

DEPARTMENT OF LABOR

Employment and Training
AdministrationWorkforce Security Programs: Training
and Employment Guidance Letter
Interpreting Federal Law

The Employment and Training Administration interprets federal law requirements pertaining to unemployment compensation (UC) and public employment services (ES). These interpretations are issued in Training and Guidance Letters (TEGLs) to the State Workforce Agencies. The TEGL described below is published in the **Federal Register** in order to inform the public.

TEGL 18-01, Change 1

TEGL 18-01, Change 1, using a Q & A format, answers additional questions related to the appropriate uses of the Reed Act distribution made on March 13, 2002.

Dated: December 1, 2003.

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Assistant Secretary of Labor.

**Employment and Training Administration
Advisory System, U.S. Department of Labor,
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CLASSIFICATION: Reed Act
CORRESPONDENCE SYMBOL: DL
DATE: March 19, 2003

Training and Employment Guidance Letter
No. 18-01 Change 1

To: All State Workforce Liaisons, Allstate
Workforce Agencies, Allstate Worker
Adjustment Liaisons, Allone-Stop Center
System Leads

From: Emily Stover DeRocco, Assistant
Secretary

Subject: Reed Act—Questions and Answers

1. *Purpose.* To answer questions related to the use of Reed Act funds that have arisen since the issuance of Training and Employment Guidance Letter (TEGL) 18-01.

2. *References.* Section 209 of the Temporary Extended Unemployment Compensation Act of 2002 (TEUCA), which is Title II of the Job Creation and Worker Assistance Act of 2002, P.L. No. 107-147, signed by the President on March 9, 2002; Title IX of the Social Security Act (SSA); the Federal Unemployment Tax Act (FUTA); the Wagner-Peyser Act; TEGL 18-01 (67 FR 34730 (May 15, 2002)); TEGL 24-01; and Unemployment Insurance Program Letter (UIPL) 39-97 (62 FR 63960 (December 3, 1997)), UIPL 39-97, Change 1 (January 16, 2002) and UIPL 20-02 (April 4, 2002).

3. *Background.* TEGL 18-01 described the permissible uses of the \$8 billion Reed Act distribution that was made to the states' accounts in the Unemployment Trust Fund on March 13, 2002. In general, this distribution is available for the payment of unemployment compensation (UC) and the administration of state UC laws and public employment offices.

RESCISSIONS: None

EXPIRATION DATE: Continuing

Since the issuance of TEGL 18-01, the Department has received questions concerning permissible uses of Reed Act funds. In addition, the Department has reviewed state legislative proposals appropriating the Reed Act funds, some of which raised issues of consistency with federal law. The following Questions and Answers address these matters.

4. *Action.* State administrators should distribute this advisory to appropriate staff. States must adhere to the requirements of Federal law that are contained in this advisory.

5. *Inquiries.* Questions should be addressed to your Regional Office.

6. *Attachment.*

Reed Act Distributions Under the Temporary Extended Unemployment Compensation Act of 2002—Questions and Answers

Attachment—Reed Act Distributions Under
the Temporary Extended Unemployment
Compensation Act of 2002—Questions and
Answers

1. *Question:* Since my state's legislature meets in session only for short periods each year, my state's law delegates certain legislative functions, including certain appropriation functions, to the Governor. May the Governor "appropriate" Reed Act funds under this delegation?

Answer: No. Question and Answer 9 in Attachment I to TEGL 18-01 explains that Section 903(c)(2), SSA, provides that a state may use Reed Act funds for administrative purposes only "pursuant to a specific appropriation made by the legislative body of the State." (Emphasis added.) That section of the SSA goes on to provide that a withdrawal may be made for the payment of administrative expenses "if and only if" the appropriation law meets certain requirements. Among these requirements is that "the purposes and the amounts" must be "specified in the law making the appropriation." Senate Report No. 1621 elaborated on the appropriation requirement. It states that a state may use Reed Act funds for administrative expenses only "through a special appropriation act of its legislature" and that such use of Reed Act funds is "subject to rigid control by the state legislature (which control is specified in the bill in detail)." (Emphasis added. 1954 U.S.C.C.A.N. 2909, 2910, 2914.)

2. *Question:* May Reed Act funds be used for administrative expenses incurred before the date of enactment of the state appropriations?

Answer: No. Under Section 903(c)(2)(C), SSA, a state's Reed Act appropriation law must provide that "the expenses are incurred after" the date of the enactment of the appropriation.

3. *Question:* May my state use Reed Act funds to deliver employment services outside its One-Stop system?

Answer: In general, no. Reed Act funds may be used for expenses incurred by a state "for the administration of its unemployment compensation law and public employment offices." As noted in TEGL 18-01, "administration of * * * public employment

offices" means "any function fundable under the Wagner-Peyser Act." Section 7(e), Wagner-Peyser, provides that "all job search, placement, recruitment, labor employment statistics, and other labor exchange services authorized under subsection (a) shall be provided, consistent with the other requirements of this Act, as part of the one-stop delivery system established by the state."

Section 7(b)(2), Wagner-Peyser, does authorize provisions of services outside the One-Stop. However, these services may be provided only to "groups with special needs, carried out pursuant to joint agreements between the employment service and the appropriate local workforce investment board and chief elected official or officials or other public agencies or private nonprofit organization." (Emphasis added.) Thus, for Reed Act purposes, moneys may be expended outside the one-stop system on these groups with special needs only if there is an agreement with the state's ES agency.

Note that the state's share of the \$100 million Reed Act distributions made in each of fiscal years 2000 through 2002 may be used only for UC administration. (See Question and Answer 20 in Attachment I to TEGL 18-01.)

4. *Question:* May my state legislature appropriate Reed Act funds to an agency other than the state agency (or agencies) administering the UC program and the employment service (ES) program?

Answer: No. While nothing prohibits the UC or ES agencies from providing Reed Act funds to other agencies to perform permissible Reed Act activities (e.g., information technology services supporting the UC and ES agencies), the appropriation must be made to the UC and/or ES agency.

The intent behind the Reed Act was to allow states to supplement their federal UC and ES grants. (See, for example, H. Rep. 21 (1954 U.S.C.C.A.N. 2909-2911); H. Rep. 251, 107th Cong. 1st Sess. 58-59.) Therefore, just as the state agency administering the state's UC law receives the federal UC administrative grant, the same agency is to receive Reed Act funds for administering the UC law. Similarly, just as the state agency administering the state's ES program receives the Wagner-Peyser grant, the same agency is to receive Reed Act funds for administering its public employment offices.

Appropriating Reed Act funds only to the state UC and/or ES agencies, which have expertise in determining what are permissible UI and Wagner-Peyser Act functions, helps assure that Reed Act funds are used only for permissible purposes. This in turn will help avoid federal questions regarding use.

If the state legislature appropriated Reed Act funds to an agency other than the state agency administering the state UC or ES programs prior to the effective date of this TEGL, the Department will not raise any issues with respect to the appropriation to such other agency. However, the state UC and/or ES agencies, as appropriate, should work with such other state agency to assure that Reed Act funds are used consistently with federal law requirements.

5. *Question:* May Reed Act funds be used to pay travel expenses incurred by trainees?