the termination of WtW grant activities, states may request administrative relief directly from the Grant Officer. Such requests - which can seek relief for a number of issues in a single submittal - must clearly identify: (1) each provision or requirement for which relief is sought, (2) the outcome that would have been required absent rescission, (3) the outcome which will result as a consequence of rescission, and (4) a description of demonstrated good faith efforts made to meet each original requirement for which relief is being sought. States are encouraged to describe how the rescission impacts performance and administrative outcomes, including actual expenditure ratio accomplished, the amount of actual match provided, the amount of actual

administrative costs incurred compared with what would have happened had they been able to continue the grant program to the end of its scheduled period of performance.

6. Closeout Policy and Procedures

a. Period for Closeout Activities. In accordance with 29 CFR 97.50(b), states are required to submit all final reports, including a financial status report, for their entire state system no later than 90 days after the termination of all WtW grants impacted by the rescission of the program, which occurred on January 23, 2004. Closeout should be completed within 90 days of receipt of the closeout package from ETA.

b. Submittal of Closeout Packages. ETA initiated the closeout process with a notification letter that provided the necessary forms for the completion of the closeout requirements, to states via Federal Express on February 18, 2004. States must submit closeout packages to the Department of Labor/Employment and Training Administration (DOL/ETA) at the following address:

Closeout Grant Officer, Office of Grants and Contract Management
Attn: Closeout Unit
200 Constitution Avenue, NW, Room N-4716
Washington, D.C. 20210

c. Responsibilities. The closeout of WtW will involve state efforts to close their awards to subrecipients in accordance with the instructions provided in this TEG. Subrecipients will be required to close grants and contracts which they have awarded to lower tiered subrecipients and vendors. The responsibility for the expeditious closeout of the WtW program rests with each state. Costs incurred for closeout activities after the 90 days are not allowable and must be charged against non-Federal, state or local resources, unless an extension is requested and approved under item 7 below.

d. Regulations. The regulations at 29 CFR, Part 97 and 29 CFR, Part 95 are applicable to governmental and non-governmental grantees and subrecipients, respectively.

e. Non-Formula Awards. Discretionary and competitive grants awarded under the WtW program will continue for the period specified in the award document and are not subject to the closeout process described in Attachment A. However, it should be noted that the availability of the appropriation for these grants will lapse on September 30, 2004.

7. Extension of Deadline for Submission of Closeout Documents. The Grant Officer may extend the deadline for submission of the closeout documents for a period of 90 days, not to exceed a total of 180 days from receipt of the closeout notification letter. Decisions will be made on a case-by-case basis. Requests must provide documented evidence of the necessity for the extension and must be submitted no later than 60 days after receipt of the closeout package. Additional extensions will be considered only under extreme or extraordinary circumstances. Requests for extension of the closeout period should be submitted to the address listed in item 6.b. with a copy of the request and supporting documentation sent to the appropriate Regional Office.

Note: WtW funds will no longer be available after September 30, 2004.

8. Action. It is the responsibility of the states to immediately provide the information transmitted by this TEGL to all staff who have responsibility for closeout activities and to all subrecipients.

9. Inquiries. ETA will establish a question and answer (Q&A) Web site on which we will post selected technical Q&As about transition and closeout issues and procedures. Questions may be submitted to wtw.rescission@dol.gov or to your Regional Office.

10. Attachments.

Attachment A: Instructions for Closeout of WtW Formula-Funded Activities

Attachment B: List of WtW Formula Grants