American Recovery and Reinvestment Act of 2009

Questions and Answers
May 13, 2009

Administration

1. Will the rules be the same as Workforce Investment Act (WIA) rules?
No. Although the design and delivery of the services under the ARRA funds are governed by WIA and WP laws and regulations, there are some differences. The exceptions are identified in the TEGL 14-08 and include youth age eligibility, reporting, suitable work experience job sites, and waivers. Refer to the TEGL 14-08 for complete information on those and other exceptions that may exist for ARRA funds. (3/09)

2. When will the Department of Labor (DOL) Employment Training Administration (ETA) provide federal guidance concerning the American Recovery and Reinvestment Act of 2009 (ARRA)?
The DOL/ETA released the Training and Employment Guidance Letter (TEGL) 14-08 on March 18, 2009. It provides policy guidance and direction regarding the ARRA funding for activities authorized under the Workforce Investment Act of 1998 (WIA) and the Wagner-Peyser Act (WP). On March 6, 2009, the ETA issued TEGL 13-08 to provide information on ARRA allocations to states for WIA Adult, Dislocated Worker, Youth Activities Program allotments; WP allotments, and Reemployment Service (RES). The ETA released Training and Employment Notice (TEN) 30-08 on March 4, 2009. It presents an overview of the ETA's implementation strategy for the WIA and WP funding under the ARRA. (3/09)

Eligibility

1. Can children of displaced workers qualify as ARRA eligible youth?
Yes, if they otherwise meet WIA youth eligibility program requirements. The ARRA provides additional funds to existing WIA youth formula funds. The ARRA does not create a separate youth program; the design and delivery of the services for the ARRA funds are governed by the existing WIA and WP laws and regulations. The ARRA makes only one change to WIA youth eligibility requirements. It increases the maximum age to 24 years old for youth served with ARRA funds. (4/09)

2. The *Workforce Investment Act Eligibility Technical Assistance Guide* and the Workforce Services Directive WIAD04-18 says there is a five percent window allowed for youth who do not meet the low-income requirements. Is this also allowed in using the ARRA funds?
The ARRA provides an infusion of funds into the Workforce Investment Act (WIA) Youth Activities formula funds. The intent of the ARRA funds is to increase the number of youth served by WIA activities and does not create a "separate" youth program. The design and delivery of the services under the ARRA funds are governed by the WIA and the Wagner-Peyser Act (WP) laws and regulations, except as noted in the TEGL 14-08. There are no changes to the requirement that not more than five percent of participants served by WIA Youth programs be individuals who do not meet the minimum income criteria to be considered eligible youth if they meet required conditions. (4/09)

3. Is an older youth (18 and over) considered an income of one, if they are not claimed on their parent's income taxes as a dependent but they are living at home?
It is up to locally established policy and procedures to determine the "dependency" of an unemployed youth who is not listed on the parent or guardian's income tax and is living in a single residence with the parent(s) or guardian(s).

The WIA does not define dependent. This lack of definition can lead to uncertainty in making eligibility decisions regarding family size and income for youth living "at home" with their parents or guardians. The Employment Development Department's Technical Assistance Guide (TAG) advises if an 18-21 years old youth is a dependent family member (e.g. the youth is claimed as a dependent on the parent's income tax), then income is calculated based on the wage, salaries, tips, etc of all family members. The TAG further states an 18-21 year old youth, who is not a full-time student in a secondary school or equivalent, and is living in a single residence with their parent(s) or guardian(s), shall have their dependency established according to locally established policy and procedures. The TAG goes on to state if the older youth is determined not to be a dependent family member (e.g. the youth is not claimed as a dependent on the parent's income tax), the older youth's income is based on his or her own wages, salaries, tips, etc. (4/09)

4. What are the beginning and ending dates for the ARRA?
The beginning date is February 17, 2009. The ending date is June 30, 2011. (03/09)

5. What date does the age eligibility requirement increase to 24 for youth activities funded by the ARRA?
The effective date is February 17, 2009. (3/09)

6. Who is eligible and how will eligibility be determined?
Eligibility requirements for the Workforce Investment Act (WIA) Adult and Dislocated Worker (DW) formula programs remain unchanged by the American Recovery and Reinvestment Act of 2009 (ARRA). The workforce system is encouraged to test individuals' eligibility against all options to ensure that the maximum number of people qualify as dislocated workers. Customers who do not qualify as dislocated workers should be considered for eligibility in the Adult formula program. The ARRA makes a significant change to eligibility for WIA Youth programs. The ARRA increases the age requirement to a maximum of 24 years old. Unless otherwise stated in the Employment and Training Administration (ETA) Training and Employment Guidance Letter (TEGL) 14-08, the laws and regulations for WIA Youth funds apply to the ARRA funds. (3/09)

Eligible Training Provider List (ETPL)

1. How will the Eligible Training Provider List (ETPL) be utilized under the American Recovery and Reinvestment Act of 2009 (ARRA)?

The ARRA provides additional funds under the existing Workforce Investment Act (WIA) and Wagner-Peyser Act (WP) programs. The design and delivery of the services for the ARRA funds are governed by the WIA and WP laws and regulations. One of the key ARRA provisions allows Local Workforce Investment Boards to award contracts to institutions of higher education, such as community colleges, or other eligible training providers, if the board determines it would facilitate the training of multiple individuals in high-demand occupations and if the contracts do not limit customer choice. Institutions of higher education, such as community colleges, need not be on the State's list of eligible providers of training services in order to be awarded an ARRA funded contract. Other eligible training providers that are not institutions of higher education must be on the State's list of eligible providers in order to be awarded such contracts. (4/09)

Financial Management

1. How will Wagner-Peyser funds be obligated by the required date?
The Wagner-Peyser funds are available for obligation through September 30, 2010, and will be used primarily to pay for the costs of EDD employees who provide labor exchange services in the One-Stop Career Center system. (4/09)

2. Will ARRA funds be tracked over the life of the funds or on an annual basis?
The ARRA provides additional funds under the existing WIA or WP Act authority, and the design and delivery of the services for the ARRA funds are governed by the existing WIA and WP laws and regulations. ARRA funds will be tracked on a cumulative basis for the life of the funds, which is June 30, 2011. (4/09)

3. Is indirect cost (by definition) applicable to ARRA funding as well.
The ARRA provides additional funds under the existing WIA or WP authority; the design and delivery of the services for the ARRA funds are governed by the existing WIA and WP laws and regulations. The existing WIA definition of indirect costs is applicable to ARRA funding. (4/09)

4. Can rules around the use of WIA 25 Percent funds be relaxed for the ARRA money?
The ARRA provides additional funds under existing WIA authority, and the design and delivery of the services for the ARRA funds are governed by the existing WIA, its regulations, and State Board policy. Within the parameters of existing law and with the adoption of new State Board policy, the rules could be changed for the distribution of the following two types of grants that are allowable with WIA 25 Percent funds:

- Rapid Response—for planning and delivering immediate services to assist employers and groups of workers affected by mass layoffs, permanent business closures, or natural or other disasters.

- Additional Assistance—to local areas that have insufficient resources to address disasters, mass layoffs or plant closings or other events that precipitate substantial increases in the number of unemployed individuals. (4/09)

5. Will we be required to cost allocate ARRA funds in the One-Stop Career Centers?
The ARRA provides additional funds under existing WIA or WP authority, and the design and delivery of the services for the ARRA funds are governed by the WIA and WP and regulations. ARRA funds should be treated the same as the WIA funds, unless otherwise stated in the Employment and Training Administration's Training and Employment Guidance Letters 13-08, 14-08, and 14-08, Change 1. (4/09)

6. Should we plan to spend all our youth money this summer, wait until next, or divide it into 2 summers?

In a Department of Labor (DOL) conference call Friday, March 6, 2009, the ETA said states should not save the funds for the next PY, but to spend the funds now. It is critical that local areas balance the need to expend the funds quickly in order to stimulate the economy, while ensuring that quality programs are in place for youth served with ARRA funds. Local areas with the necessary infrastructure in place to quickly implement programming for youth served with the ARRA funds are strongly encouraged to expend significant ARRA funds in the summer of 2009. However, local areas may expend ARRA funds over the course of two summers and the non-summer months in between. (4/09)

7. Will WIA and WP approved waivers for the formula funds carry over to the ARRA funds as well?

No. There are three waivers that do not apply to ARRA funds. All other currently approved waivers will apply. The three exceptions are:

- *Waiver of the funds transfer limit between the Adult and DW programs*. Because of the level of funding appropriated for the WIA Adult and DW programs, this waiver will not be applied to ARRA funds. The funds transfer limit provided by WIA will apply to the ARRA funds: up to 20 percent of the adult and dislocated worker funds allocated to a local area may, with the approval of the Governor, be transferred between programs.
- *Waiver of the limitation on the use of funds for capitalization of businesses at WIA section 181(e)*, and
- *Waiver to permit the state to use a portion of rapid response funds to conduct statewide activities including incumbent worker training* (4/09)

8. Is there separate funding for Summer Youth and Year-Round Youth?

No. The ARRA funds are not divided between Summer Youth and Year-Round Youth. The intent of the ARRA funds is to increase the number of youth served. The Employment and Training Administration (ETA) strongly encourages states and local areas to use a significant portion of these funds to operate expanded summer youth employment opportunities during the summer of 2009 and other work experiences outside of the summer months. (4/09)

9. May states take 15 percent of the Youth, Adult, and Dislocated Worker (DW) funds for statewide activities and 25 percent of Dislocated Worker funds for rapid response?

Yes. The WIA Adult, DW, and Youth activities formula funds are subject to the 15 percent reserve for state activities under WIA section 133(a). States may reserve up to 25 percent of the DW ARRA funds for Rapid Response. (4/09)

10. Is there a timeline for obligations? When does the money run out?

States are strongly encouraged to spend American Recovery and Reinvestment Act of 2009 (ARRA) funding quickly and effectively. Workforce Investment Act (WIA) funding for Adults, Dislocated Workers (DW), and Youth are considered to be Program Year (PY) 2008 funds and, therefore, must be expended by the end

of PY 2010 (June 30, 2011). Wagner Peyser Act (WP) funds are available for obligation by the states through September 30, 2010, and must be expended by the end of PY 2010 (June 30, 2011). It is the Congress' intent, as well as that of the Administration, that the majority of these funds will be utilized within the first year of availability. (3/09)

Performance

1. What are the performance measures for year round and summer youth?
The only measurement tool for summer youth performance is work readiness. Existing performance measures remain in effect for the Workforce Investment Act (WIA) Youth activities. (3/09)

Reporting

1. Is the intent of the WIA Adult and Dislocated Worker (DW) funding to be used to "ramp-up" the system, combine the resources with formula services (while tracking expenditures separately), and to serve more individuals with increased capacity, or will states be required to track participants separately, as in a National Emergency Grant (NEG)?
The ETA is developing reporting guidelines for these funds with the intent to minimize any new collection burdens. Final guidance on participant and performance reporting will be issued under a separate TEGL. (3/09)

2. What are the reporting measures for the stimulus money?
The accountability guidelines for the American Recovery and Reinvestment Act of 2009 (ARRA) emphasize data quality, streamlining data collection, and collection of information that shows measurable program outputs. The Employment and Training Administration (ETA) is developing reporting guidelines that will minimize any new collection burdens. Any youth served with ARRA funds will be included in a separate Youth ARRA report. Guidance will be provided in an upcoming ARRA Performance and Reporting Training and Employment Guidance Letter (TEGL). (3/09)

Services and Training

1. Since the Summer Youth program is one for youth in a training modality, does the entity that serves as the "employer" need to pay into Unemployment Insurance (UI)?

No. The wages paid to participants of the summer youth program are not subject to UI taxes. According to Section 634.5 (e) of the California UI Code, work relief or work training as part of an unemployment work relief or work training program funded in whole or in part by the federal, State, or a political subdivision thereof, or an Indian tribe is not considered employment for UI purposes and the participant's wages are not covered for UI. However, an organization serving as the “employer of record” may choose to provide UI coverage to summer youth participants, but it is not required.

2. Under what conditions can stipends rather than wages be paid to summer youth?

Local Workforce Investment Areas may provide wages or stipends to youth in a classroom-based component of a summer employment opportunity. Local Workforce Investment Areas should have a policy guiding the payment of classroom based stipends and wages. (4/09)

3. How will higher education training providers be procured under ARRA?

The ARRA provision allows LWIBs to award contracts to institutions of higher education, such as community colleges, or other eligible training providers, if the board determines it would facilitate the training of multiple individuals in high-demand occupations and if the contracts do not limit customer choice. Institutions of higher education, such as community colleges, need not be on the State’s list of eligible providers of training services in order to be awarded an ARRA funded contract. (4/09)

4. Can the California Conservation Corps (CCC) be used as a component of the Summer Youth Program?

Yes. The CCC and other youth conservation corps are allowable programs in which WIA youth program participants may gain work experience. (4/09)

5. Can you co-enroll in ARRA and WIA formula funds?

Yes. The EDD has assigned specific grant codes to the ARRA funds that enable the tracking of client activity attributed to these funds. The Local Workforce Investment Areas (LWIA) make the determination about how to attribute clients and services by Grant Code based on the intent and availability of the various program funds. (4/09)

6. How will Reemployment Services (RES) work under ARRA?

The EDD has developed preliminary plans to address the RES requirements under ARRA and will continue to work with internal and external partners to design and implement the most effective approaches. For example, EDD is currently in the process of redesigning the CalJOBS™ system to link to the WP and WIA Programs. In addition, California's RES staff will use assessment tools

to analyze individual employment capacity and engage in career coaching. The EDD has also implemented a query tool to target UI claimants and direct them to workshops and job fairs. The EDD plans to collaborate with many different recipients of ARRA funds to determine the employment opportunities created under infrastructure projects, healthcare, green industry, etc. The EDD will then notify local employment offices of the available jobs pertinent to each region. Finally, the EDD is continuing its efforts toward working with federal job contractor listings, as those employers are required to list jobs in State's labor exchange system. (4/09)

7. What is the ARRA definition for training?

The design and delivery of the services for the ARRA funds are governed by the existing WIA and WP laws and regulations. The definitions used for the WIA programs are the same for the ARRA. The WIA 134(d)(4)(D) states that "Training services may include ..." and goes on to list some services. The Department of Labor (DOL) has provided us with earlier guidance interpreting such phrases as "may include" as being non-inclusive. That is, the list of training services at WIA 134(d)(4)(D) is not to be interpreted as a description of the only services that qualify as training. Since "training" is not otherwise defined in the WIA, regulations, other WIA guidance, or the ARRA, we must use the "reasonable person" test in defining "training" and ask, "Would a reasonable person consider this program to be training?" (4/09)

8. Is the use of ARRA formula funds to serve CalWORKs participants considered to be a supplantation of other funds?

No. Serving recipients of public assistance and other low income individuals is a key ARRA provision. Priority use of WIA Adult formula funds under the ARRA must be for services to recipients of public assistance and other low income individuals as described in WIA Section 134(d)(4)(E). Furthermore, the law requires states to ensure that supportive services and needs-related payments described in WIA Section 134(e)(2) and (3) are made available to support the employment and training needs of these priority populations. The provision of supportive services and needs-related payments should also be a focus for the ARRA DW formula funds. (4/09)

9. Can the ARRA money be used to pay for rent?

Yes. The ARRA provides additional funds under existing Workforce Investment Act (WIA) or Wagner-Peyser (W-P) Act authority, and the design and delivery of the services for the ARRA funds are governed by the existing WIA and W-P Act and regulations. Assistance with housing is listed in the WIA as an allowable supportive service. Local Workforce Investment Boards (LWIB) may provide supportive services, including needs-related payments for transportation, child care, dependent care, housing, and other services that are necessary to enable eligible individuals who are unable to obtain the services from other programs to participate in activities authorized under the WIA. (4/09)

10. Where are the ARRA Jobs?
It is estimated the ARRA funds will create or save about 396,000 jobs in California. Work is being done to get the ARRA funds out to local communities as quickly as possible. It may take time before we see the full impact of the funds. The U. S. Congress has urged states to list ARRA jobs on their labor exchange. California plans to list ARRA jobs on the State's labor exchange, CalJobs™ at www.caljobs.ca.gov/ as they become available. In addition, unemployed workers have access to job search and career development assistance provided by the funding through approximately 250 One-Stop Career Centers throughout the state. You can find the One-Stop Career Center nearest you at America's Service Locator, www.servicelocator.org/ or by calling 1-877-872-5627 (TTY: 1-877-889-5627).(4/09)

11. What are the pros and cons of the contemplated "Internship" strategy to stand-in for PSE? We heard that Employment Development Department (EDD) said that work experience should NOT be used as an alternative to PSE. Other states are doing it. Can you advise?
The WIA prohibits PSE, except as specifically authorized for WIA NEG. We have found no evidence that other states are funding PSE with WIA funds (except as authorized for NEG).

Work experience and internships may be provided, based on an assessment or individual employment plan, as an intensive service for Adults and Dislocated Workers (DW). It is a planned, structured learning experience that takes place in a workplace for a limited period of time. Work experience may be paid or unpaid, as appropriate. A work experience workplace may be in the private for profit sector, the non-profit sector, or the public sector. Labor standards apply in any work experience where an employee/employer relationship, as defined by the Fair Labor Standards Act (FLSA), exists.

Internships, job shadowing, and paid and unpaid community service are included as permissible work experience elements for youth. Work experiences are planned, structured learning experiences that occur in a workplace for a limited period of time. The work experience workplace may be in the private, for-profit sector; the non-profit sector; or the public sector. The work experiences may be paid or unpaid and may be subsidized or unsubsidized. Provisions for wages under the amendments to the FLSA apply to all youth participants employed under WIA. In addition, labor standards apply in any work experience where an employee/employer relationship, as defined by the FLSA, exists. (4/09)

12. Is Public Service Employment (PSE) allowed?
The WIA funds cannot be used for PSE except as specifically authorized for WIA National Emergency Grants (NEG). (4/09)

13. Will there be a 30 percent out of school requirement?
Yes. The requirement that local areas expend a minimum of 30 percent of funds on out-of-school youth applies to the ARRA funds. Local workforce Investment

Area's (LWIA) areas must ensure that a minimum of 30 percent of funds are used for serving out-of-school youth. (4/09)

14. Will we be required to monitor all summer youth contracts as we do for regular year-round youth?

Yes. Unless otherwise specified in the Training and Employment Guidance Letter (TEGL) 14-08, all existing WIA and Wagner Peyser Act (WP) laws and regulations apply to any ARRA funded activity. The WIA regulations at 20 CFR 667.410 states each state recipient and subrecipient of ARRA funds must conduct regular oversight and monitoring of its WIA and WP Employment Services activities and those of its subrecipients and contractors in order to determine that expenditures have been made against the appropriate cost categories and within the cost limitations. (4/09)

15. Are all the formula youth services required for ARRA summer work program?

No. Because all 10 youth program elements will already be available through existing Workforce Investment Act Youth funds, local areas will not be required to use American Recovery and Reinvestment Act of 2009 (ARRA) funds to make all 10 program elements available. Local areas have the flexibility to determine which program elements they provide with ARRA funds. (4/09)

Statewide ARRA Projects (General)

1. When does the Governor plan to fund these projects?
The Employment Development Department (EDD) and CaliforniaVolunteers in coordination with the California Workforce Investment Board and the Labor and Workforce Development Agency recently announced the availability of up to $10 million of American Recovery and Reinvestment Act, Workforce Investment Act, Governor's Discretionary 15 Percent funds for Green Jobs Corps pilot programs. A Solicitation for Proposal (SFP) was released on May 1, 2009, on the EDD Web site with applications due May 26, 2009. (5/09)

2. What are statewide American Recovery and Reinvestment Act (ARRA) projects?
Statewide ARRA projects are special employment and training activities funded with the Governor's Discretionary 15 Percent funds. (5/09)