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Connecting Talent with Opportunity

# **POLICIES & PROCEDURES GUIDE**



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# GOVERNANCE



## 1.1 INTRODUCTION

### 1.1.1 WORKFORCE INNOVATION AND OPPORTUNITY ACT DEFINED

The Workforce Innovation and Opportunity Act (WIOA) is a U.S. federal law enacted in 2014 to amend and supersede the Workforce Investment Act (WIA) and certain other federal laws relating to job training. The purpose of the act is to provide workforce development activities through statewide and local workforce development systems. The aim behind it is to increase the employment, retention, and earnings of participants, and increase occupational skill attainment by participants. The end goal is to improve the quality of the workforce, reduce reliance on public assistance, and enhance the productivity and competitiveness of the nation.

The act authorizes the establishment of workforce development activities for eligible Youth, statewide employment and training activities for Adult and Dislocated Workers, and a national job corps program. It is carried out in partnership with states and communities. Workforce development boards were established for carrying out these functions working in partnership with the state and local communities.

Due to the staggered implementation of WIOA, certain provisions of WIA shall remain in effect until further notice.

### 1.1.2 PURPOSE OF THE STATE WORKFORCE DEVELOPMENT ACT POLICY MANUAL

The purpose of the Georgia WIOA Policies and Procedures Guide (P&P) is to provide policy guidance and interpretation of federal and state workforce laws. Procedural guidance is also provided to assure consistency. The guide is intended for use in conjunction with federal and state laws and regulations.

#### I. Authority

The Technical College System of Georgia's Office of Workforce Development, hereinafter referred to as OWD, has been designated to act on behalf of the Governor as the oversight entity of the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. §§ 3101 et seq.) Adult, Youth, and Dislocated Worker Programs, hereinafter referred to as WIOA. As the designated oversight entity, OWD is given the following responsibilities and authority:

- A. To write or modify any policies or procedures, which are necessary to interpret or clarify policies on behalf of the Governor;
- B. To waive, for good cause, any parts of the P&P, which are not required by law or regulations;
- C. To interpret the P&P; and
- D. To monitor to ensure compliance with applicable federal law.

#### II. Policies and Procedures Amendment Process



- A. Amendments to the Policy and Procedures Guide may be submitted to the Assistant Commissioner of OWD who may present the amendment to the State Workforce Development Board (SWDB) for its approval.
- B. The provisions of Paragraph (II)(A) shall not apply with respect to a minor or technical amendment. The determination of whether an amendment is a minor or technical amendment shall be according to the judgment of the Assistant Commissioner of OWD.

### III. Complaints, Waivers, Interpretation

All complaints and request for waivers or interpretation of any part of this guide must be sent to OWD.

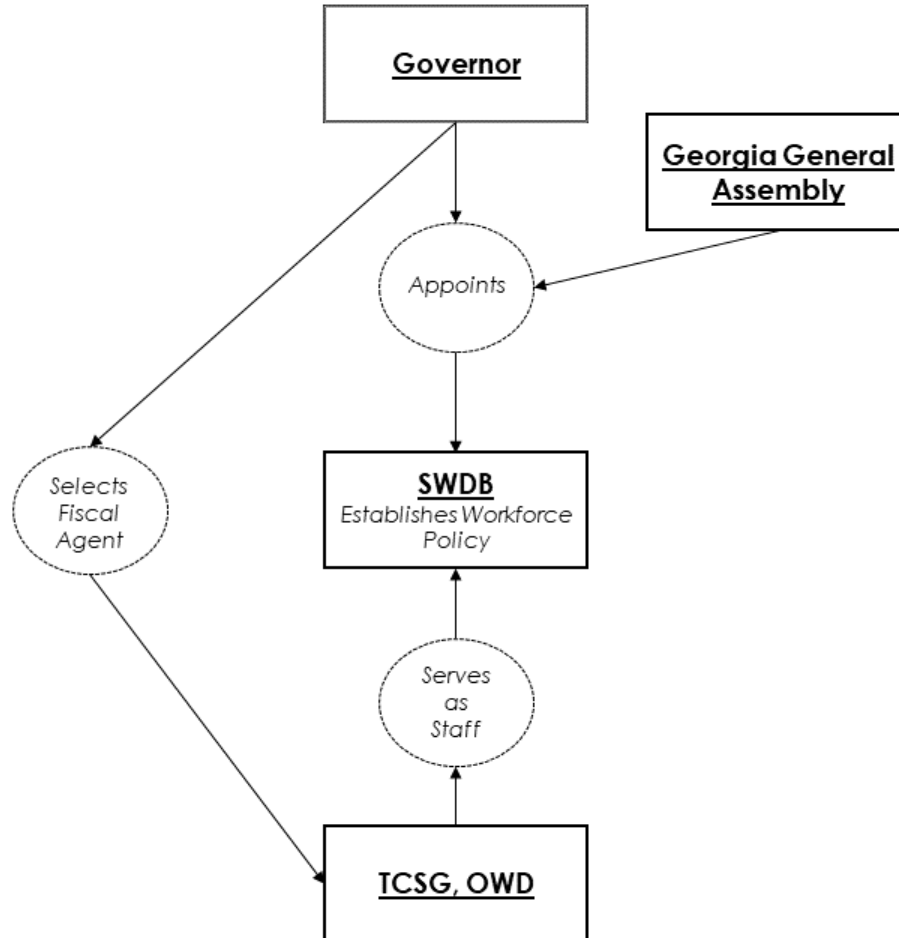
Technical College System of Georgia  
Office of Workforce Development  
1800 Century Place  
Suite 150  
Atlanta, Georgia 30345

#### 1.1.3 PURPOSE OF THE WORKFORCE IMPLEMENTATION GUIDANCE (WIG) LETTERS

The State Workforce Development Board authorizes the Office of Workforce Development to provide interpretive guidance and technical assistance to the Local Workforce Development Areas regarding the implementation and administration of WIOA. This guidance shall be called “Workforce Implementation Guidance” or “WIGs”. WIGs shall serve a purpose similar to the Training and Employment Guidance Letters (TEGLs) and Training and Employment Notices (TENs) issued by USDOL. WIGs shall serve to provide further guidance and clarity on ambiguous federal rules and/or regulations which govern the implementation of the State and local workforce service delivery systems. The WIGs are hosted on <https://tcsg.edu/worksource/resources-for-practitioners/policies-guidance/>.



## 1.2 STATE AND LOCAL GOVERNANCE



### 1.2.1 STATE WORKFORCE SYSTEM STRUCTURE AND GOVERNING STATE LAWS

O.C.G.A. § 34-14-1

(Effective July 1, 2018)

- (a)(1) Pursuant to Public Law 105-220 and any subsequent amendment to such law, the State Workforce Development Board is hereby created.
- (2) The State Workforce Development Board shall meet federal composition requirements. The Lieutenant Governor and the Speaker of the House of Representatives shall each have the authority to appoint members as federal law allows. The Governor shall be responsible for selecting the remainder of the members.
- (3) The State Workforce Development Board's members' terms of service shall be established by the Governor and shall be at the discretion of the appointing authority.
- (4) The State Workforce Development Board shall have powers and duties as specified by the Governor and as provided for in federal law.





- (5) The State Workforce Development Board shall be authorized to establish, alter, or amend local workforce development areas in this state and shall be authorized to promulgate rules implementing and governing such local workforce development areas that are compliant with federal law.
  - (6) The State Workforce Development Board shall meet quarterly or when otherwise requested by the chairperson and will be governed by a set of bylaws which will be voted on and approved by the State Workforce Development Board.
  - (7) The State Workforce Development Board shall be funded by federal law.
  - (8) The State Workforce Development Board shall be authorized to promulgate rules and regulations for purposes of implementing the state's workforce policy while complying with applicable federal laws.
- (b)(1) The Technical College System of Georgia is designated as the administrator of all programs for which the state is responsible pursuant to Public Law 105-220 and any subsequent amendment to such law.
- (2) The Technical College System of Georgia shall administer such programs and their associated funds pursuant to the policies and methods of implementation which are promulgated by the State Workforce Development Board and the Governor.

**O.C.G.A. § 34-14-1**

(Effective July 1, 2018)

- (a) The State Workforce Development Board is hereby authorized to develop and facilitate the workforce programs in this state. As such, the State Workforce Development Board shall:
- (1) Recommend the designation of local workforce development areas in accordance with federal law:
    - (A) A local workforce development area's chief local elected official may designate a local fiscal agent or a grant recipient which shall be either a municipal government, county government, consolidated government, or regional commission located within the physical boundaries of the local workforce development area and who shall be approved by the State Workforce Development Board in a procedure established through rule;
    - (B) A local workforce development area's chief local elected official shall sign and submit to the Office of Workforce Development a budget within ten business days of such budget's approval; and
    - (C) A local workforce development board shall submit any non-budgeted expenditure over \$5,000.00 to the Office of Workforce Development prior to completing the related transaction unless the Office of Workforce Development has exempted a transaction from this requirement through rule or policy;



- (2) Require every newly appointed chief local elected official, local board member, and local executive director to sign and date a conflict of interest statement, which will then be submitted to the Office of Workforce Development within ten (10) business days of signature; and
  - (3) Reserve the right to suspend certification of a local board upon determination that an individual member of that board has violated the conflict of interest statement, until said member has resigned or otherwise been removed from the board.
- (b) The Office of Workforce Development shall create, in conjunction with the local workforce development boards, contracting guidelines which shall:
- (1) Ensure all independent contractors involved in the provision of One-Stop services have sufficient insurance, bonding, and liability coverage;
  - (2) Ensure all potential conflicts of interest involving local workforce development board members, local elected officials, and local executive directors are made known prior to the awarding of the associated contract; and
  - (3) Restrict contracting between local workforce development areas and its members, its local elected officials, or its local executive director or any of those individuals' employees, or immediate family members.
- (c) In accordance with paragraph (5) of subsection (a) of Code Section 34-14-1, the State Workforce Development Board may enforce the provisions of this chapter and the applicable federal law if the provisions of either are violated. If corrective actions issued as a result of financial or compliance related monitoring are not adhered to, the State Workforce Development Board may recommend the Governor:
- (1) Issue a notice of intent to revoke approval of all or part of the local plan affected; or
  - (2) Impose a reorganization plan, which may include:
    - (A) Decertifying the local board involved;
    - (B) Prohibiting the use of eligible providers;
    - (C) Selecting an alternative entity to administer the program for the local area involved;
    - (D) Merging the local area into one or more other local areas; or
    - (E) Making such other changes as the United States Secretary of Labor or the Governor determines to be necessary to secure compliance with the provision.

**O.C.G.A. § 50-7-11.1**

(Effective July 1, 2015)

“In the event the board accepts grants and gifts from the federal government pursuant to Code Section 50-7-10, the board shall also have the authority to administer and disperse those funds for any and all purposes of this article in a manner consistent with the terms of the grant or gift and other applicable laws, the provisions of Code Section 50-7-11 notwithstanding.”



## 1.2.2 STATE WORKFORCE DEVELOPMENT BOARD

- I. As required by 29 U.S.C. § 3111 (a), the Governor established a State Workforce Development Board (SWDB). The Governor's appointments to the SWDB were made in compliance with the criteria in 29 U.S.C. § 3111 (b)(1)(C). According to 29 U.S.C. § 3111 (b)(1), "In general.--The [SWDB] shall include:
- (A) the Governor;
  - (B) a member of each chamber of the Georgia General Assembly (House of Representatives and Senate), appointed by the Speaker of the House of Representatives and Lieutenant Governor respectively; and
  - (C) members appointed by the Governor, of which--
    - (i) a majority shall be representatives of businesses in the State, who--
      - (I) are owners of businesses, chief executives or operating officers of businesses, or other business executives or employers with optimum policymaking or hiring authority, and who, in addition, may be members of a local board described in WIOA Sec. 107(b)(2)(A)(i);
      - (II) represent businesses (including small businesses), or organizations representing businesses described in this subclause, that provide employment opportunities that, at a minimum, include high-quality, work-relevant training and development in in-demand industry sectors or occupations in the State; and
      - (III) are appointed from among individuals nominated by State business organizations and business trade associations;
    - (ii) not less than 20 percent shall be representatives of the workforce within the State, who--
      - (I) shall include representatives of labor organizations, who have been nominated by State labor federations;
      - (II) shall include a representative, who shall be a member of a labor organization or a training director, from a joint labor-management apprenticeship program, or if no such joint program exists in the State, such a representative of an apprenticeship program in the State;
      - (III) may include representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of individuals with barriers to employment, including organizations that serve veterans or that provide or support competitive, integrated employment for individuals with disabilities; and



- (IV) may include representatives of organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including representatives of organizations that serve out-of-school youth; and
- (iii) the balance--
  - (I) shall include representatives of government, who--
    - (aa) shall include the lead State officials with primary responsibility for the core programs; and
    - (bb) shall include chief elected officials (collectively representing both cities and counties, where appropriate); and
  - (II) may include such other representatives and officials as the Governor may designate, such as--
    - (aa) the State agency officials from agencies that are one-stop partners not specified in subclause (I) (including additional one-stop partners whose programs are covered by the State plan, if any);
    - (bb) State agency officials responsible for economic development or juvenile justice programs in the State;
    - (cc) individuals who represent an Indian tribe or tribal organization, as such terms are defined in WIOA Sec. 166(b); and
    - (dd) State agency officials responsible for education programs in the State, including chief executive officers of community colleges and other institutions of higher education.”

## II. Responsibilities

As the advisory board to the Governor on workforce development, the SWDB’s responsibilities include the criteria from 29 U.S.C. § 3111 (d) which states, “The [SWDB] shall assist the Governor in:

- (1) the development, implementation, and modification of the State plan;
- (2) consistent with paragraph (1), the review of statewide policies, of statewide programs, and of recommendations on actions that should be taken by the State to align workforce development programs in the State in a manner that supports a comprehensive and streamlined workforce development system in the State, including the review and provision of comments on the State plans, if any, for programs and activities of one-stop partners that are not core programs;
- (3) the development and continuous improvement of the workforce development system in the State, including—



- (A) the identification of barriers and means removing barriers to better coordinate, align, and avoid duplication among the programs and activities carried out through the system;
  - (B) the development of strategies to support the use of career pathways for the purpose of providing individuals, including low-skilled adults, youth, and individuals with barriers to employment (including individuals with disabilities), with workforce investment activities, education, and supportive services to enter or retain employment;
  - (C) the development of strategies for providing effective outreach to and improved access individuals and employers who could benefit from services provided through the workforce development system;
  - (D) the development and expansion of strategies for meeting the needs of employers, workers, and jobseekers, particularly through industry or sector partnerships related to in-demand industry sectors and occupations;
  - (E) the identification of regions, including planning regions, for the purposes of section 106(a), and the designation of local areas under section 106, after consultation with local boards and chief elected officials;
  - (F) the development and continuous improvement of the one-stop delivery system in local areas, including providing assistance to local boards, one-stop operators, one-stop partners, and providers with planning and delivering services, including training services and supportive services, to support effective delivery of services to workers, jobseekers, and employers; and
  - (G) the development of strategies to support staff training and awareness across programs supported under the workforce development system;
- (4) the development and updating of comprehensive State performance accountability measures, including State adjusted levels of performance, to assess the effectiveness of the core programs in the State as required under WIOA Sec. 116(b);
  - (5) the identification and dissemination of information on best practices, including best practices for—
    - (A) the effective operation of one-stop centers, relating to the use of business outreach, partnerships, and service delivery strategies, including strategies for serving individuals with barriers to employment;
    - (B) the development of effective local boards, which may include information on factors that contribute to enabling local boards to exceed negotiated local levels of performance, sustain fiscal integrity, and achieve other measures of effectiveness; and
    - (C) effective training programs that respond to real-time labor market analysis, that effectively use direct assessment and prior learning assessment to measure an



- individual's prior knowledge, skills, competencies, and experiences, and that evaluate such skills, and competencies for adaptability, to support efficient placement into employment or career pathways;
- (6) the development and review of statewide policies affecting the coordinated provision of services through the State's one-stop delivery system described in WIOA Sec. 121(e), including the development of—
    - (A) objective criteria and procedures for use by local boards in assessing the effectiveness and continuous improvement of one-stop centers described in such section;
    - (B) guidance for the allocation of one-stop center infrastructure funds under WIOA Sec. 121(h); and
    - (C) policies relating to the appropriate roles and contributions of entities carrying out one-stop partner programs within the one-stop delivery system, including approaches to facilitating equitable and efficient cost allocation in such system;
  - (7) the development of strategies for technological improvements to facilitate access to, and improve the quality of, services and activities provided through the one-stop delivery system, including such improvements to—
    - (A) enhance digital literacy skills (as defined in section 202 of the Museum and Library Services Act (20 U.S.C. § 9101); referred to in this Act as "digital literacy skills");
    - (B) accelerate the acquisition of skills and recognized postsecondary credentials by participants;
    - (C) strengthen the professional development of providers and workforce professionals; and
    - (D) ensure such technology is accessible to individuals with disabilities and individuals residing in remote areas;
  - (8) the development of strategies for aligning technology and data systems across one-stop partner programs to enhance service delivery and improve efficiencies in reporting on performance accountability measures (including the design and implementation of common intake, data collection, case management information, and performance accountability measurement and reporting processes and the incorporation of local input into such design and implementation, to improve coordination of services across one-stop partner programs);
  - (9) the development of allocation formulas for the distribution of funds for employment and training activities for adults, and youth workforce investment activities, to local areas as permitted under WIOA Sec. 128(b)(3) and 133(b)(3);
  - (10) the preparation of the annual reports described in paragraphs (1) and (2) of WIOA Sec. 116(d);
  - (11) the development of the statewide workforce and labor market information system described in section 15(e) of Wagner-Peyser Act (29 U.S.C. 491-2(e)); and



- (12) the development of such other policies as may promote statewide objectives for, and enhance the performance of, the workforce development system in the State.”

### III. Conflict of Interest

The SWDB has the responsibility to ensure all board members are aware of the WIOA Conflict of Interest Policy in 29 U.S.C. § 3111 (f) which states, “A member of a State board may not:

- (1) vote on a matter under consideration by the State board—
  - (A) regarding the provision of services by such member (or by an entity that such member represents); or
  - (B) that would provide direct financial benefit to such member or the immediate family of such member; or
- (2) engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the State plan.”

Further, the State Board’s actions are governed by a State Conflict of Interest & Code of Conduct policy which may be found at Ga. Comp. R. & Regs. r. 692-1-.06. Every seated board member shall sign and date such policy attesting to their comprehension and adherence during their term of service.

### IV. Memorandum of Understanding/Contracts

The SWDB has the responsibility to:

- A. Ensure the development and execution of a Memorandum of Understanding/Contract between the Local Workforce Development Board (Local Board) and other WIOA partners concerning delivery of required programs and activities in order to meet the MOU/contract requirements in 29 U.S.C. § 3151 (c)(2) which states, “Each memorandum of understanding shall contain:
  - (A) provisions describing—
    - (i) the services to be provided through the one-stop delivery system consistent with the requirements of this section, including the manner in which the services will be coordinated and delivered through such system;
    - (ii) how the costs of such services and the operating costs of such system will be funded, including—
      - (I) funding through cash and in-kind contributions (fairly evaluated), which contributions may include funding from philanthropic organizations or other private entities, or through other alternative financing options, to provide a stable and equitable funding stream for ongoing one-stop delivery system operations; and



(II) funding of the infrastructure costs of one-stop centers in accordance with subsection (h);

(iii) methods of referral of individuals between the one-stop operator and the one-stop partners for appropriate services and activities;

(iv) methods to ensure the needs of workers and youth, and individuals with barriers to employment, including individuals with disabilities, are addressed in the provision of necessary and appropriate access to services, including access to technology and materials, made available through the one-stop delivery system; and

(v) the duration of the memorandum of understanding and the procedures for amending the memorandum during the duration of the memorandum, and assurances that such memorandum shall be reviewed not less than once every 3-year period to ensure appropriate funding and delivery of services; and

(B) such other provisions, consistent with the requirements of this title, as the parties to the agreement determine to be appropriate.”

B. Provide, upon request by OWD, copies of contracts and Memorandum of Understanding (29 U.S.C. § 3151(c)(2)) to document partnerships, relationships, duties and cost sharing with one-stop center partners.

#### V. Integrated Workforce System

The SWDB has the responsibility to implement an integrated workforce system in compliance with:

A. The State’s four-year strategic plan; and

B. State policies and procedures applicable to the SWDB’s activities.

#### VI. Accessibility

The SWDB has the responsibility to ensure access to local workforce development services available at times consistent to meet community needs.

#### VII. Sunshine Provisions

The SWDB has the responsibility to conduct all activities and meetings under this Agreement in compliance with the provisions of the Georgia Open Meeting Laws and the Sunshine Provision requirement in 29 U.S.C. § 3111(g), proposed 20 CFR 679.140, and O.C.G.A. §§ 50-14 and §§ 50-18.





	New Requirement	Cite
Notice for Regularly Scheduled SWDB & Committee Meetings	Posted at least <u>one week</u> in advance at regular place of meeting and on website. Must provide/post agenda as far in advance as possible <u>within two weeks</u> prior to meeting.	O.C.G.A. §§ 50-14-1 (d)(1) & (e)(1)
Notice for SWDB & Committee Meetings Not Previously Posted	Posted at least <u>24 Hours</u> in advance at regular place of meeting and given to legal organ.	O.C.G.A. §§ 50-14-1 (d)(2)
Meeting Summary	Written summary of actions and members present must be made available within 2 business days of the meeting.	O.C.G.A. §§ 50-14-1 (e)(2)(A)
Meeting Minutes	Includes SWDB & committees. Made available immediately following next scheduled meeting (can be made available sooner). Must include names of members present, description of each motion and proposal, name of each person making and seconding each motion and proposal, and a record of each vote.  Minutes now required for executive session portions of meetings, but not for public inspection [we typically do not have executive session portions of meetings].	O.C.G.A. §§ 50-14-1 (e)(2)(B) & (C)
Teleconference	Permitted for SWDB and committees. Can occur in limited, emergency circumstances for Local Boards.	O.C.G.A. §§ 50-14-1 (f) & (g)

### VIII. Labor Market Information

Per 29 U.S.C. § 3111(d)(5)(C), the SWDB has the responsibility to utilize the state’s labor market information system to identify, by occupation, the labor demand by employers in each workforce development area.

### IX. The State Oversight’s Role and Responsibilities

To ensure that the SWDB members understand the State’s oversight role and responsibilities, staff from OWD should participate in all new board member orientation to explain OWD’s role and responsibilities as they relate to WIOA on behalf of the Governor.



### 1.2.3 STATE UNIFIED BRAND

The official unified brand of Georgia’s workforce system is WorkSource Georgia. Each LWDA shall adopt the identifier “WorkSource” followed by their approved geographic identifier. This local brand shall apply to both the local board and the One-Stop centers they direct.

LWDAs shall use the official state unified brand and their local brand as prescribed in the WorkSource Georgia Branding Standards Manual.



## 1.3 COMPLAINTS

These procedures are designed to provide guidelines for filing and resolving Complaints alleging violations of any of the provisions of WIOA. The provided definitions<sup>1</sup> apply to all types of Complaints and grievances. There are three basic types of Complaints.

1. A Complaint that involves suspected fraud, waste, abuse, misconduct, or other wrongdoing in a WIOA-funded program shall follow the processes found in subsection 1.3.1 below.
2. A General Complaint alleging a programmatic violation of WIOA shall follow the processes found in subsection 1.3.2 below.
3. A Complaint which alleges discrimination shall follow the processes found in subsection 1.3.3 below.

General Complaints involving alleged misconduct at the local level must first be filed at the local level using local Complaint procedures. In order to file a General Complaint at the state level, the Complainant must have first attempted resolution at the local level, unless the Complaint is alleging that OWD directly violated the provisions of WIOA. The State requires any General Complaint filed at the state level include a written local ruling issued in response to a locally filed Complaint.

However, Complaints alleging discrimination or Complaints alleging suspected fraud, waste, abuse, misconduct, or other wrongdoing may be, but are not required to be, immediately filed with OWD or the appropriate federal agencies.

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### <sup>1</sup> Definitions:

- *Days* – Days are consecutive calendar days, including weekends and holidays. If a deadline imposed under the provisions of this section falls on a holiday or weekend, then the deadline shall be the next business day.
- *Complainant* – A Complainant is the person or entity filing the Complaint.
- *Complaint* – A Complaint is the written document which contains the alleged violation.
- *General Complaint* – A Complaint involving a general, non-discriminatory WIOA violation.
- *Participant* – A Participant is an individual who has been determined eligible to participate in, and who is currently receiving services under a program authorized by WIOA.
- *Respondent* – A Respondent is the person or entity against whom the Complaint is made.
- *Subrecipient* – A Subrecipient is a non-Federal entity that receives a subaward from a pass-through entity (generally from a recipient) to carry out part of a Federal program. This term does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.



### 1.3.1 PROCESS FOR REPORTING SUSPECTED FRAUD, WASTE, ABUSE, MISCONDUCT, OR OTHER WRONGDOING CONCERNING DOL PROGRAMS AND OPERATIONS

In the event that a Complaint involves allegations of fraud, abuse, waste, misconduct, or illegal activity stemming from a WIOA-funded program, the Complainant shall immediately contact one of the entities listed below. In the event the Complainant contacts OWD, OWD shall document the allegations and assist the Complainant in contacting the appropriate entity. OWD may document the Complainant's allegations using the Office of Inspector General's Incident Report Form 1-156. For further information regarding what procedures shall be adhered to, please reference the United States Department of Labor's Employment and Training's (ETA) [Training and Employment Guidance Letter 2-12](#).

1. Technical College System of Georgia, Office of Workforce Development

- Tel: 404-679-1371
- Mailing Address: TCSG, Office of Workforce Development  
Attn: Compliance Team  
1800 Century Place, Suite 150  
Atlanta, GA 30345

2. Georgia Office of Inspector General

- Tel: 1-866-435-7644 (1-866-HELPOIG)
- Mailing Address: 2 M.L.K. Jr. Dr., SW  
1102 West Tower  
Atlanta, Georgia 30334
- Complaint Form: <http://oig.georgia.gov/file-Complaint>

3. United States Department of Labor, Office of Inspector General

- Tel: 202-693-6999 or 1-800-347-3756
- Mailing Address: Attn: Hotline, Office of Inspector General  
U.S. Department of Labor  
200 Constitution Ave., NW  
Room S-5506  
Washington, D.C. 20210
- Complaint Form: <https://www.oig.dol.gov/hotlinecontact.htm>

### 1.3.2 PROCESS FOR GENERAL, NON-DISCRIMINATORY COMPLAINTS

The process for General Complaints is intended to allow for resolution of the Complaint at the most local level possible. Therefore, if a General Complaint alleges that a LWDA or local service provider violated the requirements of WIOA, then such Complaint must be filed in compliance with the LWDA's complaint policies. Such Complaints will not be resolved by the State until such time that there has been a written ruling issued by the LWDA. The exception to this rule is if the Complaint contains allegations directly



against OWD. Such Complaints must be directly filed with OWD. While local Complaint policies may vary among LWDA's, OWD sets forth the following guidelines which local policies must follow.

U.S.C. § 3241 (c)(1) requires that the State and LWDA's receiving funding authorized under WIOA provide the opportunity for a hearing and resolve any Complaint within sixty (60) days of the Complaint's filing. Any entity within the Georgia Workforce System including, but not limited to, customers, participants, recipients, subrecipients, contractors, and service providers may file a Complaint.

#### I. Complaint Guidelines for Local Recipients and Subrecipients

- a. Notice – LWDA's shall make Complaint procedures along with instructions on how to file a Complaint available to the public. This includes posting on a LWDA's website, if one exists. Complaint procedures shall inform the public of any interested party's right to file a Complaint as well as inform the public that an interested party has the opportunity to receive technical assistance in filing such Complaint as set forth in subsection I.b. below. So as to ensure additional notice to likely interested parties, LWDA's shall also include a statement in each participant's case file which contains a summary of the LWDA's Complaint process or information on where to find the process and a statement that the participant has the opportunity to receive technical assistance from the LWDA in filing such a Complaint. The participant shall also be required to sign an acknowledgment of the Complaint process. If any information is updated on the Complaint form, the recipient and subrecipients shall ensure current participants are made aware of the update.
- b. Assistance – LWDA's shall provide assistance to any Complainant, including those Complainants filing a Complaint against the LWDA. Such assistance may include, but shall not be limited to, providing instructions on how to file a Complaint; providing reasonable accommodations to Complainants with disabilities in accordance with Federal law; providing relevant copies of documents such as WIOA, regulations, local rules, contracts, etc.; and providing clarifications on the relevant provisions. This requirement shall not be interpreted as requiring LWDA's to release personally identifiable information.
- c. LWDA Complaint Procedure Requirements
  - i. In accordance with U.S.C. § 3241 (c)(1), each LWDA is required to establish a process for receiving, reviewing, and resolving general, non-discriminatory Complaints. These procedures must include an opportunity for the Complainant to make a written request for a hearing with such hearing occurring within sixty (60) days of the filing of the Complaint. LWDA's may require that Complaints be filed within a reasonable timeframe from the date of the alleged action which gave rise to the Complaint. However, reasonable time shall not be less than one hundred and



twenty (120) days from the date of the action which gave rise to the Complaint. The LWDA's general Complaint form shall at a minimum contain the following:

1. A field for the Complainant's contact information;
  2. A field for the contact information for the entity or individual against whom the Complaint has been alleged (i.e., respondent);
  3. A field for a brief, clear statement of the facts and dates describing the alleged violation;
  4. An opportunity to attach any documentation supporting the Complaint;
  5. A notice stating that the Complainant has the opportunity to request a hearing in writing;
  6. A field for the resolution the Complainant seeks;
  7. A notice of where the LWDA's Complaint policies may be found;
  8. A notice that the Complainant may request assistance with the Complaint process; and
  9. A certification to be signed by the Complainant that the information contained within the Complaint is true and accurate.
- ii. A Complaint may be amended to correct a technical deficiency at any time up until the date of resolution or the date of a hearing, if a hearing is requested in writing prior to the issuance of a resolution. Complaints may be withdrawn by the Complainant at any time prior to the issuance of a resolution.
  - iii. In the event a Complaint is received which does not contain enough information to enable the LWDA to resolve the issue, the LWDA shall make reasonable efforts to contact the Complainant and gather additional, necessary information.
  - iv. In the event that a Complaint is filed and the LWDA lacks jurisdiction to resolve, the LWDA shall immediately issue written notice to the Complainant informing him/her of their lack of jurisdiction.
  - v. LWDA's shall also record all Complaints in the LWDA's Complaint log. At a minimum, the following information shall be collected:
    1. Complainant's name and contact information;
    2. The date the Complaint was filed;
    3. The date the LWDA issued a formal or informal resolution; and
    4. A brief description of the Complaint.
  - vi. As the Complaint log may contain personally identifiable information, the LWDA shall take every step necessary to ensure the information is protected and only made



available to staff or management authorized to view it. For guidance on the federal requirements for protecting personally identifiable information, please reference ETA's [Training and Employment Guidance Letter Number 39-11](#).

- vii. LWDA's shall issue a written resolution for each Complaint received no later than sixty (60) days from the date the Complaint is filed. The written resolution shall contain the following, at a minimum:
  - 1. A recitation of the issues alleged in the Complaint;
  - 2. A summary of any evidence and witnesses presented by the Complainant and the respondent;
  - 3. An analysis of the issues as they relate to the facts; and
  - 4. A decision addressing each issue alleged in the Complaint.
  
- d. Hearing Procedures – As required by WIOA, every Complainant shall have the opportunity for a hearing for any Complaint that is filed. A request for a hearing must be made in writing by the Complainant, preferably at the time the Complaint is initially filed. However, a Complainant may file a written request for a hearing within sixty (60) days of the date the Complaint was filed. If a request for a hearing is made, then the hearing shall be held as soon as reasonably possible to enable a resolution of the Complaint no later than sixty (60) days from the day the Complaint is filed. The LWDA shall use the following procedures if a hearing is requested:
  - i. Upon receiving written notice of the Complainant's request for a hearing, the LWDA shall respond in writing acknowledging the Complainant's request and notifying the Complainant and the respondent of the date of the hearing. Such acknowledgment and notice shall be transmitted to the Complainant and the respondent within ten (10) business days of receipt of the Complainant's request. The notice shall include, at a minimum:
    - 1. The date of issuance;
    - 2. The name of the Complainant;
    - 3. The name of the Respondent against whom the Complaint has been filed;
    - 4. A statement reiterating that the Complainant and Respondent may be represented by legal counsel at the hearing;
    - 5. The date, time, and place of the hearing, including the name of the hearing officer serving as an impartial party;



6. A statement of the alleged violations of WIOA, (This may include clarification of the original Complaint, but must accurately reflect the content of the submitted documentation of the Complainant);
  7. A copy of any policies or procedures for the hearing or identification of where such policies may be found; and
  8. The name, address, and telephone number of the contact person issuing the notice.
- ii. The hearing shall be conducted in compliance with federal regulations. At a minimum, the hearing must include:
    1. An impartial hearing officer selected by the LWDA;
    2. An opportunity for both the Complainant and Respondent to present an opening statement, witnesses and evidence;
    3. An opportunity for each party to cross-examine the other party's witnesses; and
    4. A record of the hearing which the LWDA shall create and retain.
  - iii. The hearing officer, considering the evidence presented by the Complainant and Respondent, shall issue a written decision which shall serve as the LWDA's official resolution of the Complaint. The decision shall include the following information, at a minimum:
    1. The date, time, and place of hearing;
    2. A recitation of the issues alleged in the Complaint;
    3. A summary of any evidence and witnesses presented by the Complainant and the respondent;
    4. An analysis of the issues as they relate to the facts; and
    5. A decision addressing each issue alleged in the Complaint.
- e. Remedies – Per 29 U.S.C. § 3241(c)(3), a LWDA receiving an allotment or allocation under WIOA may only impose the following remedies for a violation of any requirement of WIOA:
    1. Suspend or terminate payments made available under WIOA;
    2. Prohibit the placement of a participant with an employer that violated any requirement under WIOA;
    3. Where applicable, reinstate an employee, require the payment of lost wages and benefits, and reestablish other relevant terms, conditions, and privileges associated with the employee's employment; and
    4. Where appropriate, other equitable relief.





- f. Process for Appealing to OWD – As to general Complaints, the Complainant must first file at the local level unless the Complaint alleges a violation of the provisions of WIOA by OWD. OWD shall not have jurisdiction over general Complaints until a LWDA has issued a written resolution on a Complaint. Once a LWDA has issued a written resolution on a Complaint, a Complainant may file an appeal of the LWDA’s resolution with OWD by attaching the local resolution to the OWD Complaint form. OWD’s Complaint form is located at <https://tcsgeu/worksource/resources-for-practitioners/eo-and-grievance-procedure-information/>. Any appeal to OWD of a LWDA’s resolution must be filed within sixty (60) days of the date the LWDA issued its written resolution. However, a LWDA that fails to issue a written resolution of a locally filed Complaint within sixty (60) days shall give the Complainant the automatic right to file a Complaint with OWD. Once OWD has received the Complaint form and the local resolution, OWD shall issue its own resolution on the issue being appealed within sixty (60) days of receipt. Any resolution reached by OWD may be appealed to the United States Department of Labor’s Employment and Training Administration.

## II. OWD Complaint Guidelines

- a. Overview – As the State’s WIOA grant recipient, OWD shall establish a Complaint procedure in compliance with 29 U.S.C. § 3241(c) which shall govern how OWD responds to Complaints alleging violations of the requirements of WIOA from participants and other interested parties or affected parties. In order to resolve grievances at the most local level possible, OWD shall address General Complaints as follows:
  - b. Locally Filed Complaints Not Resolved in 60 Days
    - i. A LWDA must resolve Complaints within sixty (60) days of filing. In the event a LWDA fails to resolve a Complaint within the required timeframe, the Complainant may contact OWD for assistance.
    - ii. Upon notice that a LWDA has failed to timely resolve a Complaint, OWD shall document the Complaint and issue written notice to the LWDA that the Complaint was not resolved in a timely fashion. The notice shall require the LWDA to respond in writing within ten (10) calendar days explaining the basis for the delay. The Complainant shall not complete a OWD Complaint form as the LWDA shall still be responsible for resolving the Complaint locally.
    - iii. Upon receipt of the LWDA’s response, OWD shall instruct the LWDA to proceed with resolving the Complaint.
  - c. Appeal of resolved Local Complaint



- i. If a party is dissatisfied with a LWDA's resolution of a Complaint, the party may appeal to OWD.
- ii. OWD's Compliance Team shall document the party's information in their Complaint log and request the party to complete a OWD Complaint form.
- iii. Scope of Review – OWD's review shall be limited to ensuring the LWDA adhered to its own policies in reaching its decision regarding the Complaint and that the resolution issued by the LWDA correctly applied the applicable regulation, policy, or law.
- iv. Upon receipt of the appeal, OWD shall notify the LWDA, and the LWDA shall send OWD a copy of any and all documents the LWDA collected or relied upon in investigating and ruling on the Complaint.
- v. OWD shall then review the submitted documentation, and issue a ruling within sixty (60) days of filing.
  1. If OWD finds fault with the process used by the LWDA or the resolution, OWD shall identify the issue and remand the Complaint back to the LWDA. The LWDA shall then re-open the Complaint and issue a new resolution correcting the issue identified by OWD.
  2. If OWD finds no fault with the process used by the LWDA or with the resolution, OWD shall notify the LWDA and the Complainant of its decision to affirm the resolution. Additionally, OWD shall notify the Complainant of their right to appeal OWD's decision to the United States Department of Labor Employment and Training Administration.

d. General Complaint Made Against OWD

- i. Any party may file a Complaint directly with OWD if the Complaint alleges that OWD, not a LWDA or local service provider, violated a requirement of WIOA within the last one hundred and twenty (120) days using the OWD Complaint form.
- ii. In the event a Complaint is received which does not contain enough information to enable OWD to resolve the issue, OWD shall make reasonable efforts to contact the Complainant and gather additional, necessary information. In the event that a Complaint is filed which OWD does not have jurisdiction, OWD shall immediately issue written notice to the Complainant of the lack of jurisdiction.
- iii. Upon receipt of the Complaint, OWD shall conduct an investigation and resolve the Complaint within sixty (60) days of the filing.



- iv. OWD's written resolution shall contain the following:
  1. A recitation of the issues alleged in the Complaint;
  2. A summary of any evidence and witnesses presented by the Complainant;
  3. An analysis of the issues as they relate to the facts; and
  4. A decision addressing each issue alleged in the Complaint.
  
- v. Hearing Procedure – A Complainant shall have the opportunity for a hearing if the Complainant makes a written request within sixty (60) days of the date the complaint was filed. Such a request can only be made if the Complaint was made directly against OWD. Hearings shall not be permitted on appeals from LWDA resolutions or from locally filed Complaints which have not been handled in a timely manner. Hearings shall be conducted as follows:
  1. Upon receiving written notice of the Complainant's request for a hearing, OWD shall respond in writing acknowledging the Complainant's request and notifying the Complainant of the date of the hearing. Such acknowledgment and notice shall be transmitted to the Complainant within ten (10) business days of receipt of the Complainant's request. The notice shall include, at a minimum:
    - a. The date of issuance;
    - b. The name of Complainant;
    - c. A statement reiterating that the Complainant may be represented by legal counsel at the hearing;
    - d. The date, time, and place of the hearing, including the name of the hearing officer serving as an impartial party;
    - e. A statement of the alleged violations of WIOA, which may include clarification of the original Complaint, but must accurately reflect the content of the submitted documentation of the Complainant;
    - f. A copy of any policies or procedures for the hearing; and
    - g. The name, address, and telephone number of the contact person issuing the notice.
  2. The hearing shall be conducted in compliance with federal regulations. At a minimum the hearing must include:
    - a. An impartial hearing officer selected by OWD;
    - b. An opportunity for the Complainant to present an opening statement, witnesses and evidence;



- c. An opportunity for each party to cross-examine the other party's witnesses; and
    - d. A record of the hearing which the LWDA shall create and retain.
  3. The hearing officer, considering the evidence presented by the Complainant and OWD, shall issue a written decision which shall serve as OWD's official resolution of the Complaint. The decision shall include the following information, at a minimum:
    - a. The date, time, and place of hearing;
    - b. A recitation of the issues alleged in the Complaint;
    - c. A summary of any evidence and witnesses presented by the Complainant and OWD;
    - d. An analysis of the issues as they relate to the facts; and
    - e. A decision addressing each issue alleged in the Complaint.
- e. Remedies – Per 29 U.S.C. § 3241(c)(3), OWD may impose only the following remedies for a violation of any requirement of WIOA:
  1. Suspend or terminate payments made available under WIOA;
  2. Prohibit the placement of a participant with an employer that violated any requirement under WIOA;
  3. Where applicable, reinstate an employee, require the payment of lost wages and benefits, and reestablish other relevant terms, conditions, and privileges associated with the employee's employment; and
  4. Where appropriate, other equitable relief.
- f. Process for Appealing to United States Department of Labor's Employment and Training Administration – Any Complaint or appeal resolved by OWD may be appealed to the United States Department of Labor's Employment and Training Administration. Federal appeals must be made within 60 calendar days of the receipt of OWD's Complaint resolution. USDOL will make a final decision no later than one hundred and twenty (120) days after receiving the Complainant's formal appeal. USDOL shall only investigate grievances arising through the established procedures. WIOA does not allow for federal intervention until the formal procedure has been followed.

### 1.3.3 PROCESS FOR COMPLAINTS ALLEGING DISCRIMINATION

As a recipient of federal funds, OWD is prohibited from, and does not engage in, discriminating against any individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status



as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA-funded program or activity. Further, any entity which receives funds authorized under WIOA is prohibited from discriminating against any individual on the grounds previously stated. Pursuant to U.S.C. § 3248, the Secretary of the United States Department of Labor shall issue regulations governing and implementing the nondiscrimination provisions of WIOA. Such federal regulations shall govern the process for reviewing and resolving any Complaints or grievances alleging discriminatory action. Furthermore, the Complainant or grievor reserves the right to directly file their discrimination-based Complaint with the United States Department of Labor's Civil Rights Center at: <http://www.dol.gov/oasam/programs/crc/external-enforc-complaints.htm>.

I. Procedure for Filing Complaints and Grievances Alleging Discrimination:

- A. Every WIOA grantee, subrecipient, or contractor shall notify customers, applicants, employees, and interested parties of their rights under the laws enforced by the USDOL, CRC, including where and when to file discrimination Complaints under the state or local process where applicable. All discrimination-based Complaints must be filed within one hundred and eighty (180) days of the alleged discrimination.
- B. The Complainant may submit their discrimination Complaint to either the LWDA, OWD, or the United States Department of Labor, Civil Rights Center.
  - i. Federal regulations require the retention and recording of any Complaint alleging discrimination.
  - ii. LWDAs are required to adhere to the applicable federal regulations which govern the information which shall be recorded and retained in conjunction with their reception and processing of any Complaint alleging discrimination.
- C. If the Complainant chooses to file the discrimination Complaint with the LWDA or OWD, a response shall be issued within ninety (90) days of the Complaint's filing. The resolution shall be the written Notice of Final Action. Options for resolving the Complaint shall include alternative dispute resolution (ADR), at the Complainant's election.
- D. The Complainant has the right to be represented in the Complaint process by an attorney or other representative.
- E. If the Complainant is dissatisfied with the resolution of his/her Complaint by the LWDA or OWD, the Complainant may file a new Complaint with CRC within thirty (30) days of the date on which the Complainant receives the Notice of Final Action. If the State or LWDA fails to issue the Notice within ninety (90) days of the date on which the Complaint was filed, the Complainant may file a new Complaint with CRC within thirty (30) days of the expiration of



the ninety (90) day period (in other words, within one hundred and twenty (120) days of the date on which the original Complaint was filed).

- F. Further, OWD shall fully cooperate with any local, state, or federal investigation in accordance with the aforementioned proceedings or with any criminal investigation.

Relevant Contact Information:

1. OWD EO Officer

Britney Singer  
Technical College System of Georgia  
Office of Workforce Development  
1800 Century Place, Suite 150  
Atlanta, GA 30345  
Email: [wioacompliance@tcsg.edu](mailto:wioacompliance@tcsg.edu)  
Phone: (404) 679-1371  
Fax: (404) 679-5460

2. Executive Director

Kristin Laarhoven  
Technical College System of Georgia  
Office of Workforce Development  
1800 Century Place, Suite 150  
Atlanta, GA 30345  
Phone: (404) 679-2922  
Fax: (404) 679-5460

3. Director, Civil Rights Center (CRC)

U.S. Department of Labor  
200 Constitution Ave, NW, Suite N-4123  
Washington, DC 20210

How to file a complaint with the Civil Rights Center:

<https://www.dol.gov/agencies/oasam/civil-rights-center/how-to-file-complaint>

People with Hearing Impairments may contact the Georgia Relay Center at 1-800-255-0056 or by dialing 711.



## 1.4 MONITORING AND TECHNICAL ASSISTANCE

Monitoring and technical assistance are integral parts of OWD's oversight responsibilities required by law. Monitoring is an essential part of program and financial management to ensure compliance with applicable laws, regulations, integrated workforce plans, provider agreements, policies, and procedures. Monitoring identifies areas of strength and weakness in operations with the intent of improving program performance. Technical assistance improves program operation and management capabilities.

Special onsite reviews may be conducted to investigate allegations of mismanagement or to clarify unusual monitoring findings. Special reviews may or may not result in corrective action.

### I. Monitoring Process

- A. OWD conducts program, data, and fiscal monitoring of LWDA's annually. Monitoring is conducted to review the previous program year(s). On-site monitoring and/or special onsite reviews may consist of interviews with appropriate staff and reviews of policies, procedures, accounting reports, source documents, and other records as considered necessary pertaining to:
  - i. Programmatic activities
  - ii. Financial management
  - iii. Operational internal controls
- B. OWD's subrecipient monitoring plan will be defined annually. OWD will determine sample size and key objectives for onsite and desk reviews through an annual risk assessment process. The risk assessment process shall take into account the subrecipient's program complexity, percentage of funds passed through, amount of award and an overall per entity risk score.
- C. Monitoring may be conducted onsite with additional oversight conducted by telephone, desk reviews of documents and reports, and such other means as deemed necessary by OWD. Members of entities such as the SWDB or USDOL may accompany onsite monitors. OWD reserves the right to conduct additional periodic monitoring as deemed necessary.
- D. OWD sends a document request list to the LWDA 40 calendar days prior to the onsite monitoring visit. The LWDA has 10 business days to provide OWD with the requested documentation. A monitoring team of OWD staff reviews documents 30 calendar days prior to the onsite monitoring visit and prepares pre-planning documents. During pre-planning activities, OWD will review the LWDA's general ledger and selects initial testing samples. One week prior to the onsite visit, OWD sends the sample selections or request list to the LWDA. The LWDA then prepares the sample packets with requested information in preparation for the onsite visit.



- E. The OWD monitoring team will host an entrance meeting at the LWDA to initiate monitoring on the first day of the monitoring period.
- F. Regular oversight and monitoring of WIA/WIOA activities and providers of core, intensive, and training services is conducted to ensure compliance with WIA/WIOA requirements including:
  - i. Compliance with the uniform administrative requirements described in 29 U.S.C. § 3244 and USDOL uniform administrative requirements, including the appropriate administrative requirements and applicable cost principles at 20 C.F.R § 200 for all entities receiving WIA/WIOA funds.
  - ii. Compliance with applicable laws and regulations in accordance with the State's monitoring system;
  - iii. Determining that expenditures have been made against the cost categories and within the cost limitations specified in WIOA and/or any applicable regulations or guidance;
  - iv. Ensuring that established policies achieve the program quality and outcomes set forth in WIOA and any applicable regulations or guidance;
  - v. Compliance with the nondiscrimination and equal opportunity requirements of 29 U.S.C. § 3248 and 29 C.F.R. § 38. Requirements for these aspects of the monitoring system are set forth in 29 C.F.R. § 38.54(d)(2)(ii);
  - vi. Compliance with data collection and reporting system policies and procedures;
  - vii. Determining whether or not there is compliance with other provisions of WIOA and the WIA/WIOA regulations and other applicable laws and regulations; and
  - viii. Determining if service providers and contractors have demonstrated compliance with WIA/WIOA requirements.
- G. The monitoring team conducts an exit conference with the LWDA at the conclusion of testing. During the exit conference, the monitoring team presents an Exit Memorandum identifying findings and observations which were found during testing. The LWDA's management staff will sign the Exit Memorandum, acknowledging they were made aware of such findings and observations. OWD also prepares a Notice of Findings and Required Actions (NFR) which details the findings and observations found during testing. OWD will provide a copy of the NFR to the LWDA at the exit conference. The LWDA shall either concur, or not concur, with the findings and observations identified. If the LWDA does not concur with a finding, they have an opportunity to submit their comments with supporting documentation, within 3 business days of the exit conference.
- H. OWD will modify the NFR based on feedback, if applicable, and distribute the final report within 13 business days of the exit meeting. The LWDA will then have 10 business days to





submit a corrective action plan. OWD will specify in the Final Monitoring Report the period allotted to complete the required corrective actions.

- I. Findings of Noncompliance: If, as a result of financial and compliance audits or otherwise, OWD has determined that noncompliance with the uniform administrative requirements found at 2 C.F.R. § 200, 29 C.F.R. § 95 or § 97, as appropriate, the requirements referred to in 29 U.S.C. §§ 3241 and 3244, 29 C.F.R. § 38, or any other substantial violation of WIA/WIOA, OWD will require corrective action to secure prompt compliance.
- J. In the event the LWDA fails to take timely action to correct identified findings, OWD may implement sanctions as allowable per federal and State law.

## II. Schedules and Timelines for Monitoring

A tentative monitoring schedule will be sent to the 19 LWDA's sufficiently in advance of the monitoring visit to allow them to request an adjustment to the schedule if justified. A request for an adjustment may be granted in certain cases, such as unforeseen conflicts that would prevent LWDA staff from being available to the monitoring team.

### A. Monitoring Time Frames

- i. A Notice of Monitoring and Data Request will be sent to the LWDA 40 calendar days prior to on-site monitoring.
  - ii. The requested documents are due 10 business days following the request.
  - iii. The monitoring team will meet to prepare for on-site monitoring 10 business days after the requested documents due date.
  - iv. Sample selections will be sent out prior to on-site. However, additional samples will be identified during the onsite visit.
  - v. Monitoring will be conducted over a period of 5 business days and the Notice of Findings and Required Actions (NFR) will be presented to the LWDA during the exit meeting on the last day of monitoring. An Exit Memorandum documenting completion of onsite monitoring and receipt of NFR shall be signed by LWDA management present at exit conference.
  - vi. The NFR must be signed and returned to OWD within 3 business days of the exit conference. In the event an LWDA does not concur with a finding, supporting documentation shall be submitted with the signed NFR.
  - vii. OWD will issue the Final Monitoring Report 10 business days following the due date of the signed NFR.
  - viii. The LWDA must submit a Corrective Action Response (CAR) within 10 business days of receiving the Final Monitoring Report.



ix. OWD will submit an acceptance to the CAR or further requirements within 10 business days of receiving the CAR.

B. This schedule is subject to change due to unique local circumstances, waiver requests, or other conflicts that may arise.

### III. Technical Assistance

Technical assistance and training may be recommended by OWD or requested by the LWDAs. Technical assistance may be a means of improving operations, implementing corrective action, or providing information. LWDAs will not be monitored on the quality or compliance of their programs during technical assistance visits, but will be provided direction to improve quality and compliance issues. OWD may provide technical assistance and training directly or outside sources may be used. Such requests should be scheduled with OWD Programs team.

Requests for minor technical assistance may be submitted verbally or in writing. If major assistance or assistance in several areas is requested, the request should be in writing so that OWD staff has sufficient information to decide on the most appropriate form and level of assistance to provide. If several LWDAs request assistance in related areas, a general training session may be scheduled.

OWD staff may schedule technical assistance visits to LWDAs to provide information or special training, discuss areas of concern, evaluate program operation, or any combination thereof.



## 1.5 SANCTIONS

OWD is responsible for ensuring the effective and compliant provision of services and use of funds by the State's Local Workforce Development Areas. As such, and in satisfying oversight requirements, OWD may impose penalties or sanctions for failure by a local board or grant recipient to appropriately oversee the delivery of services and ensure the effective and efficient use of funds. The purpose of the sanctions process is to:

- Ensure accountability of local boards and grant recipients in meeting the needs of the local workforce development system;
- Ensure and/or improve performance in achieving outcome measures;
- Ensure compliance with applicable federal and state laws, regulations, policies, guidance, and terms and conditions of applicable awards, contracts, etc.;
- Ensure adequate returns on Georgia's workforce investments; and,
- Support the state in achieving its goals.

To accomplish these responsibilities, OWD may impose conditions or penalties to remedy or mitigate the risk of a sanctionable act or if a local board or grant recipient is determined to be at-risk for noncompliance or nonperformance. Failure to cooperate and comply with OWD's requirements may subject a local board or grant recipient to corrective actions. For the most part, sanctions are separate from corrective actions identified in annual monitoring. However, a failure to complete the corrective actions identified as a result of monitoring may result in the imposition of sanctions.

### I. Sanctions Process

A. If it has been determined that a sanctionable act has occurred, OWD will follow the sanctions process described below.

#### i. Determination

1. Based on information provided by OWD staff, the Assistant Commissioner determines whether a sanction shall be imposed, to include the sanction level and appropriate penalty and/or corrective action.

#### ii. Notice of Sanction

1. In concert with SWDB, as appropriate, OWD will issue written notice to the board or grant recipient regarding the identified area(s) of concern and the sanction to be imposed. Notice of intent shall include the following information:
  - a. Sanctionable act upon which the sanction is based;
  - b. Sanction status level in which the LWDA is placed;
  - c. Penalty and/or required actions and the effective date of the penalty;



- d. Timeline for completing the remedial actions and/or penalty;
  - e. Technical assistance contact information from OWD or another entity to assist in completing the require action; and
  - f. Explanation of the appeals process.
2. Written notification shall be sent to the LWDB Chair, CLEO, LWDA executive director or administrative officer, and the grantee’s executive leadership.
  3. The sanction determination date of notice shall be the date the sanction determination is sent by certified mail. All sanction determinations shall be sent by electronic transmission and by certified mail, return receipt requested.
- iii. LWDA/LWDB Response to Notice
1. Entities that have been given a Notice of Sanction will have five (5) business days to present OWD with information and documentation that the sanction was issued in error, whether in whole or in part, or to present mitigating evidence to reduce the sanction.
- iv. OWD First Level Review
1. OWD will consider the information presented and respond within ten (10) business days to determine if the sanction shall be removed, amended, or remain in place. OWD will notify the LWDA/LWDB and other appropriate parties via electronic transmission of this determination.
  2. Any LWDB or grant recipient dissatisfied with OWD’s response may file, in writing, a notice of appeal with SWDB within fifteen (15) days of OWD’s First Level Review.
- v. Corrective Action Phase
1. The specific required actions and timeline shall be determined by OWD and presented in the Notice of Sanction.
  2. Some required actions may necessitate additional information or documentation be submitted to OWD. OWD shall notify the board or grant recipient in a timely manner via electronic transmission if additional information is required.
  3. A LWDB or grant recipient’s failure to complete the corrective actions described in the corrective plan within the specified time limits may result in OWD imposing additional penalties under the policy, elevating the sanction level, and/or withholding grant payments to the LWDB or grant recipient.



vi. Resolution

1. OWD will issue formal resolution to applicable parties once the required corrective actions have been satisfactorily completed.
2. Resolution of a sanctionable act does not necessarily resolve the potential for risk. OWD may assign a higher risk level to a board or grant recipient for the purposes of monitoring after the imposition of a sanction.

II. Appeals Process

A. Appeals Committee

- i. Appealed decisions shall be presented to the SWDB Performance and Accountability Committee, which shall recommend a decision to the SWDB Executive Committee for final determination.
- ii. Unless an appeal is withdrawn, the SWDB committee shall afford the parties reasonable opportunity for a fair hearing. The committee will determine if the sanction shall be removed, amended, or remain in place.
- iii. The parties shall be notified of the Committee's decision, along with supportive reasoning, which shall be deemed to be the final determination.

B. Notice of Appeal

- i. A determination establishing a sanction shall be deemed final unless a written appeal is filed within 15 calendar days after the First Level Review. An appeal will be considered timely if postmarked or filed in person within 15 days of the mailing date of the First Level Review.
- ii. A Notice of Appeal shall include, but is not limited to, the following:
  1. Purpose for the request;
  2. Supporting evidence regarding non-concurrence with sanction or occurrence of sanctionable act;
  3. Mitigating factors; and
  4. Preference for type of hearing (in-person or via teleconference);
- iii. A Notice of appeal shall be sent by mail or delivered in person to the address below:
  1. SWDB Performance & Accountability Committee

C/O OWD Compliance Director



1800 Century Pl NE, Suite 150

Atlanta, GA 30345

### C. Notice of Hearing

- i. Sanction hearings shall be scheduled promptly and may be conducted in whole or in part by teleconference. The SWDB committee shall determine the time, place, and manner in which appeals shall be conducted.
- ii. The notice of hearing shall cite the sections of the policy and procedure pertinent to the appeal and include a general statement of the issues involved. Notice shall be sent to all applicable parties.
- iii. If any party anticipates a conflict with possible hearing dates, that party should immediately notify OWD of the date(s) of unavailability. Once a hearing has been scheduled, postponement or continuation of the hearing is within the discretion of the SWDB committee.
  1. A postponement of the hearing may be granted upon request showing reasonable cause that will prevent the attendance of a party.
  2. In the absence of very unusual circumstances, a business engagement will not constitute good cause for postponement.

### D. The Hearing

- i. The SWDB committee shall designate an individual responsible for taking minutes of the hearing. These minutes shall be compiled within one (1) week after the hearing and sent to all applicable parties.
- ii. If the hearing takes place via teleconference, the record must reflect the consent of the parties to the method of the hearing and that the use of such communications has not jeopardized the rights of any party.
- iii. The SWDB committee appointed to hear the appeal shall issue notice of the requirement of good faith of conduct in all hearing proceedings prior to accepting testimony and shall conduct the hearing in an orderly manner. The SWDB committee shall develop the record by conducting appropriate inquiries and shall allow each party an opportunity to present its case.

## III. Sanction Level

- A. OWD may impose penalties on a board or grant recipient based on the following criteria, as appropriate given the totality of the circumstances surrounding the sanctionable act(s):



- i. Severity, nature, duration, and extent of the sanctionable act(s) and/or risk;
- ii. Nature, frequency, and resolution of previous sanctionable acts,
- iii. Mitigating circumstances and efforts to prevent the sanctionable acts such as obtaining technical assistance, training, or other assistance from OWD; and
- iv. Prior year monitoring findings regarding similar acts.

B. Intent to Sanction

- i. While not a formal sanction, OWD may deem it appropriate to issue an “Intent to Sanction” as a warning or when an issue has been identified and impose a technical assistance plan. Failure to complete the requirements of a technical assistance plan may result in a sanction.
- ii. An Intent to Sanction is not eligible for appeal.

C. The following sanction status levels may be imposed, in non-sequential order, as appropriate:

- i. Level-One Sanctions: This level is assigned for a relatively less significant failure to perform or comply as determined by OWD. Examples of sanctionable acts associated with a level one sanction include, but are not limited to:

- 1. Failure to submit timely and accurate required financial or performance reports;
- 2. Failure to respond to official OWD requests for information or documentation;
- 3. Failure to implement corrective actions to resolve finding identified during monitoring or desk reviews, including failure to comply with a technical assistance plan developed by OWD;
- 4. Failure to sufficiently resolve audit findings or questioned costs within required timeframes;
- 5. Failure to submit required annual audits;
- 6. Breach of administrative and service contract requirements; or
- 7. Failure to retain required service delivery and financial records

- ii. Level-Two Sanctions: This level is assigned for significant failure to perform or comply as required and may result in the imposition of more significant conditions, remedial actions, and/or penalties than those assessed in level one. Examples of sanctionable acts associated with this level may include, but are not limited to:

- 1. Multiple infractions that, on their own, would constitute a Level-One sanction;
- 2. Failure to rectify a level-one sanction within the time period determined by OWD;



3. Committing a second sanctionable act after the imposition of a Level-One sanction;
4. Failure to observe accepted standards of administration; or
5. Failure to rectify reported threats to health and safety of program participants within 30 days of notice. Rectifying health and safety may include investigating a complaint, taking appropriate corrective actions, or making referrals to appropriate authorities.

iii. Level-Three Sanctions: This level is assigned for an extreme failure to perform or comply as required by OWD, and may result in the imposition of more significant conditions, remedial actions, and/or penalties than those assessed in level two. Examples of sanctionable acts associated with this level may include, but are not limited to:

1. Failure to rectify previous sanctions within the time period determined by OWD;
2. Committing multiple sanctionable acts;
3. Gross negligence;
4. Willful disregard of the requirements of WIOA and other federal and state laws, regulations, policies, guidance, and/or terms and conditions of applicable awards, contracts, etc.;
5. A pattern of mis-expenditure;
6. Incidents of fraud, malfeasance, misapplication of funds, or other serious violations;  
or
7. Failure to rectify reported threats to health and safety of program participants within 60 days of notice. Rectifying health and safety may include investigating a complaint, taking appropriate corrective action, or making referrals to appropriate authorities.

D. OWD may impose penalties for sanctionable acts listed in this policy. Notwithstanding the lists of sanctionable acts above, OWD may assign a higher or lower sanction level based on the severity or mitigating circumstances surrounding the sanctionable acts. Additional scenarios that warrant sanctions may include, but are not limited to:

- i. Penalties for Nonperformance: Failure of a LWDB to meet required performance measures.
- ii. Penalties for Failures regarding One-Stop Service Delivery Network: Failure of a LWDB to ensure the continued operation of a One-Stop service delivery network as required by 29 U.S.C. §2841 and the One-Stop system section of this policies and procedures guide including, but not





limited to, failure to properly certify and recertify One-Stops may result in the imposition of penalties as provided in this policy. OWD may also withhold payment for any administrative expenses until the LWDB demonstrates to the satisfaction of OWD that all of the required elements of a One-Stop service delivery network are operational.

- iii. Complaints and Reports of Criminal Fraud and Abuse: Pursuant to 20 CFR §667.630, information and complaints involving criminal fraud, waste, abuse, or other criminal activity must be reported immediately through the Department's Incident Reporting System to the USDOL, Office of Inspector General, Room S5514, 200 Constitution Ave NW, Washington, D.C. 20210, or the corresponding Regional Inspector General for Investigations, with a copy simultaneously provided to the Employment and Training Administration.

E. OWD may impose a higher level of sanction on a board or grant recipient if a sanction is currently imposed when another sanctionable act occurs or is discovered.

#### IV. Sanctions/Corrective Actions

A. To assist in correcting any deficiencies, a board or grant recipient upon whom a sanction is imposed must enter into a corrective action plan. This plan is developed by OWD and may include, but is not limited to:

- i. Mandatory participation in technical and quality assurance activities;
- ii. Mandatory participation in training;
- iii. Submission of additional or more detailed financial or performance reports;
- iv. Modification of LWDB's local plan;
- v. Appearances at State Workforce Development Board committee or full board meetings by LWDA Director, LWDB chair, or other administrative officer to report on activities and progress until performance is satisfactory;
- vi. On-site visits by OWD to perform additional audits or daily operations of a LWDB or grant recipient;
- vii. OWD meetings with the LWDA's CLEO, LWDB chair, executive director, contractors, or subrecipients;
- viii. Formal presentation by LWDA to CLEO, LWDB, or grant recipient executive leadership regarding OWD-identified areas of concern;
- ix. OWD-appointment of a steward to provide oversight and management in completing the required corrective action plan;



- x. Prohibition against entering into specific contracts or engaging in certain activities without explicit approval of OWD;
  - xi. Prohibition against a LWDB using designated workforce service providers, including state agencies and/or One-Stop Operators;
  - xii. Contract cancellation or termination;
    - xiii. Determination of disallowed costs and repayment;
  - xiv. Issuing notice of “no-draw” status until resolution of issue;
  - xv. Payment by reimbursement only, with required supporting documentation;
  - xvi. Delay, suspension, or denial of contract payments;
  - xvii. Ineligibility for additional discretionary or other funds;
  - xviii. Designation as a high-risk area requiring additional monitoring visits;
  - xix. Reduction or reallocation of funds: OWD may reduce or de-obligate all or part of funds awarded or may reallocate all or part of funds awarded as a result of noncompliance regarding obligation or expenditure requirements;
  - xx. Initiation of suspension or debarment proceedings; or
  - xxi. Withholding, suspension, and/or termination of funds: OWD may terminate or suspend funds, in whole or in part, when necessary to ensure the proper operation of the program and ensure the integrity of funds.
- B. For repeated sanctionable acts or those that constitute a Level-Three Sanction, OWD may recommend more severe penalties that require approval by the SWDB and/or the Governor. Pursuant to provisions in O.C.G.A. 34-14-1, the SWDB may recommend the Governor:
- i. Issue a notice of intent to revoke approval of all or part of the local plan affected; or
  - ii. Impose a reorganization plan, which may include:
    - 1. Decertifying the local board involved;
    - 2. Prohibiting the use of eligible providers;
    - 3. Selecting an alternative entity to administer the program for the local area involved;
    - 4. Merging the local area into one or more other local areas; or
    - 5. Making such other changes as the United States Secretary of Labor or the Governor determines necessary to secure compliance with the provision



C. More than one corrective action may be imposed in response to one occurrence of a sanctionable act. The corrective actions imposed for one or more occurrences of sanctionable acts may correlate with the sanction level imposed on a board or grant recipient.



## 1.6 PROVIDING NOTICE OF EQUAL OPPORTUNITY AND NONDISCRIMINATION

### I. General Prohibitions on Discrimination

“No individual in the United States may, on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries, applicants, and participants only, citizenship or participation in any WIOA Title I-financially assisted program or activity, be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any WIOA Title I financially assisted program or activity”.

*29 C.F.R. § 38.5*

### II. Providing Initial and Continuing Notice

A. All recipients receiving financial assistance under Workforce Innovation and Opportunity Act (excluding the beneficiaries of WIOA programs or activities) must provide initial and continuing notice that it does not discriminate on any prohibited basis.

B. For the purpose of equal opportunity and nondiscrimination regulations, recipients include but are not limited to:

1. State level agencies that administer, or are financed in whole or in part by WIOA Title I funds;
2. State Workforce Agencies;
3. State and Local Boards;
4. Local grant recipients;
5. One-Stop operators;
6. Service providers, including eligible training providers;
7. On-the-Job training (OJT) employers;
8. Job Corps contractors and center operators;
9. Job Corps national training contractors;
10. Outreach and admissions agencies, including Job Corps contractors that perform these functions;
11. Placement agencies, including Job Corps contractors that perform these functions; and
12. Other National Program recipients.

C. “This notice must be provided to:

1. Registrants, applicants, and eligible applicants/registrants;
2. Participants;
3. Applicants for employment and employees;
4. Unions or professional organizations that hold collective bargaining or professional agreements with the recipient;



5. Subrecipients that receive WIOA Title I financial assistance from the recipient; and
6. Members of the public, including those with impaired vision or hearing and those with limited English proficiency.

Recipients must take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others.

*29 C.F.R. § 38.34; 29 C.F.R. § 38.4; 29 C.F.R. § 38.15*

- D. The *Equal Opportunity is the Law* poster, which is available in English, Arabic, Chinese, and Spanish, must be posted prominently, in a reasonable numbers of places, in available and conspicuous physical locations and on the recipient's website.

*29 C.F.R. § 38.35; 29 C.F.R. § 38.36*

- E. The international symbol for accessibility should be shown directing individuals to an accessible entrance or address of the nearest accessible office and the telephone number to call if an accommodation is needed to receive services and the information incorporated in the Methods of Administration Element V.
- F. If the customer needs language assistance and is unable to identify the language in which he/she needs assistance, the Network Omni Language Line can help to identify the language the customer is speaking.
- G. The following should be observed concerning the Equal Opportunity is the Law Signature Form:
1. All individuals registered in WIOA should read, understand and sign the complaint procedure signature form with a copy to the individual and a copy in their file.
  2. LWDA's are required to provide the complaint procedure signature form to all current employees (WIOA partially or fully funded positions) and ensure that all new employees receive this form when they begin employment (again WIOA partially or fully-funded positions). All employees should read, understand and sign the complaint procedure form which should then be placed in their personnel files.
  3. Applicants for WIOA services or applicants for employment with the recipient are covered by the appropriate display of posters.
  4. The complaint signature forms are printed in English only. This office will have a Spanish version that can be duplicated for service providers in an area that has a substantial number of participants that would require notification in that language.
  5. Orientation presentations to new participants, new employees and/or the general public to its WIOA financially funded program must include a discussion of rights under the nondiscrimination and equal opportunity provisions of the WIOA.



### III. Publications

“Recipients must indicate that the WIOA Title I-financially assisted program or activity in question is an “equal opportunity employer/program,” and that “auxiliary aids and services are available upon request to individuals with disabilities,” in recruitment brochures and other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper, to staff, clients, or the public at large, to describe programs financially assisted under Title I of WIOA or the requirements for participation by recipients and participants. Where such materials indicate that the recipient may be reached by voice telephone, the materials must also prominently provide the telephone number of the text telephone (TTY) or equally effective telecommunications system, such as a relay service, used by the recipient.”

*29 C.F.R. § 38.38(a)*

“Recipients that publish or broadcast program information in the news media must ensure that such publications and broadcasts state that the WIOA Title I-financially assisted program or activity in question is an equal opportunity employer/program (or otherwise indicate that discrimination in the WIOA Title I-financially assisted program or activity is prohibited by Federal law), and indicate that auxiliary aids and services are available upon request to individuals with disabilities.”

*29 C.F.R. § 38.38(b)*

## 1.7 LOCAL WORKFORCE DEVELOPMENT AREA

WIA/WIOA gives local boards broad authority and responsibility for designing local workforce systems and delivering services in a manner designed to best achieve the goals of WIA/WIOA based on the area's particular workforce needs.

In Georgia, there are 12 State Service Delivery Regions and 19 Local Workforce Development Areas. In each of the 19 LWDA's there is a Local Workforce Development Board (LWDB) responsible for designing local One-Stop workforce systems that are employer-led, demand-driven, customer-friendly, and continuously improving. Each area has at least one comprehensive One-Stop Center providing a wide range of workforce services.

### 1.7.1 LOCAL LEADERSHIP APPOINTMENTS AND CONTACT

#### I. LWDA Leadership Updates

Upon the election of a CLEO, hiring of a LWDA Director, or election of a LWDB Chairman, the LWDA must notify OWD within 10 business days. This notification should be directed to Britney Singer at [BSinger@tcsg.edu](mailto:BSinger@tcsg.edu) and must include contact information for the individual and documentation that



supports the assumption of the new role. Examples of acceptable documentation may include LWDB minutes, a letter of appointment from the CLEO in accordance with the local policy, or an offer letter.

OWD will maintain a directory of the LWDA leadership. All OWD communication to the LWDA's will be submitted using the most recent information provided by the LWDA's and recorded in this directory. OWD will distribute this directory to the LWDA Directors regularly.

## II. Comprehensive One-Stop Relocation

Upon the relocation or change of address of a comprehensive one-stop, the LWDA must notify OWD within 10 business days of the relocation or change of address. This notification should be directed to Britney Singer at [BSinger@tcsge.edu](mailto:BSinger@tcsge.edu) and must include the primary phone number for the comprehensive one-stop and the new address. The information provided in conformity with this policy will be used in all relevant state publications.

### 1.7.2 REQUESTS FOR RE-DESIGNATION OF LWDA

If a county would like to be re-designated as part of a new LWDA, they must document completion of several steps locally before officially submitting a request to OWD.

1. Any county requesting designation as part of a new LWDA must be contiguous to at least one county in the new LWDA. Any requests from non-contiguous county will be denied upon submission.
2. All counties must request recognition and approval from the Local Elected Officials (LEO) of the LWDA they are petitioning to join. This must be completed formally before a LEO board meeting and must include documentation justifying the request. This documentation can include lack of accessible services, unique geographic or population characteristics, or other supportable justifications.
3. The LEO board should vote on whether or not to approve the request during the course of the meeting. This vote must meet quorum and a majority will carry the vote. Meeting minutes must reflect both these requirements.
4. After the LEOs approve of the county(s) incorporation into their LWDA, the new LWDA shall petition OWD for official recognition. Such petition shall include the LEO board minutes, the applicable bylaws, and documentation supporting the justification.
5. OWD will review the minutes from the LEO board meeting as well as the justification documentation provided by the county. OWD will render a decision based on this information within a reasonable timeframe. The county(s) transition from one LWDA to another shall not be official until OWD and the SWDB approve of the action.



6. If OWD approves this request, notification will be sent to both the newly designated LWDA and the LWDA whose county make-up will be impacted by this re-designation. OWD will schedule a conference call with all parties involved to begin the process of transitioning both available funds as well as program participants. A schedule will be developed and followed during the course of the transition.

### 1.7.3 CONFLICTS OF INTEREST AND CODE OF CONDUCT POLICY

SWDB has implemented a Conflict of Interest and Code of Conduct Policy existing at Ga. R. and Reg. 692-1-06, which applies to all SWDB, LEO and LWDB Board Members and any individuals serving on any councils or standing committees created under any of the aforementioned boards. This Conflict of Interest and Code of Conduct Policy sets forth general guidelines regarding Board Member conduct and the processes by which conflicts of interest must be addressed including requiring an impacted Board member to recuse him or herself from any interested vote and refraining from participating in any discourse on the impacted topic.

Conflicts of Interest can also arise with respect to Local Area Directors and their staff within a Local Workforce Development Area. While Local Area Directors and staff do not participate in formal Board votes, they nonetheless make decisions regarding the use of WIOA funds and the provision of WIOA services. Therefore, Local Area Directors and their staff have a duty to avoid Conflicts of Interest and take appropriate steps when an actual or perceived Conflict of Interest arises. As required by O.C.G.A. § 50-7-91(a)(2), Local Area Directors shall also be required to sign a Conflict of Interest Provision which will be circulated by OWD.

The following section sets the general requirements for Local Area Directors and their staff members. Specifically, Local Area Directors and their staff shall not:

- (1) use WIOA funds or services to provide a direct or indirect financial benefit to the Local Area Director or staff member or to any of their immediate relatives<sup>2</sup>;
- (2) directly or indirectly accept or solicit any gratuities, favors, or anything involving more than de minimis monetary value from any person with whom the Local Area Director or staff interacts in his or her capacity as a recipient of federal funds. This section includes, without limitation, any potential or actual supplier, contractor, subcontractor, grant recipient or other service provider;

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<sup>2</sup>"Immediate Relative" shall be defined as a spouse, partner, parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece, first cousin, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother, half-sister, or individual residing in the same household.





- (3) participate in the selection, award or administration of a procurement supported by federal funds in any case where the Local Area Director or staff is aware that any immediate relative, business partner, or any organization that employs or is about to employ any of those persons, has any financial or material interest in any organization that may be considered for an award of federal funds;
- (4) advocate for or cause the advancement, appointment, employment, promotion, or transfer of an immediate relative to any office or position administering or handling federal funds under Public Law 113-128, including without limitation, any potential or actual supplier, contractor, subcontractor, grant recipient or other service provider; or
- (5) take any action determined to constitute a Conflict of Interest.

If a staff member experiences an actual or potential Conflict of Interest, the impacted staff member shall notify his or her Local Area Director and not undertake any action on the topic or issue involving the Conflict of Interest. Instead, the impacted staff member shall allow the Local Area Director to address and resolve the actual or potential Conflict of Interest, if possible. If a Local Area Director experiences an actual or potential Conflict of Interest, the Local Area Director shall take the following steps:

- a. notify the Local Workforce Development Board Chair and the official who signs as the Fiscal Agent for the administrative entity of the actual or potential Conflict as soon as possible;
- b. remove him or herself from the topic or issue involving the Conflict of Interest; and
- c. not take any action on the impacted topic or issue until the Conflict of Interest has been resolved. The Conflict of Interest may be resolved by having an independent third-party, such as the Local Workforce Development Board Chair or Chief Local Elected Officer, review the actual or apparent Conflict of Interest, and issue a written report or stating indicating that it is permissible to proceed with the impacted topic or issue;

#### **1.7.4 LOCAL WORKFORCE DEVELOPMENT BOARD CERTIFICATION**

OWD will conduct Local Board Certification every two years. The certification process will take place as a desk review, assigned to the on-site programmatic monitor for the LWDA's. Local Board certification will ensure that all Local Boards are in compliance with federal regulations and state policy and governing composition. The following documents will be requested from each LWDA: the most current Local Board member listing, the most current by-laws, a complete list of current One-Stop partners, and meeting minutes from at least the two previous program years. Additional documents may be requested at the discretion of the programmatic monitor.



If the Local Board is found to be in compliance, OWD will provide a certification notice. If a Local Board is found to be out of compliance, OWD will provide a Notice of Final Report (NFR) which will detail any findings and observations. LWDA's shall be required to submit a Corrective Action Report (CAR) to all findings within 30 days of receipt of the NFR. If a LWDA is unable to complete a Corrective Action, notification and written support should be provided to OWD within the same time frame. OWD will then determine if adequate effort was taken to correct the board deficiency, if so, OWD will offer technical assistance. If adequate effort was not made to correct the deficiency, then sanctions may be administered. Sanctions may include but are not limited to board de-certification.

### 1.7.5 LOCAL BOARD VACANCIES

LWDBs shall have board vacancy provisions which stipulate the process whereby a seated LWDB member may make known their intent to discontinue serving as a seated LWDB member. From the date of such notice or from the date a vacancy is created by local policy or LWDB bylaws (e.g., an attendance policy), the LWDB vacancy/vacancies shall be filled within a reasonable time, which shall not exceed ninety (90) days from the date of notice. If a vacancy is created by local policy or LWDB bylaws, the vacancy begins at the date of the final action dictated by local policy or LWDB bylaws. For instance, if an LWDB's bylaws stipulated that a board member must be removed if they miss four consecutive meetings, then the vacancy begins on the date of the fourth meeting that is missed. Documentation of board vacancy/vacancies must be collected by the LWDA to prove the date that the vacancy began. Examples of acceptable documentation include dated emails or letters from the board member indicating their intent to step down from the board, attendance records from meetings showing consecutive absences, etc.

The CLEO in a LWDA may make any necessary LWDB appointments or reappointments. Any LWDB action taken while LWDB vacancies remain must adhere to local board bylaw provisions related to quorum. Board actions taken outside of ninety (90) days of notice of such vacancies or outside of the LWDB-defined period, whichever is shorter, shall be void unless the LWDB previously requested and received an approved waiver from OWD. Any waiver request must be submitted in writing to OWD's Programs Director and must include an explanation of why the vacancy has not been filled in the defined timeframe as well as a description of the corrective action currently in place to remedy the vacancy/vacancies.





## 1.8 GRANT ADMINISTRATION

The Grant Administrator is responsible for identifying to the subrecipient the federal and/or state award information, monitoring the subrecipient activities, ensuring required audits are performed and requiring corrective action on audit findings, and evaluating the impact of subrecipient's activities on OWD's ability to comply with applicable federal and/or state regulations.

### 1.8.1 FOUR YEAR PLAN SUBMISSION

The SWDB, appointed by the Governor, facilitates the development and submission of a four-year plan, which addresses two or more of the programs or activities specified at 20 U.S.C § 9271(b)(2). An approved Integrated State Plan is required in order for states to receive formula allotments under WIOA.

### 1.8.2 ASSURANCES AND CERTIFICATIONS

All subrecipient contracts and applicable agreements must comply with the applicable federal contracting regulations. This includes ensuring the required assurances and certifications are incorporated into all contracts and/or agreements. For further assistance, reference the technical assistance guides on our website. LWDA's may contact the OWD Grants Management team for additional assistance.



# **FINANCE AND GRANT ADMINISTRATION**



## 2.1 FINANCIAL & GRANT MANAGEMENT

The financial section relates to the functions dealing with the monthly, quarterly, and yearly accounting and reporting requirements. In order to facilitate the orderly, timely, and accurate accounting, reporting, and auditing of federal and state grant transactions, OWD will strive to ensure the following:

1. Appropriate budgetary and accounting controls are in place to separately identify grant transactions.

Appropriate administrative controls are in place to ensure that costs claimed are in compliance with appropriate grant requirements.



## 2.2 FINANCIAL & GRANT MANAGEMENT SYSTEM

The Financial Management System section covers policy on cost allocation plan & costs pools, grant allocations, drawdowns, the Governor's reserve fund, cost principles, cash management, program income, expenditure reporting, recapture and reallocation policy, grant closeout, audits and record retention and grant eligibility disbarment.

### 2.2.1 COST ALLOCATION PLAN & COSTS POOLS

At times, it will become necessary for LWDA to utilize cost allocations and cost pooling to best distribute costs among all funding resources that receive benefits from the good or service being utilized.

Allocability is the measure of the extent to which a cost benefits a grant program and its cost objectives.

Costs that are not readily chargeable to a final cost objective should be aggregated into cost objectives commonly called cost pools. These should be periodically allocated to final cost objectives using a federally recommended allocation methodology. These include: administrative cost pools, indirect cost pools, intake cost pools, supplies expense pool, and other cost pools. A Cost Allocation Plan should be filed with the OWD at the time that the LWDA's Local Plan is filed. All LWDA's must utilize federally acceptable allocation bases when establishing cost pools or allocation plans. Indirect cost rates must have documentation of Federal cognizant agency approval.

#### Cost Allocation Plan Requirements

All Cost Allocation Plans filed by the LWDA's with OWD must include the following items:

1. An organization chart identifying all departments, services, and funding sources for all staff functions;
2. A Statement of Function and Benefits that captures the types of services provided and their relevance to ETA-funded projects. This should also include all non-ETA funded projects and revenues;
3. Expense items that have been budgeted for ETA-funded projects. This includes all pooled or shared costs that will be allocated among several funding sources;
4. Description of methods used to distribute pooled or shared expenses. This description should also capture the allocation basis and all supporting documentation; and
5. Certification by an authorized official that the plan has been prepared and submitted in accordance with all federal and state regulations, including authorizing legislation for non-ETA funding.

### 2.2.2 GRANT ALLOCATION

The State receives annual allocations for Adult, Youth and Dislocated Workers. The following numbers reflect PY17 allocations. 15% of the Adult and 15% of the Youth funds are retained by



the State for statewide activities. 85% of the Adult and Youth funds is allocated to the LWDAs. 40% of the Dislocated Workers funds is retained by the State (25% Rapid Response); 60% is allocated to LWDAs. (These numbers may change annually)

All local funds are allocated in accordance with 29 U.S.C. § 2853 (b)(2)(A)(i) for Youth and 29 U.S.C. § 2863 (b)(2) for Adult and Dislocated Worker.

Pursuant to 29 U.S.C. § 2853 (b)(2)(A)(ii) and 29 U.S.C. § 2863 (b)(2)(A)(ii), LWDAs must not receive an allocation amount for a fiscal year that is less than 90% of the average allocation of the LWDA for the two preceding fiscal years. Amounts necessary to increase allocations to LWDAs must be obtained by ratably reducing the allocations to be made to other LWDAs.

### 2.2.3 WIOA ALLOCATION PROCESS TIMELINE

- I. February
  - A. OWD staff begins the process of compiling data to prepare for the allocation factors of all 3 funding streams.
  - B. OWD Data and Information team will provide all data reporting and compile all necessary information.
- II. March
  - A. OWD reviews and distributes the allocation factors to the appropriate OWD staff and LWDAs. If the allocation factors have been modified since previous year, allocation factors will be presented to the SWDB for review and approval.
  - B. USDOL publishes state allotments for all 3 funding streams. The state allotments represent total funding for the life of the grants, unless there is a rescission or reallocation of funds.
  - C. Preliminary allocation estimates for all 3 funding streams are issued to the LWDAs.
- III. Mid-April
  - A. USDOL issues the Notice of Obligation (NOO) to OWD in April. The signed NOO authorizes the State to issue grant awards to the LWDAs. Grant awards are issued to LWDAs in accordance with WIOA and state guidelines.
  - B. The Youth grant awards are issued in accordance with the WIOA and state guidelines. The funding period for the Youth grant awards starts on April 1st and lasts for 27 months. The grant ends on June 30th. The Youth funds are program year funds.
- IV. Mid-July
  - A. The Notice of Obligation (NOO) is received by OWD.





- B. The Adult & Dislocated Worker grant awards are issued to LWDA's in accordance with WIOA and state guidelines. The funding period for the Adult & Dislocated Worker grant awards starts on July 1st and lasts for 24 months. These Adult & Dislocated Worker funds are program year funds. The grants end on June 30th. The smaller portion of these funds is awarded at this time, with the balance of the awards being funded in October.
  - C. The Local Board shall submit their yearly budget to OWD. The budget shall be signed by the LWDA's CLEO.
- V. Mid-October
- A. The Notice of Obligation (NOO) is received by OWD.
  - B. The balance of the Adult & Dislocated Worker grant awards are issued in accordance with WIOA and state guidelines. The funding period for this portion of the Adult & Dislocated Worker grant awards starts on October 1st and lasts for 21 months. The grants end on June 30th. These Adult & Dislocated Worker funds are fiscal year funds. The larger portion of these funds is awarded at this time.

## 2.2.4 DRAWDOWNS

### I. Cash Requests

The LWDA submits a Cash Request Form to OWD via email to a shared mailbox at [WIOADrawDown@tcsg.edu](mailto:WIOADrawDown@tcsg.edu). A separate cash request form is completed by each LWDA for each program year and funding source. LWDA's submit requests on Mondays and Wednesdays. LWDA's may submit cash requests the next business day after a State holiday is recognized, if applicable. Requests submitted by 10:00 am will be processed same day and funds are available approximately three business days later to the LWDA's. Most drawdown requests are for reimbursable expenses but may be an advance for upcoming payroll; detailed expenditure support and documentation is not required at the time of the cash request. Each LWDA is required to maintain appropriate levels of supporting documentation of all expenditures (payroll and personal activity reports, receipts, cost allocation plans supporting the allocation of funds, etc.) in accordance with federal record retention requirements.

The 19 LWDA's are divided among OWD's Grant Specialists. Each Grant Specialist reviews requested amounts for funding and program year availability, accuracy of financial cash requests on the form, and that required signature(s) are included in the request. If the Grant Specialist does not recognize the signature or designee name, the Grant Specialist will contact the LWDA, which may result in a delay in funding reimbursement requests.

The Grant Specialist completes a Request for Expenditure (RFE) form for each LWDA funding stream/program year cash request and submits (emails/hard copy) to the Grants Director with the



cash request. The Grant Specialist will also assign an invoice number to each RFE document, according to OWD's numerical sequence.

The Grant Specialist also receipts the cash request by logging into PeopleSoft and opening the LWDA purchase order for the specified grant and program year. The Grant Specialist reduces the purchase order balance by the drawdown amount based on the completed RFE. PeopleSoft assigns a receipt number and the Grant Specialist writes the receipt number on the RFE document.

The Grants Director verifies the invoice number on the RFE document, then approves and signs off. If the Grants Director notices a discrepancy, variance or error on the RFE, then he/she would return the RFE to a Grant Specialist for correction. When the cash request exceeds \$350,000 for a LWDA, OWD Assistant Commissioner must review the request and sign.

The Grants Director electronically submits the cash request/RFE packet (consisting of the PO receipt, cash request form, RFE form, and transmittal sheet) to the [WIOADrawDown@tcsg.edu](mailto:WIOADrawDown@tcsg.edu) shared inbox.

Beginning January 1, 2014, the OWD has established a minimum dollar amount for processing of cash requests. As of January 1 2014, the minimum cash request for any single grant award drawdown must be \$50. The only exception to this minimum will be when the balance of the grant award is under \$50. Any cash request submitted for drawdown that is under \$50 may be held by OWD until the next request for the same grant award is received and the aggregate cash request exceeds \$50.

## II. Cash Disbursements

A purchase order (PO) is established within PeopleSoft for each program funding source and each program year for the LWDA's. The PO is available for receipting upon signed grant acceptance. TCSG's Administration staff uses the RFE to generate the payment voucher within PeopleSoft.

ACH information has been obtained from each LWDA and entered into PeopleSoft (see fiscal agent acceptance process narrative). The payment voucher initiates the ACH wire transfer directly to the LWDA bank accounts; funds are deposited into LWDA bank accounts.

### 2.2.5 FFATA REPORTING

OWD will require all subrecipients who receive grant awards of \$25,000 or more to complete a FFATA reporting document prior to the grant award being considered executed. OWD's Grants Administration Team will document on the FFATA form the date that all required documentation is received for the grant award to be considered fully executed. This will be documented as the "receipt date."



## 2.2.6 PRE-AWARD REVIEW AND RISK EVALUATION

Pursuant to regulations found in 2 C.F.R. § 200.331, OWD is required to complete a risk assessment on each subrecipient of pass-through federal funds. For LWDA's, this risk assessment is completed annually and is included in each executed subaward.

For new subrecipients, this risk assessment will be completed prior to the execution of any subrecipient agreements or awards and may impact the required monitoring and documentation that must be provided to OWD on a regular basis. Additional conditions, based on risk level, may include an increase in onsite monitoring visits, more frequent financial and programmatic reporting, additional documentation to support the reimbursement of costs incurred in the implementation of the sub-award, and other conditions as prescribed by OWD.


Criteria considered as part of the risk evaluation process include the following:

- Findings in the most recently completed single audit report;
- prior onsite monitoring financial or grants administration findings by OWD;
- value of entity's total federal expenditures within the most recently completed program year;
- turnover in staff, fiscal agent, executive leadership;
- number of modified Financial Status Reports submitted to OWD within the last program year;
- history of suspected fraud; previous debarment/suspension by the federal government; and
- Georgia Department of Audits and Accounts (DOAA) audit non-compliance (as applicable for local governments).

## 2.2.7 GOVERNOR'S RESERVE FUND

Under WIOA, the Governor shall reserve not more than 15 percent of each of the amounts allotted to the state for Adult, Dislocated Worker, and Youth programs. The amount reserved for the Governor's use shall be updated annually by USDOL. A maximum of five percent of each funding stream may be allocated for statewide administration costs. When these funds are made available, they shall be known as the Governor's Reserve Funds and must be used, at a minimum for the following services:

1. Providing assistance in coordinating and aligning data systems required under WIOA.
2. Carrying out regional planning activities
3. Assisting LWDA's in the effective development, convening, and implementation of industry or sector partnerships
4. Development and training of staff of local areas, one-stop operators, one-stop partners, and eligible providers
5. Technical assistance to local areas that fail to meet local performance measures
6. Operating a fiscal and management accountability information system
7. Carrying out monitoring and oversight of activities carried out under WIOA

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8. Disseminating the State list of eligible training providers, including performance information and cost of attendance
  9. Disseminating information identifying eligible providers of OJT, customized training, IWT, internships, paid or unpaid work experience, or transitional jobs
  10. Information on effective service delivery strategies
  11. Information on physical and programmatic accessibility in accordance with the Americans with Disabilities Act of 1990 and Section 188 of WIOA, as applicable.
  12. Conducting evaluations of activities authorized under WIOA in coordination with evaluations carried out by the Secretary of Labor.

Governor's Reserve funding may also be utilized for the following allowable statewide activities at the discretion of OWD.

1. Implementing innovative programs and strategies designed to meet the needs of all employers in the state.
2. Developing strategies to effectively serve individuals with barriers to employment, including coordination of programs and services amongst one-stop partners
3. Development or identification of education and training programs that respond to real-time labor market analysis and utilize direct assessment and prior learning assessments to allow for accelerated course or credential completion.
4. Implementing programs to increase the number of individuals trained for and placed in non-traditional employment
5. Activities that facilitate remote access to services, including facilitation through the use of technology
6. Supporting the provision of career services in the one-stop delivery system
7. Coordinating activities with the child welfare system to facilitate provision of services to children and youth who are eligible for assistance under Section 477 of the Social Security Act
8. Activities that improve coordination of employment and training services
9. Conducting research and demonstration projects related to meeting the employment needs of eligible participants
10. Implementing promising services that allow workers to become workplace learning advisors and maintain proficiency in carrying out the activities associated with such advising
11. Providing incentive grants to LWDAs for performance by the LWDAs on local performance measures
12. Adopting, calculating, or commissioning for approval an economic self-sufficiency standard for the state
13. Developing and disseminating common intake procedures and related items



14. Providing technical assistance to LWDA's that are implementing pay-for-performance contract strategies.

While Reserve Funds are not bound by the eligibility criteria outlined for adult, dislocated worker and youth formula-funded programs the following requirements must be met:

1. Compliance with the Selective Service registration requirements for males 18 years and older;
2. Compliance with all state and federal Right to Work laws.

When individuals are serviced the following criteria must be met:

1. The use of funds must align with the purpose of WIOA specified in 29 U.S.C. § 3101;
2. Individuals served with funds must demonstrate a need for service actually received while in the program.

## 2.2.8 COST PRINCIPLES, ALLOWABLE COST & UNALLOWABLE COSTS

There are Federal cost principles that define when and how costs can be charged to grants. For all grants awarded on or after December 26th, 2014, the Uniform Administrative Guidance found at 2 CFR 200 will be the applicable cost principles.

Even though the Uniform Administrative Guidance does not address every possible cost, it is the groundwork for all grant financial management, and all LWDA's and other subrecipients should rely on this guidance to avoid audit findings and potential liability.

The following general cost principles, as specified in the Uniform Administrative Guidance must be used in determining cost allowability for grants.

### I. Costs must be necessary and reasonable

Any cost charged to a grant must be necessary and reasonable for the proper and efficient performance and administration of the grant. LWDA's and their subrecipients are required to exercise sound business practices and to comply with its procedures for charging costs.

### II. Costs must be allocable

LWDA's and their subrecipients may charge costs to the grant if those costs are clearly identifiable as benefiting the grant program. Costs charged to the grant should benefit only the grant program, not other programs or activities. In order to be allocable, a cost must be treated consistently with like costs and incurred specifically for the program being charged.

### III. Costs must be authorized or not prohibited under federal, state, or local laws or regulations

Costs incurred must not be prohibited by any federal, state, or local laws.

### IV. Costs must receive consistent treatment by a grantee



LWDAs and their subrecipients must treat a cost uniformly across program elements and from year to year. Costs that are indirect for some programs cannot be considered direct ETA grant costs.

V. Costs must not be used to meet matching or cost-sharing requirements

A grantee may not use federally funded costs, whether direct or indirect, as match or to meet matching fund requirements unless specifically authorized by law.

VI. Costs must be adequately documented

A grantee must document all costs in a manner consistent with GAAP. Examples include retaining evidence of competitive bidding for services or supplies, adequate time records for employees who charge time against the grant, invoices, receipts, purchase orders, etc.

VII. Costs must conform to ETA grant exclusions and limitations

LWDAs and their subrecipients may not charge a cost to the grant that is unallowable per the grant regulations or the cost limitations specified in the regulations.

## 2.2.9 EXPENSE GUIDELINES

LWDAs and their subrecipients may not charge a cost to the grant that is unallowable per the grant regulations or the cost limitations specified in the regulations.

I. Accrued Leave

A. Policy

LWDAs must have a policy regarding accrual and use of paid leave by employees. The policy should have a reasonable limitation on the amount of paid leave that can be accrued from year to year.

B. Reference

Paid leave is allowable provided such costs are absorbed by all organization activities in proportion to the relative amount of time or effort actually devoted to each activity.

(2 C.F.R.§200.431(b))

C. Guidelines

If an employee is paid from more than one funding source, the LWDA may only charge the appropriate portion of the leave pay to each funding stream.

LWDAs shall submit a copy of the indirect costs allocation plan to OWD as part of annual onsite monitoring.

II. Travel Expense and Reimbursement

Travel costs are expenses for transportation, lodging, subsistence, and related items incurred by employees and others who are on travel status on official business of the organization.

Travel expenses must be reasonable and necessary, and for a bona fide business purpose



related to the funding source. All supporting documentation must be kept on file. Meals, lodging, rental cars, airfare, mileage for employee-owned cars, and other travel expenses may be paid for staff and participants who travel as part of their job, training activity or grant purpose. Documentation of the purpose and cost of travel must be maintained. No employee may be reimbursed for expenses incurred in going to and from work.

State employees required to travel for official business must comply with all statewide travel regulations in effect at the time of travel. Statewide Travel Regulations can be found at <http://sao.georgia.gov>. If any LWDA or grant subrecipient does not have an agency meal policy, they will be subject to the terms and regulations found within the Statewide Travel Regulations.

The State-funding agency may reimburse members of boards and councils, consultants, volunteers, service providers, and others for travel expenses incurred for an allowable purpose benefiting the workforce development system.

#### A. Definitions

1. External Customers would normally be considered as program participants, employers and/or board members. External Customers are any individual who is not an employee or contractor of the non-federal entity.
2. Internal Customers are employees, contractors and subrecipients.
3. A trainer is neither an internal customer nor an external customer and cannot be used to determine if food is allowable.

#### Allowable Costs

1. Meals that can be paid with ETA funds and can be a direct charge or charged through an indirect cost allocation plan.
2. Meals while employees are in travel status are allowable per agency travel policy.
3. Meal costs are allowable when the grantee incurs such costs in the process of conducting meetings or conferences with external customers and other professional colleagues outside of the entity's organization. All meal costs must follow the requirements found in 2 CFR 200.432
4. The cost of a "working lunch" with external customers and other colleagues is only considered "reasonable and necessary" when there is adequate documentation on the necessity of having a meeting during a meal time instead of during normal business hours. Documentation should specify what ETA-related subjects were discussed and include a list of participants and dated itemized meal cost receipts.

#### B. Disallowed Cost

1. Charging costs for meals and refreshments while engaging in day-to-day business with employees is disallowed.



2. All meals and refreshments at meetings where the attendees are internal customers only are disallowed. This includes but not limited to coffee, bottled water, networking breakfast, lunch and dinner.
3. Meal costs from items 1 and 2 above must be paid with non-ETA federal funds and cannot be paid through an indirect cost allocation plan.

### III. Procurement, Inventory and Disposal

#### A. Guidelines

LWDAs may procure equipment, supplies and services under the grant award agreement.

Items expensed to the grant award must be reasonable and serve the primary objective of the agreement. All procurement transactions must follow the federal regulations found at 2 C.F.R § 200.320 and applicable local procurement procedures.

The purchase or construction of facilities or buildings is unallowable under the WIOA, except for certain circumstances requiring prior written approval from the federal awarding agency.

LWDAs are authorized to make purchases of equipment, supplies and services as described below. LWDAs are responsible for ensuring the vendors selected are not debarred or suspended by checking the information on the following federal government website:

<https://www.sam.gov/portal/SAM/##11>

1. Micro-Purchases – \$3,000 and under. All LWDAs are authorized to make purchases via micro-purchase. To the extent practicable, the LWDA must distribute micro-purchases equitably among all qualified suppliers. If the price is considered to be reasonable, then no competitive quotations are required.
2. Small Purchases – under \$150,000. All LWDAs may purchase items with a value of less than \$150,000 (the Federal Simplified Acquisition Threshold.) If an LWDA's fiscal agent or administrative entity has established a lower threshold for procurement procedures, then the lower threshold shall prevail. Small purchase procurement may be achieved by obtaining price or rate quotations from an adequate number of qualified sources. Adequate documentation of all obtained quotations must be maintained and available for review by either OWD or the federal awarding agency. For all purchases that exceed an LWDA's simplified acquisition threshold, cost-price analysis of similar goods or services must be conducted prior to solicitation.

OWD requires LWDAs to submit for prior written approval all purchases where the unit price is \$5,000 or greater and the useful life of the proposed purchase is more than one calendar year. LWDAs should provide narrative explaining the need for the purchase, documentation to illustrate that all local, state, and federal procurement regulations were met, and copies of all quotes and supporting documentation considered in selecting a





vendor. Additional information may be required if the unit price is \$50,000 or more. This information may be found in WIG GA-15-002. OWD will review all requests and provide a written determination within 30 days of receiving all documentation necessary to support the request for approval.

3. For all purchases that exceed the established simplified acquisition threshold, competitive procurement should be conducted, either through sealed bids for requests for proposal.
4. Noncompetitive Proposals: Sole source procurement may be awarded only if one of the following criteria are met:
  - a. The good/service is only available from one source.
  - b. After solicitation from a number of sources, competition is determined inadequate. This is typically met through insufficient bid responses.
  - c. Through a formal request, OWD authorizes a noncompetitive proposal.
  - d. Public emergency will not allow a delay resulting from the competitive procurement process. If an LWDA plans to use the public emergency criteria, OWD must be notified in advance.

#### B. Inventory

LWDAs must maintain an inventory record of assets purchased that have a unit acquisition cost of \$5,000 or more. A physical inventory must be taken at least once every two years to verify the presence of items on the inventory list, and an annual reconciliation of books and inventory records must be completed. Closeout of a grant award will include reconciliation and a report on office equipment or any other items purchased under the agreement.

LWDAs must maintain physical control of the asset to ensure adequate safeguards are in place to prevent loss, damage or theft of property. Adequate maintenance procedures must be in place to keep the property in good condition. LWDAs must retain property records for the time period required in the grant award.

#### C. Disposition

LWDAs may dispose of equipment and supplies according to agency policy when the fair market value of the equipment unit, or the aggregate fair market value of the supplies, is less than \$5,000.

LWDAs must notify OWD and obtain permission to dispose of items listed above that are valued above \$5,000. The State may utilize the following options:

1. Request the equipment or supplies be returned.
2. Approve a buy-out of the equipment or supplies by the LWDA or another agency.
3. Approve a sale of the equipment or supplies by the LWDA.



## 2.2.10 CASH MANAGEMENT

LWDAs will use the requisition for cash form to requisition cash under grant awards. Cash requisitions may be made on Mondays and Wednesdays. If OWD is closed on Monday due to a state or federal holiday, then cash requisitions will also be accepted on the next day that OWD is open. All cash requisitions must be submitted by 10:00 a.m. to guarantee transfer of the funds within three business days. If received later than 10:00 a.m., the transfer may be delayed. OWD is not responsible for errors made at the State Treasury once the request for funds transfer is initiated, should the error cause the request to be delayed.

Cash requisitions may not exceed the amount authorized in the grant award. No cash payments will be made to a fiscal agent of a grant until OWD receives the Federal Notice of Obligation from the awarding federal agency and has received a signed copy of the grant award from the LWDA fiscal agent.

### I. Authorized Signature Sheet

An individual authorized by the governing body of the LWDA completes the Authorized Signature Sheet to verify the signature(s) of individuals authorized to draw cash under the agreement with the state-funding agency

### II. Method of Payment

Payments to LWDAs shall be made on a cash requisition basis. OWD shall limit payments to actual and immediate cash needs. If a LWDA does not comply with the requirement to keep cash requisitions limited to only actual and immediate needs or if they do not follow the grant agreement, OWD may, after notice to the LWDA, discontinue the cash requisition method and make payments by reimbursement only. Cash requisitions should be made by email. An authorized representative identified on the Authorized Signature Sheet must sign for all cash requisitions. The drawdown of funds from one grant for the purpose of funding deficits in other grant programs is prohibited.

LWDAs may modify any forms noted in this section as needed. OWD must approve all modifications to the form prior to processing of the drawdown. OWD reserves the right to request further documentation for clarifying purposes prior to a cash transfer.

### III. Documentation Required for Cash Request:

1. Requisition for Cash Form
2. Supporting Documentation Summary Form



### 2.2.11 LOST OR STOLEN/FORGED CHECKS

If a check has been lost or destroyed, the payee must fill out a statement describing the circumstances of the loss or destruction of the check and requesting the payment of the check be stopped. If the check has been damaged or defaced, it should be forwarded to the issuing agency with the request for re-issuance.

If the payee recovers an original check after he/she has furnished a statement of nonreceipt, he/she should notify the issuing agency immediately. In the event the replacement check has been received prior to the recovery of the original check, the original check should be returned immediately to the agency. Under no circumstances should the payee attempt to cash both the original and replacement check.

In the event of a stolen and/or forged check, the payee must file a police report with local law enforcement. The payee must then forward a copy of the report with a statement describing the circumstances of the situation (and whether it was endorsed) and requesting that payment of the check be stopped.

### 2.2.12 PROGRAM INCOME

Program income is the gross income received by the LWDA or subrecipient directly generated by a grant-supported activity, or earned only as a result of the grant agreement during the grant period. The LWDA must ensure that subrecipients and subcontractors are aware that all program income must be accounted for and reported to the LWDA. Program income must be recorded in the LWDA's account records and reported to OWD on the monthly Financial Status Report.

#### I. Program Income Inclusions

##### A. Fee for Services: Income from fees charged for services.

*For example:* The One-Stop operator provides pre-employment services for a number of private businesses. There is a per-head fee for these services. The fees are considered program income.

##### B. User or Rental Fees: Income from the use or rental of personal property acquired with grant funds.

*For example:* The local One-Stop has purchased a fax machine with WIOA funds and allows usage by Veteran's program and UI representatives. A per-page fee is charged for such use. The fees are considered program income.

##### C. Sale of Products: Income from the sale of goods constructed under a grant agreement.

*For example:* As part of a course on small business development, materials are bought and used to manufacture small items. The proceeds from the sale of these items are considered program income. If the goods produced were written materials, the sale of materials would also be considered program income.



Revenue in Excess of Expenditures: If an organization earns or receives revenue in excess of its costs under a WIOA program that revenue is to be treated as program income.

*For example:* A nonprofit Youth service provider has a fixed price contract for the provision of placement services to out-of-school Youth. Based on their performance, they have earned revenues that exceed the costs incurred by the organization in providing these services.

These revenues are considered program income.

D. Interest Income: Income earned from the interest paid on WIOA program funds is considered program income.

*For example:* A nonprofit Local Board maintains an interest-bearing account for all grant revenues. The Local Board receives funding from both WIOA and non-WIOA ETA-funded grants. The interest earned on the WIOA revenues greater than \$250 per year would be treated as program income and added to the total WIOA grant. The interest earned on non-WIOA ETA fund advances would not be considered as program income, but interest amounts over \$500 per year would be returned to the federal government in accordance with the requirements of 2 C.F.R. §200.305(b)(9).

## II. Program Income Exclusions

### A. Applicable Credits

Reductions to grant costs as a result of refunds, rebates, credits, discounts, or the interest earned on them.

### B. Sale of Property, Equipment or Supplies

Proceeds from the sale of real property, equipment or supplies. These requirements are covered at 2 C.F.R. §200.311, 313, and 314.

### C. Royalties, Copyrighted Material, Patents and Inventions

This income is considered program income only if specifically identified as such in the grant agreement or federal agency regulations. However, the payment of royalties by WIOA and other federally funded grants where the federal government already has a license or the right to free use of the patent or copyright is an unallowable cost under 2 C.F.R. §200.448(b).

USDOL policy is that federal funds may not be used to pay royalties for federally developed projects or works.

### D. Income earned after the Grant Period Has Ended

The grantee is not accountable for income earned after the end of the award period. However, the grantee must report program income expended after the grant period if the income was earned during the grant period.

### E. Donations

Donations and contributions are voluntary and are not generated by the use of grant funds.

### F. Profits of Commercial Organizations



Profits earned by commercial for-profit organizations are not considered program income.

Caution – care should be taken to minimize the amount of profit generated by grants.

#### G. Matching Funds

Funds provided to satisfy the matching requirements of the grants are not considered program income. Conversely, program income generated through grants may not be used to satisfy any match requirements.

### III. Accounting For Revenue And Cost Of Generating Program Income

#### A. Net Income Method

With the net income method, the costs incidental to the generation of program income are netted against or deducted from gross program income to determine the amount of net program income. The expenditures and revenues associated with performing the activity that generates program income are tracked separately in the accounting records.

#### B. Gross Income Method

With the gross income method, all gross revenues derived from program income activities are accounted for as program income. In turn, the service provider's share of the allocable costs associated with generating that revenue is charged to the appropriate program activities and/or cost categories.

### IV. Accounting For The Expenditure Of Program Income

#### A. Separate Accounting

When using separate accounting, program income is treated as additional funds committed to the grant agreement, for which separately identifiable services are performed, and the expenditure of program income is accounted for separately from the original agreement. For accounting purposes, the program income is treated as if it were a separate (sub)grant or cost objective.

#### B. Transfer of Expenditures

When using transfer of expenditures accounting, expenditures are initially recorded in the accounts of the original agreement and are subsequently transferred to the program income account to offset the amount of program income earned. The result is that the program income is accounted for as fully expended, while expenditures charged under the agreement are reduced by the amount of expenditures that have now been applied to program income.

Regulations require that the net program income be added to the total funds available for the program. Thus, the transfer of expenditures is only applicable should the entity fully expend both the grant and the program income.

### V. Uses Of Program Income

The requirements for using program income are the same as those applied to the grant funds with the exception of the administrative cost limitation. These requirements include:



- A. Allowable cost guidelines;
- B. Cost classification guidelines;
- C. Inclusion of program income earnings and expenditures in the audit;
- D. Rules on procurement and selection of service providers;
- E. Participant records and other record-keeping requirements; and
- F. Sanctions for misuse.

2 C.F.R. §200.307(e)(2) and WIOA regulations specify that program income is to be added to the total grant award and used to provide the same services as the original grant agreement. It is the policy of the USDOL ETA and OWD that program income be wholly expended within the period of availability for WIOA grants. Any program income funds remaining would be used to reduce the reported grant expenditures at closeout.

### 2.2.13 EXPENDITURE REPORTING TO OWD

All federal grant expenditure reports shall be submitted to OWD on a monthly basis. All monthly reports are due to OWD by 5:00 p.m. on the twentieth calendar day of the next month. If this date falls on a weekend or state holiday, the report is due the first business day after the due date.

USDOL ETA Financial Report, ETA-9130 form reporting categories will be used and may be modified to encompass all reporting requirements depending upon the federal grant being submitted. Recipients of grants are required to report expenditures separately for each source of funds cumulatively from the inception of each grant. In order to properly report costs, all grant recipients must establish a reporting system that allows them to incorporate costs at all levels of the system into the Financial Status Reports (FSRs) submitted to OWD. OWD will review these FSRs to ensure the appropriate earmarking controls are in place for each LWDA. LWDAs that do not meet earmarking controls will have their FSRs returned for revision. OWD shall utilize the information provided by the LWDAs to develop comprehensive grant award level tracking for administrative purposes. This shall be done on a monthly basis.

LWDAs shall receive one written warning notice concerning late reporting. Failure to submit the report after written notice may result in a sanction.

### 2.2.14 QUARTERLY REPORTING

OWD submits Quarterly Reports to ETA based on the Monthly Expenditure Reports submitted by LWDAs. LWDA quarterly reports are due on the twenty-fifth day of the month following the month in which the quarter ends. Quarter end dates are March 31, June 30, September 30, and December 31. If a LWDA is in need of program assistance, the assigned OWD Grant Specialist can provide technical support to the LWDA. LWDAs must also submit documentation that supports the amounts reported on the quarter-ending FSRs. This must include a trial balance from the LWDA's financial system and may



include other financial documentation as necessary to support the reported expenditures and obligations. OWD will compare expenditures to federal spending requirements. OWD will compare reported expenditures to grant drawdowns for the quarter to ensure that no cash advances went unreported. OWD will also confirm that earmarking controls are met by each LWDA.

OWD will prepare the quarterly 9130 financial report utilizing data submitted in the LWDA quarterly FSRs.

OWD will then review the 9130 report and approve if there are no known errors. If there are errors, OWD will review the monthly expenditure reports, payment vouchers, encumbrance documents, and cash requests to identify and resolve the variances or discrepancies. Upon request, OWD will complete ad hoc reports.

## 2.2.15 RECAPTURE AND REALLOCATION POLICY

### I. Voluntary De-obligations

#### A. Requests:

A LWDA may voluntarily de-obligate funds from any funding source and request their reallocation to another designated LWDA. These requests may occur during the final two quarters of the applicable program year. The LWDA receiving the funds must not be below the obligation/expenditure requirements.

1. All requests must be made in writing. The request must also be accompanied by documentation of the most recent monthly Financial Status Report for both the requesting and receiving Local Board. OWD will also review current available grant balance in the PeopleSoft financial system to confirm availability of funds. All requests must document the approval of the CLEO and the Fiscal Agent of the requesting LWDA. These requests will be reviewed for approval by OWD's Assistant Commissioner. For those that are approved, the Assistant Commissioner will provide written notification of the approval. It will then be forwarded to the Grants Director to initiate the fund transfer request. Once complete, the Grants Director will confirm with both the requesting and receiving LWDA's. Grant Award Adjustment agreements will be issued for both LWDA's. For requests that are denied, the Assistant Commissioner will inform both the requesting and receiving LWDA's of the denial in writing.
2. For LWDA's who request a voluntary de-obligation without naming a specific LWDA to receive the funds, the reallocation of the funds will be at the discretion of the Assistant Commissioner of OWD, in collaboration with the appropriate committee of the SWDB.

#### B. Eligibility:

1. In order to be eligible to receive Youth, Adult, or Dislocated Worker funds under the reallocation procedures, a LWDA must have obligated at least 80 percent of the prior



program year's allocation, less amount reserved for the cost of administration.

This eligibility will be determined separately for all three funding streams. Any LWDA who failed to obligate at least 80 percent will not be eligible to receive funds as the result of voluntary de-obligation or recapture of funds.

2. To be eligible to receive reallocated funds, a LWDA must maintain auditable records. This includes no significant findings in the most recent financial audit completed. There should be no findings related to administrative cost limitations during all prior years under WIOA, and there should be no major uncorrected monitoring findings for compliance or financial issues.

## II. Inter-Fund Transfer

### A. Reporting:

Any LWDA wishing to transfer eligible funds between the adult and dislocated worker streams must submit a written request to OWD. OWD will allow LWDBs to transfer up to the 100% allowable under WIOA. OWD requires the fiscal agent's signature on all transfer requests, but will require the LWDB Chair to sign only those transfer requests that meet or exceed 50% of the original funding stream allocation. LWDBs must document the need for the transfer. These requests shall be reviewed by the Assistant Commissioner and a member of OWD Grants Administration team.

## III. Recapture of Funds

### A. Reporting and Recapture of Funds

#### 1. At Conclusion of Program Year 1

In July, after LWDA's submit the year-end Financial Status Report (FSR) for June of the previous program year, OWD Grants team will review these FSRs to identify all LWDA's that failed to expend or obligate at least 80% of program funds at the end of the first year of availability. Note: the fund calculation will not include any funds received as a result of voluntary de-obligation and reallocation. These findings will be presented to OWD's Assistant Commissioner and, upon approval, a grant award adjustment notice will be provided to those LWDA's to notify them of the recaptured award amount.

#### 2. At Conclusion of Program Year 2

In July, after LWDA's submit their year-end FSR for June of the previous program year, OWD Grants team will identify any LWDA's that have remaining unexpended or unobligated funds. These findings will be presented to OWD Assistant Commissioner to determine best utilization of the recaptured funds.

### B. Reallocation of Funds

#### 1. Eligibility





For Program Year 1 recaptured funds, OWD shall send notifications of availability of recaptured funds to all eligible LWDA. In order to be eligible to receive funds under the reallocation procedure, a LWDA must have obligated at least 80 percent of the prior program year's allocation, less the amount reserved for the cost of administration. Prior program year is defined as the program year having most recently completed its first year of fund availability. Eligibility for reallocated funds will be determined separately for all three funding streams. Additionally, a LWDA must have no significant findings in the most recently completed financial audit. Additionally, there should be no annual on-site monitoring findings related to administrative cost limitations and no major uncorrected monitoring findings for compliance or financial issues.

#### IV. Transfer Requests Processing

##### A. Review Process:

In order to be considered eligible for either inter-fund transfers or voluntary de-obligation requests, LWDA must provide all the documentation required in sections 2.2.15 I and 2.2.15 II (as applicable) of this policy manual. OWD will also review the most recently submitted FSR, as well as the available grant balance in the TeamWorks financial system, to ensure that adequate funds are available to make the requested transfer.

##### B. Processing Schedule:

OWD will process inter-fund transfer and voluntary de-obligation requests four times a year, with deadlines for consideration of requests falling on the last business day of each quarter. (i.e., March 31, June 30, September 30, and December 31). Any additional opportunities for requests to be processed will be made at the discretion of the OWD Assistant Commissioner. All requests received by the deadline with all of the required information and signatures will be considered for review.

#### 2.2.16 CHANGE IN LWDA GRANT RECIPIENT

- I. Per the 29 U.S.C. § 3122 (d)(12)(B)(i)(II), the chief local elected official (CLEO) for an LWDA may designate an entity to serve as a local grant subrecipient or fiscal agent for WIOA funds. Such designation does not remove the CLEO of the liability of disallowed costs.
- II. CLEO selection of the local grant recipient must comply with both federal and state requirements in selecting a grant recipient. The CLEO is responsible for notifying OWD, in writing, of the intent to transfer local grant responsibility. This intent to transfer should include the name of the proposed new grant recipient and (if applicable) the name of the new program administrator.
- III. After receipt of intent to transfer, OWD will reach out to the CLEO and proposed grant recipient to obtain the following information:
  - A. Documentation of legal status as governmental entity;



- B. Federal Employment ID Number (FEIN) of proposed grant recipient;
- C. Certification regarding debarment, suspension, ineligibility and voluntary exclusion;
- D. Most recent audit;
- E. Minutes from meeting in which governing board/commission of proposed grant recipient accepted the responsibilities and duties of a WIOA grant recipient.

OWD will review the provided information to verify the proposed grant recipient meets all state and federal requirements. Proposed grant recipients must provide OWD with their DUNS number. OWD will verify the DUNS number's status on sam.gov and the grant recipient's eligibility prior to issuing any sub-awards. OWD will provide written approval to the CLEO within 30 business days of receiving the data request.

- IV. After receiving written OWD approval, the new grant recipient will need to coordinate with the current grant recipient and come to a written agreement about the following items:
  - A. Equipment inventory and transfer
  - B. Transfer of files
  - C. Records Retention
  - D. Close out dates (expenditures, contracts, records, program files, etc.)
  - E. Post-transition payment guidelines (invoices, payroll, cost pool calculations, etc.)

OWD will review this written agreement and, once all items have been developed satisfactorily, issue approval.

- V. The new grant recipient must develop written policies and procedures required for local administration of WIOA. These policies and procedures must be reviewed and approved by OWD prior to any funds being awarded to the new grant recipient. At a minimum, the written policies and procedures should address the items below:
  - A. Financial Management System
  - B. Audit Process
  - C. Cash Management
  - D. Program Income
  - E. Prepaid Program Items
  - F. Timekeeping, Salary, and Cost Allocations
  - G. Allowable Costs Determination
  - H. Procurement and Contract Management
  - I. Equipment Management
  - J. Subrecipient/vendor Oversight
  - K. Program Administration



- VI. Once the new grant recipient has completed all required pre-award actions, OWD will issue preliminary grant agreements to the new grant recipient.
  - A. The new grant recipient must complete the “State Accounting Office Vendor Management Form,” the “Authorized Signature Card for Drawdown of WIOA funds” and the “Emergency Contact Form” prior to any funds being authorized for drawdown against the WIOA grants.
  - B. OWD’s Grants team will provide training and technical assistance to the Grants team of the new grant recipient prior to transition.
  - C. The new grant recipient will be required to submit full backup documentation for all expenditures during the first 120 days as grant recipient. OWD will monitor these expenditures to ensure that all federal, state, and local policies are being followed for each expenditure. A detailed list of required documentation may be requested from OWD. OWD will conduct a first quarter review. Upon completion, OWD will issue a determination about whether additional requirements may be held over for the life of the grants. If no additional requirements are deemed necessary, OWD will issue a grant adjustment relieving the grant recipient of the backup documentation requirements.

### 2.2.17 GRANT AGREEMENT CLOSEOUT

Each Grantee is responsible for developing and maintaining a system to comply with the closeout requirements specified at 2 C.F.R. §200.343 and 2 C.F.R. §200.344. To ensure that OWD closes out grants in a timely manner for USDOL ETA, the following guidelines are established for service providers:

- I. Closeout Process
  - A. The LWDA must close and settle its contracts and reconcile all financial activity related to the grant prior to closing the grant with OWD.
  - B. All refunds due to the awarding agency must be made before the closeout or submitted with the closeout documents.
  - C. Pending claims or late arriving invoices must be best estimated and identified in the closeout reports. Once the items are received, reconciliation must be done and sent to OWD to be attached to the reports. If a refund is due the awarding agency, it must be included with the reconciliation.
  - D. Any refunds, rebates, or credits received after the closeout must be sent to OWD. If stand-in costs were reported, they may be offset by such refunds, rebates, or credits; however, the stand-in costs must have been reported prior to the receipt of the refund.
  - E. OWD reserves the right for further grant adjustments based on audit findings after the closeout reports are submitted.
- II. Closeout Package

The closeout package consists of the following forms:

  - A. Grantee’s Submittal of Closeout Documents



Financial Closeout Statement will be provided to Grantee by OWD. The grantee certifies the release of the grantor agency from further monetary obligations under the grant. Certain specifically identified claims such as unclaimed wages, Worker's Compensation claims, or other outstanding claims must be identified and the list attached to the grantee's submittal of closeout documents.

B. Financial Status Report

C. If necessary, a copy of the approved indirect cost rate

If indirect costs have been charged to the grant under a provisional rate, a copy of the final rate must be included. If the grant is closed based on a provisional rate and the final rate is lower, the grantee is required to recalculate indirect costs and return all excess indirect costs within 45 days of the final rate approval letter.

D. Government Property Closeout Inventory Certification

This form provides for an inventory of all real or personal property purchases acquired with grant funds or received from the Federal government where USDOL reserves the right to take title, or a certification that no such property was acquired with grant funds.

## 2.2.18 AUDITS AND RECORD RETENTION

### I. Audit Requirements

Every recipient and subrecipient organization that expends \$750,000 or more in federal financial assistance funds (received from all federal sources combined) during its fiscal year to operate one or more programs must undergo an audit in accordance with 2 C.F.R. §200.501. A recipient, whether a state or LWDA that passes down funds to a service provider must ensure that the entity receiving the funds has an audit conducted if the entity meets the \$750,000 expenditure threshold.

LWDAs that expend less than \$750,000 a year in federal awards are exempt from federal audit requirements for that year, but records must be available for review or audit by appropriate officials of the federal agency, pass-through entity, and General Accounting Office (GAO).

Responsibility for non- WIOA audit costs and for maintaining complete financial records remains with the local agency.

LWDAs having audits conducted are to inform the auditing firm that audits are to be made in accordance with the:

A. Generally Accepted Governmental Auditing Standards (GAGAS)

B. AICPA Generally Accepted Auditing Standards

The audits will include, at a minimum, an examination of:

A. The systems of internal control;



- B. Compliance with laws, regulations, contracts/grants;
- C. Financial statements and federal awards schedule; and
- D. Prior year audit findings

The audits will include, at a minimum, an examination of:

- A. The systems of internal control;
- B. Compliance with laws, regulations, contracts/grants;
- C. Financial statements and federal awards schedule; and
- D. Prior year audit findings

The examinations are to determine whether:

- A. There is effective control over and proper accounting for revenues, expenditures, assets and liabilities;
- B. Financial statements are fairly presented in accordance with generally accepted accounting principles; and
- C. Funds are being expended in accordance with the terms of provider agreements and those provisions of Federal law or regulations that could have a material effect on the financial statements or the awards tested.

Effective July 2012, LWDA's must ensure that the audit work papers and reports are maintained in accordance with Uniform Administrative Guidance records retention, and that the work papers are available to OWD.

The LWDA will follow the purchasing procedures contained in Section 6.30 for acquiring the necessary audit services.

A copy of the final audit report is due to OWD within 30 days after publication of the auditor's report, or 9 months after the end of the audit period.

## II. Audit Resolution Procedure

### A. 120 Day Resolution Period

1. The LWDA will have 30 days from the publication of the final audit report to respond and provide any supporting documentation for costs questioned or recommended for disallowance. OWD will accept only written responses. All findings and recommendations are to be addressed by the LWDA in their response.
2. OWD will issue a written initial determination within 30 days of receipt of the LWDA's first response.



3. The LWDA will then be given the opportunity for informal resolution by having 30 days from receipt of the initial determination in which to respond with any further supporting documentation or information.
4. OWD will issue a final determination within 30 days of receipt of the LWDA's response to the initial determination or no later than 120 days after the audit report has become final. The final determination includes:
  - a. those matters which were not informally resolved;
  - b. corrective actions which will be necessary; and
  - c. notice to the LWDA of the opportunity to request a hearing. Within 30 days of the receipt of the final determination, the LWDA may submit in writing a request for hearing to OWD.

#### B. Grievance Procedure

The next step is to go into the regular grievance procedure, where a LWDA may choose to request a hearing.

#### C. Funds Returned

OWD will require the return of all funds that were not expended in accordance with laws and regulations.

### III. Debt Collection Policy

Debts receivable must be paid within 30 days of establishment of the debt. Repayment of debts established will be in the form of a cash payment unless negotiation between OWD and the debtor produce some other method. Cash from a non-federal source is the required method of repayment where there is misuse of funds due to willful disregard of requirements of the Act, gross negligence, or failure to observe accepted standards of administration. Settlements of debts on a non-cash basis will be by exception.

### IV. Methods of repayment by cash are as follows:

#### A. Lump Sum

Payment in full may be made by certified check, money order, cashier's check, or bank draft.

#### B. Installment Payments

Cash installment repayment agreements are usually of short-term duration, from three to 12 months, and are limited to 36 months by the Federal Claims Collection Standards. Duration is negotiated based on the size of the debt and the debtor entity's ability to pay.



### C. Adjustment in Payments

When cash repayment in lump sum or in installments is impossible, an agreement may be entered into with the debtor whereby the contract is reduced by the amount of the debt repayment while the program is maintained at an undiminished cost level through non-federal contributions.

### D. Withholding

This repayment method will involve withholding amounts owed the debtor for past services or for other considerations already provided in satisfaction of the debt owed.

## V. Examples of Non-Cash Repayment Methods

These methods must be negotiated with OWD prior to being considered as a method for debt recovery.

### A. Stand-in Costs

This method is not actually a debt repayment, but is a way of “erasing” the debt. The debtor must identify allowable non-federal costs associated with the contract but not charged to the contract, and substitute those costs for the disallowed costs, thus erasing the debt. These expenditures must have been reported to OWD with the quarterly FSR or closeout package for the year the costs were incurred in order to be considered for disallowed costs incurred during that same time period. This method would require negotiation and agreement with the debtor that such costs are subject to audit. Documentation that will establish a clear audit trail must be maintained when such agreements are made.

### B. Offset

This method involves reducing the contract up to the amount of the debt. OWD, on behalf of the Governor, may use this option with the approval of the USDOL Secretary. (29 U.S.C. §3244)

If an established debt is not paid within 30 days of the final determination or if established installment payments are more than 30 days late, a letter will be sent stating that payment is due immediately. At 45 days, another letter will be sent stating the account will be sent to the Attorney General’s Office if not paid within 15 days. At 60 days, the account is turned over to the Attorney General and OWD will consider whether to continue to do business with the debtor.



## VI. Record Retention

This policy provides guidance for proper maintenance of financial and programmatic records. These records must be accessible to authorized federal and OWD oversight staff and verifiable for monitoring, reporting, audit, and evaluation.

### Length of Record Retention:

For both grantees and service providers, records (including all financial and programmatic records, supporting documents, statistical records, and other records of grantees or subgrantees) must be retained for three (3) years following the date on which the expenditures report containing the final expenditures (closeout) charged to a program year's allotment or a grant is accepted by OWD. (2 CFR §200.333, 29 CFR §97.42).

Each recipient must maintain the following records, including records of applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment for a period of not less than three (3) years from the expenditure report containing the final expenditures (closeout) charged to a program year's allotment or a grant is accepted by OWD. (29 CFR §38.43).

The record retention period does not start over if final expenditure reports are revised, if these revisions are for the following reasons:

#### A. Revisions resulting from closeout

Such revisions are considered expenditure adjustments and do not alter the initial time period for retention. The records must be retained for three (3) years from the original submission date of the final expenditure report.

#### B. Revisions resulting from litigation, audit/audit resolution, or claims

C. If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

#### D. Program Income

Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.





## VII. Other Retention Regulations

A. Real property and equipment records must be retained for three (3) years after final disposition of the property.

### B. WIOA Complaint Records

Actions related to resolving complaints shall be maintained for not less than three years from the date of resolving the complaint. In addition, WIOA grantees and service providers must follow the requirements of 2 C.F.R. § 200.333 and 29 CFR 38.43, as these regulations apply to the entire organization receiving WIOA funds. These records should be maintained as a whole record system.

### C. Litigation/Audit Records

These records must be retained beyond the prescribed period if any litigation or audit has begun, or if a claim is initiated involving the grant or agreement covered by the records. The records must be retained until resolution of the litigation, audit, or claim and final action is taken; or until the end of the regular 3-year record retention period, whichever is longer.

### D. Failure To Obtain An Audit

A failure to obtain an audit extends the record retention requirement indefinitely. A delay in obtaining an audit or in resolving audit findings extends the record retention period until all audit requirements have been satisfied and all findings have been resolved to the satisfaction of the awarding agency.

### E. Indirect Cost Records

Computations or proposals, cost allocation plans, and supporting documentation and records must be retained for three (3) years from the date the indirect cost rate package is submitted for negotiation. If not submitted for negotiation, the records must be maintained for three years from the end of the Program Year that contains the final grant costs.

## VIII. Termination of Relationship

When the relation with an LWDA fiscal agent service provider is terminated, the service provider's fiscal agent's responsibility for maintenance and retention of records does not end. However, OWD may want to take physical custody of the records to assure that they are available if needed in instances where the subgrantee is unable to physically retain them.



## IX. Record Storage

Records shall be retained and stored in a manner that will preserve their integrity and admissibility as evidence in any audit/litigation or other proceeding. Microfilmed or photocopied records can be substituted for original records because they are generally accepted as admissible for evidentiary purposes. The burden of production and authentication of the records shall be on the custodian of the records. Failure to authenticate the records will deny the custodian the right to use it.

When no litigation, claim, negotiation, audit, or other action is pending and when grant expiration dates (per local grant agreements) are within the normal two year life cycle of the grant, the below guidelines may be used. It is recommended that customer files be alphabetized and placed in bankers boxes with a copy of the report taped to the lid of the box. Boxes should be clearly marked by Program Year and stored in a secure location. (Exceptions may apply)

### *Applicable Regulations*

- 2 CFR § 200.333 applies uniformly to all grantees and subgrantees for grants awarded on or after December 26th, 2014.
- 29 CFR §38.43
- 29 CFR §97.42

This citation applies equally to grantees and subgrantees.

This citation includes financial and program records, supporting documents, statistical records, and other records that are either required to be held by regulation or grant agreement or could reasonably be considered as pertinent to regulation or the grant agreement.

### **2.2.19 GRANT ELIGIBILITY DISBARMENT**

All OWD subgrantees/subrecipients must certify that they are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntary excluded from participation in this (or any other voluntary) transaction by any federal or state department/agency. Furthermore, any subgrantee/subrecipient that has been declared ineligible or appeared on the Georgia Department of Audits and Accounts' Listing of Noncompliant Local Governments list within two years preceding the date of application to be a fiscal agent will not qualify to be a fiscal agent.

If at any time during the grant agreement a sub grantee/subrecipient's status changes, it is the responsibility of the sub grantee to notify OWD in writing of this change. At that time, the sub grantee will have 30 days from status change to propose a new fiscal agent for the sub grantee. It is at the discretion of OWD to accept this new sub grantee and re-establish the grant award with the new fiscal agent.



Any subgrantee/subrecipient who fails to notify OWD of a change in status will be considered in default of the grant agreement. The State will immediately suspend the grant agreement and no further funds shall be expended under the grant. Any such funds that were expended from the time of the status change to OWD's notification of the status change are due back to OWD as disallowed costs. The State will utilize all legal resources to collect these funds.

The federal debarment registry may be found at:

<https://www.dol.gov/ofccp/regs/compliance/preaward/debarlst.htm>

The state noncompliance registry may be found at: <http://www.audits.ga.gov>.



# PROGRAMS



## 3.1 ONE-STOP SYSTEM

### I. Overview

WIOA creates a comprehensive workforce investment system known as the One-Stop System. The One-Stop System is intended to be customer-focused, to help Americans access the tools they need to manage their careers through information and high quality services, and to assist business find skilled workers.

#### A. One-Stop System Goals

- i. To increase the employment, retention, and earnings of participants
- ii. To increase occupational skill attainment by participants
- iii. To improve the quality of the workforce
- iv. To reduce welfare dependency
- v. To enhance the productivity and competitiveness of the nation

#### B. Seven Principles of One-Stop Service Delivery

- i. Streamlining services through better integration
- ii. Empowering individuals
- iii. Offering universal access
- iv. Increasing accountability
- v. Creating a role for the private sector
- vi. Providing flexibility from state partners
- vii. Improving Youth programs

#### C. The Workforce Innovation and Opportunity Act Includes Five Titles

- i. Title I Workforce Investment Systems
- ii. Title II Adult Education and Literacy
- iii. Title III Workforce Investment-Related Activities
- iv. Title IV Rehabilitation Act Amendments of 1998
- v. Title V General Provisions

### II. The One-Stop

#### A. One-Stop Operators

The One-Stop Operator is responsible for general operation of the One-Stop Center as required in 29 U.S.C. § 2864 (c)(2)(A), 20 CFR § 463.620(a), and 20 CFR § 361.620(a).

Overall operation of the One-Stop Center includes entering into agreements with the partners collocated in the center; cost allocation plan(s); service mix and flow; planning and monitoring center operations; and coordination with other service providers in the service area.

The One-Stop Operator is also responsible for developing a strategic operations or business plan for the center including the development of a common mission and goals. The One-Stop Operator should ensure that the center is guided by customer needs, customer satisfaction, and customer



success. The plan should include strategies for training of center staff to insure integration of service delivery and to provide seamless access to services for all customers. The One-Stop Operator must ensure the core services specified in U.S.C. § 2864 (d)(2) are provided at the center and provide access to the other activities, and that programs provided under WIOA by the mandatory partner programs are available in the area. The One-Stop Operator must ensure that the One-Stop Center and services are accessible to all customers including individuals with disabilities.

## B. One-Stop Partners

### i. Required partners:

1. Programs authorized under Title I of WIOA serving Adults, Dislocated Workers, Youth, and veterans, as well as Job Corps, Native American programs, and migrant and seasonal farm worker programs
2. Programs authorized under the Wagner-Peyser Act
3. Adult education and literacy activities authorized under Title II of WIOA
4. Programs authorized under parts A and B of Title I of the Rehabilitation Act
5. Welfare-to-Work programs authorized under the Social Security Act
6. Senior community service employment activities authorized under Title V of the Older Americans Act of 1965
7. Postsecondary vocational education authorized under the Carl D. Perkins Vocational and Applied Technological Education Act
8. Trade Adjustment Assistance and NAFTA Transitional Adjustment Assistance authorized under the Trade Act of 1974
9. Local veterans' employment representatives and disabled veterans outreach programs
10. Employment and training activities under the Community Services Block Grant
11. Employment and training activities of the Department of Housing and Urban Development
12. Programs authorized under State unemployment compensation laws

### ii. Optional partners may include:

1. Temporary Assistance to Needy Families authorized under the Social Security Act
2. Employment and training programs authorized under the Food Stamp Act of 1977
3. Work programs authorized under the Food Stamp Act of 1977
4. Programs authorized under the National and Community Service Act of 1990
5. Other appropriate federal, state, or local programs

## C. Comprehensive One-Stop Centers



Within each LWDA there must be at least one designated Comprehensive One-Stop Center. A comprehensive site is a physical location where job seekers and employer customers can access the programs, services, and activities of all required one-stop partners, along with any additional partners as determined by the LWDB. 20 CFR § 678.400(b) lists the federally funded program partners that must provide access to core services, intensive services, training, and participate in the creation and maintenance of One-Stop Centers and systems.

- i. At a minimum, a Comprehensive One-Stop Center must provide the core services specified in U.S.C. § 2864 (d) (2) including:
  1. Determinations of whether individuals are eligible to receive assistance;
  2. Orientation to the information and other services available in the One-Stop system;
  3. Initial assessment;
  4. Job search and placement assistance;
  5. Career counseling;
  6. Labor market information;
  7. Eligible Training Provider and Local Board program performance;
  8. Information relating to the availability of supportive services in LWDA's and referral to such services;
  9. Information on filing unemployment compensation;
  10. Assistance in establishing eligibility for:
    - a. Welfare-to-work activities authorized under the Social Security Act, 42 U.S.C §603(a)(5) (as added by the Balanced Budget Act of 1997 § 5001) available in the LWDA; and
    - b. Programs of financial aid assistance for training and educational programs that are not funded under this Act and are available in the LWDA; and
  11. Follow-up services.
- ii. One-Stop Centers must also provide access to other programs and activities carried out by the One-Stop partners. Physical co-location of programs is encouraged to the extent possible. Once a site is established, the site must utilize the term "One-Stop" as the common identifier. When selecting the site location, consideration must be given to customer accessibility. The site must be accessible for those with disabilities and those who speak languages other than English. A written agreement must detail management of the One-Stop and is to be reviewed upon change in key staff. Co-located partners must have a written agreement or Operating Plan describing roles and responsibilities of each partner at the site. For those who are collaborating partners off-site, roles and responsibilities will be defined in an addendum to the co-located partner agreement.



All collaborating partners, those on and off-site, must have the appropriate staff trained in the services provided by other partners, know who the contact person for each partner is, and be able to seamlessly refer clients or participants to the appropriate entity within each partner program. Space must be made available at the site for visiting partner programs whenever feasible. All partners, those on and off-site, must have a resource area available to customers that is staffed, have information on all partners in the local system, and meets customer needs.

#### D. Affiliate One-Stop Centers

As described in 20 CFR §678.310, an Affiliate One-Stop is a site that provides access to one or more of the one-stop partners' programs, services, and activities. Affiliate sites may be established in LWDA's to enhance and broaden the impact of the LWDA's service delivery network. As such, an affiliate site does not need to provide access to every required one-stop program. The frequency of program staff's physical presence in the affiliated site will be determined at the local level, and formalized in the MOU.

### III. Seamless Service Delivery

The One-Stop network is often described as a "seamless" system of service delivery where information and access to services are available to the customer regardless of the site of original contact. This is accomplished by collaboration of entities responsible for separate workforce development funding streams and through integration of programs and resources at the community level. All partners have an obligation to provide core informational services so individuals may access the One-Stop System regardless of where they enter, including information regarding access or linkages to training services and the programs and activities carried out by One-Stop partners.

### IV. One-Stop Certification Process

The Local WDB is responsible for the designation and certification of all comprehensive and affiliate sites. In accordance with 20 CFR §678.800, the State Board, in consultation with the Local WDBs and Chief Local Elected Officials, must develop the minimum criteria and procedures to certify comprehensive and affiliate one-stops throughout the state of Georgia. This criterion must evaluate one-stop centers and the one-stop delivery system for effectiveness as defined in 20 CFR §678.800(a)(2) and shall include, at a minimum, customer satisfaction, physical and programmatic accessibility, and continuous improvement.

Local WDBs must complete one-stop certification for each location which provides at least one core program as either a comprehensive or affiliate site based on the criteria set forth by the State Board. Local WDBs may establish additional criteria.

A. The process of certification shall include the following:





- i. At least every two years, the State Board will, in consultation with LWDBs and CLEOs, review and approve the certification criteria and issue One-Stop Certification Guidelines for Local WDBs to complete.
  - ii. Local WDBs shall determine any additional certification criteria in addition to the mandated State certification criteria. The Local WDB or appropriate Local WDB committee must meet and vote to add such criteria.
  - iii. Based off of the minimum criteria and procedures outlined in the One-Stop Certification Guidelines, Local WDBs or the appropriate Local WDB committee must complete and approve the certification for all one-stops.
  - iv. Local WDBs must certify all comprehensive and affiliate one-stop sites at least once every three (3) years.
  - v. If a Local WDB is the operator of a one-stop, this site must be certified by the SWDB. Local WDBs must notify OWD staff of this in advance of certification deadline or as otherwise stated by OWD.
  - vi. If a one-stop site is unable to be certified, the Local WDB must follow appropriate procedures outlined in the One-Stop Certification guidelines to notify OWD of the failed certification.
- B. One-Stop sites must be certified by Local WDBs in order to utilize the state negotiated infrastructure cost formula.



## 3.2 ELIGIBILITY

The Eligibility section defines policy for general eligibility determination, social security number procedures, family size and income determination, selective service registration requirements, priority of service, and the individual employment plan (IEP), and individual service strategy (ISS).



### 3.2.1 GENERAL ELIGIBILITY DETERMINATION PROCESS

In order to be eligible to receive services or participate in activities funded by WIOA monies made available to OWD; all participants must be able to prove their citizenship or eligible noncitizen status. Services funded by WIOA shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States.

29 U.S.C. § 2938(a)(5)

- I. Acceptable documents that establish both Citizenship (Identity) and Employment Eligibility status:
  - A. U.S. Passport (unexpired or expired)
  - B. Unexpired Foreign Passport, with temporary I-551 stamp or attached unexpired Arrival-Departure Record, INS Form I-194, bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, if that status authorizes the alien to work for a US employer.
  - C. Permanent Resident Alien Card or Alien Registration Receipt Card (INS Form I-551)
  - D. Unexpired Employment Authorization Document that contains a photograph (INS Form I-688, I 688-A, I-688B, or I-766)

If the applicant does not provide one of the above documents, they will be required to provide at least 1 document from each of the 2 lists below.

- II. Acceptable documents that establish Citizenship (Identity):
  - A. Valid Driver's License or ID Card issued by a state or U.S. Territory
  - B. ID Card issued by federal, state, or local government agency or entity – must contain photograph or information, such as name, date of birth, gender, height, eye color, and address
  - C. School ID Card with photograph
  - D. Voter Registration Card
  - E. US Military Card or Draft Record
  - F. US Coast Guard Merchant Mariner Card
  - G. Native American Tribal Document
  - H. Driver's License issued by a Canadian government authority
  - I. For individuals under the age of 18, they may provide either a school record, school report card, clinic record, doctor record, hospital record, day care record, or nursery record.
- III. Acceptable documents that establish Employment Eligibility:
  - A. US Social Security Card issued by the Social Security Administration
  - B. Certificate of Birth Abroad issued by the Department of State (Form FS-545 or Form DS-1350)
  - C. Original or certified copy of birth certificate issued by a state, county, or municipal authority
  - D. Native American Tribal Document



E. US Citizen ID Card (INS Form I-179)

F. Unexpired Employment Authorization Document issued by DHS

In addition to the above Citizenship and Employment Eligibility requirements, all male applicants for WIOA funded services must be able to prove they have properly registered with Selective Service or are exempt from doing so. The WorkSource Portal is used to maintain and track services provided through the funding program in this Manual.

IV. State Residency

Georgia citizens receive priority for WIOA-funded activities and services. However, LWDBs may implement policies to serve additional participants if the LWDB serves communities on the border with another state, is engaged in cross-state sector partnership efforts, and/or is serving businesses with cross-state needs.

V. Application

The application process includes completion of the WorkSource Portal application form. All service providers are required to use the WorkSource Portal. The completed application shall be electronically entered in the WorkSource Portal.

The application process requires evidence of all necessary eligibility documentation regarding citizenship, age, income (for Youth and Adults), selective service registration (if applicable), and a standardized basic skills assessment for math and reading levels. Upon completion of eligibility determination, eligible applicants are placed in an applicant pool. For Adults and Dislocated Workers, enrollment for services beyond the core level is based on eligibility criteria, participant need and programmatic considerations.

Equal Opportunity data must be collected at this point. (29 U.S.C. § 2938(a))

VI. Referral

LWDAs shall provide information to eligible applicants, whether enrolled in WIOA or not, of the services available through WIOA service providers, including information for women regarding the opportunities for nontraditional training and employment. Determination may be made prior to enrollment in WIOA to refer an eligible applicant to another service agency or training and education program deemed more suitable for the individual. Each LWDA shall ensure that an eligible applicant who cannot be served by its particular program shall be referred to appropriate agencies, both within and outside the WIOA system, that may be able to better serve the applicant.

VII. Confidentiality and Release Of Information

State and federal privacy laws safeguard an individual's privacy from the misuse of federal and state records and provide individuals access to their records. LWDAs must maintain participant and applicant files in a manner to safeguard confidentiality.



Funding source agencies have access to participant files. Access to files should be granted on a "need to know" basis. If other agencies, prospective employers, or other individuals or agencies request access to information in a file, an authorization of release for the information must be obtained from the participant.

Access to the records from other agencies may also require authorization for release of information.



### 3.2.2 SOCIAL SECURITY NUMBER PROCEDURE

In accordance with Section 7 of the Privacy Act of 1974 (5 U.S.C. Section 552a Note Disclosure of Social Security Number), unless the disclosure is required by federal statute, applicants may not be denied any right, benefit, or privilege provided by law because of the individual's refusal to disclose his/her Social Security Number (SSN).

Disclosure of an individual's social security number pursuant to the Internal Revenue Code where it is used as the identifying number for the purposes of a return, statement or any other document under the Code (i.e., for payment of wages for OJT, Work Experience, etc.) may be properly required.

#### I. Guidelines For Obtaining Social Security Number

Although an applicant cannot be denied WIOA services for failure to disclose their SSN, they must submit their SSN in order to receive wages paid while participating in WIOA services (e.g., OJT).

Training and Employment Guidance Letter (TEGL) No. 5-08 says that states must request a participant's SSN when offering intensive WIOA services or providing financial assistance, however the State may not deny access to any participant who refuses to provide a SSN. Not obtaining an SSN from a participant means that any outcomes for this participant would be excluded from performance measures unless supplemental information is available to verify the performance outcomes for non-wage based measures.

It is important for LWDA's to request the applicant's SSN at intake and advise them that their SSNs are maintained in a secure and confidential manner. Applicants should also be advised that the State only uses the SSN for the following:

- A. Payment of wages and allowances, even though at intake it may not be possible to determine the form of payment, if any, the applicant will receive; and
- B. Tracking Unemployment Insurance Wage Records for the calculation of program performance measure outcomes.

According to federal reporting requirements a valid SSN must be obtained and recorded prior to termination and record transmittal. The regulations further state that USDOL assumes full responsibility for protecting the confidentiality of the data and will ensure that data files are maintained according to applicable federal laws, with particular emphasis upon compliance with the provisions of the Privacy Act and the Freedom of Information Act. It will remove SSN from participant files before they are shared with federal agencies and other users. All recipients of WIOA funds are governed by these requirements.

#### II. Procedure for obtaining Social Security Number (SSN)

Providers should assist the applicant in obtaining a SSN from the Social Security Administration. Please note this in the participant's electronic case file maintained in the WorkSource Portal.



### 3.2.3 FAMILY SIZE, INCOME DETERMINATION AND SELF-SUFFICIENCY STANDARDS

#### I. Family Size

Family size must be determined and verified only if using family income to determine low-income status. Family size will be determined by counting the maximum number of family members in the residence during the last six months, *not* including the current month.

A family, for eligibility purposes, means two or more persons related by blood, marriage or decree of court, who are living in a single residence, and are included in one or more of the following categories:

- A. A married couple and dependent children
- B. A parent or guardian and dependent children
- C. A married couple

20 CFR § 675.300

In certain cases, an individual may be considered a "family of one" for the purpose of eligibility determination. This includes individuals with a disability whose family income may exceed the income criteria, but whose own income meets the income criteria.

20 C.F.R. § 680.640

#### II. Income Determination

Income is the amount of all reportable income for each family member for the prior six (6) months. This amount multiplied by two (2) is the total annualized family income.

Family income means all includable income actually received from all sources by all members of the family during the income determination period. However, when computing family income, the income of a spouse and/or other family members shall only be counted for that portion of the income determination period that the person was actually a part of the family of the applicant.

Family size for the determination period is the maximum size of the family during such period. All items not expressly excluded are includable income.

Applicants having low or no income should complete an applicant statement that describes their means of support in the last six months.

##### A. **INCLUDE** in Family Income:

- i. Money wages and salaries before any deductions;
- ii. Unemployment compensation;
- iii. Child support payments;
- iv. Net receipts from non-farm self-employment (receipts from a person's own unincorporated business, professional enterprise, or partnership after deductions for business expenses);



- v. Net receipts from farm self-employment (receipts from a farm which one operates as an owner, renter, or sharecropper, after deductions for farm operating expenses);  
Regular payments from railroad retirement, strike benefits from union funds, worker's compensation, and training stipends;
- vi. Alimony;
- vii. Military family allotments or other regular support from an absent family member or someone not living in the household;
- viii. Pensions, whether private or public employee (including Military retirement pay);
- ix. Regular insurance or annuity payments other than Supplemental Security Income disability (SSI) or Veterans' disability;
- x. College or university grants, fellowships, and assistantships;
- xi. Net gambling or lottery winnings;
- xii. Social Security Disability Insurance payments (SSDI)
  - 1. SSDI pays benefits to individuals that have worked in the past, paid Social Security taxes, and are currently unable to work for a year or more because of a disability. SSDI is considered income replacement and must be included in family income.
- xiii. Old age and survivors insurance benefits received under section 202 of the Social Security Act (42 USC 402).
  - 1. Old age and survivors insurance benefits include: Social Security Survivor Benefits are benefits paid to people up to age 18 who have had a parent die and the parent paid wages into the system; and
  - 2. Social Security Retirement Benefits – these are benefits that are paid to people who reached their social security age and have wages paid in the system.

**B. EXCLUDE** from Family Income:

- i. Public Assistance payments (including Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI), Refugee Case Assistance (RCA), and General Assistance (GA));
  - 1. Supplemental Security Income (SSI) is a program that pays benefits to disabled adults and children who have limited income and resources. It is also paid to people 65 and older without disabilities who meet the financial limits. SSI is considered cash assistance and individuals receiving SSI are automatically income eligible the same as individuals receiving TANF or SNAP. A WIOA participant applicant on SSI is a family of one. Refer to the Adult or Youth Verification Worksheets for acceptable documentation for SSI recipients.
- ii. Foster care child payments;





- iii. Title IV of the Higher Education Act (i.e., Pell Grants, Federal Supplemental Educational Opportunity Grants (FSEOG), and Federal Work-Study (FWS));
- iv. Needs-based scholarship assistance;
- v. Income earned while [the veteran was] on active military duty and certain veteran's benefits (i.e., compensation for service-connected disability, compensation for service connected death, vocational rehabilitation, and education assistance);
- vi. Severance pay;
- vii. Capital gains;
- viii. Any assets drawn down as withdrawals from a bank, the sale of property, a house or a car;
- ix. Tax refunds, gifts, loans, lump-sum inheritances, one-time insurance payments, or compensation for injury;
- x. Non-cash benefits such as employer paid fringe benefits, food or housing received in lieu of wages, Medicare, Medicaid, Food Stamps (received or has been determined eligible to receive Food Stamps (SNAP) within the six-month period prior to application for the program); school meals, and housing assistance;

### III. Self-Sufficiency Standards

WIOA section 134 (a)(3)(A)(xii) and section 134 (d)(1)(A)(x) addresses state and local determinations of economic self-sufficiency standards that specify the income needs of families, by family size, number and ages of children in the family, and sub-state geographical considerations. LWDAs may make adjustments to the following factors based on local considerations.

Under 20 CFR § 680.210 training services may be made available to employed and unemployed adults and dislocated workers who, among other criteria, are unlikely or unable to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment through career services, and are in need of training services to obtain or retain employment leading to economic self-sufficiency or wages comparable to or higher than wages from previous employment.

The State defines minimum standards for defining “lacks self-sufficiency” as follows:

An individual is declared to “lack self-sufficiency” if:

- A. An individual has a family income that is at or below 100% of the Lower Living Standard Income Level (LLSIL),
- B. A Food stamp or TANF recipient (current or within the last six months),
- C. A Supplemental Social Security Income recipient, or



- D. An individual (single family of one) who is employed, but in a job earning \$10.69 (Living Wage Calculator for the State of Georgia) an hour or less. (See the Living Wage Calculator Section Below)

Dislocated workers may be considered to lack self-sufficiency if they are employed, but in a job/occupation that is at a wage or skill level that is significantly less than the job of dislocation.

Local areas are permitted to define self-sufficiency at a higher income level than the state minimum, as long as supporting documentation is provided.

Living Wage Calculator - The living wage shown is the hourly rate that an individual must earn to support their family, if they are the sole provider and are working full-time (2080 hours per year). All values are per adult in a family unless otherwise noted. The living wage calculator estimates the living wage needed to support families of twelve different compositions: one adult families with up to three dependent children, two adult families where both adults are in the work force with up to three dependent children, and two adult families where one adult is not in the work force with up to three dependent children.

The calculator includes estimates for single adult households, two adult households with one adult working, and two-adult households with two adults working. In two adult households with children and one adult working, the second adult is assumed to be providing child care. Working adults are assumed to be working full-time; work is assumed to be year-round, 40 hours per week for 52 weeks, per adult.

The living wage is calculated at the county, metropolitan area, state, regional, and national level. Unless otherwise noted, geographic definitions are consistent with those published by the Office of Management and Budget. Reported national values are calculated as the average (mean) state living wage.

Local areas are encouraged to utilize the Living Wage Calculator at <http://livingwage.mit.edu> to set local “lacks self-sufficiency” standards.



### 3.2.4 SELECTIVE SERVICE REGISTRATION REQUIREMENTS

#### I. Selective Service Registration

All participants enrolled in WIOA Adult, Dislocated Worker and Youth programs must be in compliance with Selective Service Registration under the Military Selective Service Act as a condition for participation. This policy is in accordance with the TEGL No. 11-11, change 2 dated May 16, 2012.

A. Those required to register with Selective Service include:

- i. Men born on or after January 1, 1960 and who are:
- ii. Citizens of the United States;
- iii. Non-citizens, including illegal aliens, legal permanent residents, seasonal agricultural workers, and refugees, who take up residency in the U.S. before their 26<sup>th</sup> birthday and/or;
- iv. Dual nationals of the United States and another country regardless of where they live.

B. Selective Service registration is not required of U.S. citizens if the male falls within one of the following categories:

- i. Men who are serving in the military on full-time active duty;
- ii. Men attending the service academies;
- iii. Disabled men who are continually confined to a residence, hospital or institution; and/or
- iv. Men who are hospitalized, institutionalized, or incarcerated are not required to register during their confinement; however, they must register within 30 days after being released if they have not yet reached their 26<sup>th</sup> birthday.

C. Selective Service registration is not required of non-U.S. citizens if the male falls within one of the following categories:

- i. Non-U.S. male who came into this country for the first time after his 26<sup>th</sup> birthday.

Acceptable forms of supporting documentation include:

1. Date of entry stamp in his passport;
  2. I-94 with date of entry stamp on it; or
  3. Letter from the U.S. Citizenship and Immigration Services (USCIS) indicating the date the man entered the U.S. presented in conjunction with documentation establishing the individual's age.
- ii. Non-U.S. male who entered the U.S. illegally after his 26<sup>th</sup> birthday. He must provide proof that he was not living in the U.S. from age 18 through 25.
  - iii. Non-U.S. male on a valid non-immigrant visa.

The lists are not intended to be exhaustive and the Selective Service System provides a quick reference chart showing who must register on the Selective Service website at

<http://www.sss.gov/PDFs/WhoMustRegisterChart.pdf>.

#### II. Selective Service Compliance



In order to be eligible to receive WIOA-funded services, all males born on or after January 1, 1960 must present documentation showing compliance with the Selective Service registration requirement.

A. Acceptable documentation showing registration status includes:

- i. Selective Service Acknowledgement letter
- ii. Form DD-214 “Report of Separation”
- iii. Screen printout of the Selective Service Verification on the Selective Service website at <https://www.sss.gov/regver/wfverification.aspx>. For males who have already registered this website can be used to confirm their Selective Service number as well as the date of registration, by entering a last name, social security number, and date of birth.
- iv. Selective Service Registration Card
- v. Selective Service Verification Form (Form 3A) and/or
- vi. Stamped Post Office Receipt of Registration

### III. Registration Requirements for Males Under 26

Prior to being enrolled in WIOA-funded program, all males born on or after January 1, 1960 who are not registered with the Selective Service and have not reached their 26th birthday must register through the Selective Service website at [www.sss.gov](http://www.sss.gov).

Male participants who enter the WIOA program at age 17 or younger and attain age 18 while participating in the program must be registered for Selective Service by the 30th day after their 18th birthday to remain eligible for WIOA services. Funds expended on male participants not registered for Selective Service by the 30th day after their 18th birthday may be considered disallowed costs. Any Youth participant who attains age 18 while enrolled in WIOA and refuses to comply with Selective Service Registration requirements shall be exited from the WIOA Youth program. These Youth would not be placed in follow-up and there should be case notes that describe, in detail, the circumstances as to why services were not/could not be continued.

### IV. Registration Requirements for Males 26 Years and Over

A. Before enrolling in WIOA-funded services, all males 26 years of age or older, must provide:

- i. documentation of compliance with the Selective Service registration requirement;
- ii. documentation showing they were not required to register; or
- iii. if they were required but did not register, documentation establishing that their failure to register was not knowing and willful.

The grantee, subgrantee, or contractor that enrolls individuals in WIOA funded activities may require that males 26 years and over who failed to comply with Selective Service registration requirement request a Status Information Letter (SIL) before making a determination that the failure to register was knowing and willful. Alternatively, an entity may initiate its process to determine if the failure to register was knowing and willful without first having the potential program participant request the Status Information Letter (e.g. individuals recently released from incarceration).



## V. Requesting a Status Information Letter (SIL)

A. An individual may obtain a SIL if:

- i. he believes he was not required to register;
- ii. he did register but cannot provide any of the documentation listed above.

The Request for Status Information Letter form can be accessed at

<https://www.sss.gov/Portals/0/PDFs/Status.pdf>

If the SIL indicates that an individual was not required to register for the Selective Service, then he is eligible to enroll in services funded by WIOA. If the SIL indicates that the individual was required to and did not register, he is presumed to be disqualified from participation until it can be determined that his failure to register was not knowing and willful. All costs associated with grant-funded services provided to non-eligible individuals may be disallowed.

## VI. Determining Knowing and Willful Failure to Register

If the individual was required but failed to register as determined by the SIL or his own acknowledgment, he may only receive services if he can establish by a preponderance of the evidence that the failure to register was not knowing and willful. The grantee, subgrantee, or contractor that enrolls individuals in WIOA funded activities is responsible for evaluating the evidence presented and determining whether the failure was knowing and willful. Evidence presented may include the individual's written explanation and supporting documentation of the circumstances at the time of the required registration and the reasons for failure to register.

If an authorized organization determines it was not a knowing and willful failure and the individual is otherwise eligible, services may be provided. If the authorized organization determines that evidence shows that the individual's failure to register was knowing and willful, WIOA services must be denied. Individuals denied services must be advised of available WIOA grievance procedures. Authorized organizations must keep documentation related to evidence presented in determinations related to Selective Service.

## VII. Georgia Immigration Law

Youth participants who are turning 18 must also comply with Georgia's Immigration Law that requires customer affidavits for eligibility to receive a public benefit.

If an applicant does not meet all the criteria as listed in this policy, but believes they should be provided with WIOA funded services, please contact OWD at 404-679-1371 for technical assistance and approval. All subrecipients of WIOA funds made available by OWD must collect and maintain these records. Records will be reviewed for accuracy and completeness during on-site monitoring conducted by OWD. Failure to maintain these records could result in disallowed costs.



### 3.2.5 ADULT AND DISLOCATED WORKER PARTICIPANT ELIGIBILITY FOR WIOA AND PRIORITY OF SERVICE

#### I. ADULT AND DISLOCATED WORKER ELIGIBILITY

A. To be eligible to receive WIOA services as an adult in the adult and dislocated worker programs, an individual must:

1. be 18 years of age or older;
2. be a citizen or noncitizen authorized to work in the United States; and
3. meet Military Selective Service registration requirements (males who are 18 or older and born on or after January 1, 1960, unless an exception is justified).

B. Additional Requirements for Adults.

1. Adults must be either unemployed or underemployed.
2. Individuals who are underemployed include persons who are employed less than full-time and are seeking full-time employment; are employed in a position not commensurate with the individual's demonstrated level of educational attainment and skills; are working full time and meet the definition of low income, according to LWDB policies; or are employed, but whose current job earnings are not sufficient compared to their previous earnings.

C. Additional Eligibility Requirements for Dislocated Workers.

A dislocated worker is an individual who meets one of the following five sets of criteria:

1. The individual:
  - a. has been terminated or laid off through no fault of their own, or has received a notice of termination or layoff from employment;
  - b. is eligible for or has exhausted entitlement to unemployment compensation or has been employed for a duration sufficient to demonstrate attachment to the workforce but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that was not covered under a state's UI law; and
  - c. is unlikely to return to a previous industry or occupation.
2. The individual:
  - a. has been terminated or laid off through no fault of their own or has received a notice of no-fault termination or layoff from employment as a result of any permanent closure of, or any substantial layoff at a plant, facility, or enterprise;
  - b. is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or
  - c. for purposes of eligibility to receive services other than training services, career services, or support services, is employed at a facility at which the employer has made a general announcement that such facility will close.



3. The individual was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters. This includes individuals working as independent contractors or consultants but not technically employees of a firm.
4. The individual is a displaced homemaker, as defined in WIOA § 3 (16). A displaced homemaker is an individual who has been providing unpaid services to family members in the home and who:
  - a. is unemployed or underemployed and experiencing difficulty finding or upgrading employment; and
  - b. has been dependent on the income of another family member but is no longer supported by that income; or is the dependent spouse of a member of the Armed Forces on active duty and whose family income is significantly reduced because of a deployment, a call or order to active duty, a permanent change of station, or the service-connected death or disability of the member.
5. The individual is a separating service member from the Armed Services with a discharge other than dishonorable, the separating service member qualifies for dislocated worker activities based on the following criteria:
  - a. The separating service member has received a notice of separation (e.g. DD214 or Medical Evaluation Board proceedings) from the Department of Defense or other documentation showing a separation or imminent separation from the Armed Forces to satisfy the termination or layoff eligibility criteria (These documents must meet the requirement that the individual has received a notice of termination or layoff, to meet the required dislocated worker definition);
  - b. The separating service member is eligible for or has exhausted of unemployment compensation for Ex-service members (UCX); and,
  - c. As a separating service member, the individual meets the eligibility criteria that the individual is unlikely to return to a previous industry or occupation in the military (TEGL 19-16).
6. The individual is the spouse of a member of the Armed Forces on active duty who:
  - a. has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of such member; or
  - b. is unemployed or underemployed and experiencing difficulty finding or upgrading employment.
7. The individual is underemployed, which is defined as:



- a. A person who was laid off from a previous employer, but has found employment earning wages that are 85% or less of the salary that was paid at the employer of dislocation; and/or
  - b. A person who is in employment that uses significantly less skills or abilities than the job of dislocation and is not commensurate with the individual's demonstrated level of educational attainment.
8. An individual who may have been separated for cause, filed an appeal to UI and was determined to be "no-fault" and eligible for UI (based on that employer's contributions) may be eligible as a dislocated worker.

In order to be considered as unlikely to return to a previous industry or occupation, an individual must meet at least one of the following criteria:

- The individual worked in a declining industry or occupation, as documented on State and locally developed labor market information, such as Georgia Labor Market Explorer, Burning Glass or EMSI. Local high demand, as well as declining occupation, lists must be developed by an appropriate entity, such as the local workforce development board, local Chamber of Commerce, economic development agency, a qualified consultant/educational entity, or other valid public use quality source of labor market information.
- The individual has been actively seeking, but unable to find employment in their previous industry or occupation for a period of ninety days or more.
- The individual was "separated" from active military duty under conditions other than dishonorable.
- The individual is the spouse of an active military member and has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of the spouse.
- Individual worked in an industry or occupation for which there are limited job orders in Georgia Labor Market Explorer at the time of eligibility determination, as documented by the LWDA.
- Individual is insufficiently educated and/or does not have the necessary skills for reentry into the former industry or occupation, as documented through an assessment of the individual's educational achievement levels.
- Individual cannot return to their previous industry or occupation because they have physical or other limitations which would prevent reentry into the former industry or occupation, as documented by a physician or other applicable professional (e.g., Psychiatrist, psychiatric social worker, chiropractor, etc.).





- Individuals laid off on a temporary basis with a specific return date and/or determined by UI to be attached to an employer (e.g., a leave of absence) do not meet the criteria of unlikely to return to work in a previous industry or occupation.

Boards may establish policies and procedures for use in determining an individual's eligibility as a dislocated worker, consistent with the definition at WIOA § 3 (15). These policies and procedures may address such conditions as: what constitutes a "general announcement" of plant closing under WIOA § 3 (15)(B)(ii) or (iii) and what constitutes "unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters" for determining the eligibility of self-employed individuals, including family members and farmworkers or ranch hands, under WIOA § 3 (15)(C).

## II. SERVICE PRIORITY FOR INDIVIDUALIZED SERVICES AND TRAINING SERVICES

Priority of service is not an eligibility criterion. Priority of service is a means to ensure emphasis providing services to these populations.

Priority for adult services must be given to recipients of public assistance or other low income individuals, with added priority for individuals who are basic skills deficient. Priority applies regardless of funding levels. Individualized career services and training services must be given on a priority basis, regardless of funding levels, to:

- A. Public assistance recipients and other low-income adults; and
- B. Individuals who are basic skills deficient.

Veterans under WIOA § 3 (63)(A) receive priority of service as described in the Jobs for Veterans Act (38 U.S.C. 4215 (2)). Veterans and eligible spouses of veterans who otherwise meet the eligibility requirements for adult programs must receive the highest priority for services. TEGL 3-15 references TEGL 10-09 regarding order of priority for veterans and eligible spouses. Priority must be provided in the following order:

- First, to veterans and eligible spouses who are also recipients of public assistance, are low income individuals, or who are basic skills deficient. Military earnings are not to be included as income for veterans and transitioning service members.
- Second, to individuals who are not veterans or eligible spouses who meet WIOA priority criteria.
- Third, to veterans and eligible spouses who are not included in WIOA's priority groups.
- Last, to individuals outside the groups given priority under WIOA.

While Veterans receive priority through WIOA services, LWDA's and applicable services providers must have a referral process in place for directing Veterans with Significant Barriers to Employment to the Disabled Veterans Outreach Program to ensure the most effect provision of services.



### III. LOW INCOME INDIVIDUALS

An individual who meets any one of the following criteria satisfies the low-income requirement for WIOA adult services:

- A. Receives, or in the past six months has received, or is a member of a family that is receiving, or in the past six months has received, assistance through SNAP, TANF, or the Supplemental Security Income (SSI) program, or state or local income-based public assistance;
- B. Is a member of a family with a total family income that does not exceed the higher of –(I) the HHS poverty line; or (II) 70 percent of the USDOL 70% lower living standard income level;
- C. Is a homeless individual, as defined in § 41403 (6) of the Violence Against Women Act of 1994, or a homeless child or youth as defined in § 725 (2) of the McKinney-Vento Homeless Assistance Act;
- D. Receives or is eligible to receive a free or reduced-price lunch under the NSLA
- E. Is a foster youth, on behalf of whom state or local government payments are made; or
- F. Is an individual with a disability whose own income meets WIOA’s income requirements, even if the individual’s family income does not meet the income requirements of the income eligibility criteria for payments under any federal, state, or local public assistance program.

### IV. BASIC SKILLS DEFICIENT

Per 20 CFR 681.290, an individual who is unable to compute or solve problems, read, write, or speak English at a level necessary to function on the job, in the individual’s family, or in society satisfies the basic skills deficient requirement for WIOA services. In assessing basic skills, Boards must use assessment instruments that are valid and appropriate for the target population and must provide reasonable accommodation in the assessment process, if necessary, for individuals with disabilities.

For an adult, a participant is basic skills deficient if they:

- A. Lack a high school diploma or high school equivalency *and* are not enrolled in any secondary education; or
- B. Are enrolled in a Title II Adult Education and Family Literacy Act (AEFLA) program authorized by WIOA and administered by the Education Department (ED); or
- C. Are reading or writing English, or computing or solving problems at or below an 8.9 grade level, according to a TABE assessment or another standardized assessment pre-approved by OWD.

### V. TRANSITIONING MILITARY SERVICE MEMBERS.

Still-active, transitioning military service members may qualify for Dislocated Worker services. While these individuals may be eligible to receive WIOA Dislocated Worker services and funds, they would not be considered ‘veterans’ for the purposes of DOL reporting or be eligible for Priority of Service.



For the purposes of serving still-active transitioning service members under the “notice of termination or layoff” eligibility criterion, documentation must align with the DOL Data Element Validation (DEV) requirement for “Date of Actual Qualifying Dislocation.” Military Personnel are eligible to begin receiving Dislocated Worker Program services upon receipt of discharge orders (Effective Termination of Service “ETS” Orders, DD-2648-ACAP Transition Checklist, or DA Form 3947 Medical Evaluation Proceedings).

Length of service to qualify an individual for such discharges or separations under WIOA guidance may be as few as one day of service. Qualified individuals can receive services up to 18 months prior to retirement or 12 months before separation. If a transitioning service member successfully reenlists into active military duty, then that service member is no longer eligible for services.

## VI. ELIGIBILITY FOR TRAINING SERVICES.

Under 20 CFR § 680.210 training services may be made available to employed and unemployed adults who:

- A. are determined (by the one-stop operator) after an interview, evaluation, or assessment and career planning to be:
  - 1. unlikely or unable to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment through career services,
  - 2. in need of training services to obtain or retain employment leading to economic self-sufficiency or wages comparable to or higher than wages from previous employment, and
  - 3. have the skills and qualifications to participate successfully in training services;
- B. have selected a program of training services that is directly linked to employment opportunities in the planning region or in another area to which the individual is willing to commute or re-locate; and
- C. are unable to obtain grant assistance from other sources to pay the costs of training, including HOPE, Pell, and TAA, or require WIOA assistance in addition to the other sources of grant assistance.



### 3.2.6 YOUTH PARTICIPANT ELIGIBILITY FOR WIOA

#### I. OUT-OF-SCHOOL YOUTH. —WIOA § 3 (46) and 129 (a) (1) (B)

The term "out-of-school youth" means an individual who is:

- A. Not attending any school (as defined under state law as a public, private, or home study program that meets requirements under O.C.G.A. § 20-2-690); However, for purposes of WIOA, USDOL does not consider providers of Adult Education under Title II of WIOA, YouthBuild programs, and Job Corps programs to be schools. Therefore, WIOA youth programs may consider a youth to be out-of-school youth for purposes of WIOA youth program eligibility if he/she is attending Adult Education provided under Title II of WIOA, YouthBuild, or Job Corps. It is the policy of OWD that student attendance at a post-secondary institution qualifies as “attending school” and does not apply to this section.
- B. Between the ages of 16 and 24 years old at the time of enrollment and one or more of the following:
  - i. A school dropout;
  - ii. A youth who is within the age of compulsory school attendance, but has not attended school for at least the most recent complete quarter or semester. The definition of a quarter or semester is based on how a local school district defines the terms;
  - iii. A recipient of a secondary school diploma or its recognized equivalent who is a low-income individual and is either basic skills deficient (as defined below in section 3.2.6(V)) or an English language learner;
  - iv. An individual who is subject to the juvenile or adult justice system;
  - v. A homeless individual (as defined in § 41403 (6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043 e-2 (6)), a homeless child or youth (as defined in section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434 a (2)), a runaway, in foster care or has aged out of the foster care system, a child eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement;
  - vi. An individual who is pregnant or parenting;
  - vii. A youth who is an individual with a disability;
  - viii. A low income individual who requires additional assistance to enter or complete an educational program or to secure or hold employment. The term "requires additional assistance" is defined by local policy.

#### II. IN-SCHOOL YOUTH. WIOA § 3 (27) and 129 (a) (1) (C)

The term "in-school youth" means an individual who is:

- A. Attending school (Georgia compulsory education laws require children between the ages of six and 16 to attend school);
- B. Not younger than age 14 or (unless an individual with a disability who is attending school under state law) older than age 21 at the time of enrollment;



C. A low-income individual who meets one or more of the following criteria:

- i. An individual who is basic skills deficient (as defined below in section 3.2.6(V)).
- ii. An English language learner;
- iii. An offender;
- iv. A homeless individual (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043 e-2 (6)), a homeless child or youth (as defined in section 725 (2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)); a runaway, in foster care or who has aged out of the foster care system, a child eligible for assistance under section 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement;
- v. An individual who is pregnant or parenting;
- vi. An individual with a disability;
- vii. An individual who requires additional assistance to complete an educational program or to secure or hold employment. The term "requires additional assistance" is defined by local policy.

### III. LOW INCOME ELIGIBILITY REQUIREMENT.

All ISY and some OSY must be low income to meet eligibility criteria except those that fall under the low income exception.

A. A low income individual is an individual who:

- i. Receives, or in the past 6 months received, or is a member of a family that is receiving or in the past 6 months has received assistance through the Supplemental Nutrition Assistance Program (SNAP), or the supplemental security income program established under Title XVI of the Social Security Act, or state or local income based public assistance;
- ii. Is a family with a total income that does not exceed the higher of (a) the poverty line, or (b) 70 percent of the lower living standard income level;
- iii. A homeless individual (as defined in section 41403(6) of the Violence Against Women act of 1994 (42 U.S.C. 1403 e-2 (6)), or a homeless child or youth (as defined under section 725 (2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434 a (2)));
- iv. Receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (41 U.S.C 171 et seq.);
- v. A foster child on behalf of whom state or local government payments are made; or
- vi. Is an individual with a disability whose own income meets the requirements of (2).

B. Special Rule WIOA § 129 (a)(2) – The term low income also includes a youth living in a high poverty area. A high-poverty area is a Census tract, a set of contiguous Census tracts, Indian Reservation, tribal land, or Native Alaskan Village, or county that has a poverty rate of at least 25 percent as set every 5 years using American Community Survey 5-Year data.

### IV. EXCEPTION AND LIMITATION.



- A. Exception for persons who are not low income: in each local area not more than 5% of all youth participants may be persons who are not low income, but who otherwise meet the definition of covered individuals.

WIOA § 129 (a)(3)(A)(i) defines a covered individual as any ISY or an OSY who meets all other eligibility requirements and who meets the following conditions:

- i. Recipient of a secondary school diploma or its recognized equivalent who is basic skills deficient or an English language learner, and
- ii. An individual who requires additional assistance to enter or complete an educational program or to secure or hold employment.

Individuals who are not low income must provide documentation (no self-attestation) to prove they are covered individuals.

- B. Limitation: WIOA § 129 (a)(3) further defines that in each local area not more than 5% of the in-school youth may be eligible based on the criteria for requiring additional assistance to complete an educational program or to secure or hold employment.
- C. The above exception/limitation percentages must be calculated on a yearly basis.

## V. Basic Skills Deficient

Per 20 CFR 681.290, an individual who is unable to compute or solve problems, read, write, or speak English at a level necessary to function on the job, in the individual's family, or in society satisfies the basic skills deficient requirement for WIOA services. In assessing basic skills, Boards must use assessment instruments that are valid and appropriate for the target population and must provide reasonable accommodation in the assessment process, if necessary, for individuals with disabilities.

For out-of-school youth, a participant is basic skills deficient if they:

- A. Lack a high school diploma or high school equivalency *and* are not enrolled in any secondary education; or
- B. Are enrolled in a Title II Adult Education and Family Literacy Act (AEFLA) program authorized by WIOA and administered by the Education Department (ED); or
- C. Are reading or writing English, or computing or solving problems at or below an 8.9 grade level, according to a TABE assessment or another standardized assessment pre-approved by OWD.

For in-school youth, a participant is basic skills deficient if they:

- A. Are more than a year (5-6 Carnegie credits) behind in accordance with local education policy *and* will not graduate on time with peer cohort; or



- B. Have a cumulative GPA of 2.0 or below on a 4.0 scale; or
- C. Have taken and did not pass an end of course assessment (ECA) for Mathematics and/or English/Language Arts; or
- D. Are reading or writing English, or computing or solving problems at or below an 8.9 grade level, according to a TABE assessment or another standardized assessment pre-approved by OWD; or
- E. Are determined to be Limited English Skills proficient through school documentation.



## 3.3 CAREER SERVICE ASSESSMENTS

### 3.3.1 INDIVIDUAL EMPLOYMENT PLAN (IEP)

An Individual Employment Plan (IEP) is required for Adult and Dislocated Worker participants in WIOA Title IB Intensive and Training services. It is both a form and a continual process. The IEP must be developed in partnership with the participant. The IEP is a comprehensive employment plan that describes the employment, skill training (if applicable), and supportive service needs of participants, as well as the service strategy that has been developed to meet those needs and achieve the employment goal. The IEP must reflect the employment, training, and supportive service needs indicated by the objective assessment, as well as the expressed interests and desires of the participant. The LWDA must ensure that decisions are participant-centered and intended to enhance the employability of the participant.

OWD can ensure that both the participant and the LWDA are accountable for their responsibilities by requiring that this document is constantly updated to reflect current progress and maintained in the electronic case file in the WorkSource Portal. Providers should ensure that the employment goal, action steps, and appropriate services are kept current on the IEP. OWD requires documentation of the justification for the employment goal, action steps, and required services. Monitors will look for justification of the IEP during their reviews.

I. The IEP shall, at a minimum, address the following five basic elements:

A. Employment Goal

- i. An employment goal must be established for each participant. This goal should identify a specific occupation or occupational cluster.

B. Training and Supportive Service Needs (if applicable)

- i. This portion of the IEP must describe the participant's training needs and supportive service needs. Training needs are to be identified in the areas of pre-employment/work maturity skills, basic education skills, and occupational skills. These needs are identified by comparing the information obtained in the objective assessment process to the skills required by the participant's employment goal.
- ii. Supportive service needs of each participant, as determined through the objective assessment, must also be identified.
- iii. Document the needs of the participant, whether in skill training or supportive services, must include all skill deficiencies and barriers which may prevent the participant from attaining the employment goal, regardless of whether those needs will be met through WIOA or non-WIOA resources.

C. Schedule of Activities and Services





- i. All activities and services that are planned for the participant, in response to needs identified, must be described in the IEP. OWD requires that the flow of services must be included.

This must include the training and supportive services provided through WIOA resources and all non-WIOA sources. The timeline of the scheduled services provided must be entered in the WorkSource Portal.

#### D. Achievement Objectives

- i. Achievement objectives or benchmarks to measure progress toward the ultimate attainment of the employment goal must also be included in the IEP. Such objectives should establish interim standards of success throughout the period of program participation. Examples of achievement objectives include completion of training activities, attainment of basic skills levels, completion of GED, elimination of employment barriers or other goals that are specific to the individual needs or barriers of a participant.

#### E. Follow-Up Services

- i. The twelve-months (12) of follow-up contact with participants who have exited to unsubsidized employment for performance purposes should be collected and entered in the WorkSource Portal.

A signed copy (signed by program staff and participant) must be provided to the participant and the original maintained in the participant's WorkSource Portal case file.



### 3.3.2 INDIVIDUAL SERVICE STRATEGY (ISS)

An Individual Service Strategy (ISS) is required for all WIOA Title IB youth participants. It is both a form and a continual process. The ISS must be developed in partnership with the participant. The ISS is a comprehensive service plan, based on the results of the objective assessment, that describes the employability, academic, skill training (if applicable), and supportive service needs of the participant, as well as the service strategy developed to meet those needs and achieve the employment/education goal(s). The ISS shall reflect the employability, training, and supportive service needs indicated by the objective assessment as well as the expressed interests and desires of the participant. The LWDA must ensure that decisions are participant-centered; that is, intended to enhance the employability of the participant.

OWD can ensure that both the participant and the LWDA are accountable for their responsibilities by requiring this document to be as current as possible. Providers should ensure that the employment/education goal(s), action steps, and appropriate services are kept current on the ISS and maintained in the participant's electronic case file in the WorkSource Portal. OWD requires documentation of the justification for the employment/education goal(s), action steps, and required services. Monitors will look for justification of the ISS during their reviews.

I. The ISS shall, at minimum, address the following basic elements:

A. Employment/Education Goal

- i. Every youth participant should have one employment/education goal, at minimum, outlined in the ISS. These goals may be short-term or long-term.
- ii. Each goal and the attainment of the goal must be fully documented, including the date the goal was set and the date the goal was attained. Goal attainment must be based on an individual assessment using widely accepted and recognized measurement or assessment techniques.
- iii. Each goal must require substantial improvement in the individual's skills. The attainment of any goal must be directly related to the WIOA services provided.

B. Training and Supportive Service Needs (if applicable)

- i. This portion of the ISS must describe the participant's training needs and supportive service needs. Training needs are to be identified in the areas of basic literacy skills, occupational skills and work readiness skills. These needs are identified by comparing the information obtained in the objective assessment process to the skills required by the participant's career, skill attainment, and employment goals.
- ii. Supportive service needs of each participant, as determined through the objective assessment, must be identified.
- iii. The documented needs of the participant, whether in skill training or supportive services, must include all skill deficiencies and barriers which may prevent the participant from



attaining the employability goal, regardless of whether those needs will be met through WIOA or non-WIOA resources.

#### C. Schedule of Activities and Services

- i. All activities and services that are planned with the participant, in response to the needs identified, must be described. This schedule must include the training and supportive services provided through WIOA resources and all non-WIOA sources. A timeline that identifies the planned beginning and ending date of each activity and service, as well as the planned program completion date, must also be included.

#### D. Achievement Objectives

- i. Achievement objectives or benchmarks to measure progress toward the ultimate attainment of the employability goal must be included in the ISS. Such objectives should establish interim standards of success throughout the period of program participation. Examples of achievement objectives include completion of training activities, attainment of specified grade levels, completion of GED, elimination of employment barriers or other goals that are specific to the individual needs or barriers of a participant.

#### E. Follow-Up Services

- i. The case manager must discuss the follow-up services that will track the progress of the youth after exit from the program and, based on the youth's needs, provide assistance to help the youth secure better jobs, career development and further education. Follow-up information should be collected and entered in the WorkSource Portal.

The ISS should be reviewed at least quarterly and updated as needed.

A signed copy (signed by program staff and participant) must be provided to the participant and the original maintained in the participant's WorkSource Portal case file.



### 3.3.3 OBJECTIVE ASSESSMENT (OA)

All youth participants must receive an Objective Assessment (OA). The OA process collects information upon which a participant's Individual Service Strategy (ISS) will be based. The OA may be completed using a combination of structured interviews, paper and pencil tests, performance tests, work samples, behavioral observations, interest and/or attitude inventories, career guidance instruments, aptitude tests, and basic skills tests. The OA process is intended to provide information necessary for the youth to develop an ISS with realistic goals. The results of OA instruments and how the results were used to develop the ISS must be documented in the participant's electronic case file in WorkSource Portal with copies of results and detailed in participant case notes.

The OA must be a participant-centered, objective evaluation of the academic levels, skill levels, and service needs of each participant. The OA must include a review of basic skills, occupational skills, work readiness skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), support service needs, and developmental needs of participants. The assessment process must collect information on each of the following factors for each participant:

- Family situation;
- Work history;
- Education;
- Basic literacy skills;
- Occupational skills;
- Work readiness skills;
- Interests and aptitudes;
- Attitude and motivation;
- Financial resources; and
- Basic subsistence needs.

As additional relevant information about a participant becomes available, the OA should be reviewed, re-evaluated, and updated if necessary. The participant should be re-assessed as necessary to determine further service strategies.

When a participant is determined through the OA to be better served by a program other than WIOA, referral to the appropriate program must be made and documented. If there will be a continuing relationship with that participant through additional WIOA services, the referral becomes part of the participant's service strategy and must be documented in the ISS. If there will not be a continuing relationship with the individual as the result of a referral to another program, that referral must be documented in the participant case file in the WorkSource Portal.



### 3.4 SERVICES AND ACTIVITIES FOR WIOA

WIOA removed the sequence of service requirement established under WIA, which required that an individual complete an intensive service before receiving training services. Other than a determination of need made using an employment plan, there is no requirement that additional career services be provided before an individual enrolls in training. If it is determined that individuals are in need of training consistent with WIOA §134(c)(3), then they may be placed in training services. WIOA establishes two levels of employment and training services for adults and dislocated workers: career services and training services.

**Career Services.** Career services for adults and dislocated workers must be available in each LWDA. There are three types of career services, as identified in §678.430 of the NPRMs: Basic career services; Individualized career services; and Follow-up services.

- I. **Basic career services** must be made available and, at a minimum, must include the following services, as consistent with allowable program activities and federal cost principles:
  - A. Determination of whether the individual is eligible to receive assistance from the adult, dislocated worker, or youth programs;
  - B. Outreach, intake, and orientation to information and other services available through the one-stop system;
  - C. Initial assessment of skills levels, including literacy, numeracy, and English language proficiency, as well as aptitudes, abilities (including skills gaps), and support service needs;
  - D. Labor exchange services, including:
    - i. job search and placement assistance, and, when needed by an individual, career counseling, including the provision of information regarding in-demand industry sectors and occupations;
    - ii. appropriate recruitment and other business services on behalf of employers, including information and referrals to specialized business services not traditionally offered through the one-stop system;
  - E. Provision of referrals to and coordination of activities with other programs and services, including programs and services within the one-stop system and, when appropriate, other workforce development programs;
  - F. Provision of workforce and labor market employment statistics information, including information relating to local, regional, and national labor market areas, including:
    - i. job vacancy listings in labor market areas;
    - ii. information on job skills necessary to obtain the vacant jobs listed; and



- iii. information relating to local occupations in demand and the earnings, skills requirements, and opportunities for advancement in those jobs;

- G. Provision of performance information and program cost information on eligible providers of training services by program and provider type;
- H. Provision of information on how the LWDA is performing on federal performance measures;
- I. Provision of information on the availability of support services or assistance, and appropriate referrals to those services and assistance, including:
  - i. child care;
  - ii. child support;
  - iii. medical or child health assistance available through the state's Medicaid program and Children's Health Insurance Program
  - iv. benefits under the Supplemental Nutrition Assistance Program (SNAP);
  - v. assistance through the earned income tax credit;
  - vi. housing counseling and assistance services sponsored through USHUD; and
  - vii. assistance under a state program for Temporary Assistance for Needy Families (TANF), and other support services and transportation provided through that program;
- J. Provision of information and assistance regarding filing claims for unemployment compensation, by which the LWDA must provide assistance to individuals seeking such assistance.
- K. Assistance in establishing eligibility for programs of financial aid assistance for training and education programs not provided under WIOA, including HOPE and PELL.

II. **Individualized career services** must be made available if determined to be appropriate in order for an individual to obtain or retain employment. In accordance with TEGL 3-15, individuals must be declared eligible to receive these services. These include the following services, as consistent with WIOA requirements and federal cost principles:

- A. Comprehensive and specialized assessments of the skills levels and service needs of adults and dislocated workers, which may include:
  - i. diagnostic testing and use of other assessment tools; and
  - ii. in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals;
- B. Development of an individual employment plan to identify the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve his or her employment goals, including the list of, and information regarding the ETPL;
- C. Group counseling;



- D. Individual counseling and mentoring;
- E. Career planning;
- F. Short term pre-vocational services, including the development of learning skills, communication skills, interview skills, punctuality, personal maintenance skills, professional skills.

Pre-vocational services may include services that:

- Prepare individuals for licensing or certification exams
- Enhances the employability of individuals who already possess occupations skills in demand but lack up-to-date skills or certification/credentials required in most workplaces hiring for the occupation

Examples of pre-vocational services include, but are not limited to: nursing license exam courses and computer skills training to enhance employability when individuals already possess a set of core occupational skills but do not have the technology skills required.

Short term is defined as less than 120 clock hours.

Additionally, documentation procedures are outlined below:

- i. A review of assessment results, customer interests, and work experience should support the need for the services and should be documented in the IEP maintained in the WorkSource Portal.
- ii. If the service/training is not available through an approved course on the ETPL, small purchase competitive procurement should be used to purchase the services. Three price quotes or bids indicating the name of course, number of instruction hours, instructional fee, cost of curriculum materials, credential information, exam fee and school withdrawal/refund policy must be obtained. A printout of a web page will suffice. The provider with the lowest price quote or bid will be selected to provide the pre-vocational service. If the vendor who submitted the lowest bid is not selected, justification for choosing a higher bid must be documented for reasons such as: distance, starting dates, schedule prohibits attendance at instructional hours, etc.

- G. Internships and work experience that are linked to careers;
- H. Workforce preparation activities;
- I. Financial literacy services;
- J. Out-of-area job search and relocation assistance; and
- K. English language acquisition and integrated education and training programs.



- III. **Follow-up services** must be made available, as appropriate, including counseling regarding the workplace, for participants in adult or dislocated worker activities who are placed in unsubsidized employment for a minimum of 12 months after the first day of employment.
- IV. **Training Services.** Training Services are provided to equip individuals to enter the workforce and retain employment. Examples of training services include:
- A. Occupational skills training, including training for nontraditional employment;
  - B. On-the-job training (OJT);
  - C. Incumbent worker training;
  - D. Workplace training and cooperative education programs;
  - E. Private sector training programs;
  - F. Skills upgrading and retraining;
  - G. Entrepreneurial training;
  - H. Apprenticeship;
  - I. Transitional jobs;
  - J. Job readiness training provided in combination with other training described above;
  - K. Adult education and literacy activities, including activities of English language acquisition and integrated education and training programs, in combination with training; and
  - L. Customized training.

WIOA funding for training is limited to participants who are unable to obtain grant assistance from other sources to pay training costs, or who require assistance beyond that available under grant assistance from other sources to pay training costs and related support services.

Training services may be made available to adults and dislocated workers who:

- A. Are determined, after a determination of need is made using an employment plan, to:
  - i. be unlikely or unable to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment through career services;
  - ii. be in need of training services to obtain or retain employment leading to economic self-sufficiency or wages comparable to or higher than wages from previous employment; and
  - iii. have the skills and qualifications to participate successfully in training services;
- B. Have selected a program of training services that is directly linked to:
  - iv. occupations that are on the LWDA's in-demand occupations list, or are on the in-demand occupations list for another LWDA to which an adult or dislocated worker is willing to commute or relocate; or
  - v. are on the OWD in-demand occupation list; and





C. Are unable to obtain grant assistance from other sources to pay the costs of such training and related support services, including HOPE, Trade Adjustment Assistance (TAA), and PELL or require WIOA assistance in addition to other sources of grant assistance.



### 3.4.1 ADULT AND DISLOCATED WORKER TRAINING SERVICES

All training services must be provided in accordance with Section 3.4. In order to better provide uniformity across all LWDA's, SWDB has approved specific policies for the creation of Individual Training Accounts, On-the-Job Training, Customized Training, Incumbent Worker Training, Work Experience, and Apprenticeships.

#### 3.4.1.1 INDIVIDUAL TRAINING ACCOUNTS (ITA)

##### I. Description

Individual Training Accounts (ITAs) are established on behalf of the participant. WIOA Title IB Adult, Dislocated Worker and youth participants will use ITAs to purchase training services from eligible providers in consultation with the case manager, counselor or coordinator.

ITAs may be made available to employed and unemployed adults and dislocated workers who have met the eligibility requirements for Intensive services, and have been determined to be unable to obtain or retain employment leading to self-sufficiency through such services.

The participant must have a completed IEP that indicates, through interview, evaluation or assessment, the participant's employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve the employment goals have been identified.

Selection of a training program must include the identification that the training is directly linked to occupations that are in demand in the LWDA, or in another area to which an adult or dislocated worker is willing to relocate. In determining local demand occupation(s), LWDA's may allow for training in occupations that may have high potential for sustained demand or growth in the LWDA.

##### II. Limitations:

ITAs are limited to participants who (20 CFR § 680.230):

- A. Are unable to obtain grant assistance from other sources (including Federal Pell and other federal grants) to pay the cost of their training; or
- B. Require assistance beyond that available under grant assistance from other sources (including federal Pell, GI Bill and other federal grants) to pay the cost of their training. In making this determination, LWDA staff may take into account the full cost of participating in training services, including the cost of support services and other appropriate costs.
- C. Service providers and training providers must coordinate funds available and make funding arrangements with partner agencies and other entities so that WIOA ITA funds supplement Pell and other grant sources to pay for the cost of training (see D. re: Cost of Attendance).
- D. Participants may enroll in ITA funded training while their application for a Pell Grant is pending provided that the service provider has made arrangements with the training provider and the participant regarding the allocation of the Pell Grant, if it is subsequently awarded. If a Pell Grant



is awarded, the training provider must reimburse the service provider the ITA funds used to underwrite the tuition portion of the training costs from the PELL Grant.

- E. Program operators should consider all available sources of funds, excluding loans, in determining an individual's overall need for WIOA funds. Resources such as PELL, GI Bill and other federal grants should not be included in calculations of the level of WIOA assistance until the grant has been awarded.

Tuition is the sum charged for instruction and does not include fees, books, supplies, equipment and other training related expenses. Reimbursement is not required from the portion of Pell Grant assistance disbursed to the participant for education-related expense.

20 CFR § 680.310

### III. Duration, Cost Limits and Availability

- A. Currently, there is no monetary limit or cap on ITAs. Local Boards set policies on funding limits per customer for ITAs and the maximum duration of training. Customers may select training that costs more than the maximum ITA level when other sources of funding are available to supplement the ITA (e.g., HOPE, Pell grants, and scholarships). The state encourages Local Boards within a region to work together in establishing their policies so that customers of contiguous areas have the same benefits available to them.
- B. ITAs are awarded per semester, quarter or for uninterrupted training coursework. Second and subsequent ITAs will be awarded only for continuing classes in the educational or training institution initially attended, unless there is mutual and justifiable agreement between the service provider and the participant that another training institution or training program is necessary.
- C. An individual who has been determined eligible for an ITA may select a training institution/program from the Georgia Eligible Provider List (EPL) or from another state, provided that the training institution/program is listed on that state's Eligible Provider List, after consultation with a case manager, counselor or coordinator. Unless the program has exhausted funds for the program year, the service provider must refer the individual to the selected training institution/program, and establish an ITA for the individual to pay for training.
- D. Payments may not be made to a training provider until the service provider ensures that the training provider selected is on the EPL at time of payment for tuition and fees under WIOA ITAs.

### IV. Coordination of Funds

LWDAs must develop a policy for coordinating WIOA funding with all other available funding sources such as HOPE, Pell, and GI Bill and detail how all other funds will be used prior to expending WIOA funds.



The LWDA's policy must ensure that participants have applied for HOPE, Pell, GI Bill, and all other appropriate funding sources. WIOA participants may enroll in training while Pell, Hope, GI Bill, and other funding sources are pending as long as the appropriate arrangements have been made with the training institution regarding the allocation of all grants and funding sources. The policy shall require career advisors, case managers, and/or service providers to conduct an analysis of the participant's financial needs (cost of attendance) to document a participant's total cost of attending training. This analysis includes, but is not limited to, the costs of tuition, fees, books, supplies, transportation, childcare, living expenses, and other appropriate personal and educational related expenses. The documentation supporting this determination should be maintained in the participant's electronic case file in the WorkSource Portal.

If it is determined through the analysis of the cost of attendance form that the total cost of attending training exceeds the amount available through HOPE and WIOA funding, then Pell funds may be utilized by the participant for living and other appropriate personal expenses during the training period.

## V. Payment System

ITAs are designed to identify WIOA funded costs associated with the training cost of attendance. The cost of attendance may include tuition, fees, room and board, books, supplies, and other training related costs required for participation in a specific training program.

The ITA identifies the WIOA obligation for the participant and the participant will be able to access information about the account from the service provider. Each service provider is responsible for maintaining an ITA payment system which ensures that payments made to eligible providers are timely, for the agreed upon amount, ensuring that the provider is on the EPL at time of payment and that the payments are supported by appropriate documentation. Note: Cost of Attendance may also include other expenses that are not incurred through the training provider such as child care, transportation, rent and other living expenses. WIOA funds may be used to assist with such expenses and are considered supportive services. These expenses require proof of expenditure in the participants file.

A. Training related costs required for participation in a training program include, but are not limited to:

- i. Tools and supplied necessary to participate in training;
- ii. Uniforms and shoes/boots;
- iii. Drug tests, physicals, eye exams, immunizations;
- iv. Background checks;
- v. Application, graduation, and GED fees;
- vi. Credential, license or exam fees;



- vii. Lodging (when a part of the cost of attending training out of area); and
- viii. Auxiliary aides and services necessary for persons with disabilities to participate in training.

B. Financial responsibility for ITAs remains with the LWDA that developed the ITA, in consultation with the participant, throughout the period of training, regardless of the location of the training provider. The financial responsibility of the LWDA also extends to supportive services.

## VI. Documentation

Contact between the case manager, counselor or coordinator and the participant must occur, at a minimum, at the end of each quarter, semester or uninterrupted training course during the lifetime of the training plan. Contact may be made by telephone, through the mail, personal contact or other appropriate means to provide documentation of successful progress.

Documents such as attendance records, grade reports, and statements from the instructing agency, are required as proof of participation. Documentation of status of the provider, either Georgia's ETPL or another state's list, must be maintained in the participant's electronic case file in the WorkSource Portal.

VII. Per WIOA Section 134 and 29 C.F.R. § 680.320, training services may be provided in lieu of an ITA when one or more of the following exceptions apply, and the LWDA has fulfilled the customer choice requirements of 29 C.F.R. § 680.340::

- Such services are OJT, customized training or incumbent worker training or transitional employment;
- The LWDB determines that there are an insufficient number of eligible providers of training services in the local area to accomplish the purpose of a system of ITAs. The determination process must include a 30-day public comment period and be described in the local plan;
- The LWDB determines there is a training program of demonstrated effectiveness offered in the local area by a community based organization or another private organization to serve individuals with barriers to employment. The LWDB must develop criteria (as noted in 29 CFR 680.320) to be used in determining demonstrated effectiveness, particularly as it applies to individuals with barriers to employment;
- The LWDB determines that it would be most appropriate to award a contract to an institution of higher education or other eligible provider of training services in order to facilitate the training of multiple individuals in in-demand industry sectors or occupations and such contract does not limit customer choice; or
- The training contract is a pay-for-performance contract.

An LWDB may provide training services only if it submits a request to the State for a waiver (WIOA Section 107). The proposed request should be made available to eligible training providers and the general public for public comment for no less than 30 days. Public comments must be



included with the request. The request will include: evidence that there are an insufficient number of eligible provider of such a program of training services to meet local demand, information that the LWDA meets the requirements for an eligible training provider under WIOA Section 122, and information that training will prepare participants for an in-demand industry sector or occupation in the local area.



### 3.4.1.2 ON-THE-JOB TRAINING (OJT)

#### I. Definition

WIOA § 3 (44) defines On-the-Job Training (OJT) as training that is provided by an employer in the public, private non-profit, or private sector to a paid participant while engaged in productive work in a job that:

- A. Provides knowledge or skills essential to the full and adequate performance of the job;
- B. Provides reimbursement to the employer of up to 50% of the wage rate of the participant, except as provided for in WIOA § 134 (c)(3)(H), for the extraordinary costs of providing the training and additional supervision related to the training; and
- C. Is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the OJT training plan and/or service strategy of the participant.

OJT may be provided to eligible WIOA participants who, after assessment, are found to be in need of and suitable for training services in order to obtain or retain employment that leads to self-sufficiency. LWDA staff must document the decision to provide OJT in the participant's Individual Employment Plan or Individual Service Strategy maintained in the WorkSource Portal. The decision should demonstrate that the training chosen is appropriate and necessary, that the participant does not already possess all of the skills necessary for the job, or that the participant needs to upgrade skills to effectively perform in another job. No participant may begin OJT employment until a contract has been signed by the employer.

#### II. OJT Contract Requirements

- A. A pre-award review is required to verify that an establishment is expanding rather than/and not relocating employment from another area. The review will ensure that the establishment did not layoff or displace any workers at another location within the United States.
- B. WIOA OJT training is provided based on a formal, written contract with a private, non-profit or public sector that is signed prior to the initiation of training with a copy given to the employer.
- C. An OJT contract must be limited to the period of time required for a participant to become proficient in the occupation for which the training is being provided. In determining the appropriate length of the OJT agreement, consideration should be given to the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience and the participant's individual employment plan. WIOA § 3 (44)(C)
- D. An OJT contract may be for the term of the program year or it may be for the term of the skills training being provided.
- E. In determining an employer's viability for OJT contracts, local areas should consider the employer's past history with OJT or customized contracts, financial stability, layoffs, relocation and labor disputes, as well as the occupational and industry outlook.



- F. No placement may be made in agencies providing workers on a temporary basis to employers for which the agency receives compensation from the employer. There are many types of staffing agencies that provide a variety of services to employers including outplacement, managed services, and outsourcing. Outsourcing is a contractual agreement between an employer and an external third-party provider whereby the employer transfers responsibility and management for certain human resource services, benefit or training-related functions or services to the external provider. Outsourcing is different from these other types of staffing firm models because it is not a temporary situation for the employee.
- G. If all (or most) employees are hired by an outsourcing firm that an employer regularly uses as the employer of record, the use of OJT would be allowable. Excluded from this are firms that hire probationary employees through a traditional staffing agency and then transfer them to their own payroll after the probationary period has passed. Therefore, employer use of outsourcing firms or staffing agencies which are solely performing outsourcing functions, may allow for an OJT placement. The OJT contract should include a clause ensuring the following:
1. The OJT trainee is to be considered a regular employee, not a temporary one.
  2. The reimbursement is to be paid to the employer, not the outsourcing firm, and it is to reimburse the employer for the extraordinary costs of training the employee.
- H. OJT training contract will address:
1. The employer's commitment to hire the participant as a full-time employee with the same, wages, benefits, hours, and conditions as existing employees on the first day of the OJT;
  2. The hourly wage of the participant. The minimum starting rate of OJT employees shall be the greater of the applicable federal and state minimum wage or the same rate as trainees or employees similarly situated in similar occupations by the same employer, and who have similar training, experience and skills, whichever is higher. Note: WIOA funds shall not be used for overtime wages, holidays, sick leave, or vacations.
  3. An OJT contract must be limited to the period of time required for a participant to become proficient in the occupation for which the training is being provided. LWDAs should consult USDOL-specific vocational preparation codes (SVP) for occupations.
  4. A description of the occupations involved, skill(s) and competencies to be provided and learned, assessment (examples include: TABE, Career Scope, Prove It, etc.) and identification of the participant's skills gap;
  5. Performance outcome requirements;
  6. A training plan (with a rating scale for skills at hire and at completion of the OJT) that defines successful completion of training;





7. A provision addressing termination for lack of funds or recapture of funds, lack of participant attendance or failure of employer to comply with initial or upgraded employment requirements; and
8. A provision for maintaining and providing records for local area, state, and federal monitoring and review.

### III. OJT Restrictions

- A. Any firm, employer, or industry who has received payments under previous contracts and has exhibited a pattern of failure to provide OJT participants continued, long-term employment as regular employees with wages and working conditions at the same level and to the same extent as similarly situated employees are ineligible to enter into further WIOA OJT contracts. WIOA § 194 (4).
- B. No WIOA funds shall be used to encourage or to induce the relocation of an establishment, or part thereof, which results in the loss of employment for any employee or such establishment at the original location. For 120 days after the commencement or the expansion of commercial operations of a relocating establishment, no WIOA funds shall be used for customized or skill training, on-the-job training, or company-specific assessments of job applicants or employees, for any relocating establishment or part thereof at a new or expanded location if the relocation of such establishment or part thereof results in a loss of employment for any employee of such establishment at the 3.4.1.2-2 original location. For the purposes of this section, relocating establishment means a business entity, including a successor-in-interest, which is moving any operations from a facility in one labor market area within the United States and its territories to a new or expanding facility in another labor market area. For the purposes of this section, a labor market area is an area within which individuals can readily change employment without changing their place of residence.
- C. OJT training contracts will not be written to provide skills for seasonal, temporary, or intermittent employment.
- D. WIOA funds shall not be provided to reimburse OJT training costs when the participant was referred and hired through a private employment agency and was required to pay a referral and placement fee.

### IV. Employer Reimbursements

- A. OJT training reimbursement to employers is deemed to be compensation for the extraordinary costs associated with training participants, including extra supervisory efforts, non-productive time, material waste and other incidentals, and the costs associated with the lower productivity of the participants. Employers are not required to document such extraordinary costs. (20 CFR 680.720).



- B. Employers that meet the qualifications outlined in Section II are eligible to receive a wage reimbursement rate of 50%; however, some employers may be eligible to receive a wage reimbursement rate of up to 75%. WIOA § 134 (c)(3)(H)(ii)
- C. In order for an employer to be eligible for a wage reimbursement rate of over 50% and up to 75%, that employer must meet one of the four following criteria:
  - 1. The employer must be a small business as defined by the Small Business Administration. Small business size standards by industry can be found at [https://www.sba.gov/sites/default/files/files/Size\\_Standards\\_Table.pdf](https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf).
  - 2. The OJT must lead to the participant's attainment of an industry recognized credential.
  - 3. The participant must be determined to be an individual "with barriers to employment," as listed in WIOA § 3 (24), to include individuals who are long-term unemployed.
  - 4. The participant's job title must be on the state's in-demand occupations list.
- D. OJT contracts are granted based upon availability of funding and may be limited or unavailable due to funding constraints.
- E. If a collective bargaining agreement exists between the employer and the employees or their representatives, a written concurrence from the appropriate labor organization(s) is required prior to the OJT.

#### V. Employer Responsibilities

- A. The employer agrees that OJT employees will not displace any currently employed workers (including partial displacement, such as by reducing hours or denying promotional opportunities, wages or other employment benefits).
- B. The employer agrees that no OJT employee can be employed when: (a) any other individual is on lay-off from the same or substantially equivalent job, or (b) the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy created by hiring a OJT employee whose wages are subsidized under this agreement.
- C. The employer agrees that OJT employees may not be engaged in the construction, operation or maintenance of any facility used for religious instruction or worship.
- D. The employer agrees that no individual in a decision making capacity engages in any activity, including the administration of the OJT contract supported by WIOA funds, if a conflict of interest, real or apparent, is present. A conflict of interest may arise in the event that an employee under this OJT contract is an immediate family member (or partner) of an individual engaged in a decision making capacity with the LWDA, the LWDB, or the employer. Immediate family is defined as husband, wife, son, son-in-law, daughter, daughter-in-law, mother, mother-in-law, father, father-in-law, brother, brother-in-law, sister, sister-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparents and grandchild, or an organization that has a financial or



other interest in the firm or organization selected for the OJT contract. In the event of a potential conflict of interest, the Employer must notify the LWDA, in writing, of the potential conflict. No action regarding the individual may take place until approved by the LWDA in writing.

- E. The employer agrees that there will be no preferential treatment of a person or group of people over other people or groups in the workplace.
- F. The employer agrees that no person shall – on the grounds of race, color, sex, age, disability or national origin– be subjected to illegal employment discrimination.
- G. The employer agrees to maintain appropriate standards for health and safety in work and training environments.
- H. The employer agrees to comply with Georgia law regarding workers' compensation insurance for all OJT employees. Information on how to comply with Georgia law is found at:  
<http://sbwc.georgia.gov>
- I. The employer agrees to retain the OJT employee upon completion of the training if the employee's performance meets the employer's standards.
- J. If the employer does not have an established employee grievance procedure, the employer agrees to abide by the procedure provided by the LWDA.
- K. The employer shall only employ OJT employees who have been found eligible for WIOA services prior to placement on the employer's payroll.
- L. The employer understands that OJT employees shall be compensated at the same rates, including periodic increases, as all similarly employed workers. In no event shall the rate of pay be less than the applicable state or federal minimum wage, whichever is higher. Additionally, OJT employees must receive the same benefits and have the same working conditions as similarly situated employees.
- M. The employer shall maintain all records pertaining to the OJT, including application, notice of hire, time sheets, payroll records, invoices for wage reimbursement and other relevant financial records, and shall make them available to the LWDA representative as requested. All said records, books, papers or documents shall be retained for a period of six years from the date of termination of this agreement and available for inspection by federal, state, and LWDA representatives. In the case of an audit or litigation, said documents shall be retained until all such actions are settled; even if the period of retention exceeds six years.
- N. The employer agrees to participate in any follow-up efforts conducted by the LWDA or its authorized representative to evaluate OJT effectiveness.
- O. Continuation of employer agreements for multiple years will be contingent on meeting established performance outcomes.
- P. The employer must not use funds provided for OJT to directly or indirectly assist, promote or deter union organizing.



- Q. The employer must not use the OJT to impair existing contracts for services or collective bargaining agreements.
- R. The employer will meet the provisions of the Georgia Illegal Immigrant Enforcement Act of 2011 by signing and complying with the affidavit.

#### VI. Eligibility for Employed Workers

OJT contracts may be written for eligible employed workers when:

- A. The employee is not earning a self-sufficient wage as determined by LWDB policy;
- B. The requirements in 20 CFR 680.700 are met; and
- C. The OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, workplace literacy, or other appropriate purposes identified by the LWDB.



### 3.4.1.3 CUSTOMIZED TRAINING (CT)

#### I. Description

- A. Customized Training (CT) is designed to meet the special training needs of an employer or a group of employers by allowing them to tailor and design work-based skills training. Customized training is conducted with a commitment by the employer to employ an individual after successful completion of the training and for which the employer pays a significant portion of the cost of training.
- B. Employers may be reimbursed by the WIOA program for not more than 50 percent of the costs incurred in providing the training. Costs of a customized training program should be inclusive of all legitimate costs to the business that are necessary to provide customized training. The cost may include: cost of instruction (staff/instructor time), costs of curriculum development, training materials and books. The purchase of equipment, administration and renovation of facilities are not allowable. The costs do not include employee wages during training. LWDA's should consider:
  - i. the number of employees participating in the training;
  - ii. the wages and benefit to the employee before the training and the wages and benefit to the employee after the training;
  - iii. The ability of the training to increase the competitiveness of the participant; and
  - iv. the existence of other training opportunities provided by the employer.
- C. Customized Training is only to be used for new employees and with the employer's commitment to hire upon successful completion of the training. CT can be provided after a WIOA participant is hired or if an employer makes a commitment to hire the participant upon successful completion of the training.

#### II. General Guidelines

- A. For each participant, the employer develops the training plan and measurable goals and determines the method by which the training is provided. Proficiency levels should be based on local business or industry skill standards.
- B. The training activity may take place at the worksite or in a classroom setting. The employer or an intermediary may provide the training.
- C. In determining an employer's viability for customized training contracts, LWDA's should consider the employer's past history with OJT or customized contracts, history of layoffs, relocation and labor disputes, as well as occupational and industry outlook.

#### III. Documentation Requirements

- A. A customized training contract should address the maximum allowable costs of training, employer commitment to fund, length of training, description of occupations, skills and competencies to be provided and learned, performance outcomes, definition of successful outcomes, provision for recapture of overpayments, provision for termination for lack of funds, provision for failure of the



employer to comply with employment requirement, and provision for maintaining records for LWDA, state, and federal monitoring.

- B. An assessment of the needs of the employer, the job description, job competencies, worker skills and skills gaps should be conducted to determine the length of training. This information should be utilized to develop a training plan. Depending on the length of training, an assessment of competencies should also be conducted during training. This form(s) must be maintained in the participant's file.
- C. The IEP maintained in the WorkSource Portal shall be updated accordingly to reflect participation in customized skills training.

#### IV. Time Limitations

- A. In determining the appropriate length of the CT agreement, LWDA's shall utilize USDOL's O\*NET OnLine specific vocational preparation (SVP) codes.



### 3.4.1.4 INCUMBENT WORKER TRAINING (IWT)

#### I. Definition

IWT is designed to improve the skills of employees and the competitiveness of an employer. It is intended to upskill existing employees or avert a potential layoff. In training scenarios not related to layoff aversion, it is strongly recommended that the IWT program will create the opportunity for the employer to backfill the trainees' positions with a new or existing employee. IWT may be offered to employers or groups of employers (which may include employers in partnership with other entities for purposes of delivering training) who, after assessment, are found to be in need of training for existing employees in order to remain competitive. IWT must be designed:

- A. Between employees and employers with an established relationship of at least six months at the time of the training (see Incumbent Worker Eligibility for cohort exception);
- B. To improve the skills of the existing workforce to align with new job requirements;
- C. To increase both an individual's and a company's competitiveness;
- D. To mitigate the impact of a layoff, if utilized as a part of a layoff aversion strategy; and
- E. Wherever possible, to allow the individual to gain industry recognized training experience and ultimately should lead to an increase in wages.

In a non-layoff aversion scenario, the training must be to the benefit of the employee and the employer.

Under these circumstances, the IWT must meet at least one of the following criteria:

- A. Result in a wage increase or other financial incentive, such as a bonus;
- B. Result in the opportunity for promotion within the company; or
- C. Result in an enhanced title to reflect increased responsibilities within the company.

#### II. Funding

Local areas may utilize up to 20% of their Adult and Dislocated funds for IWT. WIOA § 134 (d)(4)(A)(i). The 20% funds cover only IWT program activities. IWT administrative costs must be paid from LWDA administrative funds.

#### III. Employer Eligibility

In accordance with WIOA § 134 (d)(4)(A)(ii), LWDBs must determine the eligibility of an employer for IWT taking into consideration:

- A. The characteristics of the individuals in the training. Consideration should be given to employers who propose to train individuals with barriers to employment as defined in WIOA Section 3(24).



- B. The quality of training and its ability to increase the competitiveness of the employee and the employer. Consideration should be given to training that will allow the participant to gain industry-recognized training experience, lead to industry-recognized credentials, and/or result in an increase in wages or other benefits.
  - C. Other factors as the local board may consider appropriate including, but not limited to:
    - 1. The number of employees participating in the training;
    - 2. The wages and benefit to the employee before the training and anticipated after the training;
    - 3. The existence of other training and advancement opportunities provided by the employer;
    - 4. Layoffs averted as a result of the training;
    - 5. Utilization as part of a larger sector strategy and/or training for in-demand occupation; or
    - 6. Employer size.
  - D. IWT should be provided for private sector employers, however, for-profit and local government entities may be recipients of IWT funds.
  - E. Employers must be in operation for a least twelve (12) months, employ at least five full-time employees at the local operation, be financially viable and current on all state and federal tax obligations.
  - F. Any employer that has received payments under previous OJT, customized training or IWT and that exhibited a pattern of failure to provide workers continued, long term employment as regular employees with wages and working conditions at the same level and to the same extent as similarly situated employees is ineligible to enter into further WIOA IWT contracts.
  - G. In considering an employer's eligibility for an IWT contract, LWDA's should consider the employer's past history with IWT, OJT and customized training contracts, financial stability, history of layoffs, relocation and labor disputes as well as occupations and industry outlooks.
- IV. Employer Pre-Award Review – LWDA's must conduct an employer pre-award review checklist containing requirements of WIOA 683.260 and TEGL 19-16.

V. Employer Non-Federal Share

WIOA § 134 (d)(4)(C) and § 134 (d)(4)(D)(i-iii). Employers deemed eligible must provide a portion of the training costs as a non-federal share. This contribution may be in the form of wages paid by the employer to a worker while the worker is attending training, equipment purchased for training, curriculum development expenses, travel and lodging costs, etc. The employer may provide the share in cash or in kind, fairly evaluated. The employer non-Federal share must not be paid by the Federal government under another Federal award, except where the Federal statute authorizing a program





specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs.

The employer will be required to calculate its non-federal share as a part of the application for training funds and an actual share at the conclusion of the training. Should the non-federal share not meet the limits, the funds could potentially have to be repaid. Official payroll records, time and attendance records, invoices for equipment purchased, etc. must be utilized to determine the amount of the employer's share of cost.

Employer cost share contributions must be tracked and documented in the contract file and recorded on the Financial Status Report. In addition, the methodologies for determining the value of in-kind contributions must be documented in the contract file and conform to cost sharing requirements at 2 CFR 200. 306 and 2 CFR 2900.8.

No WIOA funds shall be used for incumbent worker wages.

The portion of the non-federal share that an employer must contribute is dependent upon the size of the employer and shall not be less than:

- 10% of the training costs for employers with fewer than 50 employees;
- 25% of the training costs for employers with 51 to 100 employees; or
- 50% of the training costs for employers with greater than 100 employees.

Employer size is based on the number of employees currently employed at the local operation where the incumbent worker training placements will be made. Employer Size is determined by the number of employees at the time of the execution of the incumbent worker training contract. This applies to all employers, including employers with seasonal or intermittent employee size fluctuations. Employers must provide documentation that indicates employer size.

If multiple Employer sites exist within an LWDA: Employer agreements may be limited to physical locations within the LWDA area or the LWDA may develop one agreement with multiple locations, training descriptions and budgets.

## VI. Incumbent Worker Eligibility

All employees participating in incumbent worker training must meet the eligibility requirements below:

- A. Employed full time with the participating employer;
- B. At least 18 years of age;
- C. A citizen of the US or a non-citizen whose status permits employment in the US (optional);



- D. Males born on or after January 1, 1960 must register with the selective service system within 30 days after their 18<sup>th</sup> birthday or at least before they reach the age of 26 (optional);
- E. Meet the Fair Labor Standards requirements of employer-employee relations and have an established employment history with the employer for 6 months or more with the following exception: In the event that the incumbent worker training is being provided to a cohort of employees, not every employee in the cohort must have an established employment history with the employer for 6 months or more as long as the majority of those employees are being trained to meet the employment history requirement. (20 CFR 680.780);

An incumbent worker does not have to meet the eligibility requirements for career and training services for WIOA, unless they are also enrolled as a participant in the WIOA adult or dislocated worker program. As such, they are not included in calculations for State performance measures. States and LWDA's are, however, required to report on individuals who receive incumbent worker training, including employment status after training, wages after training, and credential attainment.

## VII. IWT Contract Requirements

- A. IWT training is provided based on a formal, written contract with the employer or group of employers that is signed prior to the initiation of training with a copy given to the employer(s).
- B. An IWT contract must be limited to the period of time required for an individual to become proficient in the skills for which the training is being provided. In determining the appropriate length of the IWT agreement, consideration should be given to the skill requirements of the occupation, and the academic and occupational skill level of the individual. LWDA's shall utilize USDOL's O\*NET OnLine specific vocational preparation (SVP) codes and an assessment of the individuals existing skills and experience.
- C. IWT training contracts will not be written to provide skills for seasonal, temporary or intermittent employment.
- D. IWT Training may incorporate work-based, classroom and other training activities approved under WIOA to meet employer skill requirements. The employer or an intermediary may provide the training.
- E. IWT training contract must address:
  - 1. Employer documentation of the six-month work history requirement;
  - 2. Commitment by the employer to retain the individual as a full-time employee with the same wages, benefits, hours, and conditions;
  - 3. Hourly wage of the individual;
  - 4. Length of training required;



5. Maximum allowable costs of training;
6. Description of the occupations involved, skill(s) and competencies to be provided and learned;
7. Assessment (examples include TABE, Career Scope, Prove It, etc.) and identification of the individual's skills gap;
8. Performance outcome requirements;
9. Provision addressing termination for lack of funds or recapture of funds, lack of individual attendance, or failure of employer to comply with initial or upgraded employment requirements;
10. Provision for maintaining and providing records for LWDA, state, and federal monitoring and review; and,
11. Employer Assurances (below) should be included in the IWT contract.

#### VIII. Employer Assurances

- A. 20 CFR 680.790 specifies that the training be conducted with a commitment by the employer to retain or avert the layoffs of the incumbent workers trained.
- B. 20 CFR Section 680.820 specifies that employers participating in incumbent worker training are required to pay the non-Federal share of the cost of providing training to their incumbent workers. The amount of non-Federal share depends upon factors as the number of employees participating in the training, the wage and benefit levels of the employees (at the beginning and anticipated upon completion of training), the relationship of the training to the competitiveness of the employer and employees and the availability of other employer provided training and advancement opportunities.
- C. 20 CFR Section 680.830 specifies that funds provided to employers for incumbent worker training must not be used to directly or indirectly assist, promote, or deter union organizing.
- D. 20 CFR Section 680.840 specifies that a funds WIOA may not be used to directly or indirectly aid in filling of a job opening which is vacant because the former occupant is on strike, or is being locked out in the course of a labor dispute, or the filling is otherwise an issue in a labor dispute involving a work stoppage.
- E. 20 CFR Section 683.260 specifies that WIOA funds must not be used for incumbent worker training for employees of any business or part of a business that has relocated from any location in the US until the company has operated at that location for 120 days, if the relocation has resulted in any employee losing their job at the original location.



- F. 20 CFR Section 683.270 specifies that a participant in a WIOA program activity must not displace (including a partial displacement such as a reduction in the hours of non-overtime work, wages of employment benefits) any currently employed employee (as of the date of the participation).
- G. 20 CFR Section 683.270 specifies that a WIOA program or activity must not impair existing contracts for services or collective bargaining agreements. When the program or activity would be inconsistent with a collective bargaining agreement, the labor organization and employer must provide written concurrence before the activity begins.
- H. 20 CFR Section 683.270 also specifies that a participant may not be employed in or assigned to a job if: (1) any other individual is on layoff from the same or any substantially equivalent job; (2) the employer has terminated the employment of any regular, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the vacancy created with the WIOA participant; (3) the job is created in a promotional line that infringes in any way on the promotional opportunities of currently employed workers as of the date of the participation.
- I. 20 CFR Section 683.275 specifies that individuals employed in activities under WIOA must be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience and skills.
- J. 20 CFR WIOA Section 683.275 specifies that individuals employed in programs and activities under WIOA must be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.
- K. 20 CFR Section 683.280 specifies that health and safety standards established under federal and State law otherwise applicable to working conditions of employees are equally applicable to working conditions of participants engaged in programs and services under WIOA. To the extent that a State workers' compensation law applies, workers' compensation must be provided to participants in program and activities under WIOA on the same basis as the compensation is provided to other individuals in the State in similar employment. Information on how to comply with Georgia law is available at <http://sbwc.georgia.gov>
- L. WIOA Section 181 (b)(1) specifies that no WIOA funds shall be used to pay the wages of incumbent employees during their participation in economic development activities provided through a statewide workforce development system.



- M. WIOA Section 188 specifies that no individual shall be excluded from participation in, denied employment in the administration of or in connection with any such program or activity because of race, color, religion, or sex in a WIOA program or activity solely because of the status of the individual as a participant.
- N. WIOA Section 188 specifies that no participants shall be employed to carry out the construction, operation or maintenance of any part of a facility that is used or to be used for sectarian instruction or as a place for religious worship with the exception of maintenance of facilities that are not primarily use for instruction or worship and are operated by organizations providing services to WIOA participants.
- O. The Employer must comply with 29 CFR 38.10 (d) (e) (f). As provided in 20 CFR §38.3(b), 29 CFR part 32, subparts B and C and appendix A, which implement the requirements of Section 504 pertaining to employment practices and employment-related training, program accessibility, and reasonable accommodation, have been incorporated by reference. Employers, employment agencies, or other entities covered by Titles I and II of the ADA should be aware of obligations imposed by those titles. See 29 CFR part 1630 and 28 CFR part 35. Similarly, recipients that are also employers covered by the anti-discrimination provision of the Immigration and Nationality Act should be aware of the obligations imposed by that provision. See 8 U.S.C. 1324b.
- P. 2 CFR 200 The Employer agrees that no individual in a decision making capacity will engage in any activity, including the administration of the IWT contract supported by WIOA funds, if a conflict of interest, real or apparent, is present. A conflict of interest may arise in the event that an employee under this contract is an immediate family member (or partner) of an individual engaged in a decision making capacity with the LWDA, the LWDB, the employer or an organization that has a financial or other interest in the firm or organization selected for the contract. Immediate family is defined as husband, wife, son, son-in-law, daughter, daughter-in-law, mother, mother-in-law, father, father-in-law, brother, brother-in-law, sister, sister-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparents, grandchild, half-brother, half-sister, first cousin or individual residing in the same household. In the event of a potential conflict of interest, the employer will notify the LWDA in writing.
- Q. WIOA Section 194 (5) No person or organization may charge an individual a fee for the placement or referral of the individual in or to a workforce investment activity under this title.
- R. WIOA Section 194 (13) Services, facilities, or equipment funded under WIOA may be used, as appropriate, on a fee-for-service basis, by employers in a local area in order to provide employment and training activities to incumbent workers— (A) when such services, facilities, or equipment are not in use for the provision of services for eligible participants under this title;



(B) if such use for incumbent workers would not have an adverse effect on the provision of services to eligible participants under this title; and (C) if the income derived from such fees is used to carry out the programs authorized under this title.

- S. The Employer agrees to comply with Georgia law regarding workers' compensation insurance for all ITW employees.
- T. If the employer does not have an established employee grievance procedures, the Employer agrees to abide by the procedure provided by the LWDA.
- U. The Employer agrees to participate in any follow-up efforts conducted by the LWDA or its authorized representative to evaluate the IWT effectiveness.
- V. The Employer must meet the provisions of the Georgia Security and Immigration Compliance Act (GSICA). The GSICA requires that all public employers, contractors and subcontractors register and comply with the federal work authorization program operated by the United States Department of Homeland Security to verify new employee work eligibility.



### 3.4.1.5 WORK EXPERIENCE (WEX)

#### I. Definition

A Work Experience is a planned, structured learning experience that takes place in a workplace for a set period of time. The intention of a Work Experience is to enable participants to explore career options and gain exposure to the working world and its requirements. A Work Experience shall be designed to enhance the employability of individuals through the development of good work habits and basic work skills. Although the majority of Work Experience activities occur with youth participants, adults and dislocated worker participants may also take advantage of these services. Work Experience may be full-time or part-time depending upon the needs of the participant. It may be paid or unpaid, as appropriate.

The purpose of a Work Experience is not to benefit the employer, although the employer may, to a limited extent, benefit from the activities performed by the participant. For example, individuals placed in a Work Experience are generally considered trainees, and should not take on roles in which the employer depends on the trainee's productivity to maintain or advance the profit margin or performance of the company or agency.

#### II. Participant Eligibility

To be eligible for Work Experience opportunities, the participant's individual employment plan (IEP) or individual service strategy (ISS) must identify that the participant would benefit from the activity. OWD requires that the justification for a Work Experience be outlined in the customer's IEP or ISS maintained in the WorkSource Portal.

#### III. Employer/Worksite Eligibility

- A. In determining an employer's viability for Work Experience contracts, LWDA's must consider the employer's past history with WEX contracts, history of layoffs, relocation and labor disputes, as well as occupational and industry outlook.
- B. LWDA's must conduct an employer pre-award review to verify the requirements of 20 CFR 683.260 and TEGL 19-16 are met.

#### IV. Worksite Agreement Requirements

Work Experience opportunities are provided based on a formal, written agreement between the LWDA and a private, non-profit, or public sector employer. Work Experience agreements must be fully executed prior to the beginning of a participant's training. LWDA staff are required to complete a Work Experience agreement with each worksite that is utilized. OWD recommends that a signed copy of the Work Experience Agreement be given to all parties to ensure that the expectations are fully understood.



- A. At a minimum, Work Experience agreements should include the following elements
  - i. Names and contact information for all parties;
  - ii. The names and titles of all worksite staff that are authorized to sign the timecard for the Work Experience participant(s);
  - iii. The participant's Work Experience start and end date;
  - iv. Responsibilities and expectations of the participant, the worksite employer, and the local workforce development area (LWDA);
  - v. The job title, pay, duties, and goals for each Work Experience participant. Note: WIOA funds shall not be used for overtime wages, holidays, sick leave, or vacations;
  - vi. A statement informing the worksite that they may be subject to worksite monitoring by both state and local representatives, as well as regular visitations by LWDA staff to check on the progress of the work experience participants;
  - vii. Other information relevant to the specific Work Experience activity; and
  - viii. Signatures and dates for all applicable parties.

## II. Participant Agreement Requirements

If the participant is not a party to the worksite agreement, the LWDA must execute an agreement with the participant to define expectations.

- A. At a minimum, the participant agreement must address the following elements:
  - i. Worksite address, supervisor, and telephone number
  - ii. Start and end date
  - iii. Responsibilities and expectations of the participant, the worksite employer, and the LWDA
  - iv. Job title, pay, duties, and goals
  - v. Participant signature and date. If the participant is under 18, the agreement must contain the signature of the participant's parent or legal guardian.
- B. The scheduled number of hours per week may be modified by the worksite after work begins pending the written approval of the participant and the LWDA.

## III. Youth Work Experience Requirements

A. Per 20 CFR 681.600, youth Work Experiences must include an academic or occupational component, which may occur concurrently or sequentially with the work experience. Local Boards are required to include the local definition for academic components in its policies.

B. Per WIOA sec. 129(c)(4), local areas must utilize a minimum of 20 percent of non-administrative youth funds to provide work experience activities to in-school and out-of-school youth.





### 3.4.1.6 TRANSITIONAL JOBS (TJ)

#### I. Background

Transitional Jobs (TJ) programs target population with multiple employment obstacles or limited work experience. These programs provide a participant with work experience and an opportunity to develop critical workplace skills. TJ should be combined with career and supportive services, based upon an individuals' needs.

#### II. Definition

##### A. Transitional Jobs are paid work experiences that are:

1. Time limited and subsidized;
2. In the public, private, or nonprofit sector;
3. Provided to individuals with barriers to employment who may be chronically unemployed or have an inconsistent work history;
4. Combined with comprehensive employment and supportive services; and,
5. Designed to help participants establish a work history, demonstrate success in the workplace, and develop skills that could lead to entry into and retention in the unsubsidized employment market.

#### III. Guidelines

A. Under section *134(d)(5) of WIOA* and *20 CFR 680.195* of the Final Rule, Local WDBs may use up to 10 percent of their combined total of adult and dislocated worker funds to provide transitional jobs to individuals with one (1) federally defined barrier to employment or chronic unemployment or inconsistent work history (as defined below). TJ placements should contribute to the occupational development and upward mobility of the participant. Unlike on-the-job training (OJT), there is no requirement that the employer retains the individual upon completion of the TJ; however, retention, where appropriate, is preferred for the benefit of the worker and employer.

##### B. Federally Defined Barriers to Employment

1. Displaced homemakers
2. Low income individuals
3. American Indians, Alaska Natives, and Native Hawaiians
4. Individuals with disabilities, including youth with disabilities
5. Older individuals (age 55 or older)
6. Ex-offenders/Returning citizens
7. Homeless individuals
8. Youth who are in or have aged out of the foster care system



9. Individuals who are English language learners, individuals who have low levels of literacy and individuals facing substantial cultural barriers
10. Eligible migrant and seasonal farmworkers
11. Single parents (including single pregnant women)
12. Long-term unemployed individuals (unemployed 27 or more weeks)
13. Recipients of public assistance

C. Individuals with “chronic unemployment” or an “inconsistent work history” are those who:

1. Have been unemployed for 13 weeks or longer; or
2. Were unemployed for at least 26 of the past 52 weeks; or
3. Have held three or more jobs in the past 52 weeks and are currently unemployed or underemployed.

D. Employer Eligibility

For an employer to qualify for Transitional Jobs under the program guidelines, they must:

1. Be a private-for-profit business, private non-profit organization, or public sector employer;
2. Provide a quality work experience for participants to gain valuable skills; and,
3. Provide a safe environment for participants to gain skills.

An Employer will not be eligible to participate as a Host Employer site if:

1. The employer has any other individuals on layoff from the same or substantially equivalent position;
2. The Transitional Job would infringe upon the promotion or lead to the displacement of any currently employed worker or result in a reduction in their hours;
3. The same or a substantially equivalent position is open due to a hiring freeze; or
4. The employer(s) has recently relocated, resulting in the loss of employment of any employee of such business at the original location in the U.S.

E. TJ Contract Requirements

- a. A pre-award review is required to verify that an establishment is expanding rather than/and not relocating employment from another area. The review will ensure that the establishment did not layoff or displace any workers at another location within the United States.
- b. WIOA TJ training is provided based on a formal, written contract with a private, non-profit, or public sector employer that is completed and signed by all parties prior to the initiation of training with a copy given to the employer.



- c. A TJ contract must be limited to 90 days in length for employment up to 40 hours of work per week. No overtime is allowed.
- d. In determining an employer's viability for TJ contracts, local areas should consider the employer's past history with OJT, CT, or other TJ contracts, financial stability, layoffs, relocation and labor disputes, as well as the occupational and industry outlook.
- e. A TJ training contract must address:
  - i. The hourly wage of the participant. The minimum starting rate of TJ employees shall be at least the applicable federal minimum wage or the same rate as trainees or employees situated in similar occupations by the same employer and who have similar training, experience and skills, whichever is higher, in accordance with *WIOA 181(a)(1)(A)*;
  - ii. Length of training;
  - iii. A description of the occupation(s) involved, skill(s) and competencies to be provided and learned, assessment and identification of the participant's skills gap;
  - iv. Performance outcomes requirements;
  - v. A training plan (with a rating scale for skills at hire and at completion of the TJ) that defines successful completion of training;
  - vi. Reimbursement level. Employers are eligible to receive up to 100% of hourly wage reimbursement. Employer Host sites are responsible for submitting time cards as proof of hours worked;
  - vii. A provision addressing termination for lack of funds or recapture of funds, lack of participant attendance or failure of employer to comply with initial or upgraded employment requirements; and,
  - viii. A provision for maintaining and providing records for LWDA, state, and federal monitoring and review. Monitoring may include on-site visits and phone/email communication with the trainee to review the participant's progress in meeting training plan objectives and adherence to WIOA and applicable regulations.



### 3.4.1.7 REGISTERED APPRENTICESHIPS

OWD encourages LWDA's to enroll participants in Registered Apprenticeships (RA). RAs generally involve both classroom and on-the-job instruction. While a RA does not have a unique funding mechanism, LWDA's may use an ITA to support classroom portions of a RA program, and OJT funds may be used to support the on-the-job elements of the RA program. If a participant is in a RA and employed as part of that arrangement, then the OJT must be treated as other OJT's provided for employers. ITAs and OJT's may be used simultaneously to fund the RA.

A LWDA must limit the OJT portion of the RA to the period of time required for a participant to become proficient in the occupation for which the training is being provided. In determining the appropriate length of the OJT, LWDA's should consider the skills requirements of the occupation as indicated through the SVP code, the academic and occupational skill of the participant, prior work experience, and the participant's IEP.



### 3.4.2 REQUIRED YOUTH ELEMENTS

WIOA specifies 14 youth elements that must be made available to WIOA eligible youth and shifts the primary focus of youth formula funds to support the educational and career success of Out-of-School Youth (OSY). As such, at least 75% of the WIOA youth formula allocation must be spent on OSY. Local administrative expenses are not included in the 75% calculation; therefore, the LWDA's OSY expenditure rate is calculated after subtracting funds spent on administrative costs. NOTE: The USDOL, Employment & Training Administration (ETA) has approved a waiver request regarding the 75/25 percent split for youth funds. ETA approved the requested waiver for Program Years 2018 and 2019 (July 1, 2018 through June 30, 2020). As such, OWD has lowered the target expenditure rate for local youth formula funds and Governor's reserve youth funds to 50% for OSY.

NPRM § 681.470 states while all 14 youth elements must be made available to youth, they do not all have to be funded through WIOA youth funds. LWDA's may leverage partner resources to provide program elements that are available in the LWDA. The 14 youth elements are detailed below.

#### 3.4.2.1 TUTORING, STUDY SKILLS TRAINING, INSTRUCTION AND EVIDENCE BASED DROPOUT PREVENTION AND RECOVERY STRATEGIES.

The Tutoring, Study Skills Training, Instruction and Evidence based Dropout Prevention and Recovery Strategies must lead to the completion of requirements for a secondary school diploma or its recognized equivalent (including a recognized certificate of attendance or similar document for individuals with disabilities) or for a recognized postsecondary credential.

#### 3.4.2.2 ALTERNATIVE SECONDARY SCHOOL SERVICES OR DROPOUT RECOVERY SERVICES.

Alternative Secondary School Services or Dropout Recovery Services provide options for students who are at risk of dropping out of high school to remain engaged in an alternative learning environment that focuses on their particular skills, abilities, and learning style.

#### 3.4.2.1.3 PAID AND UNPAID WORK EXPERIENCES.

Paid and Unpaid Work Experiences are planned, structured learning experiences that take place in a workforce for a limited period of time. A work experience may take place 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 or applicable State law, exists. Work experiences provide the youth participant with opportunities for career exploration and for skill development. The types of youth work experiences include the following categories:

- A. Summer employment opportunities and other employment opportunities available throughout the school year; summer employment opportunities are a component of the work experience program element.



- B. Pre-apprenticeship programs; a pre-apprenticeship is a program or set of strategies designed to prepare individuals to enter and succeed in a registered apprenticeship program and has a documented partnership with at least one, if not more, registered apprenticeship program;
- C. Internships and job shadowing; and
- D. On-the-job training opportunities.

For full policy, see state policy section 3.4.1.5.

**3.4.2.4 OCCUPATIONAL SKILLS TRAINING.** Occupational Skills Training is an organized program of study that provides specific vocational skills that lead to proficiency in performing actual tasks and technical functions required by certain occupational fields at entry, intermediate, or advanced levels. The LWDA must give priority consideration to training programs that lead to recognized postsecondary credentials that align with in-demand industry sectors or occupations in the LWDA. For full policy, see section 3.4.1.1.

In order to enhance individual participant choice in their education and training plans and provide flexibility to service providers, WIOA allows ITAs for out-of-school youth, ages 18 - 24, using WIOA youth funds when appropriate.

**3.4.2.5 EDUCATION OFFERED CONCURRENTLY WITH AND IN THE SAME CONTEXT AS WORKFORCE**

**PREPARATION.** This program element reflects the integrated education and training model and requires integrated education and training to occur concurrently and contextually with workforce preparation activities and workforce training. This program element describes how workforce preparation activities, basic academic skills, and hands-on occupational skills training are to be taught within the same time frame and connected to training in a specific occupation, occupational cluster, or career pathway. WIOA § 129(c)(2)(E)

**3.4.2.6 LEADERSHIP DEVELOPMENT.** Leadership Development includes community service and peer-centered activities encouraging responsibility and focusing on other positive social and civic behavior opportunities that encourage responsibility, confidence, employability, self-determination, and other positive social behaviors such as:

- A. Exposure to postsecondary educational possibilities;
- B. Community and service learning projects;
- C. Peer-centered activities, including peer mentoring and tutoring;
- D. Organizational and team work training, including team leadership training;
- E. Training in decision-making, including determining priorities and problem solving;



- F. Citizenship training, including life skills training such as parenting and work behavior training;
- G. Civic engagement activities which promote the quality of life in a community; and
- H. Other leadership activities that place youth in a leadership role such as serving on youth leadership committees, such as a Standing Youth Committee. WIOA § 129(c)(2)(F)

Positive social and civic behaviors are outcomes of leadership opportunities, which are incorporated by local programs as part of their menu of services. Positive social and civic behaviors focus on areas that may include the following:

- A. Positive attitudinal development;
- B. Self-esteem building;
- C. Openness to work with individuals from diverse backgrounds;
- D. Maintaining healthy lifestyles, including being alcohol and drug free;
- E. Maintaining positive social relationships with responsible adults and peers, and contributing to the well-being of one's community, including voting;
- F. Maintaining a commitment to learning and academic success;
- G. Avoiding delinquency;
- H. Responsible parenting, including child support education;
- I. Positive job attitudes and work skills; and
- J. Keeping informed in community affairs and current events.

**3.4.2.7 SUPPORTIVE SERVICES.** Supportive Services are services that enable a youth to participate in WIOA activities. For full policy, see state policy section 3.4.4.

**3.4.2.8 ADULT MENTORING.** Adult Mentoring must occur for a duration of at least 12 months and may occur both during and after program participation. Adult mentoring for youth must:

- A. Last at least 12 months, be documented, and may take place both during the program and following exit from the program;
- B. Be a formal relationship between a youth participant and an adult mentor that includes structured activities where the mentor offers guidance, support, and encouragement to develop the competence and character of the mentee; and,
- C. Include a mentor who is an adult other than the assigned youth case manager

While group mentoring activities and mentoring through electronic means are allowable as part of the mentoring activities, at a minimum, the local youth program must match the youth with an individual mentor with whom the youth interacts on a face-to-face basis.

Mentoring may include workplace mentoring where the local program matches a youth participant with an employer or employee of a company.



**3.4.2.9 COMPREHENSIVE GUIDANCE AND COUNSELING.** Comprehensive Guidance and Counseling provides individualized counseling to participants. This includes career and academic counseling, drug and alcohol abuse counseling, mental health counseling, and referral to partner programs, as appropriate. WIOA § 129(e)(1)(C)(J)

When referring participants to necessary counseling that cannot be provided by the local youth program or its service providers, the local youth program must coordinate with the organization it refers to in order to ensure continuity of service.

**3.4.2.10 FINANCIAL LITERACY EDUCATION.** Financial Literacy Education includes activities which:

- A. Support the ability of participants to create budgets, initiate checking and savings accounts at banks, and make informed financial decisions;
- B. Support participants in learning how to effectively manage spending, credit, and debt, including student loans, consumer credit, and credit cards;
- C. Teach participants about the significance of credit reports and credit scores; what their rights are regarding their credit and financial information; how to determine the accuracy of a credit report and how to correct inaccuracies; and how to improve or maintain good credit;
- D. Support a participant's ability to understand, evaluate, and compare financial products, services, and opportunities and to make informed financial decisions;
- E. Educate participants about identity theft, ways to protect themselves from identify theft, and how to resolve cases of identity theft and in other ways understand their rights and protections related to personal identity and financial data;
- F. Support activities that address the particular financial literacy needs of non-English speakers, including providing the support through the development and distribution of multilingual financial literacy and education materials;
- G. Provide financial education that is age appropriate and timely, and provides opportunities to put lessons into practice, such as by providing access to safe and affordable financial products that enable money management and savings; and
- H. Implement other approaches to help participants gain the knowledge, skills, and confidence to make informed financial decisions that enable them to attain greater financial health and stability by using high quality, age-appropriate, and relevant strategies and channels, including, where possible, timely and customized information, guidance, tools, and instruction.

**3.4.2.11 ENTREPRENEURIAL SKILLS TRAINING.** Entrepreneurial Skills Training should provide the basics of starting and operating a small business. Such training must develop the skills associated with entrepreneurship. Some examples of entrepreneurial skill development include, but are not limited to, the ability to:





- A. Take initiative;
- B. Creatively seek out and identify business opportunities;
- C. Develop budgets and forecast resource needs;
- D. Develop a customer-centered environment;
- E. Understand various options for acquiring capital and the tradeoffs associated with each option;  
and
- F. Communicate effectively and market oneself and one's ideas.

Approaches to teaching youth entrepreneurial skills include, but are not limited to, the following:

- G. Entrepreneurship education that provides an introduction to the values and basics of starting and running a business. Entrepreneurship education programs often guide youth through the development of a business plan and may also include simulations of starting and operating a business.
- H. Enterprise development which provides support and services that incubate and help youth develop their own businesses. Enterprise development programs go beyond entrepreneurship education by helping youth access small loans or grants that are needed to begin business operation and by providing more individualized attention to assist in the development of viable business ideas.

**3.4.2.12 LABOR MARKET AND EMPLOYMENT INFORMATION SERVICES.** Labor Market and Employment Information Services provide labor market and employment information about in-demand industry sectors or occupations available in the local area, such as career awareness, career counseling, and career exploration services. The Labor Market Area is an economically-integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence.

**3.4.2.13 ACTIVITIES THAT PREPARE FOR TRANSITION TO POSTSECONDARY EDUCATION AND TRAINING.** Activities that Prepare for Transition to Postsecondary Education and Training include career exploration and research. LWDAs are encouraged to provide youth with relevant information and opportunities.

LWDAs may utilize case managers to assist students with gaining entrance into postsecondary education and training and financial aid applications.

LWDAs may provide access to postsecondary education and training entrance examination preparation and may also provide access to the remedial coursework necessary to gain entrance into post-secondary education and training.

**3.4.2.14 FOLLOW-UP SERVICES.** Follow-up Services are provided following a youth's exit from the program to help ensure the youth is successful in employment and/or post-secondary education and training. For full policy, see section 3.4.6.



### 3.4.3 CERTIFICATES AND CREDENTIALS

#### I. Definition

- A. Within the context of workforce development, the term “credential” refers to an attestation of qualification or competence issued to an individual by a third party (such as an educational institution or an industry or occupational certifying organization) with the relevant authority or assumed competence to issue such a credential. This policy is in accordance with TEGL 15-10.
- B. Examples of credentials include:
  - i. Educational Diplomas and Certificates (typically for one academic year or less of study);
  - ii. Educational Degrees;
  - iii. Registered Apprenticeship Certificates;
  - iv. Occupational Licenses (typically, but not always, awarded by state government agencies);  
and
  - v. Other certificates of skills completion.
- C. In TEGL 17-05, ETA has a definition of “certificate” which has also served as the definition of a “credential” for performance reporting purposes. To bring ETA’s terminology in line with the fields of education and industry, the term credential (and not certificate) will be used as the umbrella term which encompasses postsecondary degrees, diplomas, licenses, certificates and certifications. As such, for purposes of accounting for credential attainment within the workforce system, the following definition is a modification to update the “certificate” definition.
- D. “Credential” means an award in recognition of an individual’s attainment of measurable technical or occupational skills necessary to gain employment or advance within an occupation. These technical or occupational skills are generally based on standards developed or endorsed by employers. Certificates awarded by Local Boards are not included in this definition, nor are work readiness certificates because neither of them document “measurable technical or occupational skills necessary to gain employment or advance within an occupation.”
- E. A variety of different public and private entities issue credentials. Below is a list of types of organizations and institutions that award industry-recognized credentials:
  - i. A state education agency or a state agency responsible for administering vocational and technical education within a state;
  - ii. An institution of higher education described in Section 102 of the Higher Education Act (20 USC 1002) that is qualified to participate in the student financial assistance programs authorized by Title IV of that Act. This includes technical colleges, proprietary schools, and all other institutions of higher education that are eligible to participate in federal student financial aid programs;
  - iii. A professional, industry, or employer organization (e.g., National Institute for Automotive Service Excellence certification, or a National Institute for Metalworking Skills, Inc.,



Machining Level 1 credential) or a product manufacturer or developer (e.g., Microsoft Certified Database Administrator, Certified Novell Engineer, or a Sun Certified Java Programmer) using a valid and reliable assessment of an individual's knowledge, skills, and abilities;

- iv. ETA's Office of Apprenticeship;
  - v. A public regulatory agency, upon an individual's fulfillment of educational, work experience, or skill requirements that are legally necessary for an individual to use an occupational or professional title or to practice an occupation or profession (e.g., Federal Aviation Administration aviation mechanic license, or a state-licensed asbestos inspector);
  - vi. A program that has been approved by the Department of Veterans Affairs to offer education benefits to veterans and other eligible persons;
  - vii. Job Corps centers that issue certificates; and
  - viii. institutions of higher education that are formally controlled, or have been formally sanctioned or chartered by, the governing body of an Indian tribe or tribes.
- F. "Diploma" means any certificate that the state education agency accepts as equivalent to a high school diploma. This term also includes post-secondary degrees such as Associate (AA and AS) and Bachelor (BA and BS) degrees.
- G. "Education" means participation in secondary school, post-secondary school, adult education programs, or any other organized program of study leading to a degree or certificate.
- H. "Employer endorsement" means that employers within a particular industry or cluster of industries recognize the certificate and would not impose an employment barrier because the program was completed in another state or other regional location.
- I. "Post-secondary Education" means a program at an accredited degree-granting institution that leads to an academic degree (i.e., AA, AS, BA or BS).

Resource: Certification Finder database [www.careerinfonet.org/certifications\\_new/](http://www.careerinfonet.org/certifications_new/) is an online resource that may be helpful to service providers. This information is provided as a resource and is NOT an endorsement of the certifications listed on the site.



### 3.4.4 SUPPORTIVE SERVICES

#### I. Definition

Supportive services are defined as services such as transportation, childcare, dependent care, housing, and needs-related payments that are necessary to enable an individual to participate in activities authorized under WIOA.

*WIOA §3 (59)*

#### II. Supportive Services

Supportive services are services which are reasonable and necessary to enable a WIOA participant who cannot afford to pay for such services to participate in career and training activities funded under WIOA. The provision of supportive services must be determined on an individual basis. Limited supportive services may be provided to individuals receiving Basic Career Services; however, such individuals must be registered as a WIOA participant and are subject to performance outcomes.

NOTE: Follow-up career services are not a qualifying service for the receipt of supportive services; therefore, an adult/dislocated worker who is only receiving follow-up services may not receive supportive services. Supportive services may not be used to extend the date of exit for performance accountability purposes. Supportive Services, like follow-up services, do not make an individual a participant or extend participation (TEGL 19-16). Youth follow-up services also may include the following program elements: (1) Supportive Services (WIOA §681.580).

All supportive services must have been approved and recorded in the WorkSource Portal prior to the participant receiving or obtaining the goods or services. Backdated requests for services will not be approved.

A participant may waive WIOA payments (except for Work Experience) if accepting payment would mean the loss of benefits. The participant may request the payment to start at a later date, but may not claim retroactive payments. Advances against future payments are not allowed.

- A. To be eligible for any WIOA financial assistance payments, a participant must have been determined WIOA eligible and:
  - i. be participating in career services and/or training services.
    - 1. Exception: Limited supportive services may be provided to eligible applicants (e.g., paying for a birth certificate) before they are enrolled as participants to permit participation in assessment activities;
  - ii. be unable to obtain supportive services through other programs providing such services; and
  - iii. must comply with program regulations and policies during the period of training and/or enrollment.



Service providers should provide no further payments to participants that fail to participate without good cause.

The use of supportive services is encouraged to enable hard-to-serve populations to participate in longer-term interventions. The provision of supportive services must be determined on an individual basis.

### III. LWDA Supportive Services Policy

In order to ensure that supportive services are provided in the most consistent, effective, and efficient manner throughout the state, OWD will require each LWDA to develop a comprehensive supportive service policy, which receives local board approval prior to implementation. Each LWDA will develop a policy that complies not only with all applicable federal regulations, but also meets the requirements mandated by the SWDB and OWD. This process will provide more consistency in the provision and documentation of supportive services across the state, while allowing LWDAs to develop a policy which takes into account unique circumstances that are present in the area.

- A. Along with complying with all applicable sections of WIOA law, CFRs, and TEGL/TEN's, the local board-approved policy must meet requirements in each of the following categories:
  - i. Eligibility and determination of need for supportive services;
  - ii. The local board-approved supportive service policy must establish a process by which participants are determined eligible and in need of supportive services;
  - iii. Federal law states that supportive service costs should be necessary to enable an individual to participate in activities authorized under WIOA; and
  - iv. Eligibility and determination of need for supportive services should be conducted by a case manager or appropriate LWDA staff on a case-by-case basis to determine if the participant is eligible for and in need of supportive services.
- B. Documentation of eligibility and determination of need for supportive services:
  - i. The local board-approved supportive service policy must establish a process by which documentation of a participant's eligibility and determination of need is collected and included in each participant's WorkSource Portal case file.
  - ii. The documentation must cover:
    - 1. Financial/physical need: There must be documentation in each electronic case file in the WorkSource Portal that participants are incapable of providing these services for themselves. Examples of acceptable documentation include, but are not limited to, the following:
      - a. low income status as documented by family/household income determination;
      - b. receipt of federal or state public assistance;
      - c. UI benefits;



- d. documentation of skill upgrading that would lead to employment in a local or state in-demand occupation;
  - e. documentation of lack of employment or underemployment;
  - f. separation notice;
  - g. birth certificates for children receiving childcare; and
  - h. documentation of transportation distance to attend training
2. Resource coordination: There must be documentation supporting that these services or funds were not available from any other state and/or federal grant/program/funding stream/agency. There should be an analysis of all federal/state/local resources available in the LWDA and how they are being coordinated to promote the most efficient use of resources. Examples of acceptable documentation include, but are not limited to, the following: UI records or application for applicable state and federal funds.
  3. Type of supportive service requested and how the supportive service will assist their participation in WIOA activities. An example of acceptable documentation includes, but is not limited to, an LWDA created supportive service request form.
  4. Amount requested and justification for the amount being necessary and reasonable to enable participation in qualifying WIOA activities. Examples of acceptable documentation include, but are not limited to, LWDA created supportive service request form and case notes in the WorkSource Portal.
  5. Establishment of a timeframe that the supportive services will be provided to assist participation in WIOA activities. Examples of acceptable documentation include, but are not limited to LWDA created supportive service request form and case notes in the WorkSource Portal.

iii. This documentation should be collected and included in the participant's WorkSource Portal case file.

#### C. Allowable supportive services

- i. The local board-approved policy must state specifically what types of supportive services the local board will provide to participants, as well as which WIOA-participant group qualifies for the stated services (this includes incentives provided to Youth participants).
- ii. Allowable supportive services provided during career and training services include, but are not limited to:
  1. Assistance with transportation;
  2. Assistance with childcare and dependent care;
  3. Assistance with housing;
  4. Reasonable accommodations for individuals with disabilities;



5. Assistance with uniforms or other appropriate work attire and related tools, including eyeglasses and protective eye gear;
6. Emergency auto repair (LWDA policy must ensure that the repair is necessary for the participants to attend training and the most economical option for the participant's transportation needs);
7. Emergency healthcare and medical services (LWDA policy must ensure that these types of payments are only provided when necessary for the participant to participate in training).

iii. Allowable supportive services provided after training in order to obtain employment include, but are not limited to:

1. Assistance with uniforms or other appropriate work attire and related tools, including eyeglasses and protective ear gear;
2. Tools, work clothing, and boots/shoes required for employment;
3. Drug testing required by employer;
4. Financial counseling; and
5. Auxiliary aides and services necessary for persons with disabilities to obtain and retain employment.

D. Process for provision of supportive services

The local board-approved policy will need to state the process by which participants will receive supportive service payments. The policy will need to address whether the LWDA, subrecipient, or vendor will be providing the payment to participant and in what form the payment will be provided (voucher, check, direct payment, or other). The policy should also include how often supportive services are provided to participants.

E. Documentation of the provision for supportive services

- i. All supportive service information for participants must be entered in the WorkSource Portal (type of supportive service, amount, date of service etc.). All supporting documentation for a participant's supportive services must be scanned into the WorkSource Portal (Examples of this supporting documentation include but are not limited to, participant time sheets, income determination, UI records, supportive service request form, etc.).
- ii. All participant's supportive service information is required to be accurate in the WorkSource Portal. The budgeted amount, type of service and timeframe in which the supportive service was given must be accurate. No payment can be made to the participant until that amount has been updated in the WorkSource Portal. Supporting documentation of the participant's qualifying WIOA activity, for which the participant is receiving supportive services, must be scanned into the participant's WorkSource Portal profile. Examples of this supporting documentation include, but are not limited to, in-training participant time sheets signed by



the instructor/supervisor and documents proving participation in other types of intensive or training services.

#### F. Unallowable Supportive Services

- i. Payments are not allowed for titled or deeded items or when recovery of the expense is anticipated. Such items include:
  1. Rent deposits or housing deposits;
  2. Mortgage payments;
  3. Car payments;
  4. Purchase of vehicles; and
  5. Fines

#### G. Supportive Services for Youth

Supportive Services for youth, as defined in WIOA sec. 3(59), are services that enable an individual to participate in WIOA activities. These services include, but are not limited to, the following:

- i. Linkages to community services;
- ii. Assistance with transportation;
- iii. Assistance with child care and dependent care;
- iv. Assistance with housing
- v. Needs-related payments;
- vi. Assistance with educational testing;
- vii. Reasonable accommodations for youth with disabilities;
- viii. Legal aid services;
- ix. Referrals to health care;
- x. Assistance with uniforms or other appropriate work attire and work-related tools, including such items as eyeglasses and protective eye gear;
- xi. Assistance with books, fees, school supplies, and other necessary items for students enrolled in postsecondary education classes; and,
- xii. Payments and fees for employment and training-related applications, tests, and certifications (WIOA §681.570).

#### H. Youth Incentive Payments

Incentive payments to youth participants are permitted for recognition and achievement directly:

1. Tied to the goals of the specific program;
2. Outlined in writing before the commencement of the program that may provide incentive payments;
3. Align with the local program's organizational policies; and,





4. Are in accordance with the requirements contained in 2 CFR part 200 (WIOA §681.640)

WIOA regulations comments narrative include: “The USDOL has included the reference to the Uniform Guidance at 2 CFR part 200 to emphasize that while incentive payments are allowable under WIOA, the incentives must be in compliance with the requirements in 2 CFR part 200. For example, Federal funds may not be spent on entertainment costs. Therefore, incentives may not include entertainment, such as movie or sporting event tickets or gift cards to movie theaters or other venues whose sole purpose is entertainment. Additionally, there are requirements related to internal controls to safeguard cash, which also apply to safeguarding of gift cards, which are essentially cash. While the Department recognizes the importance of incentives as motivators for various activities such as recruitment, submitting eligibility documentation, and participation in the program, the USDOL concluded that incentives must be connected to recognition of achievement of milestones in the program tied to work experience or training. Such incentives for achievement could include improvements marked by testing or other successful outcomes. While WIOA funds cannot be used for incentives for recruitment and eligibility documentation, local areas may leverage private funds for such incentives.”

I. Needs-Related Payments

LWDAs must have an LWDB approved Needs-related Payment policy prior to making any determinations of Needs-Related payments. Needs-related payments are only available to individuals enrolled in training services and must be consistent with 20 CFR 680.930-970.

Needs-related payments provide financial assistance to participants for the purpose of enabling them to participate in training and are a supportive service authorized by WIOA sec. 134(d)(3). Unlike other supportive services, in order to qualify for needs-related payments, a participant must be enrolled in training.

Eligibility requirements for adults to receive needs-related payments include:

- a) Be unemployed;
- b) Not qualify for, or have ceased qualifying for, unemployment compensation;
- and,
- c) Be enrolled in a program of training services under WIOA sec. 134(c)(3).

Eligibility requirements for dislocated workers to receive needs-related payments include:

- a) Be unemployed, AND



1. Have ceased to qualify for unemployment compensation or trade readjustment allowance under TAA; and,
  2. Be enrolled in a program of training services under WIOA sec. 134(c)(3) by the end of the 13<sup>th</sup> week after the most recent layoff that resulted in a determination of the worker's eligibility as a dislocated worker, or, if later, by the end of the 8<sup>th</sup> week after the worker is informed that a short-term layoff will exceed 6 months; OR
- b) Be unemployed and did not qualify for unemployment compensation or trade readjustment assistance under TAA and be enrolled in a program of training services under WIOA sec. 134(c)(3).

Needs-related payments may be provided if the participant has been accepted into a training program that will begin within 30 calendar days. Extension of the 30-day period (to address appropriate circumstances) requires approval from TCSG.

Establishing payment levels for needs-related payments:

- a) The payment level for WIOA adults must be established by the LWDB.
- b) For statewide projects, the payment level for adults must be established by the State WDB.
- c) For dislocated workers, payments must not exceed the greater of either of the following levels:
  1. The applicable weekly level of the unemployment compensation benefit, for participants who were eligible for unemployment compensation as a result of the qualifying dislocation; or
  2. The poverty level for an equivalent period, for participants who did not qualify for unemployment compensation as a result of the qualifying layoff.

The weekly payment level must be adjusted to reflect changes in total family income, as determined by LDWB policies. WIOA §680-970.



### 3.4.5 WIOA RELOCATION ASSISTANCE POLICY AND PROCEDURES

In accordance with WIOA, relocation assistance is an allowable career service for eligible adults and dislocated workers enrolled and participating in career services. An adult or dislocated worker who completes training services is also eligible for relocation assistance.

Relocation assistance may be provided through WIOA funding for participants in need of assistance to accept employment in another location. It is intended to serve those eligible adults and dislocated workers who are unable to find suitable employment in the local area. Such assistance will not be extended to participants who are transferring to another employment location while remaining with their present employer. Applicants should be encouraged to seek relocation assistance from other sources (such as the Trade Act if eligible for Trade Act services) before applying for WIOA assistance.

If relocation assistance is not available from other sources, it may be provided to assist qualified participants in moving within the state or to another part of the United States. This means that if an employer (or other source) pays all of the moving costs, no costs will be reimbursed through WIOA. If an employer (or other source) pays only part of the costs, then WIOA may pay some portion of the costs. If a person has moved prior to making application for WIOA relocation assistance, then no relocation expenses will be paid. Neither OWD nor any of the LWDA's accept any liability for the participant's damaged, lost, or stolen property related to relocation assistance.

In addition to the requirements that a person be eligible for relocation assistance and be enrolled in WIOA services, as noted above, the person must also meet the two following requirements:

1. The participant has been unable to obtain self-sufficient employment within the local commuting area (to be determined by the LWDA), and
2. The participant has secured self-sufficient, long-duration employment outside the commuting area (over 75 miles from the participant's residence). This must be documented by the new employer's letter of verification of employment.

Relocation Assistance is cost-reimbursement only, and no expenses are paid prior to the move. LWDA's will set the limitations or caps on payment amounts for Relocation Assistance in an LWDA Relocation Assistance Policy.

#### WIOA Relocation Assistance Guideline

If no suitable jobs are available within the local commuting area and a participant is offered a job more than 75 miles away, the participant may qualify for relocation assistance. If qualified, a participant may be reimbursed for reasonable expenses incurred in the move. To receive the relocation assistance, a participant must:

- Not be eligible for relocation assistance through other federal, state, or employer services;
- Be registered in WIOA career services or have completed training services;
- Have no reasonable expectation of securing suitable employment within the local commuting area, as determined by the LWDA;



- Have received a bona fide job offer for self-sufficient, permanent, full-time employment (WIOA staff to verify);
- Apply for relocation assistance before the move;
- Move more than 75 miles from the current residence; and
- Send a request for reimbursement of itemized expenses with original receipts to the LWDA.

Relocation Assistance may cover the following expenses:

- The actual cost of transportation by the most economical means for the participant and family to the area of relocation, or the cost per mile at the prevailing mileage rate authorized by the federal travel regulations, whichever is less. No additional mileage will be paid to family members traveling in the same vehicle or in additional vehicles.
- The actual cost of moving the participant's family household goods as follows:
  - Commercial carrier – The allowable weight of household goods and personal effects of the family to be moved may not exceed 18,000 pounds. Any weight in excess of 18,000 pounds will be the participant's responsibility. If a commercial carrier moves the household goods, the participant must submit and attach at least three estimates of the charges from the most economical commercial carriers available. Justifiable situations, in which an LWDA would select an applicant other than the lowest, would be:
    - The lowest bidder cannot carry out the move within an acceptable timeframe.
    - The lowest bidder will not accept payments on a reimbursement basis, and the participant does not have the funds to pay for the move.
    - The lowest bidder does not have all the necessary equipment required for the move.
    - If the lowest estimate is not selected, the LWDA must document justification for the selection.
  - Self-Move/Rental truck – Allowable expenses include the rental fee for each day reasonably required to complete the move and the necessary fuel bought for the truck. A receipt is required for the cost of fuel as well as the truck rental. The participant may also submit receipts for other related moving expenses such as boxes and packing materials provided these expenses are incurred with the same bona fide moving service.
  - Moving a mobile home – Allowable expenses include the commercial carrier's charges for moving the mobile home, charges for unblocking and re-blocking, state and local fees for transporting the mobile home, and personal property of the family against loss or damage in transit.
    - The cost of reasonable temporary storage of household goods, if necessary, for no longer than 60 days.

Original receipts are required for the following items:



- The cost of reasonable temporary storage of household goods, if necessary, for no longer than 60 days;
- Transportation expenses;
- Commercial carrier (the original bill of lading prepared by the carrier, including a receipt as evidence of payment of moving costs); and
- Truck or trailer rentals (the original bill itemizing and proving payment).



### 3.4.6 FOLLOW-UP SERVICES AND ACTIVITIES

Follow-up Services are services that are provided to Adult and Dislocated Worker participants who enter employment and all Youth participants after exiting their WIOA enrollment. Participant records must be kept for a minimum of 3 years.

#### I. Adult and Dislocated Worker Follow-up Services

- A. Follow-up Services must be made available to Adult and Dislocated Worker participants who exit to unsubsidized employment for a minimum of 12 months following the first day of exit.
- B. Case managers should contact the participant at least once a quarter to check in with participants who have obtained unsubsidized employment to see if they need assistance in job retention, wage gains, and career progress. Follow-up needs of the participant must be documented in case notes and the information input on the follow-up tab in the WorkSource Portal.
- C. Appropriate follow-up services may vary among different participants; for example, participants with multiple employment barriers and limited work histories may need significant follow-up services to ensure long-term success in the labor market including program funded supportive services. Others may identify an area of weakness in WIOA training that may affect their ability to progress further in their occupation or to retain employment.
- D. Follow-up services could include but are not limited to:
  - i. additional career planning and counseling;
  - ii. contact with the participant's employer, including assistance with work related problems that may arise;
  - iii. peer support groups;
  - iv. information about additional educational opportunities;
  - v. limited financial support; and
  - vi. referral to supportive services available in the community.
- E. Financial assistance such as needs-related payments are not an allowable follow-up service.

#### II. Youth Follow-up Services

- A. All youth participants must be offered an opportunity to receive follow-up services that align with their individual services strategies. Furthermore, follow-up services must be provided to all participants for a minimum of 12 months unless the participant declines to receive follow-up services or the participant cannot be located or contacted. Follow-up services may be provided beyond 12 months at the State or Local WDB's discretion.
- B. Follow-up means a quarterly contact with the Youth to ascertain their status and to determine if they need additional service or support. Follow-up services must include more than only a contact attempted or made for securing documentation in order to report a performance outcome. 20 CFR §681.580.



C. The types of services provided and the duration of services must be determined based on the needs of the Youth. Therefore, the type and intensity of follow-up services may differ for each participant. Follow-up needs of the Youth must be documented in case notes and the information input on the follow-up tab in the WorkSource Portal.

D. Youth follow-up services may include:

- i. The supportive service activities listed in 20 CFR § 681.570;
- ii. Regular contact with Youth participant's employer, including assistance in addressing work-related problems that arise;
- iii. Adult mentoring;
- iv. Financial literacy education;
- v. Services that provide labor market and employment information about in-demand industry sectors or occupations available in the local area, such as career awareness, career counseling, and career exploration services; and
- vi. Activities that help youth prepare for and transition to postsecondary education and training.

### III. Follow-up Activities

Follow-up activities are conducted to ensure positive outcomes and to give credit for outcomes.

Obtaining supplemental data to determine if the individual is employed in the 4 calendar quarters following exit to unsubsidized employment is a follow-up activity. Follow-up must actually occur during the quarter being recorded and be documented in the follow-up tab in the WorkSource Portal.

#### A. Timelines for Quarterly Follow-Up

- i. The first quarter follow-up should be done during the calendar quarter after the participant exits from WIOA programs.
- ii. Calendar quarters:
  1. January-March
  2. April-June
  3. July-September
  4. October-December
- iii. Example: If a participant exits September 30, 2011, follow-up would be done according to the following calendar quarters:
  1. 1st Quarter: October – December 2011
  2. 2nd Quarter: January – March 2012
  3. 3rd Quarter: April – June 2012
  4. 4th Quarter: July – September 2012
- iv. Example: If a participant exits May 2, 2012, follow-up would be done according to the following calendar quarters:
  1. 1st Quarter: July - September 2012



2. 2nd Quarter: October - December 2012

3. 3rd Quarter: January - March 2013

4. 4th Quarter: April - June 2013

- B. As per USDOL Common Measures policy (TEGL 17-05, dated 2/17/06), allowable sources of supplemental information for tracking employment-related outcomes include case management notes, automated data base systems, documented contacts with employers, and participant surveys. LWDA's must keep in mind that all supplemental data and methods are to be documented and are subject to audit.





# **DATA & INFORMATION**



## 4.1 PERFORMANCE MEASURES

### I. LWDA Performance

Federal Performance Measures will be applied to all LWDA's and they must meet all of the federal performance measure levels applicable to the program(s)—Adult, Dislocated Worker, or Youth—for which they receive funding. LWDA's that fail to meet applicable performance standards will be subject to sanctions. The chart below shows current program year performance measures.

**STATE OF GEORGIA  
PERFORMANCE MEASURES  
PROGRAM YEAR 15**

Performance Measure	PY-15
<b>Adult</b>	
Entered Employment	73.1%
Employment & Retention	85.0%
Six Months Average Earnings	\$12,800
<b>WIA Dislocated Worker</b>	
Entered Employment	76.5%
Employment & Retention	90.0%
Six Months Average Earnings	\$17,062
<b>WIA Youth</b>	
Placement in Employment/Education	66.0%
Attainment of Degree/Certificate	73.0%
Literacy/Numeracy Gains	51.0%

### II. Performance Calculations

Acceptable performance for each measure is calculated based on negotiated factors which are explained in the management information system section.

### III. Imposition of Corrective Actions and Corrective Action Plans

At any time OWD may impose corrective actions for failure by a board or grant recipient to ensure compliance with the following:

- i. One or more contracted performance measures (OWD recognizes that the timeline for the improvement of performance measures will require special consideration. OWD may take all complex factors affecting performance into consideration and work with the LWDA to establish an appropriate timeline for performance level improvement.)



1. One or more contract grant award provisions; or
2. One or more of the items listed below:
  - a. Applicable laws, regulations, provisions of contracts and Board plans, and official directives and circulars including, but not limited to, DOL Training and Employment Guidance Letters, DOL Training and Employment Notices, U.S. Department of Health and Human Services guidance letters, OWD directives and policies and procedures, and applicable state laws, rules, and regulations;
  - b. Appropriate uniform administrative requirements for grants and agreements applicable for the type of entity receiving funds as promulgated in OMB's Uniform Grant Management Standards circulars or rules; and
  - c. Agency-board agreements and applicable program contract.

#### 4.1.1 PERFORMANCE UNDER WIOA

The WIOA Performance measures reports (quarterly and annual) will cover participants who receive services financially assisted by formula or statewide reserve funds under the following USDOL ETA programs:

- WIOA Adult Program
- WIOA Dislocated Worker Program
- WIOA Youth Program

Under WIOA, there will be 16 performance measures that the state and LWDA's will adhere to:

##### I. Adult and Dislocated Worker Performance Measures

Use of the term "Adult" in definitions and calculations implies both Adult and Dislocated Worker participants. For participants in the Adult or Dislocated Worker programs, the following performance measures apply:

##### A. Q2 Entered Employment

###### i. Methodology:

*percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program" WIOA Sec. 116 (b)(2)(A)(i)(I)*

###### ii. Operational Parameters:

1. Individuals who are employed at the date of participation are excluded from this measure (i.e., programs will not be held accountable for these individuals under this measure).
2. Individuals who, although employed, have either received a notice of termination of employment or the employer has issued a Worker Adjustment and Retraining Notification (WARN) or other notice that the facility or enterprise will close, or are transitioning service members are considered not employed and are included in the measure.



3. For WIOA purposes, a Transitioning Service Member is defined as a service member in active duty status (including separation leave) who participates in employment services and is within 24 months of retirement or 12 months of separation.

Employment at the date of participation is based on information collected from the individual, not from wage records.

#### B. Q4 Entered Employment

- i. Methodology:

*percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program” WIOA Sec. 116 (b)(2)(A)(i)(II).*

- ii. Operational Parameters:

1. Individuals who are employed at the date of participation are excluded from this measure (i.e., programs will not be held accountable for these individuals under this measure).
2. Individuals who, although employed, have either received a notice of termination of employment or the employer has issued a Worker Adjustment and Retraining Notification (WARN) or other notice that the facility or enterprise will close, or are transitioning service members are considered not employed and are included in the measure.
3. For WIOA purposes, a Transitioning Service Member is defined as a service member in active duty status (including separation leave) who participates in employment services and is within 24 months of retirement or 12 months of separation.  
Employment at the date of participation is based on information collected from the individual, not from wage records.

#### C. Q2 Median Average

- i. Methodology:

*median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program” WIOA Sec. 116 (b)(2)(A)(i)(III)*

- ii. Operational Parameters:

1. To ensure comparability of this measure on a national level, wage records will be the only data source for this measure. Acceptable wage record sources are a state’s unemployment insurance wage records, federal employment wage records, military employment wage records, and other administrative records, such as tax records for self-employed participants.
2. Individuals whose employment in the second quarter after the exit quarter was determined solely from supplemental sources and not from wage records are excluded from the measure.



## D. Credential Attainment Rate

### i. Methodology:

*percentage of program participants who obtain a recognized postsecondary credential, or a secondary school diploma or its recognized equivalent during participation in or within 1 year after exit from the program” WIOA Sec. 116 (b)(2)(A)(i)(IV)*

### ii. Operational Parameters:

1. program participants who obtain a secondary school diploma or its recognized equivalent shall be included in the percentage counted as meeting the criterion under such clause only if such participants, in addition to obtaining such diploma or its recognized equivalent, have obtained or retained employment or are in an education or training program leading to a recognized postsecondary credential within 1 year after exit from the program. WIOA Sec. 116 (b)(2)(A)(iii)

## E. In-Program Skills Gains

### i. Methodology:

*percentage of program participants who, during a program year, are in an education or training program that leads to a recognized postsecondary credential or employment and who are achieving measureable skill gains toward such a credential or employment” WIOA Sec. 116 (b)(2)(A)(i)(V) Proposed §677.155*

### ii. Operational Parameters

1. Achievement of at least one educational functioning level of a participation that provides instruction below the post-secondary level.
2. Attainment of HS Diploma or equivalent
3. A transcript or report card for either secondary or post-secondary education for 1 academic year (or 24 credit hours) that shows a participant is achieving the State unit’s policies for academic standards
4. Satisfactory or better progress reports, towards established milestones from an employer who is providing training.
5. Successful completion of an exam that is required for a particular occupation, progress in attaining technical or occupational skills as evidenced by trade-related benchmarks such as knowledge-based exams.

## II. The Youth Performance Measures

### A. Placement in Employment or Education

#### i. Methodology:

*percentage of program participants who are in education or training activities, or in unsubsidized employment, during the second quarter after exit from the program” WIOA Sec. 116 (b)(2)(A)(ii)(I)]*



1. The number of Youth participants who are in employment (including the military);  
or
2. Enrolled in postsecondary education and/or advanced training / occupational skills training in the second quarter after the exit quarter divided by the number of Youth participants who exit during the quarter.

ii. Operational Parameters:

1. Individuals who are in post-secondary education or employment at the date of participation are excluded from this measure (i.e., programs will not be held accountable for these individuals under this measure).
2. Employment and education status at the date of participation are based on information collected from the individual.
3. Individuals in secondary school at exit will be included in this measure.

B. Q4 Placement in Employment or Education

i. Methodology:

*percentage of program participants who are in education or training activities, or in unsubsidized employment, during the fourth quarter after exit from the program” WIOA Sec. 116 (b)(2)(A)(ii)(I)*

1. The number of Youth participants who are in employment (including the military);  
or
2. Enrolled in postsecondary education and/or advanced training / occupational skills training in the fourth quarter after the exit quarter divided by the number of Youth participants who exit during the quarter.

ii. Operational Parameters:

1. Individuals who are in post-secondary education or employment at the date of participation are excluded from this measure (i.e., programs will not be held accountable for these individuals under this measure).
2. Employment and education status at the date of participation are based on information collected from the individual.
3. Individuals in secondary school at exit will be included in this measure.

C. Q2 Median Earnings

i. Methodology:

*median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program” WIOA Sec. 116 (b)(2)(A)(i)(III)*

ii. Operational Parameters:

1. To ensure comparability of this measure on a national level, wage records will be the only data source for this measure. Acceptable wage record sources are a state’s unemployment insurance wage records, federal employment wage records, military



employment wage records, and other administrative records, such as tax records for self-employed participants.

- iii. Individuals whose employment in the second quarter after the exit quarter was determined solely from supplemental sources and not from wage records are excluded from the measure.

#### D. Credential Attainment Rate

- i. Methodology:

*percentage of program participants who obtain a recognized postsecondary credential, or a secondary school diploma or its recognized equivalent during participation in or within 1 year after exit from the program” WIOA Sec. 116 (b)(2)(A)(i)(IV)*

- ii. Operational Parameters:

- 1. program participants who obtain a secondary school diploma or its recognized equivalent shall be included in the percentage counted as meeting the criterion under such clause only if such participants, in addition to obtaining such diploma or its recognized equivalent, have obtained or retained employment or are in an education or training program leading to a recognized postsecondary credential within 1 year after exit from the program. WIOA Sec. 116 (b)(2)(A)(iii)

#### E. In-Program Skills Gains

- i. Methodology:

*percentage of program participants who, during a program year, are in an education or training program that leads to a recognized postsecondary credential or employment and who are achieving measureable skill gains toward such a credential or employment” WIOA Sec. 116 (b)(2)(A)(i)(V) Proposed §677.155*

- ii. Operational Parameters

- 1. Achievement of at least one educational functioning level of a participation that provides instruction below the post-secondary level.
- 2. Attainment of HS Diploma or equivalent
- 3. A transcript or report card for either secondary or post-secondary education for 1 academic year (or 24 credit hours) that shows a participant is achieving the State unit’s policies for academic standards
- 4. Satisfactory or better progress reports, towards established milestones from an employer who is providing training.
- 5. Successful completion of an exam that is required for a particular occupation, progress in attaining technical or occupational skills as evidenced by trade-related benchmarks such as knowledge-based exams.



### 4.1.2 WIOA DATA SOURCES

I. This section describes data sources and methods to collect data for the Performance measures. The data source(s) applicable to each measure are as follows:

PERFORMANCE MEASURE	DATA SOURCES
<b>Adult Measures</b>	
Q2 Entered Employment	Wage records and supplemental data sources
Q4 Entered Employment	Wage records and supplemental data sources
Q2 Median Earnings	Wage records supplemental sources (only for grantees that do not have access to wage records)
Credential Rate	Administrative records from program participation
In-Program Skills Gain	Administrative records from program participation
<b>Youth Measures</b>	
Q2 Entered Employment	Wage records and supplemental data sources
Q4 Entered Employment	Wage records and supplemental data sources
Q2 Median Earnings	Wage records supplemental sources (only for grantees that do not have access to wage records)
Credential Rate	Administrative records from program participation
In-Program Skills Gain	Administrative records from program participation

#### A. Wage Records

To ensure comparability of the Performance measures on a national level, wage records are the primary data source for the employment-related measures (except as noted in this section).

##### i. Unemployment Insurance Wage Records

To the extent it is consistent with state law, UI wage records will be the primary data source for tracking the adult entered employment, retention, and earnings measures and the employment portion of the youth placement in employment or education measure. UI wage records include private sector, non-profit sector, and government employer wage reports such as:

1. State government employment records
2. Local government employment records





3. Judicial employment records
  4. Public school employment records
  5. Additional Wage Records
- ii. While most forms of employment in a state's workforce are "covered" and will be in the UI wage records as noted above, certain types of employers and employees are excluded by federal UI laws or are not covered under states' UI laws. States may use record sharing and/or automated record matching with other employment and administrative data sources to determine and document employment and earnings for "uncovered" workers.
  - iii. Additional wage record data sources include the following:
    1. Wage Record Interchange System (WRIS)
    2. U.S. Office of Personnel Management (OPM)
    3. U.S. Postal Service
    4. U.S. Department of Defense
    5. Railroad Retirement System
    6. State New Hires Registry
    7. State Department of Revenue or Tax (for individuals who are self-employed, information must be obtained through record-sharing or automated matching of state tax records)

USDOL ETA, in collaboration with the Office of Personnel Management, U.S. Postal Service, and the Department of Defense, has created a pilot data exchange system to provide access for all states to federal and military employment wage record information. The pilot data exchange program is called the Federal Employment Data Exchange System (FEDES) and Georgia participates in this program.

#### B. Supplemental Sources of Data

Supplemental data will be used for program management purposes and to gain a full understanding of program performance and activities. Although a majority of employment situations will be covered by wage records, certain other types of employment, particularly self-employment, are either excluded from the sources of data identified under Subsection A above or very difficult for grantees to access due to data confidentiality (e.g., access to State department of Revenue or Tax records).

Grantees should not be discouraged from providing entrepreneurial training or assisting the hard-to-serve simply because the subsequent employment is not covered by wage records. Therefore, in order to convey full and accurate information on the employment impact of ETA programs, grantees may use supplemental sources of data to document a participant's entry and retention in employment for those participants not covered by wage records.



Allowable sources of supplemental information for tracking employment-related outcomes include case management notes, automated database systems, One-Stop operating systems' administrative records, surveys of participants, and contacts with employers. All supplemental data and methods must be documented and are subject to audit.

Supplemental data needs to be recorded to ensure it will be used when calculating performance. See Section on "Follow-Up Services and Activities" for more information relating to requirements for supplemental data.

### C. Administrative Records

Administrative records will be the data source for the education and training portion of the placement in employment or education measure and the credential rate measure. All data and methods used to determine placement in education and training or credential attainment must be documented and are subject to audit.

#### i. Placement in Post-Secondary Education or Advanced Training / Occupational Skills Training

1. The following data sources can be used to determine whether participants in youth programs are placed in post-secondary education and / or advanced training / occupational skills training:

- a. Case management notes and surveys of participants to determine if the individual has been placed in post-secondary education and / advanced training / occupational skills training; or
- b. Record-sharing agreements and / or automated record matching with administrative / other data sources to determine and document that the participant has been placed in post-secondary education and / or advanced training / occupational skills training. These data sources may include:
- c. State boards governing community colleges

2. State boards governing universities
3. State education associations
4. Integrated post-secondary or higher education reporting units
5. Training institutions / providers

#### ii. Degree or Certificate

The following data sources can be used to determine whether participants in Youth programs attain degrees or certificates:

1. Document in case management notes that the individual has received a degree or certificate. For data validation purposes, required documentation in the participant file includes the following sources:

- d. Transcripts



- e. Certificates
  - f. Diploma
  - g. Letter from school system
2. The date on the degree or certificate must match what is entered in the WorkSource Portal.
  3. Record-sharing agreements and / or automated record matching with administrative / other data sources to determine and document that the participant has received a degree or certificate. These data sources may include:
    - a. State boards of education
    - b. State boards governing community colleges
    - c. State boards governing universities
    - d. State licensing boards for private schools
    - e. State education associations
    - f. Integrated post-secondary or higher education reporting units
    - g. State Department of Professional or Occupational Regulation (possibly other units such as health care administration or specific boards like the “Board of Nursing”)
    - h. Professional, industry, or employer organizations or product manufacturers or developers
    - i. Training institutions / providers
    - j. Adult Basic Education providers (GED / equivalent testing agencies)

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; see the Act’s regulations at 34 C.F.R. § 99) is a federal law that protects the privacy of student education records. The law applies to all schools that receive U.S. Department of Education funds and may restrict access to a participant’s education outcome information. Grantees are encouraged to contact the Department of Education at (202) 260-3887 (voice), or visit the ED.gov website at <http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html> for further assistance.

*All the above information can be found in TEGL 17-05.*

### 4.1.3 PARTICIPATION AND EXIT UNDER PERFORMANCE MEASURES

#### I. Point of Participation for Performance measures reporting

##### A. *What is the definition of a participant?*

A participant is an individual who is determined eligible to participate in the program and receives a service funded by the program in either a physical location (One Stop Career Center or affiliate site) or remotely through electronic technologies.

##### B. *When does program participation occur?*



Following a determination of eligibility (if required), participation in a program commences when the individual begins receiving a service funded by the program. This phrase has the same meaning as the “date of participation” used in some of the measures. If the participant receives services from multiple programs, then states and grantees may use the earliest date of service as the “date of participation” when reporting on the measures in each program.

Operational Parameters:

1. Criteria that are used to determine whether an individual is eligible to participate will be based on the eligibility guidelines for the program. The phrase “determined eligible to participate in the program” under WIOA does not apply to individuals who receive core services in a self-service, facilitated self-help, or staff-assisted modality funded by the Wagner-Peyser Act. These individuals are considered participants and are included in the Wagner-Peyser Act performance accountability system.
2. Individuals who are age 18 or older who only receive WIOA-funded self-service or informational activities are to be counted as participants under the WIOA Adult program. Their treatment under the WIOA performance accountability system is covered in Section 8 of TEGL 17-05.
3. Individuals eligible to participate in the WIOA Dislocated Worker program who only receive WIOA-funded core services, including self-service or informational activities, are to be counted as participants under the WIOA Dislocated Worker program. Their treatment under the WIOA performance accountability system is covered in Section 8 of TEGL 17-05.
4. An individual may be participating in several programs simultaneously and may be counted as a participant in each of those programs. For example, a customer who accesses information on a computer purchased / leased from one funding stream and who is assisted by an employee who is paid from yet another funding stream may be considered as a participant in both funding streams, as appropriate, and with consideration to the programs’ eligibility definitions.
5. Self-directed job search is a service and individuals who use self-directed tools for job search are participants. Please note that self-directed job search alone does not initiate participation in the WIOA Youth program.
6. In accordance with 29 U.S.C. § 2801(34) receipt of post-employment follow-up services designed to ensure job retention, wage gains, and career progress does not result in the commencement of a participation period.
7. Examples of other services and activities that do not commence participation in a program include the following:
  - a. Determination of eligibility to participate in the program;
  - b. Caseload management activities of an administrative nature that involve regular contact with the individual or employer to obtain information regarding his / her



employment status, educational progress, or need for additional services;

- c. Income maintenance or support payments (e.g., unemployment insurance (UI) benefit payments, Temporary Assistance for Needy Families (TANF), other cash assistance, Food Stamps, and subsidized childcare). ETA expects and encourages states to assure that UI claimants will be actively engaged in the search for new employment while they receive UI benefits and that the workforce investment system will provide reemployment services and job search assistance to speed their return to work.
- d. Individuals who visit a physical location for reasons other than its intended purpose (e.g., use of restrooms or ask staff for directions) are not participants.

## II. Point of Exit for Performance measures

### A. *What is the definition of program exit?*

The term program exit means a participant has not received a service funded by the program or funded by a partner program for 90 consecutive calendar days, and is not scheduled for future services. The exit date is the last date of service.

Operational Parameters:

- i. In accordance with 29 U.S.C. § (34), receipt of post-employment follow-up services designed to ensure job retention, wage gains, and career progress do not count as a service that would extend the participation period. Such follow-up services that do not extend the period of participation could include, but are not limited to:
  - 1. additional career planning and counseling;
  - 2. contact with the participant's employer, including assistance with work-related problems that may arise; peer support groups; information about additional educational opportunities;
  - 3. informational mailings; and
  - 4. referral to supportive services available in the community.

Although these services should not extend the participation period or delay program exit, states are reminded that these services may have a direct and positive impact on the employment retention and wage gains of participants who enter employment.

- ii. Examples of other activities that do not extend the period of participation or delay program exit include the following:
  - 1. Determination of eligibility to participate in the program;
  - 2. Caseload management services and any other required administrative case load management activities that involve regular contact with the participant or employer to obtain information regarding the participant's employment status, educational progress, or need for additional services; and



3. Income maintenance or support payments (e.g., Unemployment Insurance (UI) benefit payments, Temporary Assistance for Needy Families (TANF), other cash assistance, Food Stamps, and subsidized childcare). ETA expects and encourages states to assure that UI claimants will be actively engaged in the search for new employment while they receive UI benefits and that the workforce investment system will provide reemployment services and job search assistance to speed their return to work. However, trade readjustment allowances and other needs-related payments funded through the Trade Adjustment Assistance (TAA) program, WIOA, or National Emergency Grants are elements of a training program that delay program exit because these allowances and payments are tied to continuous participation in skills training.
- iii. Many grantees have the capability to track participants across partner programs. At a minimum, these grantees must track participant services across the DOL-funded required One-Stop partner programs until the individual exits all services. Grantees are encouraged to fully integrate WIOA programs and services with all of the required and other appropriate partner programs to provide comprehensive business and participant services. ETA also encourages states to develop integrated data and reporting systems to support program integration and shared performance accountability.
- iv. The phrase “and is not scheduled for future services” does not apply to a participant who voluntarily withdraws or drops out of the program. In these circumstances, once a participant has not received any services funded by the program or a partner program for 90 consecutive calendar days, the date of exit is applied retroactively to the last day on which the individual received a service funded by the program or a partner program.

*B. Are there any exceptions to the definition of exit?*

A participant should not be considered as exited if there is a gap in service of greater than 90 days in one of the following circumstances:

- i. Delay before the beginning of training;
- ii. Health / medical condition or providing care for a family member with a health / medical condition; and
- iii. Temporary move from the area that prevents the individual from participating in services, including National Guard or other related military service.

A gap in service must be related to one of the three circumstances identified above and last no more than 180 consecutive calendar days from the date of the most recent service to allow time to address the barriers to continued participation. However, grantees may initiate a consecutive gap in service of up to an additional 180 days for the participant that follows the



initial 180-day period to resolve the issues that prevent the participant from completing program services that lead to employment. Grantees must document all gaps in service that occur and the reasons for the gaps in service, including the participant's intent to return to complete program services.

*C. When does exit from the program occur?*

Once a participant has not received any services funded by the program or a partner program for 90 consecutive calendar days, has no gap in service, and is not scheduled for future services, the date of exit is applied retroactively to the last day on which the individual received a service funded by the program or a partner program. If the participant receives services from multiple programs, then states and grantees may use the last or most recent date of service as the "date of exit" for use in reporting on the measures in each program.

*Discussion:*

To encourage service integration and recognize shared contributions toward performance outcomes, workforce programs, and, at a minimum, the required USDOL funded One-Stop partner programs should share accountability under the Performance measures when the participant has exited all services funded by the program or funded by a partner program. Some methods for tracking a participant across programs include specifying services financially assisted by partner programs in the individual's service plans, coordinating service tracking through integrated data systems or other technologies, and providing coordinated follow-up services to individuals.

**III. Exclusions from Performance Measures**

Occasionally, circumstances arise that are beyond the control of both the participant and the program and are expected to last for an undetermined period beyond 90 days. The intent here is to identify a common list of specific circumstances as to when a participant can be excluded from Performance measures. A participant in any of the following categories, either at the time of exit or during the three-quarter measurement period following the exit quarter, may be excluded from Performance measures:

- A. *Institutionalized* – The participant is residing in an institution or facility providing 24-hour support, such as a prison or hospital, and is expected to remain in that institution for at least 90 days. This reason does not apply to individuals with disabilities (as defined in 29 C.F.R. § 37.4) residing in institutions, nursing homes, or other residential environments; individuals participating in the Responsible Reintegration of Youthful Offenders program; and individuals participating in the Prisoner Reentry Initiative.
- B. *Health/Medical or Family Care* – The participant is receiving medical treatment or providing care for a family member with a health / medical condition that precludes entry into unsubsidized employment or continued participation in the program. This does not include temporary conditions or situations expected to last for less than 90 days.



- C. Deceased
- D. *Reserve Forces Called to Active Duty* – The participant is a member of the National Guard or a military reserve unit and is called to active duty for at least 90 days.
- E. *Relocated to a Mandated Program* – For youth participants only, the participant is in the foster care system or another mandated (residential or non-residential) program and has moved from the area as part of such a program. This does not include relocation to a Job Corps center.
- F. *Invalid or Missing Social Security Number* – Because the measures require grantees to match personally identifiable client records with wage and other administrative data in order to obtain outcome information, grantees may exclude from all the measures those participants who do not voluntarily disclose a valid social security number.

*All of the above information can be found in TEGL 17-05.*

#### 4.1.4 REPORTING DIFFERENCES BETWEEN THE WIA ACCOUNTABILITY SYSTEM & PERFORMANCE MEASURES

One of the purposes for the introduction of Performance measures was to more accurately reflect the true number of individuals who benefit from the One-Stop system. USDOL ETA recognizes that states are dedicating significant resources to ensure that services (including core self-service and informational activities) are available to remote customers who access the workforce investment system via electronic technologies. ETA intends to provide Congress, the public, and other interested stakeholders with more complete and accurate information on participation levels and types of services being provided through the nation's workforce investment system, including data on customers who access services via electronic technologies. However, confusion still exists as to when an individual receiving a program funded service must be included in performance calculations. This confusion has resulted in a significant undercount of the number of individuals who benefit from funded services, as well as a distorted view of system outcomes, efficiency and efficacy of WIOA, Wagner-Peyser Act, Jobs for Veterans Act, and other programs.

- I. The following sections seek to distinguish participants who need to be included in the Performance measures participant counts from participants who need to be included in performance calculations for WIOA and other programs.

- A. *Who needs to be reported in the Performance measures participant counts?*

- ETA's policy requires state workforce agencies (SWAs) to report, in the appropriate participant counts, all individuals who have been determined eligible and receive a service, including self-service and informational activities, in either a physical location (One-Stop Center or affiliate site) or remotely through electronic technologies.

- B. *Who needs to be included in the performance measures calculations?*





All participants who receive a core, intensive, or training service who exit the program are to be included in performance measures calculations, except that 29 U.S.C. § 2871 expressly excludes WIOA Adult and Dislocated Worker program participants who only receive self-service or informational activities from performance calculations.

II. The exclusion of participants receiving only self-service or informational activities from the WIOA performance calculations has been a major source of confusion and misrepresentation at the state and local level, and has resulted in large numbers of participants being improperly excluded from the outcome performance calculations. ETA is clarifying its interpretation of self-service and informational activities in order to promote greater accountability and consistency among states in their performance computations for the WIOA Adult, Dislocated Worker, Wagner-Peyser Act, Jobs for Veterans Act, and Trade Act programs.

#### A. Self-Service and Informational Activities

According to 20 C.F.R. § 666.140(a)(2), self-service and informational activities are those core services that are:

- i. made available and accessible to the general public;
- ii. designed to inform and educate individuals about the labor market, their employment strengths and weaknesses, and the range of services appropriate to their situation; and
- iii. that do not require significant staff involvement with the individual in terms of resources or time.

ETA interprets the critical terms above as follows:

“Self-service” occurs when participants serve themselves in accessing workforce investment system information and activities in either a physical location, such as a One-Stop Career Center resource room or partner agency, or remotely via the use of electronic technologies.

“Informational activities” in a workforce investment setting may include both self-services and staff-assisted core services that are designed to inform and educate a participant about the labor market and to enable a participant to identify his or her individual employment strengths, weaknesses, and the range of services appropriate for the individual. The exception is core services that require significant staff involvement, as described below.

#### B. Clarification of Significant Staff Involvement

Significant staff involvement is fundamental to determining if a participant will be considered in performance calculations. The critical distinction is determining when a participant has received a level of service that requires significant staff involvement.

Significant staff involvement in a workforce investment setting is any assistance provided by staff beyond the informational activities described above regardless of the length of time involved in



providing such assistance. Significant staff involvement includes a staff member's assessment of a participant's skills, education, or career objectives in order to achieve any of the following:

- i. Assist participants in deciding on appropriate next steps in the search for employment, training, and related services, including job referral;
- ii. Assist participants in assessing their personal barriers to employment; or
- iii. Assist participants in accessing other related services necessary to enhance their employability and individual employment related needs.

A participant who receives this level of service has received a service that involves a significant level of staff involvement; therefore, this participant would be included in the performance measures calculations.

On the other hand, when a staff member provides a participant with readily available information that does not require an assessment by the staff member of the participant's skills, education, or career objectives, the participant is a recipient of informational activities. This includes information such as labor market trends, the unemployment rate, information on businesses that are hiring or reducing their workforce, information on high-growth industries, and occupations that are in demand.

A participant is also a recipient of informational activities when a staff member provides the participant with information and instructions on how to access the variety of other services available in the One-Stop Career Center, including the tools in the resource room.

A participant who only receives this level of service has not received a service that involves a significant level of staff involvement; therefore, he/she is a participant who would be excluded from the performance measures calculation.

#### C. Inclusion of Participants in Performance Calculations by Program

Although the WIOA Adult and Dislocated Worker program participants who access or receive only self-service or informational services are excluded in the WIOA performance calculations, these participants should be included in the Wagner-Peyser Act reporting and performance calculations to the degree that Wagner-Peyser Act funds contributed to the core employment and workforce information services received.

In accordance with policy principles in TEGL 17-05, if a participant is served by a specific funding stream, he/she will be counted as a participant in that funding stream's reporting system and/or performance calculations. For example, Wagner-Peyser Act funds are often used to support and maintain One-Stop Career Center operations, electronic tools, job banks, and workforce information services. In these situations, it would be appropriate to include participants who accessed or received Wagner-Peyser Act-funded services in the Wagner-Peyser Act performance



accountability system. Where WIOA program funds are used in similar ways, participants who receive self-service or informational activities would only be included in the WIOA participant and services counts, but would not be counted in the WIOA performance measures. OWD is accountable for assuring uniform application of ETA policy and is available to assist local service providers in making these determinations.

*All of the above information can be found in TEGL 17-05.*



## 4.2 DATA VALIDATION

### I. Expectations

Georgia receives WIOA funding from the USDOL Employment and Training Administration (ETA) based on achieving negotiated performance. ETA's expectations are that work is done in a timely manner and correctly reported on a quarterly basis. ETA reserves the right to sanction any state that does not meet negotiated performance or reporting is consistently incorrect, as verified through the data validation process.

Many aspects of daily work for WIOA programs affect performance reporting for WIOA programs. As part of quality control, OWD will review these functions to determine whether LWDA's are adequately and appropriately meeting deadlines and documentation requirements. All participant case files are to be kept electronically in the WorkSource Portal. All documentation must be maintained in the WorkSource Portal for any participant enrolled after January 1, 2019.

#### A. Data Entry

Timely data entry affects performance reporting and OWD staff workload if information needs to be backdated. Timely data entry will be determined based on files reviewed at random times and during desk reviews prior to monitoring visits.

#### B. Correct Data Entry

Correct data entry affects performance reporting and OWD staff resources assigned to make corrections to data in the WorkSource Portal. Data entry problems include missing fields from the WIOA participant application.

The WIOA participant application is the only source of documentation for many fields required for quarterly reporting to ETA. ETA compiles statistics on demographic data for different WIOA populations to determine how they are effectively being served through the program. Incorrect data skews these statistics and does not show an accurate representation of service to WIOA participants. Data in the WorkSource Portal should be checked before hitting the Save button to ensure that correct data has been entered in the WorkSource Portal. Incorrect data problems will be identified during monitoring visits.

#### C. Appropriate Documentation

Many elements of WIOA enrollment require appropriate documentation be placed in participant files. Documentation sources can be identified on the WIOA participant application or the program verification worksheets. Missing documentation will be identified during monitoring visits.

#### D. Credential Records

The Youth program "Attainment of a Degree or Certificate" performance measure requires the recording of a credential attained during the participant's enrollment or within three quarters



after exit. Credentials must be documented using a transcript, certificate, diploma, or a letter from an appropriate school system. If there is not a specific date on the credential (i.e., May 2012), the actual date must be case noted. If not recorded, credentials will not be counted for performance reporting. Deficiencies in credential entry will be identified through quarterly reporting and monitoring.

There is no performance measure relating to attainment of a credential for Adult or Dislocated Worker performance. However, attainment of a credential is a data element required for quarterly reporting for these programs. Credentials earned by Adult and Dislocated Worker participants must be collected. Deficiencies in credential entry will be identified through monitoring.

#### E. Follow-Up Contact

Follow-up information is used for performance reporting in cases where unemployment insurance or federal wage records are not found. Follow-up contact is required for all Youth participants, and for Adult and Dislocated Worker participants who exit to employment. Follow-up contact information can be used for three performance measures:

- i. Entered Employment: Follow-up contact is used for participants employed during the first quarter after exit (Adult, Dislocated Worker, and National Emergency Grant performance).
- ii. Employment Retention: Follow-up contact is used for participants employed during the first, second, and third quarters after exit (Adult, Dislocated Worker, and National Emergency Grant performance).
- iii. Placement in Employment or Education: Follow-up contact is used for Youth participants who are in employment or post-secondary education/advanced training/occupational skills training during the first quarter after exit.

Follow-up contact is required to be recorded. The information should state the employer name, address, phone number, and job title if the participant is employed. If the participant is in some type of training after being exited, a brief description should be noted.

Follow-up contact is the only source for verifying that a Youth participant is in some type of training after they are exited from the WIOA Youth program. Therefore, it is very important that this information be recorded.

Deficiencies in completing follow-up contact will be identified through monitoring.

#### F. Deficiency Consequences

ETA has the option of sanctioning states for not meeting acceptable performance. Acceptable performance depends on information entered correctly in the WorkSource Portal and appropriate documentation placed in participant files. Deficiencies in any of the above areas will result in a LWDA being placed on a corrective action plan. If deficiencies are identified after a LWDA has been placed on corrective action, a portion of WIOA funding may be revoked.



Problems with any of the above functions may be identified through monitoring or through day-to-day functions. OWD will determine whether there are errors for any of the areas identified above, and whether they are substantial enough to warrant corrective action or possible sanction.

The following table shows the progression for determining deficiencies:

<p><b>Baseline:</b> <b>First year monitoring findings:</b></p>	<p>OWD staff will identify any monitoring findings and discuss these with LWDA's during exit interview. Deficiencies will be noted on monitoring reports after onsite review.</p>
<p><b>Corrective Action:</b> <b>Second year monitoring findings:</b></p>	<p>OWD staff will identify monitoring findings that have not been resolved from the previous year's monitoring or continue to be an issue. LWDA's may be placed on corrective action notice if there are unresolved problems or issues that continue to occur.</p>
<p><b>Sanctioning:</b> <b>Third year finding:</b></p>	<p>Monitoring findings that have not been resolved from the previous year or continue to occur may result in sanctioning of a service provider.</p>

OWD will provide technical assistance to any LWDA deemed deficient in any of the problem areas identified above. OWD may also request technical assistance from USDOL for help in resolving identified problems. LWDA's are always encouraged to ask questions or ask for help from OWD or any other service provider.

## II. Quality Control Improvement

There are several options to improve quality of the requirements for each of the functions listed above. These options include but are not limited to the following:

- A. A Peer-to-peer review to improve quality control for all areas identified above. This provides the ability to correct data and can serve as a learning tool for LWDA's.
- B. Technical Assistance (TA) is available to any LWDA who wants or needs assistance.
- C. Statewide TA sessions may be held yearly to share information and best practices.
- D. Requests help from program managers or management information staff.



## 4.3 EVALUATION

Evaluation is the measurement of the effectiveness of programs in meeting objectives, program goals, and performance standards. Evaluations are intended to promote, establish, implement, and utilize methods for continuously improving workforce activities in order to achieve high-level performance within, and high-level outcomes from the statewide system.

OWD will produce a report on training provided and the use of training funds that is presented to the SWDB annually. This report includes the types of training providers used, the top training programs requested by WIOA participants, a comparison of in-state and out-of-state training costs, comparison of cost categories for training, comparison of the cost between different types of training providers, and a comparison of participant training completions and participant outcomes. The information on training is also included in the WIOA Annual Report.

Additional reports as requested by the SWDB will be produced on behalf of the workforce system. From these reports, the SWDB and OWD will be able to assess how effective the programs are in meeting objectives and goals and recommend any improvements that need to be made.



## 4.4 WIOA ELIGIBLE TRAINING PROVIDERS AND PROGRAMS LIST PROCEDURES

### Purpose and Scope

The purpose is to provide guidance to Local Workforce Development Areas (LWDAs), Local Workforce Development Boards (LWDBs) and all training providers regarding the Eligible Training Provider (ETP) requirements under WIOA. The document provides guidelines for initial and continued eligibility of training providers, state requirements for training providers' performance, data reporting and training provider removal provisions.

### Background

WIOA requires the Governor, through the Technical College System of Georgia's Office of Workforce Development (OWD), to establish criteria, information requirements and procedures regarding the eligibility of providers of training services to receive funds under Section 122(b) of WIOA.

WIOA emphasizes informed customer choice, job-driven training, program performance and continuous improvement. The quality and selection of training programs is vital to achieving these core principles. The State Eligible Training Provider/Program List (ETPL), including performance and cost information, is publicly available online through OWD's website with a searchable database to serve all significant populations groups.

OWD's responsibilities include:

- Establishing eligibility criteria, information requirements and procedures which identify the roles of the State and LWDBs in determining the eligibility of providers and programs to receive funds through Individual Training Accounts (ITAs);
- Developing and maintaining the State ETPL including initial and continued eligibility and performance and cost information reporting;
- Ensuring programs meet eligibility criteria and performance levels, including accuracy of the information;
- Removing programs that do not meet established criteria or performance levels, at the direction of the applicable LWDBs;
- Working with the SWDB to take appropriate enforcement actions against providers that intentionally provide inaccurate information or substantially violate WIOA requirements;
- Providing a secondary appeals process through the SWDB when providers have exhausted the applicable LWDB's appeal process;
- Disseminating the State ETPL, including performance and cost information, to the general public and the LWDAs throughout the State; and





- Administering and maintaining the State’s mechanism to contact all Registered Apprenticeship programs of their automatic eligibility on the State ETPL, in concert with the USDOL Office of Apprenticeship (OA).

LWDBs responsibilities include:

- Determining initial eligibility of entities providing training programs and considering the possible termination of providers due to submission of inaccurate eligibility and performance information or a substantial violation of WIOA requirements;
- Working with OWD to ensure sufficient numbers and types of providers of training services exist, including providers with expertise in assisting adults in need of adult education and literacy activities;
- Ensuring the dissemination and use of the State ETPL, including formats accessible to individuals with disabilities;
- Requiring additional criteria and information from providers to become eligible in that local area, if desirable; and
- Setting higher levels of performance than those required by OWD as criteria for local programs to become or remain eligible to provide services in the local area, if desirable.

#### 4.4.1 TRAINING PROVIDERS AND PROGRAMS SUBJECT TO ETP REQUIREMENTS

Eligible Training Providers (ETP) are entities that make available programs which are eligible to receive WIOA funds for adults and dislocated worker participants who enroll in training programs through Individual Training Accounts (ITAs). ITAs may also be utilized for WIOA youth funds to provide training for older, out-of-school youth ages 18-24. To be eligible to receive training funds, the ETP shall be one of the following:

- Post-secondary education institutions that provide a program which leads to a postsecondary credential;
- Entities that carry out programs registered through the National Apprenticeship Act (Registered Apprenticeship programs);
- Other public or private training providers, which may include: community-based organizations, joint labor-management organizations, pre-apprenticeship programs and occupational/technical training;
- Eligible providers of adult education and literary activities, if combined with skills training; or
- Local Workforce Development Boards (LWDBs), if they meet the conditions of WIOA sec. 107(g)(1).



#### 4.4.2 ELIGIBLE PROGRAMS OF TRAINING SERVICES

A training services program is defined as one or more courses or classes or a structured regimen that leads to an industry recognized certificate or credential, a certificate of completion of a registered apprenticeship, a license recognized by the state or federal government, an associate or baccalaureate degree, a secondary school diploma or its equivalent, employment or measureable skill gains toward such a credential or employment.

Not all allowable types of training services are subject to the requirements of the training provider provisions. Contracts for services may be utilized instead of ITAs only when one or more of the following five exceptions apply and the LWDB has fulfilled the consumer choice requirements of 20 C.F.R. § 680.340:

- A. When the services provided are on-the-job training, customized training, incumbent worker training, transitional employment, internships, paid or unpaid work experience;
- B. When the LWDB determines that there is an insufficient number of eligible providers in the local area to accomplish the purposes of a system of ITAs. The determination process must include a 30-day public comment period and be described in the local plan;
- C. When the LWDB determines that there is a training program of demonstrated effectiveness offered in the area by a community-based organization or another private organization to serve individuals with barriers to employment. The LWDB must develop criteria (as noted in 20 C.F.R. § 680.320) to be used in determining demonstrated effectiveness, particularly as it applies to individuals with barriers to employment;
- D. When the LWDB determines that it would be most appropriate to contract with an institution of higher education or other eligible provider of training services in order to facilitate the training of multiple individuals in in-demand industry sectors or occupations, provided that the contract does not limit customer choice;
- E. When the LWDB is considering entering into a pay-for-performance contract and the Local WDB ensures that the contract is consistent with § 683.510 of this chapter or
- F. When an LWDB may provide training services only if it submits a request to the State for a waiver. The proposed request should be made available to eligible training providers and the general public for public comment no less than 30 days. Public comments must be included with the request. The request will include: evidence that there are an insufficient number of eligible provider of such a program of training services to meet local demand, information that the board meets the requirements for an eligible training provider under WIOA Section 122, and information that training will prepare participants for an in-demand industry sector or occupation in the local area.



#### 4.4.3 TRAINING PROVIDERS ELIGIBLE BEFORE THE WIOA TRANSITION PERIOD

NOTE: Automatic approval of higher education institutions (TCSG and USG institutions) or NFJP grantees is not permitted under WIOA. TCSG and USG providers were assessed for continued eligibility on June 30, 2016 and will be assessed biennially under WIOA.

#### 4.4.4 INITIAL ELIGIBILITY FOR NEW TRAINING PROVIDERS OR PROVIDERS SUBMITTING NEW PROGRAMS

##### I. **New Training Providers/Programs**

All ETPs that were not previously approved as eligible under WIA (except Registered Apprenticeship programs) must submit the required information to be considered for initial eligibility under WIOA. Under WIOA, ETPs may receive initial eligibility for only one year for a ETP-specific program. For potential ETPs seeking initial eligibility, verifiable program-specific performance information must be provided.

WIOA requires that programs, not ETPs, be approved for ITAs. Therefore, potential ETPs must submit an application for each course of study or program.

Potential ETPs submitting initial eligibility applications should submit training program applications directly to a LWDB. Training program applications will be reviewed and evaluated by an LWDB. If the program application is approved by an LWDB, the program is submitted to OWD for review, approval and placement on the State ETPL.

Program applications need only be made with one LWDB for possible inclusion on the State ETPL. Once approved for placement on the State ETPL, an approved program is available to all Georgia LWDBs and cooperative States.

A generic application and instructions can be accessed at [www.WorkSourceGAPortal.com](http://www.WorkSourceGAPortal.com). Information regarding LWDBs is also available on the website. Additionally, some LWDBs have additional, more stringent eligibility requirements. If a potential ETP is within that LWDB, the potential ETP must meet the LWDB's more stringent eligibility requirements. Potential ETPs should check with their LWDB to ascertain application requirements for information specific to that LWDB.

The current State ETPL can be accessed at: [www.WorkSourceGAPortal.com](http://www.WorkSourceGAPortal.com)

An Applicant must provide the following:

- A. A detailed description of each training program – Provide information that the program is a high quality program, which can include information related to training services that lead



to a recognized post-secondary credential, or a wage more than 150% of the Georgia self-sufficiency wage (\$10.88), or successful outcomes across all population groups;

B. Performance information for each training program will include:

- Median earnings;
- Average wage at placement;
- Attainment of post-secondary credential;
- Completion rate;
- Employment rate; and
- Training-related employment rate.

C. Describe in detail applicant's partnerships with business;

D. Describe the recognized post-secondary credential attained after training completion;

E. Describe how the training program(s) aligns with in-demand industries and occupations;

F. LWDBAs must verify that the Applicant complies with the following to be considered for inclusion on the State ETPL:

- i. Applicant must have been in business for at least six months prior to the initial application and must have a current business license or proof of active compliance with the Secretary of State Corporations Division;
- ii. Training programs must be available to the general public, have published catalog price structures;
- iii. Training facilities must comply with ADA requirements for accessibility and reasonable accommodation;
- iv. Each training program must have proven outcomes and have successful program completions and training-related employment for at least five students per program;
- v. Applicant must be current on all federal and State taxes (Must supply certification from accounting/tax firm of current tax standing regarding federal and State taxes, including Unemployment Insurance taxes);
- vi. Applicant must be in statutory compliance with the laws of the State related to operation as a training education institution. Proprietary colleges or schools operating in Georgia are required by the Nonpublic Post-Secondary Educational Institution Act of 1990 to have a certificate of authorization from the NPEC before beginning operation or advertising in the state;
- vii. Applicant must provide documentation of current accreditation/authorization;
- viii. Applicant must not have been found at fault in criminal, civil or administrative proceeding related to its performance as a training or educational institution. Must disclose any pending criminal, civil or administrative proceeding as either a defendant or a respondent;



- ix. Applicant must disclose any and all conflicts of interest with State or LWDB staff or board members including, but not limited to family ties (spouse, child, and parent), fiduciary roles, and employment or ownership interests in common; and
- x. All applications must include a current federal tax identification number.

<u>STUDENTS PAST PERFORMANCE INFORMATION – past 12 months period</u>	<u>Minimum Standard</u>	<u>Definition</u>
Must pass two of six measures		
Median Earnings	<u>\$11.50</u>	The median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program
Average Wage at Placement	<u>\$10.70</u>	Average wage at placement of completers obtaining employment
Attainment of Post-Secondary Credential	<u>60%</u>	The percentage of program participants who obtain a recognized post-secondary credential or a secondary school diploma or its recognized equivalent during participation in or within one year after exit from the program
Completion Rate	<u>70%</u>	Program completion rate for students completing all coursework and exams
Employment Rate	<u>70%</u>	Employment Rate for all students completing the program coursework
Training-Related Employment Rate	<u>70%</u>	Percent of completers exiting the program who have obtained training-related employment



LWDAs must develop a Pre-Award Checklist to be conducted prior to recommendation for a Provider/Program inclusion on the ETPL. The Checklist should include an on-site visit to assess compliance with ADA accessibility and reasonable accommodations. The Data and Information team may conduct yearly random assessments of this process.

**Local Workforce Development Boards may require additional information or may set additional standards which may be higher than the State standards.**

## II. Currently approved ETPs proposing new training programs

Approved Training Providers proposing new training programs shall follow the following procedure in order to qualify for **one year** of initial eligibility. Approved Training Providers seeking initial eligibility for a new program shall provide the LWDB a narrative application, which must include the following verifiable program specific performance information:

1. Provide information on a substantially similar training program (in the same industry) indicating whether that program satisfied the following indicators of performance:
  - a. Unsubsidized employment during the second quarter after exit,
  - b. Unsubsidized employment during the fourth quarter after exit,
  - c. Median earnings,
  - d. Credential attainment,
  - e. Average wage at placement, and
  - f. Training related employment rate;
2. A descriptive narrative with information on the proposed training program's ability to satisfy the following indicators of performance:
  - a. Unsubsidized employment during the second quarter after exit,
  - b. Unsubsidized employment during the fourth quarter after exit,
  - c. Median earnings,
  - d. Credential attainment,
  - e. Average wage at placement, and
  - f. Training related employment rate;
3. Information concerning whether the provider is in a partnership with business. This could include information about the quality and quantity of employer partnerships:
4. Information that addresses alignment of the training services with in-demand industry sectors and occupations, to the extent possible.
5. LWDAs must re-verify that the Approved Training Provider's proposed new program complies with the following to be considered for one-year inclusion on the State ETPL:



- a. Approved Training Provider must have been in business for at least six months prior to the initial application and must have a current business license or proof of active compliance with the Secretary of State Corporations Division;
- b. Training programs must be available to the general public and have published catalog price structures;
- c. Training facilities must comply with ADA requirements for accessibility and reasonable accommodation;
- d. Approved Training Provider must be current on all federal and State taxes (must supply certification from accounting/tax firm of current tax standing regarding federal and State taxes, including Unemployment Insurance taxes);
- e. Approved Training Provider must be in statutory compliance with the laws of the State related to operation as a training education institution. Proprietary colleges or schools operating in Georgia are required by the Nonpublic Post-Secondary Educational Institution Act of 1990 to have a certificate of authorization from the NPEC before beginning operation or advertising in the state;
- f. Approved Training Provider must provide documentation of current accreditation/authorization;
- g. Approved Training Provider must not have been found at fault in criminal, civil, or administrative proceeding related to its performance as a training or educational institution and must disclose any pending criminal, civil, or administrative proceeding as either a defendant or a respondent;
- h. Approved Training Provider must disclose any and all conflicts of interest with State or LWDB staff or board members including, but not limited to, family ties (spouse, child, and parent), fiduciary roles, and employment or ownership interests in common; and,
- i. All applications must include a current federal tax identification number.

All information detailed above shall be reviewed and verified by the Local Workforce Development Board, in a manner detailed in a local policy, to determine whether or not the proposed program shall be granted initial, one-year eligibility.

At the conclusion of the initial year, the program shall provide such required data as outlined and detailed below for the State to determine whether the program shall remain on the ETPL or be removed. Each required measure's data shall be collected and submitted by the Local Workforce Development Area. The Approved Training Provider may continue enrolling WIOA-funded students into the initially approved program until such time as the State issues a determination regarding continued eligibility and subsequent placement on the ETPL.



After receiving the program’s data from the Local Workforce Development Area, the State shall perform its review of the program. If the necessary data is not received by the State in a timely manner, the Program shall not receive continued eligibility or be placed on the ETPL. The program must satisfy the following factors in order to be determined eligible for placement on the ETPL:

1. The program must enroll at least ten (10) students during the twelve-month initial eligibility period; and,
2. The program must satisfy two or more of the six factors identified in the table below.

If the program fails to satisfy either of the two requirements listed above, the Approved Training Provider’s program under review will be removed in accordance with section 4.4.7 (II).

<u>STUDENTS PAST PERFORMANCE INFORMATION – past 12 months period</u>	<u>Minimum Standard</u>	<u>Definition</u>
Must pass two of six measures		
Median Earnings	<u>\$11.50</u>	The median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program
Average Wage at Placement	<u>\$10.70</u>	Average wage at placement of completers obtaining employment
Attainment of Post-Secondary Credential	<u>60%</u>	The percentage of program participants who obtain a recognized post-secondary credential or a secondary school diploma or its recognized equivalent during participation in or within one year after exit from the program
Completion Rate	<u>70%</u>	Program completion rate for students completing all coursework and exams





Employment Rate	<u>70%</u>	Employment Rate for all students completing the program coursework
Training-Related Employment Rate	<u>70%</u>	Percent of completers exiting the program who have obtained training-related employment

#### 4.4.5 REGISTERED APPRENTICESHIP PROGRAMS

##### I. Automatic Eligibility

Under WIOA, all Registered Apprenticeship (RA) programs that are registered with the USDOL Office of Apprenticeship (OA) are automatically eligible to be included on the State ETPL. RA programs are not subject to the same application and performance information requirements nor subject to a period of initial eligibility as other ETPs because they go through a detailed application and vetting procedure to become a registered apprenticeship program sponsor with USDOL/OA.

All RA programs will be informed of their automatic eligibility to be included on the State ETPL and are provided an opportunity to consent to inclusion, before being placed on the State ETPL. The State has worked with OA to develop a mechanism to contact all RA programs within the State regarding inclusion on the State ETPL. OWD works with the OA to collect program information (to populate the State ETPL) on newly OA registered apprenticeship programs on a quarterly basis. Information required to populate the State ETPL includes: Occupations; name/address of program sponsor; name/address of instructional provider if different from the sponsor; method and length of instruction; and number of active apprentices.

##### II. Performance

There are no WIOA performance requirements for RA programs and RA programs are not required to provide ongoing reports to the State or LWDBs. OWD will work in concert with the OA to encourage voluntary reporting of performance information.

RA programs must remain registered and in good standing with the OA to remain on the State ETPL. OWD works in concert with the OA to verify registration status.

LWDAs may not impose additional criteria, information or reporting requirements on RA programs. Additionally, if an LWDA has a local ETPL, RA programs should be included and should be noted as ‘in-demand occupations’. If an issue arises, LWDAs should contact OWD for assistance.

##### III. Continued Eligibility



RA program sponsors appearing on the State ETPL will remain there as long as the program is registered or until the program sponsor notifies the OWD that it no longer wants to be included on the State ETPL. However, RAs may be removed if determined to have intentionally supplied inaccurate information or to have substantially violated any provision of Title I of WIOA (e.g., civil rights of discrimination violations) or the WIOA regulations, including 29 C.F.R. part 38. An RA program whose eligibility is terminated due to intentionally supplying inaccurate information or substantially violating WIOA provisions will be terminated for not less than 2 years and is liable to repay all youth, adult and dislocated worker training funds, if received during the period of noncompliance.

If instances of substantial violation are reported to OWD, OWD will work in concert with the OA to make the determination of ineligibility. The opportunity for an appeal and hearing is described in the ETPL Appeal Procedures.

At minimum, OWD will conduct a semiannual review of RA programs including verification of the registration status and removal of any RA programs that are not currently registered or no longer wish to continue as ETPs, in collaboration with OA. Although RA programs are not required to provide ETP Performance reports, voluntary reporting of performance information is encouraged under WIOA regulations and outcomes for WIOA participants in WIOA funded RA programs must be included in the State's annual performance report. WIOA § 116 (d)(2)

#### 4.4.6 CONTINUED ELIGIBILITY PROCEDURES

This section addresses procedures for continuing eligibility for ETPs previously approved under WIA that are transitioning into WIOA and newly ETPs under WIOA. ETPs previously approved under WIA are subject to the application procedures for continued eligibility as of June 30, 2016.

New ETPs that were determined to be initially eligible under WIOA will be subject to the application procedure for continued eligibility after their initial year of eligibility expires.

WIOA Sections 116 and 122 and 20 C.F.R. § 680 detail the continuing eligibility criteria that States must take into account. However, until data from the conclusion of each WIOA performance indicator's first data cycle is available, the State has set minimum performance criteria. Once ETPs have two years of performance outcomes using the WIOA performance indicators specified in WIOA Section 116, the State will utilize the WIOA performance indicators for continuing eligibility.

- I. Review of Minimum Performance Outcomes Required for Continued Eligibility (to be utilized until WIOA performance data is available).



For the Transition Year, ETPs are not required to complete a Continued Eligibility Application. For a program to remain eligible to receive ITA funds for new enrollments after June 30, 2016, the State utilized data available through the WorkSource Portal to compare program level performance outcomes against established minimum State standards, covering the preceding program year. Programs with an enrollment of at least 10 students were evaluated for continuing eligibility.

In addition to the evaluation of performance information for the past program year, for those programs not meeting performance for the past program year, an additional evaluation reviewed performance for the previous two program years to ascertain if failing to meet performance standards occurred in the past.

If approved, a program's continuing eligibility will extend until the biennial WIOA performance measurement review. If not approved, an ETP will be notified by OWD that the program will be removed from the State ETPL. The LWDA in which the program resides will also be notified.

<u>ALL WIOA STUDENTS PAST PERFORMANCE INFORMATION – Preceding program year</u>	<u>Minimum Standard</u>	<u>Definition</u>
Must pass three of six measures		
Median Earnings	<u>\$11.50</u>	The median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program
Average Wage at Placement	<u>\$10.70</u>	Average wage at placement of completers obtaining employment
Attainment of Post-Secondary Credential	<u>60%</u>	The percentage of program participants who obtain a recognized post-secondary credential or a secondary school diploma or its recognized equivalent



		during participation in or within one year after exit from the program
Completion Rate	<u>70%</u>	Program completion rate for students completing all coursework and exams
Employment Rate	<u>70%</u>	Employment rate for all students completing the program
Training-Related Employment Rate	<u>70%</u>	Percent of completers exiting the program who have obtained training-related employment

**Local Workforce Development Boards may set additional standards which are higher than the state standards. An LWDB may remove a program of training services from the local ETPL (Not the State ETPL) for failure to meet those higher, local standards.**

Performance data is tracked through OWD’s data management system; however, ETPs may be asked to provide additional continuing eligibility information.

II. Use of Quarterly Wage Records

WIOA requires the use of quarterly wage record information in measuring the progress of State adjusted levels of performance. The use of participants’ social security numbers and other sensitive information necessary to measure the participants’ through quarterly wage record information is authorized by WIOA. OWD reserves the right to request participants’ information from the ETP, if necessary. OWD assures ETPs that any participants’ social security number transmitted and resulting UI Wage File data will be: used only to prepare aggregate program performance reports as required under WIOA; not disclosed in any personally identifiable form; safeguarded while OWD is in possession of the same; and destroyed when no longer needed for the purposes of complying with WOIA. In addition, disclosure of personally identifiable information from an education record must be carried out in accordance with the Family Education Rights and Privacy Act, including the circumstances related to prior written consent.

Per Training and Employment Guidance Letter Number 39-11, “personally identifiable information and other sensitive information are required to be protected. Therefore, any transmission of such information shall be encrypted using a Federal Information Processing Standards (FIPS) 140-2 compliant and National Institute of Standards and Technology (NIST) validated cryptographic module. For further information, reference FIPS PUB 140-2.”



#### 4.4.7 NOTICE OF DENIAL OF ELIGIBILITY OR REMOVAL

The LWDB who originally approved the program's inclusion to the ETPL shall be responsible for making ETP removal determinations under the following conditions:

- I. Supplying inaccurate information (If inaccurate information regarding a program is intentionally supplied to a LWDB or OWD.)
  - A. If instances of intentionally supplying inaccurate information are reported to, the LWDB shall submit a recommendation for ETP removal to OWD. Upon receiving a determination of ineligibility from the LWDB, OWD will remove the ETP from the ETPL at the LWDB's request.
  - B. The ETP may be excused if the inaccurate information was supplied unintentionally, but the burden for proving the inaccurate information supplied was unintentional rests with the ETP.
  - C. If warranted, a termination of eligibility will occur and will remain in effect for a minimum of two years.
- II. Substantial violation
  - A. If a LWDB determines that an ETP has substantially violated any requirements under WIOA (e.g., civil rights or discrimination violations), failed to provide timely and accurate information for the ETP report and for initial and continued eligibility, or failed to follow other State or federal laws, regulations or requirements, then the LWDB shall notify OWD of the determination of ineligibility. Upon receiving a determination of ineligibility from the LWDB, OWD shall remove the ETP from the ETPL.
  - B. Repeated failures to submit information and a failure to cooperate with the LWDB will be considered in the State determining whether a "substantial violation" occurred. "Substantial violation" may be construed to be one or more egregious violations in a short period of time or numerous minor violations over a longer period of time.
  - C. With regard to a violation of the submittal of timely and accurate information for the ETP as well as initial and continued eligibility, the LWDB shall take into account exceptional circumstances beyond the ETP's control, such as natural disasters, unexpected personnel transitions, and unexpected technology related issues.
  - D. A termination of eligibility will occur and will remain in effect for a minimum of two years for all substantial violations.
- III. Removal for failure to meet performance standards
  - A. If an ETP's program fails to meet minimum established State established performance levels set for continued eligibility, the program must be removed from the State ETPL.
  - B. An ETP/ ETP program may reapply under the initial eligibility criteria if they can provide documentation of successful performance attainment with all students prior to the next program year. During that time the former ETP should take the opportunity to evaluate program design performance of non-WIOA students.



- C. Reapplication procedures may begin with a LWDB no earlier than 90 days preceding the beginning of the one-year exclusion period.
- D. If the LWDB program evaluation indicates that there have been successful performance outcomes of all students, the program may be added to the State ETPL no earlier than one year from the date of removal.

#### IV. Other Removals

- A. If an ETP loses its license or accreditation of its accrediting body.
- B. If an ETP's program is inactive (no activity within three program years), the ETP's program will be automatically removed and the provider (program) will have to re-apply using initial eligibility procedures.

#### V. Repayment

An ETP's program whose eligibility is terminated under the above conditions shall be liable for repayment of funds received during the period of noncompliance.

If an ETP's program is terminated or removed from the State ETPL, the LWDA should assure timely assistance to participants who may be affected. Depending on the nature of the violation, WIOA participants may be allowed to complete the programs, or may transfer and enroll in other training programs.

If it is deemed by a LWDB that training received by a WIOA customer did not adhere to program information as marketed by the ETP, consequences levied upon the ETP may include: (1) additional training to the aggrieved customer at no cost; and/or (2) a refund to the fiscal agent of amounts paid; and/or (3) debarment from the State ETPL.

#### VI. ETPL Appeal Procedure

##### A. Introduction

These procedures are designed to provide guidelines for filing and resolving Appeals made by an ETP. In the event that an ETP seeks to file an Appeal, it must do with the entity whose action the ETP disputes. For example, in the event that an ETP is removed from a specified LWDB, the ETP must file an Appeal with the LWDB in accordance with LWDB's policies. Once an ETP has filed an Appeal with the LWDB, received a written resolution, and is dissatisfied with the LWDB's resolution, the ETP may file second level appeal with the SWDB.

Conversely, in the event that an entity is denied designation on the State ETPL, or if the ETP or is removed from the State ETPL, the ETP may file an Appeal directly with the SWDB.

##### B. Local Appeal Procedures



TEGL WIOA NO. 41-14(11)(b) requires LWDBs to establish an Appeal procedure for ETPs to dispute a denial of eligibility from the ETPL. Such procedures must allow for an attempt to resolve the dispute informally, provide an opportunity for a hearing, and require written resolution within 60 days of the filing date of the Appeal. They must also notify the ETP of its right to file a Second Level Appeal with the State.

#### C. SWDB Procedures for Second Level Appeals of LWDA Resolutions

An ETP may file a second level appeal of a LWDB resolution directly with the SWDB so long as the following criteria are satisfied:

1. The ETP has completed an ETPL Appeal form;
2. The ETP attaches the LWDB's Written Resolution and any other pertinent information to the Appeal form; and
3. The Appeal is filed with the SWDB no later than 30 days from the date the LWDB issued its written resolution.

The ETP shall have the option of requesting a hearing in the event that the Second Level Appeal cannot be resolved informally. In the event that a hearing is requested in writing, it will be conducted in accordance with the procedure set forth below. The SWDB ruling on all Second Level Appeals shall be final.

#### D. OWD Procedures for Appeals of denial or removal of an ETP from the State ETPL

An ETP may file an appeal directly with the SWDB in the event that the ETP is denied eligibility or is removed from the State ETPL. In order to Appeal, the ETP must satisfy the following criteria:

1. The ETP must complete an ETPL Appeal form;
2. The ETP must include all other pertinent information; and
3. The ETP must file the Appeal no later than 30 days from the date that the ETP is denied eligibility or is terminated from the State ETPL.

The ETP shall have the option to request a hearing in the event that the Appeal cannot be resolved informally. In the event that a hearing is requested in writing, it will be conducted in accordance with the procedure set forth below. The SWDB ruling on all Appeals shall be final.

#### E. Hearing Procedure for State and Local ETPL Determination Appeal

As required by WIOA, every ETP shall have the opportunity for a hearing for any Appeal that is filed. A request for a hearing must be made in writing by the ETP, preferably at the time the Appeal is initially filed. However, an ETP may file a written request for a hearing within sixty (60) days of the date the Appeal was filed. If a request for a hearing is made, then the hearing shall be held as soon as reasonably possible to enable a resolution of the Appeal no later than



sixty (60) days from the day the Appeal is filed. The LWDB and the SWDB shall use the following procedures if a hearing is requested:

1. Upon receiving written notice of the ETP's request for a hearing, the LWDB or the SWDB shall respond in writing acknowledging the ETP's request and notifying the ETP of the date of the hearing. Such acknowledgment and notice shall be transmitted to the ETP within ten (10) business days of receipt of the ETP's request. The notice shall include, at a minimum:
  - a. The date of issuance;
  - b. The name of the ETP;
  - c. The name of the Respondent against whom the Appeal has been filed (OWD or the LWDB);
  - d. A statement reiterating that the ETP and Respondent may be represented by legal counsel at the hearing;
  - e. The date, time, and place of the hearing, including the name of the hearing officer serving as an impartial party;
  - f. A statement of the alleged violations of WIOA, (This may include clarification of the original Appeal, but must accurately reflect the content of the submitted documentation of the ETP);
  - g. A copy of any policies or procedures for the hearing or identification of where such policies may be found; and
  - h. The name, address, and telephone number of the contact person issuing the notice.
2. The hearing shall be conducted in compliance with federal regulations. At a minimum, the hearing must include:
  - a. An impartial hearing officer selected by the LWDB or SWDB;
  - b. An opportunity for both the ETP and LWDB/OWD to present an opening statement, witnesses and evidence;
  - c. An opportunity for each party to cross-examine the other party's witnesses; and,
  - d. A record of the hearing which the LWDB or OWD shall create and retain.
3. The hearing officer, considering the evidence presented by the ETP and Respondent, shall issue a written decision which shall serve as the LWDB or SWDB official resolution of the Appeal. The decision shall include the following information, at a minimum:
  - a. The date, time, and place of hearing;
  - b. A recitation of the issues alleged in the Appeal;
  - c. A summary of any evidence and witnesses presented by the ETP and the respondent;
  - d. An analysis of the issues as they relate to the facts; and
  - e. A decision addressing each issue alleged in the Appeal.





4. The SWDB meets every quarter. State level hearings shall be conducted in accordance with this schedule. To appeal to the SWDB and/or request a hearing, ETPs shall send all communication in writing to the staff liaison of the SWDB Performance and Accountability Committee, Steven Wilson, at [SWilson@tcsg.edu](mailto:SWilson@tcsg.edu).

#### 4.4.8 CHANGES TO THE STATE ETPL

After approved for continued eligibility, requests for changes to contact information, program cost, program description, corporate entity change, etc. should be submitted to the LWDB which approved the initial application. Changes related to contact information should also be submitted to OWD.

ETPL/ITA-related questions should be directed to:

Technical College System of Georgia

Office of Workforce Development

1800 Century Place

Suite 150

Atlanta, GA 30345

404-679-1371

ETPL@tcsg.edu

#### 4.4.9 CONTINUED ELIGIBILITY – BIENNIAL REVIEW

- II. All ETPs (excluding RAs) are subject to review and renewal of eligibility at least every two years. OWD will review the performance of providers to ensure they are meeting minimum levels of performance. Biennial review will also include verification of the registration status of RA programs. The following factors will be utilized to determine continued eligibility:
  - A. The performance of training providers on WIOA standards (See section on Required Provider Outcomes). The performance should be disaggregated by the LWDA being served.
  - B. The biennial review may include other factors such as:
    1. The degree to which training programs are in-demand industries sectors and occupations
    2. State licensure requirements;
    3. Use of industry recognized certificates and credentials;
    4. Whether the programs lead to post-secondary credentials;
    5. The ability of the ETP to provide training services that are physically and programmatically accessible for individuals who are employed and individuals with barrier to employment, including individuals with disabilities;
    6. The ability of the ETP to partner with employers and provide job placement services;
    7. The dropout rate of the ETP; and
    8. The student loan default rate of the ETP.



ETPs will be responsible for collection of performance data, which is not available through the state data management system, and transmittal to OWD. Actual performance measures for biennial review will be issued in 2017 after state performance negotiations.

The following performance data should be collected by ETPs for WIOA performance measures (to be submitted 2018). The actual minimum performance levels will be determined based on federal standards.

WIOA requires that performance data include the outcomes of ETP programs for students in general for employment and earnings measures. OWD is currently awaiting performance negotiation data from USDOL.

<u>All Students</u> <u>Performance Data</u>	<u>Minimum Performance</u> <u>Level Implementation Year</u> <u>2018</u>	<u>Definition</u>
Unsubsidized employment second quarter after exit	<u>TBD</u>	The percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program
Unsubsidized employment fourth quarter after exit	<u>TBD</u>	The percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program
Median Earnings	<u>TBD</u>	The median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program

<u>All WIOA Participants</u> <u>Performance Data</u>	<u>Minimum Performance</u> <u>Level</u>	<u>Definition</u>



Unsubsidized employment second quarter after exit	TBD	The percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program
Unsubsidized employment fourth quarter after exit	TBD	The percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program
Median Earnings	TBD	The median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program
Attainment of Post-Secondary Credential	TBD	The percentage of program participants who obtain a recognized post-secondary credential or a secondary school diploma or its recognized equivalent during participation in or within one year after exit from the program
Program Completion Rate	TBD	Program Completion Rate for all participants in a training program
Data on recognized post-secondary credentials received by program participants	TBD	Recognized post-secondary credentials received by program participants
Data on cost of attendance, including tuition and fees	TBD	Cost of Attendance, including tuition and fees



#### 4.4.10 OUT-OF-STATE TRAINING PROVIDERS

In order for WIOA students to access training through Out-of-State Training Providers not currently on the ETPL, the training providers must comply with the conditions set forth below before the Local Workforce Development Board may consider contracting with the provider.

The provider shall:

1. Submit an application for Initial Eligibility, including program description attachments;
2. Submit evidence that the provider is accredited by an accreditation agency approved by the US Department of Education (If regulated by government entities such as the Department of Transportation, the provider should include applicable accreditation);
3. Submit evidence that the institution is currently on its state eligible training provider list and in good standing; and,
4. Report student completion data (employment and wage information to the OWD) consistent with WIOA performance information.

Regarding performance information, specific participant numbers shall be included to show satisfactory performance in any of the formats listed below:

- a. A certified report or letter from the State's Title I or WIOA Administration agency, reporting on the provider's satisfactory performance; or
- b. A certified report or letter from a Local Workforce Development Area within the provider's state reporting on the provider's satisfactory performance.

Out-of-state postsecondary training providers that are not operating within the State of Georgia are not required to be licensed by the Non-Public Post-Secondary Commission of Georgia (NPEC).

Local Workforce Development Boards will review and approve out-of-state training providers based on the needs of the local area and input provider information into the WorkSource Portal for state approval.



# RAPID RESPONSE



## 5.1 PURPOSE OF RAPID RESPONSE

Rapid Response is a United States Department of Labor (USDOL) grant program established through the Workforce Innovation and Opportunity Act (WIOA). Rapid Response enables each state to provide front-line assistance to employees who are laid off through no fault of their own, known as “dislocated workers.” The Program provides a pro-active response to company layoffs and plant/facility closures in which a state’s Dislocated Worker Unit or Rapid Response team coordinates services to aid dislocated workers and companies affected by closures/layoffs. Rapid Response enables states to provide on-site services, at no cost to the employer, to assist with minimizing the disruptions associated with job loss as well as assisting the dislocated worker in obtaining reemployment as soon as possible.

### I. Eligibility

As stated in 20 CFR § 682, Rapid Response services are federally required to be offered to a company when 50 or more employees become dislocated workers through an event resulting in job loss. The State further extends these services to respond to a displacement of 25 or more employees that become dislocated workers.

An event resulting in the job loss and ultimately resulting in employees becoming dislocated workers may be a company closing, layoff, or reorganization. If a company moves out of Georgia or out of the United States, those employees will also be considered dislocated workers and would be eligible for Rapid Response services. If the company moves overseas, dislocated workers may qualify for additional assistance, referred to as Trade Adjustment Assistance, which is also provided by USDOL under the Trade Act.

### II. Activities

Rapid Response activities are provided by the Technical College System of Georgia’s Office of Workforce Development and applicable subrecipients, hereafter referred to as “state-level Rapid Response staff.” Local Workforce Development Areas (LWDAs) assist with providing Rapid Response activities when deemed appropriate, as detailed in section 5.1 (IV) or determined by state-level Rapid Response staff.

Rapid Response activities begin by contacting the company experiencing an event that is expected to result in dislocated workers, and arranging an initial meeting with the employer. This employer meeting helps determine whether or not the layoff can be avoided, and what services will be made available to the employees upon this determination. If the layoff cannot be avoided, state-level Rapid Response staff will coordinate with all necessary partners to share with the dislocated workers the services and resources available to them. These services may include unemployment insurance, training opportunities through WIOA, and other forms of hardship assistance. If the layoff can be



avoided, state-level Rapid Response staff may offer and coordinate Layoff Aversion strategies as detailed in section 5.4.

### III. State Responsibilities

The Technical College System of Georgia and applicable subrecipients serve as the State's Dislocated Worker Unit. When a layoff occurs, the company notifies the state-level Rapid Response (RR) staff of the impending dislocation. State-level staff will then coordinate with the LWDA in which the layoffs will occur. State-level RR staff are also responsible for coordinating with and including all partner agencies and non-profit groups necessary to appropriately serve the affected individuals. This includes developing relationships within the private sector and community partners. State-level RR staff should discover and develop relationships with businesses and organizations to assist in responding to dislocations. The State-level RR staff are further responsible for the following duties:

- Manage layoffs of 25+ workers
- Contact employers within 48 hours of notice of layoff
- Maintain confidentiality
- Respond to natural disaster situations and work with other local government divisions and organizations
- Provide assistance with filing worker petitions for Trade Certification and Benefits
- Coordinate with LWDA's
- Make presentations to employers and employees
- Coordinate with local economic development staff

### IV. LWDA Responsibilities

In Georgia, there are 19 workforce delivery areas, each with numerous One-Stop centers. Workforce development activities provided in the local communities can benefit job seekers, workers who have been laid off, youth, employed individuals, new entrants into the workforce, veterans, persons with disabilities, and employers. The purpose of these activities is to promote an increase in the employment, job retention, earnings, and occupational skills improvement by participants. This, in turn, improves the quality of the workforce, reduces government dependency, and improves the productivity and competitiveness of the state and nation.

LWDAs can provide access to WIOA services including core services such as labor market information, skill assessments, job search assistance, and resume advice. If the LWDA determines there is a need, they can also enroll the dislocated worker in intensive and training services to provide skill upgrading and certification in local demand occupations.

LWDA Staff are responsible for the following:



- Notify state-level Rapid Response staff of layoff events for which WARN notice has not been filed
- Facilitate workshops on job search techniques, interviewing skills, resume building, salary negotiation, etc.
- Job development training
- Provision of referrals
- Individual and group counseling
- Perform skills assessment and case management
- Provision of Labor Market Information (LMI) and job openings; and,
- Interact at job fairs, expos and opportunities fairs

## V. Other Community Partners

In addition to the state-level Rapid Response staff and LWDA, there are multiple community partners which may be able to support a layoff event. It is the job of state-level RR staff to develop relationships with many of these partners to strengthen the economic community. Business partners can assist in averting or minimizing the impact of a dislocation event while community partners can help with financial or emotional support during the transition period.

Partners which can aide in responding to a layoff include:

- A. Georgia Department of Labor provides unemployment benefits and job search assistance to individuals, as well as services to employers. (<https://dol.georgia.gov/>)
- B. Georgia Department of Community Affairs offers a variety of economic development incentives and tools designed to help promote growth and job creation throughout the state. (<https://www.dca.ga.gov/community-economic-development/incentive-programs>)
- C. Technical College System of Georgia (TCSG) provides training opportunities through technical programs or certificates or adult education. All TCSG schools are eligible providers under WIOA training services. (<http://www.tcsg.edu>)
- D. Local Chambers of Commerce will have a strong network of businesses and business leaders that will be knowledgeable about economic conditions and opportunities.
- E. Georgia Department of Economic Development is the state's leading economic development agency which can provide detail on economic outlook and potential business opportunities and workforce needs. (<http://www.georgia.org>)
- F. Regional Commissions have strong networks in the workforce areas and can assist in connecting workforce needs to opportunities. (<https://www.dca.ga.gov/local-government-assistance/planning/regional-planning/regional-commissions>)





## 5.1.1 DISCOVERING THE NEED FOR RAPID RESPONSE

### I. Worker Adjustment and Retraining Notification

In general, employers are covered by WARN if they have 100 or more employees. This does not count employees who have worked less than 6 months in the last 12 months AND does not count employees who work an average of less than 20 hours a week. Federal, state, and local government entities which provide public services are not covered.

WARN notices must be filed if an eligible company lays-off:

- 50 workers at a single site of employment; or
- 100 or more workers who work at least a combined 4,000 hrs/wk;
- 500 or more workers during a 30-day period; or
- Any number of workers that constitutes 1/3 of the total active workforce (*for companies >100 employees*)

More information on the WARN Act can be found at <http://www.doleta.gov/layoff/warn.cfm>

### II. Non-WARN Events

Not all layoff events will be covered by WARN. These are instances in which a company is not large enough to fall under WARN guidelines, or a WARN eligible company is not laying-off enough workers to trigger a WARN event. In either instance, Rapid Response services may be provided if the company reaches out to OWD.

Although WARN is required for layoffs of 50 or more workers, Georgia will engage any dislocation event in which 25 or more workers are being laid off. These workers receive the same access to services as WARN eligible events.

### III. Events Triggered Without WARN

There may be instances in which a layoff occurs without a 60-day notice through WARN. In these instances, the company may have failed to file the notice, or may have been unable to foresee the circumstances that required the layoff (such as plant closure, bankruptcy, or natural disaster). State-level RR staff may discover these events through local media, the LWDA's, or other form of communication. In these cases, state-level RR staff should reach out to the business and determine if Rapid Response services should be activated.

### IV. National or State Emergency

When there is a state or national emergency, the Georgia Emergency Management Agency (GEMA) is the lead agency working with state agencies, utility companies and volunteer organizations to coordinate disaster response and recovery activities to serve its citizens. State-level RR staff will contact the LWDA to offer Rapid Response services as needed in that area.



## V. Trade Adjustment Assistance

Trade Adjustment Assistance (TAA) is a program, administered through partnership with state and local agencies that helps American workers whose jobs have moved out of the country or have been affected by imports. Trade benefits and services help affected workers return to work as quickly as possible.

In order for workers to obtain TAA services and benefits, a petition must be filed with and approved by the U.S. Department of Labor. A company official, three employees, a union official, or state workforce agency staff may file the petition. Refer to <http://www.doleta.gov/tradeact> for additional information, including the petition application process.

State-level Rapid Response staff will coordinate with GDOL Trade staff to alert affected regions of certified trade petitions. A list of trade petitions can be found at <https://www.dol.state.ga.us/Access/Service/PetitionListing?listingType=TAAAA>.

State-level Rapid Response staff will also coordinate with GDOL Trade staff to ensure workers are notified about the benefits and services as soon as possible, so they can meet the application deadline for training enrollment or training waiver eligibility. If not enrolled in TAA approved training, or if not waived from the training enrollment requirement by the deadline, the worker will not be eligible for Trade Readjustment Assistance (TRA). Consult the Trade Act Handbook for additional information about this and other important deadlines.

When a company is Trade certified, GDOL will notify the LWDA representative, and will solicit their participation in upcoming Trade information session(s), if necessary. The GDOL career center staff is responsible for presenting an overview of Trade benefits and services. Claims may also be filed at the information session.

State TAA staff provide technical support to local staff and customers, answer questions about the benefits and services, and may also participate in the information sessions. The Trade session may be held at the company or at the local GDOL career center. The following services are available to Trade workers:

- TAA includes reemployment services, income support, job search allowances, relocation allowances, training, Health Coverage Tax Credit, and case management services.
- TRA (Trade Readjustment Allowance) provides weekly income support payments while participants are enrolled in full-time training approved by State TAA staff.



- HCTC (Health Coverage Tax Credit) is a tax credit administered by the IRS and currently pays 72.5% of qualified health insurance premiums. This percentage is determined by the IRS and is subject to change.
- ATAA (Alternative Trade Adjustment Assistance) allows workers age 50 or older to accept work at a lower wage and be paid a subsidy that is 50% of the difference in the wages earned at the new job and what they earned at the Trade-affected company. ATAA participants are not eligible for training.
- RTAA (Reemployment Trade Adjustment Assistance) is similar to ATAA but differs in that participants may elect to work and attend training.



### 5.1.2 RAPID RESPONSE SERVICES

Each company and its employees are unique, but there are certain fundamental services that many dislocated workers need. The following are possible resources that are available:

- Financial Benefits
  - Unemployment Insurance (UI) benefits
  - Trade benefits (where eligible)
- Reemployment Services
  - Early intervention benefits
  - Employee orientations on UI, reemployment services, and retraining opportunities
  - Job matching and job placement
  - Workshops
    - Job search techniques
    - Career exploration
    - Labor market information
    - Interviewing skills
    - Résumé preparation
    - Money management
    - Job fairs
  - Rehabilitation services
  - Onsite or conveniently located transition centers
- Educational Opportunities
  - Adult education and GED preparation
  - Degree and certificate programs
  - On-the-job and employer customized training

### 5.1.3 LAYOFF AVERSION

Rapid Response in Georgia will utilize proactive strategies to serve both the business community and the labor force of the state. Developing networks with business and economic development partners will ultimately strengthen Georgia's economic health. Such strategies form the basis of layoff aversion and are the cornerstone of Georgia's approach to providing Rapid Response.

Georgia's layoff aversion strategy focuses on incumbent worker training. In some situations, it may be possible to prevent a layoff from occurring by offering skills upgrading of current workers into new positions. Similarly, it may be possible to provide a training program to transfer employees from a company experiencing a layoff into positions with a new company. This strategy would seek to minimize the dislocation period of the worker.



Appropriate use of layoff aversion resources must meet the criteria outlined below.

I. Conditions Suggesting Intervention: There are multiple signs that a business may benefit from intervention. In Georgia, a layoff aversion strategy may be implemented if one or more of the following conditions are met:

- The company has experienced a layoff in the previous 12 months;
- A reduction or discontinued production due to declining sales;
- The company has petitioned for bankruptcy in the previous 12 months;
- A sale or change of ownership;
- The industry is experiencing adverse conditions or lost market shares;
- The company supplies an industry experiencing adverse conditions;
- Reduction in hours or number of shifts;
- Significant turnover especially among management positions;
- Changes in taxes or regulations;
- A lack of necessary skills in the local workforce;
- Declining sales;
- Expansion of physical operations or production lines;
- Non-Competitive wages;
- Union contract expiration; or
- Other conditions attested to by ownership.

## II. Requirements for Layoff Aversion

If at least one condition is present (as listed in 5.4 (I)) to suggest an action may be appropriate, such action may only be taken if each of the following conditions are met:

- Must have been doing business in the state for at least the last 12 months
- Current on all state and local tax obligations
- Must not have violated any OJT contract provisions with the LWDA
- Employee training must be needed and identified
- Must guarantee continued employment and no reduction in pay
- Training is designed to address a specific skills gap requiring the intervention



## 5.1.4 TRANSITION CENTERS

### I. Determining the Need for a Transition Center

Transition Centers are fully equipped and staffed “mini career centers” with computers, a copier, and resource information necessary for preparing a job search. It may be onsite at the company or in a building convenient to the company workers.

- The factors for determining if a transition center is necessary are the following:
  - Geographic proximity of the company to a One-Stop career center and technical college;
  - Capacity of the One-Stop career center (size, staffing, capability of staff);
  - Size and impact of layoff or closing (usually 100 or more impacted);
  - Availability of funds and whether it is cost effective; and
  - Likelihood of reemployment in the same or similar occupations with little or no need for services.
- Staffing requirements will be affected by the following:
  - Amount of notice (time) from the company;
  - Company collaboration and resources;
  - Skills and barriers of the affected workers;
  - Number of affected workers;
  - Schedule of layoffs; and
  - Design of the transition center (full off-site, full onsite, resource room).

## 5.1.5 FINANCIAL POLICIES AND MONITORING

### I. Rapid Response Budget Allocations

OWD reserves up to 10% of the state’s Dislocated Worker funding for Rapid Response activities. If Rapid Response services are contracted, an annual budget is developed by the subrecipient(s) and is submitted to OWD for negotiation and approval.

### II. Rapid Response Monitoring

All costs and activities associated with Rapid Response are monitored by OWD during an annual on-site monitoring process. If Rapid Response services are contracted, the subrecipient(s) will submit needed documentation and accommodate an on-sight review.

## 5.1.6 MEDIA REQUESTS

Media contact information can be found on OWD’s website (<https://tcsgeu/worksource/contact-us/>). When major Rapid Response events are planned, including but not limited to opening of transition centers,



public notices of services in the event of a disaster or similar Rapid Response occasions, TCSG and applicable subrecipients will ensure that the media is made aware of the full array of workforce services.



## 5.2 DISASTER RESPONSE

The State of Georgia may sometimes be vulnerable to natural disasters such as tornadoes and flooding. However, there are other forms of disasters like drought or fire that could have a profound effect on the state's economy. A major disaster or emergency can also cause the loss of an individual's livelihood and impact the state and local economic infrastructure.

The Rapid Response Team (RRT) is structured to play an important role in the delivery of reemployment and transition services, regardless of their cause. It is the responsibility of the state-level Rapid Response Team to provide guidance on natural disaster or emergency assistance and resources necessary after any occurrence resulting in mass job dislocation.

This plan establishes a process and structure for the systematic, coordinated, and effective delivery of State assistance in response to a major disaster or emergency as required in 20 CFR § 682.330.

- To provide resource support prior to, during, and following a disaster or emergency event
- To help affected workers find employment as quick as possible
- To provide information on Unemployment Insurance benefits, Disaster Unemployment Assistance and other relevant services
- To assist with the recovery of the local community through temporary employment





### 5.2.1 DISASTERS RESPONSE NETWORK

Emergency situations can come in numerous forms and vary greatly in their magnitude. Different types of disasters require a different response. Georgia's disaster response partners consist of government and non-governmental agencies and organizations.

Some external agencies include the Federal Emergency Management Agency (FEMA), Georgia Emergency Management and Homeland Security Agency (GEMHSA), Chief Elected Officials (CEO), Department of Labor (USDOL), Georgia Department of Labor (GDOL), Chambers of Commerce and Small Business Administration (SBA).

Internal agencies consist of the Technical College System of Georgia's Office of Workforce Development (OWD), Workforce Development Boards (WDB), Local Workforce Development Areas (LWDA), and WorkSource Georgia offices.

Other partnerships include non-profit and private agencies such as labor and industry organizations, United Way, Goodwill, American Red Cross, Salvation Army and other appropriate organizations.

The state-level Rapid Response staff shall maintain an updated list of primary contacts, telephone numbers and locations of relief/resource and remedial locations.



## 5.2.2 ASSIGNMENT OF RESPONSIBILITIES

The Federal Emergency Management Agency (FEMA) organizes the federal government's role in preparing, responding and recovering from all domestic disasters. When FEMA is involved with organizing services for individuals affected in a disaster, the FEMA representative contact will evaluate the need for a National Dislocated Worker Grant (NDWG) within a 24- hour period. The agency will also set up and make public an informational 1-800 number for individuals. FEMA will work with the state and local governments to ensure a comprehensive emergency plan. This agency will also provide funding for emergency programs and offer technical guidance and training. Additionally, FEMA will coordinate efforts to restore public services as well as provide food and shelter for individuals affected by the disaster.

The Georgia Emergency Management and Homeland Security Agency (formerly Georgia Emergency Management Agency), coordinates the state's efforts in preparedness, response and recovery of a disaster. GEMHSA, a division of the Office of the Governor, operates under the authority of the Emergency Management Act of 1981. The agency works with local, state and federal governments, in partnership with the private sector and faith-based community, to prepare and respond to disasters. GEMHSA representatives are on call 24-hours statewide to assist local jurisdictions when disaster happens.

If necessary, GEMHSA will set up a Disaster Assistance Center (DAC) or Disaster Recovery Center (DRC) with the assistance of FEMA. These centers may serve as a career center for unemployment insurance and WIOA job training programs, but may include other programs and resources as appropriate. If FEMA is not involved in a local disaster, the state-level RR staff and the LWDA will contact the appropriate elected officials, local jurisdiction and others to organize services for affected victims, workers and employers. If necessary, a temporary office will be set up.

In the event of a state or national emergency, GEMHSA is the primary state agency working with other state agencies, utility companies, and volunteer organizations to coordinate disaster response and recovery activities for affected individuals. If the event does not warrant a need to set up a DAC or DRC, it is anticipated that the local WorkSource Georgia and GDOL career centers will be the primary points of entry for Rapid Response assistance for any customers affected by natural disaster. The State RRCs will contact the local career center to coordinate Rapid Response services as needed in that area.

The State RRC will oversee all Rapid Response activities of a disaster or emergency event, ensure that all services and resources are leveraged to maximize the effectiveness of the response, and a timely recovery and support of the Local Workforce Development Area as needed. The State RRC will work with the local area to convene meetings of appropriate partners. The State RRC will establish a monthly comprehensive report on the disaster event. This report will include a written summary and spreadsheet, if applicable, on the disaster response activities and progress of the recovery.



Individuals who lose their job as a result of a disaster or emergency situation may be eligible for regular unemployment insurance benefits. The State Rapid Response Coordinator or LWDA should coordinate this service with the GDOL Career Center that serves the affected area.

The Local Workforce Development Area's Rapid Response Coordinator will coordinate service delivery for the impacted area in collaboration with the State RRC. A weekly report on the progress of the event will be submitted to the assigned State RRC. This report shall consist of program numbers for DW Served, Temporary Disaster Job Placement, Temporary Worksites, DW Placed in Work-Based Learning (WBL), Entered Unsubsidized Employment, Training Enrollment, On-the-Job (OJT) Training Contract, etc. The report should also include total expenditures to date for administrative and program costs.

The GDOL will facilitate UI claims, provide employment and re-employment assistance for job seekers and help meet talent needs of employers through job referrals and recruitments for permanent and temporary job placements.

The disaster response plan shall be disseminated to all team members and partner agencies for review of roles, responsibilities, tasks and reference information when the team is activated.



### 5.2.3 CONTINUITY OF OPERATIONS

#### I. Communication

In the aftermath of a disaster or emergency situation, the State Rapid Response Team or LWDA will reach out to the local jurisdiction to ascertain the impact to the affected area and to determine how the State and LWDA can leverage resources.

#### II. Connectivity and Mobility

An electronic copy of this plan will be stored on OWD's website that will allow team member access if the agency servers are down.

The State RRT will seek any means necessary to communicate with the LWDA, FEMA, GEMHSA and local jurisdictions during a disaster situation. Therefore, the LWDA's should have at least one cell phone and laptop dedicated to Rapid Response activities. If there is power loss, internet connectivity loss, or damage of cell phone towers, staff shall be prepared to manually register or assist individuals with paper forms if needed.

Based upon need, mobile Disaster Recovery Centers/Disaster Assistance Centers (DRCs/DACs) may be provided by GEMHSA. A DRC may be set up when a presidential disaster declaration is issued. It offers more federal resources as well as FEMA individual assistance. A DAC may be established if no emergency declaration is issued; however, anticipated needs of the impacted community indicate additional assistance to individuals will be required. Although the setup is very similar to that of a DRC, a DAC does not offer any assistance from FEMA.

Mobile DRCs/DACs are designed to arrive quickly at a stricken area and give better flexibility in placement. The mobile DRC/DAC can set up at a location and bring State, Federal, and local assistance to disaster victims while a fixed DRC/DAC is under construction. Each unit will be customized for the area and staffed and equipped based upon the needs of the area.

In addition, LWDA's may utilize existing mobile units to accommodate customers or for continuation of services in a non-declared disaster event or after GEMHSA is no longer needed.



#### 5.2.4 DISASTER ASSISTANCE STRATEGIES

Major natural disasters do not occur every day, but the workforce system should be prepared to meet the responsibility when they do. Rapid Response funds may be used to plan for disaster response before a disaster strikes.

Disaster planning should consist of, without limitation, the following activities: developing prospective strategies to provide assistance to local areas affected by a disaster; identifying opportunities for layoff aversions; determining a process for regular exchange of information and collecting and analyzing data and information.

The Rapid Response team should be flexible, responsive and tailor services based on the need of those impacted by a disaster-related event.

Based on past experiences across the United States as well as Georgia, disaster response services might necessitate the deployment of mobile units for service delivery in disaster areas or the leveraging of resources from the surrounding areas. However, there may be opportunities to identify and organize physical locations in the affected community for disaster relief centers.

Rapid Response funds may be expended to hire temporary staff to support an array of needs of those impacted including counselors, coordinators, etc. and to assist with the recovery of the local community with the help of temporary workers supported by a NEG.



## 5.2.5 COORDINATION OF SERVICES

Pursuant to 20 CFR § 682.302(c), Rapid Response is required to assist in supporting individuals impacted by emergency situations with workforce solutions.

### I. Disaster Response Convening

The State RRCs will work with the LWDA to organize meetings to assess the needs and plan appropriate Rapid Response activities and recovery efforts. Additional meetings may be planned to ensure progress and to identify other needs, as appropriate.

### II. Service Delivery

As with Rapid Response services in general, coordinated services for an emergency or disaster situation will be customized to meet the specific needs of the affected individuals. In addition, enrolled participants are eligible to receive the full array of workforce development services as outlined in the Policies and Procedures Guide § 5.3–5.5. The local areas shall plan and facilitate these services.

### III. Recovery Assistance

If needed, a coordinated response may include the completion and submission of an application for National Dislocated Worker Grants (NDWG) for discretionary funds. The application must demonstrate that Rapid Response activities have been or are in the process of being carried out, state and local funds have been used to initiate appropriate services to eligible workers and there is a need for additional funds to effectively respond to the needs of affected workers. Additionally, if there has been a declared emergency or natural disaster, the community has demonstrated a need and an application has been developed in conjunction with the LWDA and CLEO in which the proposed project will take place. These grants temporarily expand training and employment services to dislocated workers impacted by unexpected economic events or a natural disaster with the objective to employ laid off workers and enhance their employability and earning. The objective is to create temporary job opportunities to assist with clean-up and recovery efforts of the affected community. The State or LWDA can apply for NDWG as outlined in TEGL 02-15: *Operational Guidance for National Dislocated Workers Grants*, and Training and Employment Notice (TEN) 32-10: *Revised National Emergency Grant Application Submission and Review Process*.



## 5.2.6 FINANCE AND GRANT ADMINISTRATION

Rapid Response funds increase flexibility of efforts to leverage resources for the workforce as well as boost the effectiveness of other programmatic activities or funds. Rapid Response funds can be used as a gap filler for a National Dislocated Worker Grant (NDWG). Activities can be expended as a 100% programmatic cost. Funds can also be utilized for additional assistance for events that substantially increase the number of unemployed individuals.

If an emergency declaration is issued by the President, resources should be transferred from FEMA to ETA to provide funding as requested by the State. The State cannot use Federal grants to cover any administrative cost appropriately chargeable to the Disaster Unemployment Assistance (DUA) as outlined in the cost principles of OMB Circular A-87, “Cost Principles for State and Local Governments”.

Any person who is unemployed as a direct result of a declared disaster may apply for the DUA. Individuals eligible to receive unemployment insurance benefits will not qualify to receive DUA until all UI benefits have been exhausted.

The State will also coordinate Rapid Response activities that are not a duplication of those funded by FEMA.

### I. Rapid Response Budget Allocations

Rapid Response funds are provided to the LWDA in a separate grant award. Allocations are made using the dislocated worker allocation formula used for funding in the same program year. Separate drawdowns and financial tracking must be completed for these awards. These funds can be used for expenses such as printing of materials to be shared at Rapid Response events, payment of employee time directly related to Rapid Response events, establishment of a transition center with prior OWD approval, employee time dedicated to collaborating with business and industry to identify potential layoffs and provide information about layoff aversion opportunities, and travel incurred while traveling to and from Rapid Response events. Rapid Response administration funds should not be expended to cover the cost of subsidizing Dislocated Worker events that are already occurring, or to subsidize the other operational duties that staff would generally incur should no Rapid Response event be present within the LWDA.

### II. Allowable Costs

Activities provided in response to disaster situations are considered normal Rapid Response activities and should follow the same guidelines for the use of Rapid Response funds.



Grant funds can be used to purchase specified items. Many allowable costs for disaster relief are defined in OMB Circulars (Attachment B- Selected items of Costs, 48 CFR §31.205 and A-21, Section J). Additionally, program regulations on allowable and prohibited activities are outlined in 20 CFR § 668.340-350.

In the event of a disaster or emergency situation, all items under the normal supportive services are an allowable expense. Some supportive services expenses incurred during previous disasters are safety equipment worn by workers (gloves, steel-toed boots, hard hats, protective goggles, reflective vests and protective overalls), participant wages, case management salaries of staff who performed intake, assessment and placement in addition to other programmatic costs. Additionally, other allowable expenses have included the salaries of financial services staff, grant management staff and fringe benefits and other costs associated with the day to day operations of the grant and supplies. If declared an emergency or disaster by the Governor or the President, any supportive services expended during that emergency period which is directed towards affected participants will be exempt from the supportive services cap in the Policies and Procedures Guide § 3.4.4.

### III. Emergency Procurement

In the event of an emergency, OWD may engage in Sole Source procurement in accordance with OCGA § 50-5-71. OWD follows all emergency sole source procurement procedures found in the DOAS Georgia Procurement Manual which may be reviewed here:

[http://pur.doas.ga.gov/gpm/MyWebHelp/GPM\\_Main\\_File.htm](http://pur.doas.ga.gov/gpm/MyWebHelp/GPM_Main_File.htm).

If the LWDA is engaging in sole source procurement in the event of an emergency, then the LWDA must follow all applicable emergency procurement guidelines found in 2 CFR 200.320(f) as well as any local procurement procedures applicable to sole source procurement. The LWDA should ensure that appropriate documentation is maintained to support the emergency need for the purchase.

In the event of a State or FEMA declared emergency, the LWDA must confer with the State in order to expedite procurement and expenditure requests which are made in response to identified disaster response activities if needed.

### IV. Monitoring

All costs and activities associated with Rapid Response are monitored during the annual on-site monitoring process.





OWD includes all Rapid Response grant awards (administrative and emergency reserve) within the scope of annual on-site financial monitoring. Financial sample selection includes samples of all Rapid Response expenditures, contracts, employee time allocations, and other cost allocations. All OWD financial policies and procedures apply to Rapid Response grant awards, and the same corrective actions and sanctions also apply.

In the case of a National Dislocated Worker Grant (NDWG), planned fiscal and program monitoring will be conducted by OWD accordingly to ensure worksites and related activities are consistent with the provisions of applicable federal statutes, regulations, and the terms and conditions of the grant award letter.