

## DEPARTMENT OF LABOR

- CFDA 17.207 EMPLOYMENT SERVICE/WAGNER-PEYSER FUNDED ACTIVITIES**  
**CFDA 17.801 DISABLED VETERANS' OUTREACH PROGRAM (DVOP)**  
**CFDA 17.804 LOCAL VETERANS' EMPLOYMENT REPRESENTATIVE (LVER) PROGRAM**

### I. PROGRAM OBJECTIVES

#### **Wagner-Peyser Act Funded Workforce Employment Services – General**

The Wagner-Peyser Act-funded Employment Service (ES) is an integrated component of the nation's public workforce system. The public workforce system provides services to job seekers and employers through nearly 2,500 American Job Centers (AJC) (formerly known as One-Stop Career Centers) nationwide. They are coordinated with other adult programs under the Workforce Innovation and Opportunity Act (WIOA) to ensure that job seekers, workers, and employers have convenient and comprehensive access to a full continuum of workforce-related services. The most distinguishing feature of the ES is that it is the only "universally accessible" public workforce program.

The main purpose of the ES program is to improve the functioning of the nation's labor markets by bringing together individuals who are seeking employment and employers who are seeking workers. Under the Wagner-Peyser Act, unemployed individuals and other job seekers obtain critical career services, including job search, assessment, and career guidance services, to support them in obtaining and retaining employment. In addition, Wagner-Peyser Act-funded activities assist employers with building skilled, competitive workforces through recruitment assistance, employment referrals, and other workforce solutions. The Wagner-Peyser Act also funds labor exchange services through an array of electronic tools, to both job seekers and employers, allowing comprehensive and accessible economic and industry data to inform workforce and economic development activities.

#### **Disabled Veterans' Outreach Program (DVOP)**

In accordance with 38 USC 4103A(a), the primary objective of the DVOP specialist is to provide career services to meet the employment needs of eligible veterans. In accordance with the statute, agency directives specify the following order of priority in the provision of services: (1) special disabled veterans; (2) other disabled veterans; and (3) other eligible veterans with significant barriers to employment (SBE), as defined in Veterans' Program Letter (VPL) 03-14 and Training and Employment Guidance Letter (TEGL) 19-13, including Changes 1 and 2, as well as economically and educationally disadvantaged veterans.

#### **Local Veterans' Employment Representative (LVER) Program**

In accordance with 38 USC 4104(b), as amended by the Jobs for Veterans Act (Pub. L. No. 107-288, November 7, 2002), the objectives of the LVER program are to (1) conduct outreach to employers in the area to assist veterans in gaining employment, including conducting seminars for employers and, in conjunction with employers, conducting job search workshops and

establishing job search groups; and (2) facilitate employment, training, and placement services furnished to veterans in a State under the applicable State employment service delivery system, generally, the AJC Career Center System established by the WIOA of 2014 (Pub. L. No. 113-128). Coordination and cooperation is maintained with DVOP specialists, staff funded through the WIOA, the Wagner-Peyser Act, and other partners collocated in the AJCs to ensure priority of service for veterans and compliance with Federal regulations, performance standards, and grant agreement provisions to provide veterans with the maximum employment and training opportunities.

## **II. PROGRAM PROCEDURES**

### **Wagner-Peyser Act Funded Employment Services**

The ES is a core program identified in WIOA and must be included as part of each State's Unified or Combined State Plan (20 CFR section 652.211).

Federal funds are granted to the States for the delivery of employment and workforce information services through a national network of AJC Career Centers. The Governor of the State submits to the Secretary of Labor a Unified State Plan, which outlines a 4-year strategy. The Governor retains responsibility for all funds authorized under the Wagner-Peyser Act, specifically those funds authorized under Section 7(a) for providing the services and activities delivered through the one-stop delivery system. The Governor has discretion to choose various approaches to planning for the utilization of funds reserved by Section 7(b) of the Wagner-Peyser Act. These funds may also flow through the one-stop delivery system.

### **Jobs for Veterans State Grants**

Non-competitively awarded grant funds are provided to States in amounts determined by formula. Jobs for Veterans State Grant (JVSG) funds are provided to States for employing DVOP specialists and LVER staff and deploying them, as practicable, among AJCs. In addition, combined DVOP/LVER staff may be requested to cover underserved areas, and other suitable locations. JVSG-funded staff carry out staff-assisted career services for veterans with employment barriers, assist businesses with their workforce needs, and provide or facilitate employment and placement services to ensure that veterans, eligible persons, and transitioning service members receive maximum employment and training opportunities. Additional services are offered to transitioning service members and their spouses, as approved, under the Jobs for Veterans State Grant Plan and through Department of Labor (DOL) employment workshops conducted by contract facilitators. DVOP Specialists and LVER staff receive training through the National Veterans' Training Institute (NVTI) authorized under 38 USC 4109, in accordance with 38 USC 4102A(c)(8)(A).

JVSG plans are approved on a multi-year basis through the Veterans Employment and Training Service (VETS) or may be incorporated in States' combined 4-year WIOA State Plans. Coordination and cooperation are maintained between DVOP Specialists and LVER staff and the staff who are funded through other WIOA/One Stop partner programs. Outreach and assistance are provided by DVOP specialists to individuals identified for participation in the Homeless Veterans' Reintegration Project, Vocational Rehabilitation, and other Federal and federally

funded employment and training programs. Linkages are developed to assist appropriate grantees and other agencies to promote maximum employment opportunities for veterans.

**Source of Governing Requirements**

These programs are authorized by the Wagner-Peyser Act, as amended by the WIOA of 2014 (the Act) (Pub. L. No. 113-128) (29 USC 49 *et seq.*), and the Jobs for Veterans Act (Pub. L. Nos. 107-288 and 109-461), as amended by the VOW to Hire Heroes Act (Pub. L. No. 112-56); and 38 USC chapters 41 and 42 (employment and training programs for veterans). Implementing regulations are found at 20 CFR parts 652, 1001, and 1010.

**Availability of Other Program Information**

Other program information is available at <http://wdr.doleta.gov/directives/> and <http://www.dol.gov/vets/vpls/vpldirectory.html>.

**III. COMPLIANCE REQUIREMENTS**

**In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.**

Compliance Requirements											
A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period of Performance	Procurement/Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	Y	Y	N	N	Y	N	N

**A. Activities Allowed or Unallowed**

1. *Labor Exchange* – Funds allotted to each State may be utilized by the State Workforce Agency (SWA) for a variety of activities, consistent with an approved plan pursuant to the Act and implementing regulations (20 CFR sections 652.5 and 652.8(d)). At a minimum, each SWA shall provide the basic labor exchange elements defined in 20 CFR section 652.3.
2. *Section 7(a)* – Services and activities provided for under Section 7(a) of the Act are:
  - a. To unemployed individuals and other job seekers: job search, and job placement and job information services, including counseling, testing, occupational and labor market information, assessment, and referral to employers;
  - b. To employers: a source for recruitment of qualified job applicants and technical assistance in resolving workforce problems; and
  - c. The following employment-related activities:
    - (1) Evaluating programs;
    - (2) Developing linkages between services funded under this Act and related Federal or State legislation, including the provision of labor exchange services at education sites;
    - (3) Providing employment-related services for workers who have received notice of permanent or impending layoff, and reemployment services for workers in occupations which are experiencing limited demand due to technological change, impact of imports, or plant closures;
    - (4) Developing and providing State and local labor market and occupational information;
    - (5) Developing a management information system and compiling and analyzing reports there from; and
    - (6) Administering the work test for the State unemployment compensation system, and providing job finding and placement services for unemployment insurance claimants (29 USC 49f(a); 20 CFR section 652.210).

3. *Section 7(b)* – Services and activities provided for under Section 7(b) of the Act are:
  - a. Performance incentives for public employment service offices and programs, consistent with performance standards established by the Secretary;
  - b. Services for groups with special needs carried out pursuant to joint agreements between the Employment Service and the local workforce investment board and Chief Elected Official(s), or other public agencies or private non-profit organizations; and
  - c. Models for delivering Employment Service Program services which incorporate activities listed in Section 7(a) of the Act, including but not limited to reemployment services, evaluating programs, developing partnerships with related programs and entities, developing and distributing labor market and workforce information, compiling and analyzing reports, and administering the UI work test (services of the types described in Section 7(a) of the Act (29 USC 49f(b)).
4. *Section 7(d)* – In addition to the activities described under paragraphs 2 and 3, above, Section 7(d) of the Act authorizes SWAs to perform such other activities as shall be specified in cost-reimbursement agreements with the Secretary of Labor or with any Federal, State, or local public agency, or WIOA administrative entity, or private non-profit organization (29 USC 49f(d)).
5. *Section 7(e)* – Section 7 (e) provides that all services authorized under 7(a) shall be provided as part of an AJC delivery system established by the State (29 USC 49f(e)).
6. *DVOP* – DVOP includes a wide variety of services directly related to meeting the employment needs of disabled and other eligible veterans as defined at 38 USC 4103A(a), agency directives, and in Jobs for Veterans State Grant special provisions (based on Pub. L. No. 107-288). These services include:
  - a. Providing staff-assisted career services to meet the employment needs of eligible veterans with significant barriers to employment (SBE) (see III.E.1, “Eligibility – Eligibility for Individuals,” regarding SBE).
  - b. Ensuring that maximum emphasis in meeting the employment needs of veterans is placed upon assisting economically and educationally disadvantaged veterans.
  - c. Providing career services using a case management approach.

- d. Maintaining coordination and cooperation with Local Veterans' Employment Representatives, staff funded through the Wagner-Peyser Act, as amended by the WIOA, and other agency partners collocated in the AJCs.
  - e. Conduct outreach and assistance to individuals identified for participation in Homeless Veterans' Integration Projects, Vocational Rehabilitation and other Federal and federally funded employment and training programs.
  - f. Develop linkages to assist appropriate grantees and other agencies to promote maximum employment opportunities for veterans.
7. *LVER* – LVER staff provide outreach and assistance to employers and facilitate the provision of a variety of services to eligible veterans. These services include, but are not limited to, the following (38 USC 4104):
- a. Maintain regular contact with community leaders, employers, labor unions, training programs, and veterans' organizations for the purpose of
    - (1) keeping them advised of eligible veterans and eligible persons available for employment and training, and
    - (2) keeping eligible veterans and eligible persons advised of opportunities for employment and training.
  - b. Provide directly, or facilitate the provision of, labor exchange services including intake and assessment, counseling, testing, job-search assistance, and referral and placement services for eligible veterans.
  - c. Assist, through automated data processing, in securing and maintaining current information regarding available employment and training opportunities.
  - d. Conduct or facilitate job search workshops for job-seeking veterans.
8. *Consolidated DVOP/LVER* – Staff provide services to eligible veterans and eligible persons and businesses, primarily in underserved areas of each State in which they are approved to operate in accordance with 38 USC 4102A(h), when requested by a State and approved by VETS. Services are provided as a DVOP specialist, described in item 6 above, or as a LVER, described in item 7 above, as appropriate.

## **E. Eligibility**

### **1. Eligibility for Individuals**

- a. The SBE category, defined in VPL 03-14 (and Change 1 and 2), implements the priority and maximum emphasis requirements of 38 USC

4103A(a). Special disabled veterans and disabled veterans are included in the group of veterans who are given priority because they have an SBE. In addition, the SBE categories give priority to the other categories of veterans and eligible spouses who are educationally or economically disadvantaged, such as certain groups of veterans and spouses who have been removed from the workforce for significant periods of time.

- b. An eligible veteran or eligible spouse is determined to have a SBE if he or she attests to meeting at least one of the following criteria:
- (1) A special disabled or disabled veteran, as those terms are defined in 38 USC 4211(1) and (3); who is entitled to compensation (or who, but for the receipt of military retired pay, would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs; or was discharged or released from active duty because of a service-connected disability;
  - (2) Homeless, as defined in Section 103(a) of the Stewart B. McKinney Homeless Assistance Act (42 USC 11302(a));
  - (3) A recently separated service member, as defined in 38 USC 4211(6), who has been unemployed for 27 or more weeks in the previous 12 months; however, they need not be 27 consecutive weeks;
  - (4) An offender, as defined by WIOA, Section 3(38), who is currently incarcerated or who has been released from incarceration;
  - (5) Lacks a high school diploma or equivalent certificate; or
  - (6) Low-income individual (as defined by WIOA, Section 3(36)).

**2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable**

**3. Eligibility for Subrecipients – Not Applicable**

**G. Matching, Level of Effort, Earmarking**

**1. Matching – Not Applicable**

**2. Level of Effort – Not Applicable**

**3. Earmarking**

Ten percent of each State's Wagner-Peyser Act allotment shall be reserved by the SWA to provide services and activities authorized by Section 7(b) of the Act (29 USC 49f(b)).

**L. Reporting****1. Financial Reporting**

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Applicable (CFDA numbers 17.801 and 17.804)
- d. ETA 9130, *Financial Report (OMB No. 1205-0461)* – All ETA grantees are required to submit quarterly financial reports for each grant award they receive. Reports are required to be prepared using the specific format and instructions for the applicable program(s); in this case, *Employment Service and Unemployment Insurance Programs*. Reports are due 45 days after the end of the reporting quarter. Financial data is required to be reported cumulatively from grant inception through the end of each reporting period. Additional information can be accessed at <http://www.doleta.gov/grants/> and scroll down to the section on Financial Reporting. See TEGL 02-16 for specific and clarifying instructions about the ETA 9130 [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=5156](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5156).
- e. VETS-402 (A/B), *Expenditure Detail Report* – This expenditure and staff utilization report separately identifies by Jobs for Veterans’ State Grant-funded Program each category of expenditures each quarter and year-to-date as a supplement to the DVOP and LVER SF 425, *Federal Financial Reports*.”

**2. Performance Reporting** – Not Applicable**3. Special Reporting** – Not Applicable



## DEPARTMENT OF LABOR

### CFDA 17.225 UNEMPLOYMENT INSURANCE (UI)

#### I. PROGRAM OBJECTIVES

The UI program, created by the Social Security Act (Pub. L. No. 74-271), provides benefits, Unemployment Compensation (UC), to unemployed workers for periods of involuntary unemployment and helps stabilize the economy by maintaining the spending power of workers while they are between jobs. The UI program initially consisted of the regular State programs (20 CFR part 601). However, UC coverage was extended to Federal civilian employees in 1954 by the Unemployment Compensation for Federal Employees (UCFE) program (Pub. L. No. 83-767) and to ex-members of the Armed Forces in 1958 by the Unemployment Compensation for Ex-Service Members (UCX) program (5 USC 8501-8525; Pub. L. No. 85-848). UC programs now cover almost all wage and salaried workers.

The Federal-State Extended Unemployment Compensation Act (EUCA) of 1970 (Pub. L. No. 91-373; 26 USC 3304 note) provided for the Extended Benefits (EB) program (20 CFR part 615). During periods of high unemployment, that program pays extended benefits for an additional (or extended) period of time to eligible unemployed workers who have exhausted their entitlement to UC, UCFE, or UCX. The authorization for Emergency Unemployment Compensation (EUC08) program expired January 1, 2014. Although no new payments may be made, there may be some activity for EUC08 payments as a result of an appeals determination or for the recovery of overpayments.

#### II. PROGRAM PROCEDURES

The structure of the Federal-State UI Program partnership is based on Federal statute; however, it is implemented through State law. State UI program operations are conducted by the State Workforce Agency (SWA)—the generic name for the agency that has responsibility for the State's Employment Security function. SWAs were previously referred to as State Employment Security Agencies (SESAs).

State responsibilities include: (1) establishing specific, detailed policies and operating procedures which comply with the requirements of Federal laws and regulations; (2) determining the State UI tax structure; (3) collecting State UI contributions from employers (commonly called "unemployment taxes"); (4) determining claimant eligibility and disqualification provisions; (5) making payment of UI benefits to claimants; (6) managing the program's revenue and benefit administrative functions; (7) administering the programs in accordance with established policies and procedures; and (8) enacting State UC law that conforms with Federal UC law.

Unless otherwise noted, responsibilities of the U.S. Department of Labor (DOL) include: (1) allocating available administrative funds among States; (2) administering the Unemployment Trust Fund (UTF) through the U.S. Department of the Treasury and monitoring activities of the UTF; (3) establishing program performance measures; (4) monitoring State performance; (5) ensuring conformity and substantial compliance of State law and operations with Federal law; and (6) setting broad overall policy for program administration.

**Note:** Informal references are frequently made to eligibility for “weeks” of UC. The auditor is cautioned that eligibility is actually for a maximum dollar amount of UC, which is inaccurately referred to as receipt of UC for a given number of weeks.

Benefits payable under several additional programs also are administered by the SWAs, as agents for DOL; however, they are distinct programs with separate compliance requirements—the Trade Adjustment Assistance/Alternative Trade Adjustment Assistance/Reemployment Trade Adjustment Assistance (TAA/ATAA/RTAA) programs to workers adversely affected by foreign trade and the Disaster Unemployment Assistance (DUA) program to workers and self-employed individuals who are unemployed as a direct result of a presidentially declared major disaster, and are not eligible for regular UI benefits paid by States (CFDAs 17.245 and 97.034, respectively). For example, SWAs provide weekly Trade Readjustment Allowances (TRA)/ATAA/RTAA payments for eligible program participants consistent with the eligibility requirements of CFDA 17.245.

The Federal Emergency Management Agency (FEMA) has delegated to the Secretary of Labor the responsibility for administering those provisions of the Stafford Act that pertain to the DUA program and payment of DUA. Under the DUA program, the SWA is accountable to DOL and, through DOL, to FEMA. The SWA works in coordination with both agencies in preparing prompt announcements regarding the availability of DUA, submitting initial and supplemental funding requests, and accurately reporting funding and workload information on DUA monthly and quarterly reports.

For each program administered under the UI program umbrella—UC, UCFE, UCX, TRA/ATAA/RTAA, and DUA, States must ensure full payment of applicable benefits “when due” (and States must deny payments when not due).

### **Program Funding**

UI payments to claimants are funded primarily by State UI taxes on covered employers (three States, Alaska, New Jersey, and Pennsylvania, also have provisions for employee taxes). Some employers make direct reimbursements to the State for UI payments made on their behalf rather than paying UI taxes. State governments, political subdivisions and instrumentalities of the States, federally recognized Indian tribes, and qualified non-profit organizations may reimburse the State for UI benefits paid by the SWA; however, they may elect to be contributory employers (i.e., remit State UI taxes) in lieu of reimbursing the State. Also, States are reimbursed from the UTF for UCFE and UCX paid by the SWA on behalf of various Federal entities. Program administration is funded by a Federal UI tax on covered employers (see below). Generally, the employment covered by State UI taxes and Federal UI taxes is the same; however, there are specific differences.

State UI taxes and reimbursements are used exclusively for the payment of regular UC and the State share of EB to eligible claimants. UI taxes and reimbursements remitted by employers to the States are deposited in State accounts in the UTF. SWAs periodically draw funds from their UTF accounts for the purpose of making UI payments.

The Federal Unemployment Tax Act (FUTA) imposes a Federal tax on covered employers. Effective July 1, 2011, the FUTA tax is 6 percent of the first \$7,000 of covered employee wages. The law, however, provides a credit against Federal tax liability of up to 5.4 percent to employers who pay State UI taxes timely under an approved State UI program. This credit is allowed regardless of the amount of the UI tax paid to the State by the employer. Employers may receive these credits only when the State UI law, and its application, conform and substantially comply with FUTA requirements. All States currently meet the FUTA requirements.

Another aspect of the FUTA tax is the FUTA credit reduction, which could occur when a State with an insolvent UI trust fund borrows from the U.S. Treasury and those loans remain unpaid for a certain period. When a State has an outstanding UC trust fund loan on January 1 for 2 consecutive years and there is an outstanding balance on November 10 following the second January 1, the FUTA tax rate for employers in that state will be increased by .3 percent. Each additional year the loans remain unpaid will cause additional and incremental increases to the FUTA tax rate until the loans are repaid. Revenue derived from the FUTA credit reduction is used solely to reduce outstanding UI trust fund loans.

FUTA revenues from the 0.6 percent are collected by the Internal Revenue Service (IRS) and deposited into the general fund of the U.S. Treasury, which by statute are appropriated to the UTF. FUTA revenues are used primarily to finance Federal and SWA administrative expenses, the Federal share of EB, and advances to States whose UTF account balances are exhausted. DOL allocates available administrative grant funds (as appropriated by Congress) to States based on forecasted workload and costs, and is adjusted for increases or decreases in workload during the current year.

Section 903 of the Social Security Act requires the refunding of FUTA taxes to States when amounts in the individual Federal account in the UTF meet their statutory caps. Title IX funds are credited to the State accounts in the UTF and may be used to pay benefit payments under State law and, subject to certain requirements, may be used for administering the UI programs.

States annually compute an “experience rate” for contributing, or tax-remitting, employers. The experience rate is the dominant factor in the computation of an employer’s State UI tax rate. While methods of computation differ, the key factor in most methodologies is the amount of UI benefits paid by the SWA within a time period specified by State UI law, to claimants who are former employees of the employer. Also, various methods are used by the SWAs to identify which one or more of the claimant’s former employers will be “charged” with the UI benefits paid to the claimant.

Since FEMA has delegated to the Secretary of Labor the responsibility for administering the DUA program, FEMA transfers resources to DOL’s Employment and Training Administration (ETA) to provide funding to States impacted by the disaster after a major disaster declaration has been made. Funding for each disaster is provided separately. States are expected to report the DUA costs for each disaster separately by administrative and benefits costs. The funding period (known as the disaster assistance period) generally covers a 26-week period after the declaration.

## **Synopsis of Regular Unemployment Compensation Program**

The regular UI program provides UI coverage to most wage and salary workers in each State, the District of Columbia, Puerto Rico, and the Virgin Islands. Except for provisions necessary to comply with Federal law, the provisions of State UI laws vary greatly, including their qualifying requirements and methods used to compute UC amounts.

The period during which a claimant may receive UC is referred to as the “benefit year.” In all but one State, a benefit year lasts one year from the effective date of the claim. The total regular UC that a claimant may receive in a benefit year is computed by the SWA in a dollar amount. A claimant may collect UC up to the maximum benefit amount allowable for the benefit year during periods of unemployment that occur during the benefit year. Under State UI laws, the total (maximum) UC a claimant is entitled to varies within certain limits according to the worker’s wages in the base period (see III.E, “Eligibility – Eligibility for Individuals”). Reduced benefits may be paid for weeks of partial unemployment. In some States, the weekly UI benefit payment is augmented by a dependent’s allowance if provided under State UI law, which may be paid for each dependent up to a maximum number of dependents.

## **Synopsis of Extended Benefits (EB) Program**

An interval of high unemployment at a certain level will “trigger on” a period of not less than 13 consecutive weeks during which the State will make EB payments to eligible unemployed workers who have exhausted their entitlement to regular compensation (20 CFR section 615.11). With certain exceptions, EB is payable at the same rate as the claimant’s regular benefits (20 CFR section 615.6). The EB period is determined by the State in which the original claim was established (EUCA Section 202(a)(2), 20 CFR section 615.2(k)(2)). A reduction in the unemployment rate will “trigger off” the period of EB, ending benefit payments. An alternate trigger is available in some States. For information on the triggers, see Section 203, EUCA, 20 CFR sections 615.11 through 615.13.

A claimant may receive EB equal to the lesser of the following amounts: (1) one-half the total amount of regular compensation, including dependent’s allowances; (2) 13 times the weekly amount of regular compensation; or (3) 39 times the weekly amount of regular compensation reduced by the amount of regular compensation paid to the claimant (EUCA, section 202(a)(2), 20 CFR section 615.7(b)). However, the amount of EB benefits payable increases if the unemployment rate reaches a benchmark level established in EUCA. While EB are payable under the terms and conditions of State law, FUTA requires that State UC law conform to certain provisions of EUCA (26 USC 3304(a)(11)). Pub. L. No. 112-96 amended the law to allow States to offer self-employment assistance (SEA) to eligible individuals in lieu of EB if State law is amended to provide it.

States are reimbursed with Federal funds for one-half the cost of EB paid to claimants by the SWAs, with the following exceptions: (1) EB paid to former UCFE and UCX claimants are 100 percent reimbursable from Federal funds; and (2) EB paid to former employees of the State government, and political subdivisions and instrumentalities of the State, and federally recognized Indian tribes are not reimbursable from Federal funds. Reimbursements will be prorated for claimants who had employment in both the private and public sectors during their

“base periods.” The first week of EB is reimbursable to the State only if the State requires the first week in an individual’s benefit year be an unpaid “waiting week” (EUCA section 204; 20 CFR section 615.14). The auditor should refer to 20 CFR section 615.14 for a complete explanation of when EB is not reimbursed to the State.

The American Recovery and Reinvestment Act of 2009 (ARRA) (Pub L. No. 111-5) made several temporary changes to the EB program provided for under the Federal-State Extended Unemployment Act of 1970 (EB law). The temporary changes have been extended by Pub. L. Nos. 111-92, 111-118, 111-144, 111-157, 111-205, 111-312, 112-78, 112-96, and 112-240.

One change provided that the Federal Government will, in most cases, pay 100 percent of the benefit costs of shareable EB for a specified period (weeks beginning after February 17, 2009 and before December 31, 2013). In addition, if a claim for EB has been established before the December 31, 2013 date, the Federal Government will pay 100 percent of the shareable EB benefit costs based on claims during a phase-out period that ends June 30, 2014. ARRA and subsequent legislation also continued, through weeks of unemployment ending on or before June 30, 2014, a temporary suspension of the prohibition on Federal sharing of benefit costs for the first week of EB if the State does not have a non-compensable waiting week. Pub. L. No. 111-312, which was subsequently extended, permits States to temporarily modify their “on” and “off” triggers to “look back” 3 years (rather than 2) for weeks of unemployment beginning after December 17, 2010 (or later pursuant to state law), and ending on or before December 31, 2013. The only payments that will be made after the phase-out period will be as a result of an appeals decision. Recoveries for EB overpayments also may be collected.

### **Synopsis of Emergency Unemployment Compensation 2008 (EUC08) Program**

The Supplemental Appropriations Act of 2008 (Pub. L. No. 110-252) provides for payment of EUC08. EUC08 is payable for weeks of unemployment beginning after the date an agreement is signed with the state and the Federal Government will pay 100 percent of the benefit costs. The EUC08 benefits are payable to eligible unemployed workers who have exhausted their entitlement to regular compensation. EUC08 is payable at the same rate as the claimant’s regular compensation benefits. Pub. L. No. 112-96 amended the law to allow States to offer SEA to eligible individuals in lieu of EUC if State law is amended to provide it.

EUC08 has been amended several times and includes eligibility for several “Tiers” of benefits (Pub. L. Nos. 110-449, 111-5, 111-92, 111-118, 111-144, 111-157, 111-205, 111-312, 112-78, 112-96, and 112-240). Effective June 1, 2012, Pub. L. No. 112-96 modified the trigger requirements for Tiers 2, 3, and 4. Effective for benefit weeks ending September 8, 2012, Tier 1 benefits are 14 weeks, but the amount of weeks available for Tiers 2, 3, and 4 will depend on the trigger established by the Total Unemployment Rate for the State. The last date to establish eligibility for any of the Tiers is the week ending December 31, 2013. Pub. L. No. 112-96 also requires the State to defer payment of EB until all EUC has been paid and provides that no payments may be made for EUC after January 1, 2014. See Unemployment Insurance Program Letter (UIPL) No. 04-10, change 11. Although no new payments may be made for EUC after January 1, 2014, a State may be required to make payments for EUC08 as a result of an appeal decision. States must recover any established EUC08 overpayments consistent with State law.

Pub. L. No. 112-96 also requires individuals receiving EUC to actively seek work and participate in reemployment services and reemployment assessment activities.

### **Synopsis of UCFE and UCX Programs**

For UCFE, the qualifying requirements, determination of the benefit amounts, and duration of UC are generally determined under the applicable State law, which is generally the State in which the official duty station was located (5 USC 8501-8508; 20 CFR part 609).

The UCX program combines elements of the applicable State law and factors unique to the UCX program, such as “schedules of remuneration” (20 CFR section 614.12), which must be considered by the SWA in making its determinations of eligibility, UI benefit amounts and duration (20 CFR part 614).

States are reimbursed from the UTF for UC paid to UCFE and UCX claimants. On a quarterly basis, States report the amount of UCFE and UCX paid to the DOL, which is responsible for obtaining reimbursement to the UTF from the appropriate Federal agencies (20 CFR sections 609.14 and 614.15).

### **Synopsis of TRA/ATAA/RTAA Benefit Payments/Wage Subsidies**

TRA is available as weekly income support to eligible workers who have exhausted UI benefits. The Federal regulations found at 20 CFR part 617 are controlling unless superseded by program amendments. The amendments enacted by the TAA Reform Act of 2002 (2002 program) provide an Alternative Trade Adjustment Assistance (ATAA) benefit. The ATAA is available in lieu of TRA to eligible workers who are 50 years of age and older and elect to receive this benefit. Training and Employment Guidance Letters (TEGLs) Nos. 11-02 and 02-03 implemented the program amendments of the TAA Reform Act of 2002.

The amendments enacted by the Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA or the Trade Act of 2009), which also is part of ARRA, expanded the number of weeks of income support available for TRA and provided a Reemployment Trade Adjustment Assistance (RTAA) benefit. The RTAA is available in lieu of TRA to eligible workers who are 50 years of age and older and elect to receive this benefit. TEGL No. 22-08 implemented the program amendments of the TGAAA. TRA and RTAA benefits are available only to petitions filed for coverage under the TAA program on or after May 18, 2009, and on or before February 15, 2011. On this latter date, the Trade Act of 2009 expired, and the TAA program continued operating under the TAA Reform Act of 2002. On October 21, 2011, the Trade Adjustment Assistance Extension Act of 2011 (TAAEA 2011 program) reauthorized RTAA, but at the 2002 benefit levels. TEGL No. 10-11 implemented the program amendments of the TAAEA 2011 program.

The TAA program was not reauthorized by January 1, 2014, thus the program reverted to the 2002 program under the TAA Reform Act of 2002. The program was known as Reversion 2014. TEGL No. 7-13 implemented Reversion 2014. TEGL No. 14-14 was issued on December 1, 2014, to implement the termination provisions of the TAA program, absent congressional action. The TAA program was reauthorized on June 29, 2015, by the Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015). TEGL No. 05-15 implemented the program

amendments of the TAARA 2015 program, which essentially restored the benefits available under TAAEA 2011. DOL's Office of Trade Adjustment Assistance administers the concurrent programs and oversees TAA program operations in the States.

### **Synopsis of DUA Benefit Payments**

Disaster Unemployment Assistance (DUA) is authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). DOL oversees the DUA program and coordinates with FEMA, which provides the funds for payment of DUA and for State administration. State Workforce Agencies administer the DUA program on behalf of the Federal Government.

Based on a request by the Governor of a State or the Chief Executive of a federally recognized Indian tribal government, the President declares a major disaster and authorizes the type(s) of Federal assistance to be made available and the geographic areas that have been adversely affected by the disaster. The Presidential declaration may authorize Individual Assistance (IA), which includes the provisions for DUA (20 CFR part 625).

### **Source of Governing Requirements**

The Federal-State UI program partnership is provided for by Titles III, IX, and XII of the Social Security Act of 1935 (SSA) (42 USC 501, 1101, 1321, *et seq.*) and the FUTA (26 USC 3301 *et seq.*). Program regulations are found in 20 CFR parts 601 through 616. The TAA/ATAA program is authorized by the Trade Act of 1974, as amended by the TAA Reform Act of 2002 (Pub. L. No. 107-210 (19 USC 2271 *et seq.*)). Implementing regulations are 29 CFR part 90, Subpart B, and 20 CFR part 617. Operating instructions for the TAA program are found in TEGL No. 11-02, and operating instructions for the ATAA program are found in TEGL No. 2-03. **The RTAA program is authorized by the Trade Act of 2009 (Division B, Title I, Subtitle I of ARRA), which further amended the Trade Act of 1974.** Operating instructions for the TAA/RTAA program are found in TEGL No. 22-08, TEGL No. 10-11, TEGL No. 7-13, TEGL No. 14-14, and TEGL No. 5-15. Implementing regulations for the DUA program are found at 44 CFR sections 206.8 and 206.141 for FEMA, and 20 CFR part 625 for DOL.

### **Availability of Other Program Information**

Additional information on the UI programs can be found at <http://ows.doleta.gov/> and <https://oui.doleta.gov/unemploy/bqc.asp>. Additional information on TAA and ATAA program procedures is available at <http://www.doleta.gov/tradeact>. Additional information on DUA is available at <https://oui.doleta.gov/unemploy/disaster.asp>

Additional information on the UI program for EB can be found in UIPL No. 12-09 available at [http://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=2712](http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2712).

Additional information on the EUC program can be found in UIPL No. 23-08 and Changes 1, 2, 3, 4, 5, and 6, available at [http://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=2649](http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2649); UIPL No. 04-10 and Changes 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 are available at [http://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=2836](http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=2836), and TEGL No. 20-11, and its changes are available at [http://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=3684](http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=3684).

Additional information on the SEA program option for the EB/EUC program can be found in UIPL No. 20-12, issued May 24, 2012. Additional information on overpayments for the EUC/EB program can be found in UIPL No. 29-12, issued April 21, 2012. Both UIPLs are available at <http://wdr.doleta.gov/directives/>.

### III. COMPLIANCE REQUIREMENTS

**In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.**

Compliance Requirements											
A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period of Performance	Procurement/Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	Y	Y	N	N	Y	N	Y

#### A. Activities Allowed or Unallowed

- Administrative grant funds may be used only for the purposes and in the amounts necessary for proper and efficient administration of the UI program (20 CFR part 601; 20 CFR sections 609.14(d); and 614.15(d); 20 CFR section 617.59 (TRA/ATAA); 44 CFR section 206.8 (DUA)).



2. *Activities Allowed for TRA and ATAA/RTAA*
  - a. *TRA* – Allowable activities include payment of weekly TRA benefits to eligible participants (20 CFR sections 617.10 through 617.19).
  - b. *ATAA/RTAA* – Allowable activities include payment of ATAA wage subsidies to eligible participants (Section 246 of Pub. L. No. 107-210, Pub L. No. 111-5, and Pub. L. No. 112-40).

3. *Activities Allowed for DUA*

Funds may be used only for the payment of DUA benefits and for DUA-related State administrative costs.

## **E. Eligibility**

### **1. Eligibility for Individuals**

- a. *Regular Unemployment Compensation Program* – Under State UC laws, a worker’s benefit rights depend on the amount of the worker’s wages and/or weeks of work in covered employment in a “base period.” While most States define the base period as the first 4 of the last 5 completed calendar quarters prior to the filing of the claim, other base periods may be used. To qualify for benefits, a claimant must have earned a certain amount of wages, or have worked a certain number of weeks or calendar quarters within the base period, or meet some combination of wage and employment requirements. Some States require a waiting period of one week of total or partial unemployment before UC is payable. A “waiting period” is a noncompensable period of unemployment in which the worker is otherwise eligible for benefits.

To be eligible to receive UC, all States provide that a claimant must have been separated from suitable work for non-disqualifying reasons under State law, i.e., not because of such acts as leaving voluntarily without good cause, or discharge for misconduct connected with work. After separation, he or she must be able and available for work, in the labor force, legally authorized to work in the U.S., and must not have refused an offer of suitable work (20 CFR section 603.2). Pub. L. No. 112-96 requires work search as a condition of eligibility after the end of the first session of a State’s legislature which begins after February 22, 2012.

- b. *EB Program* – To qualify for EB, a claimant must have exhausted regular UI benefits (20 CFR section 615.4(a)). To be eligible for a week of EB, a claimant must apply for and be able and available to accept suitable work, if offered. What constitutes suitable work is dependent on a required SWA’s evaluation of the claimant’s employment prospects. An EB claimant must make a “systematic and sustained effort” to seek work and

must provide “tangible evidence” to the SWA that he or she has done so (20 CFR section 615.8).

- c. *EUC08 Program* – To qualify for EUC08, a claimant (1) must have exhausted all rights to regular compensation with respect to a benefit year that ended on or after May 1, 2007; (2) must have no rights to regular compensation or EB; and (3) cannot be receiving compensation under the UC law of Canada. To qualify for EUC08, individuals must have had employment of 20 weeks of work, or the equivalent in wages, in their base periods (Pub. L. No. 110-252, Supplemental Appropriations Act of 2008, Title IV, Section 4001(b)). No payments may be made for EUC08 for weeks ending on or after January 1, 2014; however, there may be some activity for EUC08 payments as a result of an appeals determination or for the recovery of overpayments.
- d. *UCFE and UCX Programs* – For UCFE, the claimant’s eligibility and benefit amount will generally be determined in accordance with the UI law of the State of the claimant’s last duty station (20 CFR section 609.8). For UCX, a claimant’s eligibility is determined in accordance with the UI law of the State in which the claimant files a first claim after separation from active military service (20 CFR section 614.8).
- e. *TRA* – For weekly TRA payments, the worker must (a) have been employed at wages of \$30 or more per week in adversely-affected employment with a single firm or subdivision of a firm for at least 26 of the previous 52 weeks ending with the week of the individual’s qualifying separation (up to seven weeks of employer-authorized leave, up to seven weeks as a full-time representative of a labor organization, or up to 26 weeks of disability compensation may be counted as qualifying weeks of employment); (b) have been entitled and have exhausted all UC to which he or she is entitled; and (c) be enrolled in or have completed an approved job training program, unless a waiver from the training requirement has been issued after a determination is made that training is not feasible or appropriate (20 CFR section 617.11).

TRA is payable to eligible claimants after exhaustion of UI benefits, which include and are defined as (1) regular compensation under State law; (2) EB; and (3) any Federal supplemental compensation program that may be authorized by Congress from time-to time.

TRA may consist of (1) basic; (2) additional; (3) remedial; (4) remedial and/or pre-requisite; and (5) completion. The distinction depends on whether the benefits accrue under the 2002, 2009, 2011, Reversion 2014, or 2015 program amendments, and is determined by the petition number.

The maximum basic TRA amount payable is the product of 52 times the WBA of the first benefit period. This maximum amount is reduced by the

entire UI entitlement of the first benefit period including EB, and/or any Federal supplemental compensation, such as EUC08. This maximum amount is the same under the 2002, 2009, and Reversion 2014, as well as 2015 program amendments. If the combination of all UI entitlement in the first benefit period exceeds the maximum basic TRA amount payable, no basic TRA is payable.

Additional TRA requires that the individual participate in TAA training for each week claimed. Under the 2002 program amendments, additional TRA may be payable for up to 52 weeks in a 52 consecutive-weeks period. Under the 2009 program amendments, additional TRA may be payable for up to 78 weeks in a 91 consecutive-weeks period. Under the 2011 program amendments, Reversion 2014, and 2015 program amendments, additional TRA may be payable for up to 65 weeks in a 78 consecutive-weeks period. Please note that, under all additional TRA payable (including completion TRA discussed below), each week paid counts towards the maximum weeks payable regardless of the amount paid each week.

Under the 2002 program amendments, up to an additional 26 weeks may be payable as TRA if the individual engaged in remedial education. Under the 2009 program amendments, up to an additional 26 weeks total may be payable as TRA if the individual engaged in either remedial education, and/or pre-requisite education. Under the 2011 program amendments, Reversion 2014, and 2015 program amendments, up to an additional 13 weeks may be payable as completion TRA if the individual is pursuing a degree or industry-recognized credential, continues to make satisfactory progress in meeting the training benchmarks, and will complete the training within the period of eligibility.

For TRA eligibility derived from petitions filed before May 18, 2009 or between February 15, 2011 and October 21, 2011 (2002 program amendments), as well as those filed on or after January 1, 2014, under Reversion 2014, the enrollment in TAA training must have occurred by the end of the 8<sup>th</sup> week after the certification or the end of the 16<sup>th</sup> week of the most recent qualifying separation, unless the requirement is waived. For TRA eligibility derived from petitions filed on or after May 18, 2009 and before February 15, 2011 (2009 program amendments), or on and after October 21, 2011 and before January 1, 2014 (2011 program amendments), the enrollment in TAA training must have occurred by the end of the 26<sup>th</sup> week after the certification or the end of the 26<sup>th</sup> week of the most recent qualifying separation, unless the requirement is waived. For TRA eligibility derived from petitions filed on or after June 29, 2015, the enrollment in TAA training must have occurred by the end of the 26<sup>th</sup> week after the certification or the end of the 26<sup>th</sup> week of the most recent qualifying separation, unless the requirement is waived.

- f. *ATAA* – For ATAA payments, an individual must be an adversely affected worker covered under a DOL TAA certification of eligibility and meet the following conditions at the time of reemployment as provided in TEGL No. 11-02 and TEGL No. 02-03:
- (1) Be at least age 50 at the time of reemployment.
  - (2) Obtain reemployment by the last day of the 26<sup>th</sup> week after the worker's qualifying separation from the TRA/ATAA certified employment.
  - (3) Must not be expected to earn more than \$50,000 annually in gross wages (excluding overtime pay) from the reemployment.
  - (4) Be reemployed full-time as defined by the State law where the worker is employed.
  - (5) Cannot return to work to the employment from which the worker was separated.
- g. *RTAA* – To be eligible to receive RTAA payments, an individual must be an adversely affected worker covered under a DOL TAA certification of eligibility if he/she meets the following conditions at the time of reemployment (TEGL No. 22-08):
- (1) Is at least 50 years of age.
  - (2) Earns not more than \$55,000 each year in wages from reemployment (2009 program amendments) or \$50,000 each year in wages from re-employment (2011, 2015 program amendments).
  - (3) Is employed on a full-time basis as defined by the law of the State in which the worker is employed and is not enrolled in a training program or is employed at least 20 hours per week and is enrolled in a TAA-approved training program.
  - (4) Is not employed at the firm from which the worker was separated.
- h. *DUA* – To be eligible for DUA, the individual's employment or self-employment was lost or interrupted as a direct result of a major disaster or the individual was prevented from commencing employment or self-employment due to the major disaster. This includes individuals who reside in the major disaster area but are unable to reach their place of employment or self-employment outside of the major disaster area, and individuals who must travel through a major disaster area to their employment or self-employment, but who are unable to do so as a direct result of the major disaster (20 CFR sections 625.4 and 625.5).

DUA weekly benefits and re-employment assistance services are provided to individuals who are unemployed as a direct result of a presidentially declared major disaster and who are not eligible for regular unemployment compensation but meet the DUA qualifying requirements.

Generally, an applicant is eligible for DUA for a week of unemployment if he or she meets the following conditions (20 CFR section 625.4):

- (1) Each week of unemployment claimed begins during the disaster assistance period.
- (2) The individual is an unemployed worker or an unemployed, self-employed individual whose unemployment (total or partial) has been found to be the direct result of a major disaster in the major disaster area.
- (3) The applicant is able to work and available for work, within the meaning of the applicable State law, except an applicant will be deemed to meet this requirement if any injury directly caused by the major disaster is the reason for inability to work.
- (4) The individual is not eligible for compensation (as defined in 20 CFR section 625.2(d)) or for waiting-period credit for such week under any other Federal or State law; except that an individual determined ineligible because of the receipt of disqualifying income shall be considered eligible for such compensation or waiting period credit.
- (5) Claimants eligible for UC are not eligible for DUA. DUA may not be paid as a supplement to UC for the same week of unemployment. DUA also is not payable for any unemployment compensation waiting period required under State UC law (20 CFR section 625.4(i)).
- (6) The individual files an initial application for DUA within 30 days after the announcement date of the major disaster. An initial application filed later than 30 days after the announcement date shall be considered timely filed if the State finds that there is good cause for the late filing. At the request of the State, the Administrator of DOL's Office of Unemployment Insurance may authorize extension of the 30-day filing requirement for all DUA applicants. In no case will initial applications be accepted if filed after the expiration of the disaster assistance period (20 CFR section 625.8).

- i. Aliens must show proof that they are authorized to work by the U.S. Citizenship and Immigration Services (USCIS) in order to be eligible to receive a Federal public benefit (42 USC 1302b-7(d) and (e)).

2. **Eligibility for Group of Individuals or Area of Service Delivery** – Not Applicable
3. **Eligibility for Subrecipients** – Not Applicable

**G. Matching, Level of Effort, Earmarking**

**1. Matching**

- a. *Shareable Compensation Program (EB)*

From its UI tax revenues, the State is required to pay zero percent (UCFE, UCX), 50 percent (EB), or 100 percent (regular compensation) of the UC paid by the SWA to eligible claimants.

The State is required to provide 50 percent of the amounts paid to the majority of eligible EB claimants (those not covered by Federal law or special provisions of State law) (20 CFR sections 615.2 and 615.14(a)). Those EB amounts paid by the SWA, and that are not the responsibility of the State, are reimbursable to the State from the UTF (20 CFR section 615.14). The first week of EB is reimbursable to the State only if, in addition to other requirements, the State requires the first week of an individual's benefit year to be an "unpaid waiting week" (EUCA section 204; 20 CFR section 615.14).

The 50 percent share of EB for which the State is responsible is prorated for those claimants whose base period includes wages from both public and private sector employment.

**For weeks of EB paid by a State that begin after February 17, 2009 and before December 31, 2013, the Federal Government will reimburse the State at 100 percent of eligible costs. Also, if an EB claim is established prior to December 31, 2013 (week ending January 4, 2014), the Federal Government will reimburse the State at 100 percent of eligible costs based on claims paid during a phase-out period that ends June 30, 2014 (week ending June 28, 2014). Any overpayment recoveries made during the period of 100 percent Federal funding must be returned to the Extended Unemployment Compensation Account (EUCA) in the UTF.**

b. *Emergency Unemployment Compensation*

The State is required to pay zero of the EUC08 paid by the SWA to eligible claimants, i.e., EUC08 funds are not required to be matched. Any overpayment recoveries for EUC08 must be returned to EUCA in the UTF.

2. **Level of Effort** – Not Applicable

3. **Earmarking** – Not Applicable

**H. Period of Performance**

1. *TRA/ATAA/RTAA* – Funds allotted to a State for any fiscal year are available for expenditure by the State during the year of award and the two succeeding fiscal years (Section 130 of Pub. L. No. 107-210, 116 Stat. 942; 19 USC 2317).

2. *DUA* – Funding for each disaster is provided separately for administrative costs and benefits. States must report the cost of each disaster separately by administrative cost and benefits. The funding period for disasters generally covers a 26-week period after the declaration has been declared. Within 60 days after all payment activity has been concluded for a particular disaster, which may be less than 26 weeks after declaration, the DUA program should be closed out by the State.

3. *EUC08* – EUC08 was payable in a State for weeks of unemployment beginning with the first week after the date an agreement was signed with the State and DOL. An EUC08 claim must have been established by the week ending December 29, 2013. The “phase out” period was eliminated, therefore, the last date for EUC08 payments was January 2, 2013 or the week ending December 29, 2013. Appeal decisions may result in EUC08 payments being made for the weeks previously mentioned. Any overpayments recovered must be returned to EUCA in the UTF.

**L. Reporting**

1. **Financial Reporting**

a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable

c. *SF-425, Federal Financial Report* – Not Applicable

d. Instructions for reporting financial and/or program activities are contained in ET Handbook No. 336, 18th Edition, *State Quality Service Plans for Unemployment Insurance Operations*, ET Handbook 401, 3rd Edition,

*Unemployment Insurance Reports Handbook 401*, and ET Handbook 356, *Disaster Unemployment Assistance (DUA)*. The SWA may file certain reports electronically.

- e. ETA 9130, *Financial Status Report, UI Programs* – This report is used to report program and administrative expenditures. All ETA grantees are required to submit quarterly financial reports for each grant award which they operate, including standard program and pilot, demonstration, and evaluation projects. Financial data is required to be reported cumulatively from grant inception through the end of each reporting period. Additional information on OMB Number 1205-0461 can be accessed at <http://www.doleta.gov/grants/> and scroll down to the section on Financial Reporting. A separate ETA 9130 is submitted for each of the following: UI Administration, Regular UI Benefits, DUA, TRA/ATAA, and UA Projects (administration and benefits). See TEGL No. 02-16 for specific and clarifying instructions about the ETA 9130 [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=5156](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5156).
- f. ETA 2112, *UI Financial Transaction Summary (OMB No. 1205-0154)* – A monthly summary of transactions, which account for all funds received in, passed through, or paid out of the State unemployment fund (ET Handbook 401).
- g. ETA 581, *Contribution Operations (OMB No. 1205-0178)* – Quarterly report on volume of SWA work, performance in determining the taxable status of employers, and other information pertinent to the overall effectiveness of the tax program (ET Handbook 401).
- h. ETA 191, *Financial Status of UCFE/UCX (OMB No. 1205-0162)* – Quarterly report on UCFE and UCX expenditures and the total amount of benefits paid to claimants of specific Federal agencies (ET Handbook 401).
- i. ETA 227, *Overpayment Detection and Recovery Activities (OMB No. 1205-0187)* – Quarterly report on results of SWA activities in principal detection and recovery areas of benefit payment control (ET Handbook 401).
- j. ETA 902, *DUA Activities Under the Stafford Act (OMB No. 1205-0051)* – This report provides monthly data on DUA activities when a major disaster is declared by the President. Its workload items are also used with fiscal reports to estimate the cost of administering this Stafford Act program. (ET Handbook 356).



## 2. Performance Reporting

*Trade Act Participant Report (TAPR) (OMB No. 1205-0392)* – SWAs are required to submit quarterly reports on participant characteristics, services and benefits received, and outcomes achieved on a rolling four-quarter basis (TEGL No. 6-09).

*Key Line Items* – The following line items contain critical information:

- (1) Section A.01: Identifying Data – Individual Identifier
- (2) Section D.01: Employment and Job Retention Information – Employed in first full quarter after exit.
- (3) Section D.01: Employment and Job Retention Information – Employed in second full quarter after exit.
- (4) Section D.01: Employment and Job Retention Information – Employed in third full quarter after exit.
- (5) Section D.01: Employment and Job Retention Information – Employed in fourth full quarter after exit.

Total Earnings from Wage Records:

- (6) Section D. 02 Wage Record Data – Wages third quarter prior to participant quarter
- (7) Section D. 02 Wage Record Data – Wages second quarter prior to participant quarter
- (8) Section D. 02 Wage Record Data – Wages first quarter prior to participant quarter
- (9) Section D. 02 Wage Record Data – Wages first quarter after exit quarter
- (10) Section D. 02 Wage Record Data – Wages second quarter after exit quarter
- (11) Section D. 02 Wage Record Data – Wages third quarter after exit quarter
- (12) Section D. 02 Wage Record Data – Wages fourth quarter after exit quarter

## 3. Special Reporting

ETA 2208A, *Quarterly UI Contingency Report (OMB No. 1205-0132)* – Quarterly report of staff years worked and paid by program category. Key line items are 1 through 7 of Section A. The auditor is not expected to test Sections B through E.

## N. Special Tests and Provisions

### 1. Employer Experience Rating

**Compliance Requirement** – Certain benefits accrue to States and employers when the State has a federally approved experience-rated UI tax system. All States currently have an approved system. For the purpose of proper administration of the system, the SWA maintains accounts, or subsidiary ledgers, on State UI taxes received or due from individual employers, and the UI benefits charged to the employer.

The employer’s “experience” with the unemployment of former employees is the dominant factor in the SWA computation of the employer’s annual State UI tax rate. The computation of the employer’s annual tax rate is based on State UI law (26 USC 3303).

**Audit Objectives** – To verify the accuracy of the employer’s annual State UI tax rate and determine if the tax rate was properly applied by the State.

#### Suggested Audit Procedures

- a. Experience rating systems are generally highly automated systems. These systems could contain errors that are material in the aggregate, but which are not susceptible to detection solely by sampling. If errors are detected, sampling may not be the most effective and efficient means to quantify the extent of such errors. For this reason, the auditor should have a thorough understanding of the operation of these systems, and is strongly encouraged to consider the use of computer-assisted auditing techniques (CAATs) to test these systems.
- b. On a test basis, reconcile the subsidiary employer accounts with the State’s UI general ledger control accounts.
- c. Trace a sample of taxes received and benefits paid to postings to the applicable employer accounts. Verify the propriety of any non-charging of benefits paid to an employer account.
- d. Trace a sample of postings to employer accounts to documentation of taxes received and benefits paid.
- e. On a test basis, recompute employer experience-related tax rates.

### 2. UI Benefit Payments

**Compliance Requirement** – Due to the complexity of the UI benefit payment operations, it is unlikely the auditor will be able to support an opinion that UI benefit payments are in compliance with applicable laws and regulations without relying on the SWA’s systems and internal controls.

The Improper Payments Elimination and Recovery Act (IPERA) of 2010 codified the requirement for valid statistical estimates of improper payments. SWAs are required by 20 CFR section 602.11(d) to operate and maintain a quality control system. The Benefits Accuracy Measurement (BAM) program is DOL's quality control system designed to assess the accuracy of UI benefit payments and denied claims, unless the SWA is excepted from such requirement (20 CFR section 602.22). The program estimates error rates, that is, numbers of claims improperly paid or denied and dollar amounts of benefits improperly paid or denied, by projecting the results from investigations of small random samples to the universe of all claims paid and denied in a State. Specifically, the SWA's BAM unit is required to draw a weekly sample of payments and denied claims, complete prompt and in-depth investigations to determine the degree of accuracy in the administration of the State UC and Federal law (20 CFR section 602.21(d)). DOL has promulgated investigational requirements and instructions in ET Handbook No. 395 (see below), pursuant to 20 CFR section 602.30(a). As presented in the handbook, the investigation involves a review of the records, and contacting the claimant, employers, and third parties (either in-person, by telephone, or by fax) to complete standard questionnaires and conduct new and original fact-finding to assess all of the information pertinent to the paid or denied claim that was sampled. BAM investigators review cases for adherence to State law as well as Federal law and official policy. For claims that were overpaid, underpaid, or erroneously denied, the BAM investigator determines the amount of payment error or, for erroneously denied claims, the potential eligibility of the claimant; the cause of and the responsibility for any payment error; the point in the UI claims process at which the error was detected; and actions taken by the agency and employer prior to the payment or denial decision that is in error. BAM covers State UC, UCFE, and UCX.

Additional information on BAM procedures, historical data, and a State contacts list can be obtained at <https://oui.doleta.gov/unemploy/bqc.asp>.

The auditor should review the requirements relating to the investigative process and data collection in ET Handbook No. 395, 5th Edition, Benefit Accuracy Measurement State Operations Handbook, Chapters IV, V, VI, VII, and Appendix C (Investigative Guide Source, Action, and Documentation), pertinent UIPLs, including UIPL Nos. 28-13 ([http://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=6139](http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6139)) and 13-16 ([https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=4604](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=4604)), and other sources of information, including Question and Answer series on the Employment and Training website (see above).

**Audit Objective** – To verify that States operate a BAM program in accordance with Federal requirements to assess the accuracy of UI benefit payments and denied claims.

### **Suggested Audit Procedures**

- a. Review State BAM case investigative procedures and methodology to assess the SWA's adherence to BAM requirements.

- b. Determine whether BAM samples of UI weeks paid and disqualifying eligibility determinations (monetary, separation, and non-separation) are selected for investigation and verification once a week by the State agency's BAM unit.
- c. Determine whether BAM case sampling and case assignment for paid and denied claims were reviewed for compliance with State law and policy.
- d. Determine whether the State agency is meeting its completion requirements and identify any impediments to the State BAM unit's efforts to complete cases timely.
- e. Conduct reviews of a representative sub-sample of completed cases to ensure that established procedures were followed (e.g., cases selected for supervisory review) and information is accurately recorded. The auditor should not attempt to conduct a new investigation, or new fact finding.

### **3. Match with IRS 940 FUTA Tax Form**

**Compliance Requirement** – States are required to annually certify for each taxpayer the total amount of contributions required to be paid under the State law for the calendar year and the amounts and dates of such payments in order for the taxpayer to be allowed the credit against the FUTA tax (26 CFR section 31.3302(a)-3(a)). In order to accomplish this certification, States annually perform a match of employer tax payments with credit claimed for these payments on the employer's IRS 940 FUTA tax form.

**Audit Objective** – Determine whether the State properly performed the match to support its certification of State FUTA tax credits.

#### **Suggested Audit Procedures**

- a. Ascertain the State's procedures for conducting the annual match.
- b. Obtain and examine documentation supporting the annual match process from the group of employers' State unemployment tax payments used by the State in its match process.
- c. For a sample of employer payments:
  - (1) Verify that the tax payments met the stated criteria for FUTA tax credits allowance (e.g., timely State unemployment tax filings and payments).
  - (2) Compare the audit results to the States' reported annual match results.

### **4. EUC08 Benefit Payments**

**Compliance Requirement** – The EUC08 program ended in December 2013. However, States may be recovering overpayments and should return the recovered funds to EUCA in the UTF.

Under Section 4005 of the Supplemental Appropriations Act, 2008 (Pub. L. No. 110-252), each State must require repayment from individuals who have received any overpayment of EUC08 (whether fraudulent or non-fraudulent), unless the State, under the option to waive recovery under Section 4005(b), elects to waive recovery. The option to waive recovery applies only to non-fraudulent overpayments.

Pub. L. No. 112-96 amended Section 4005(c) to require overpayments to be recovered by offset in accordance with State law and removed the 50 percent limitation on a single offset. The State, under the optional language of Section 4005(b), may continue to elect to waive recovery. The option to waive recovery applies only to non-fraudulent overpayments.

To the extent allowed by the State law, an EUC08 overpayment may be recovered by offset.

**Audit Objectives** – To verify that States operate a EUC08 program in accordance with Federal requirements and assess the accuracy of recovery (or waiver recovery) of EUC08 overpayments.

### **Suggested Audit Procedures**

- a. Verify that the State has entered into an agreement with the Secretary of Labor allowing it to carry out the EUC08 program.
- b. Determine if individuals are receiving EUC08.
- c. Determine if the State is using the regular UI weekly benefit amount and making any adjustments in accordance with the applicable State law to account for any earnings and any other deductions (e.g., severance, or retirement/pension payments).
- d. Determine whether the State is properly offsetting all debts resulting from an overpayment of the individual's unemployment compensation, i.e., EUC benefits can be used to offset any State compensation overpayments. It should be noted that a State may continue to waive recovery of overpayments in certain situations and must continue to offer the individual a fair hearing prior to recovery.

## **5. UI Program Integrity – Overpayments**

**Compliance Requirements** – Pub. L. No. 112-40, enacted on October 21, 2011, and effective October 21, 2013, amended sections 303(a) and 453A of the Social Security Act and sections 3303, 3304, and 3309 of the Federal Unemployment Tax Act (FUTA) to improve program integrity and reduce overpayments. (See UIPL Nos. 02-12, and 02-12, Changes 1 and 2) ([https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=6707](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6707).) States are (1) required to impose a monetary penalty (not less than 15 percent) on claimants whose fraudulent acts resulted in overpayments, and (2) States are prohibited from providing relief from charges to an employer's UI account when overpayments are the result of the employer's failure to respond timely or adequately to a request for

information. States may continue to waive recovery of overpayments in certain situations and must continue to offer the individual a fair hearing prior to recovery.

Section 2103 of Pub. L. No. 112-96 amended FUTA and the Social Security Act to require States to recover overpayments through an offset against UC payments. States must enter into two agreements prior to commencing the recoveries: the Cross Program Offset and Recovery Agreement (see UIPL No. 05-13), which allows States to offset State UI from Federal UI overpayments, and the Interstate Reciprocal Overpayment Recovery Agreement, which allows States to recover overpayments from benefits being administered by another State.

States that recover EUC08 and EB overpayments must ensure that the recovered payments are returned to EUCA in chronological order from the date the overpayment was established, identifying the program source (EUC08 or EB) when the funds are returned to the UTF.

The Bipartisan Budget Act of 2013 (Pub. L. No. 113-67) amended Section 303 of the Social Security Act to require States to utilize the Treasury Offset Program (TOP), authorized by Section 6402(f)(4), Internal Revenue Code, to recover overpayments that remain uncollected one year after the debt was determined to be due. Some States may need to amend their UI law in order to have the authority to collect overpayments through TOP. In addition, States will also need to enter into an agreement with Treasury. See UIPL No. 12-14 for guidance on the implementation of the TOP requirement.

**Audit Objectives** – To determine if States are (a) properly identifying and handling overpayments, including, as applicable, assessment and deposit of penalties and not relieving employers of charges when their untimely or inaccurate responses cause improper payments; and (b) offsetting all debts resulting from an overpayment of the individual's UC payments.

### **Suggested Audit Procedures**

- a. Determine if the State has a written procedure for identifying overpayments and classifying them in a manner that allows the State to take appropriate follow-up action, e.g., as resulting from individual fraud or employer fault.
- b. Determine if the State entered into a Cross Program Offset and Recovery Agreement and an Interstate Reciprocal Overpayment Recovery Agreement.
- c. Determine if the State law prohibits the State from providing relief from charges to an employer's UI account when a UI overpayment results from an employer failing to respond timely or adequately to a request for information by the State agency.
- d. Based on a sample of overpayment cases:
  - (1) Determine if the State identified the basis for the overpayment consistent with its written procedures.

- (2) If the overpayment was based on fraud, determine if the claimant was notified of the 15 percent penalty, and if there was no appeal or the claimant was unsuccessful in appeal, there was follow-up to collect the penalty, and the State deposited the penalty into the State's account in the Unemployment Trust Fund.
- (3) If the overpayment was a result of the employer's untimely or inaccurate response, determine if the State enforced the requirement in State law that the employer not be relieved of charges.
- (4) Verify that States are offsetting against UI payments.

#### **IV. OTHER INFORMATION**

State unemployment tax revenues and the governmental, tribal, and non-profit reimbursements in lieu of State taxes (State UI funds) must be deposited to the UTF in the U.S. Treasury, primarily to be used to pay benefits under the federally approved State unemployment law. This program supplement includes several compliance requirements that must be tested with regard to these State UI funds. Consequently, State UI funds, as well as Federal funds for benefit payments under UCFE, UCX, EB, TRA/ATAA/RTAA, DUA, and EUC08 shall be included in the total expenditures of CFDA 17.225 when determining Type A programs. State UI funds should be included with Federal funds on the Schedule of Expenditures of Federal Awards. A footnote to the Schedule to indicate the individual State and Federal portions of the total expenditures for CFDA 17.225 is encouraged.

## DEPARTMENT OF LABOR

### CFDA 17.235 SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

#### I. PROGRAM OBJECTIVES

The purpose of the Senior Community Service Employment Program (SCSEP) is to foster economic self-sufficiency, provide career skills training, and promote useful part-time employment through community service assignments. SCSEP is a job-skills training program that helps unemployed, low-income seniors (55 and over) re-enter the workforce. Participants work and train at a host agency on a part-time basis.

#### II. PROGRAM PROCEDURES

To allot program funds for use in each State, the Department of Labor (DOL) utilizes a statutory formula based on Fiscal Year 2000 level of activities, the number of persons aged 55 and over, per capita income, and hold-harmless considerations. Program grants are awarded to eligible applicants, which include States, U.S. Territories, and public and private non-profit entities other than political parties (Section 506 of the Act). The relative amount of funding for each type of eligible applicant has historically occurred at proportions of 22 percent to State and territorial agencies and 78 percent to national grantees. As a result of a competition conducted in 2016, there are now 19 national grantees. Each 1-year grant period may be extended through a grant modification. The program year is July 1 to June 30.

#### Source of Governing Requirements

SCSEP is authorized by the Older Americans Act (OAA) of 1965, as amended by Pub. L. No. 109-365 (42 USC 3056 *et seq.*). Implementing regulations are published at 20 CFR part 641 (<http://webapps.dol.gov/FederalRegister/HtmlDisplay.aspx?DocId=24198&AgencyId=15&DocumentType=2>)

#### III. COMPLIANCE REQUIREMENTS

**In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.**



Compliance Requirements											
A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property	Matching, Level of Effort, Expenses	Period of Performance	Procurement/Suspension and	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	Y	Y	N	N	Y	Y	N

**A. Activities Allowed or Unallowed**

1. *Activities Allowed*

- a. Allowable activities include, but are not limited to (1) outreach, (2) orientation, (3) assessment, (4) counseling, (5) classroom training, (6) job development, (7) community service assignments, (8) payment of wages and fringe benefits, (9) training, (10) supportive services, and (11) placement in unsubsidized employment.
- b. Costs of participating as a required partner in the American Job Centers (AJC) (formerly known as One-Stop Career Centers or by another name) Delivery System established in accordance with Section 121(e) of the Workforce Innovation and Opportunity Act (WIOA) of 2014 (Pub. L. No. 113-128) are allowable, as long as SCSEP services and funding are provided in accordance with the Memorandum of Understanding required by WIOA and Section 502(b)(1)(O) of the OAA (20 CFR section 641.850(d)).
- c. SCSEP funds may be used to meet a recipient’s or subrecipient’s obligations under Section 504 of the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act of 1990, and any other applicable Federal disability nondiscrimination laws to provide accessibility for individuals with disabilities (20 CFR section 641.850(f)).

2. *Activities Unallowed*

- a. Legal expenses for the prosecution of claims against the Federal Government, including appeals to an Administrative Law Judge, are unallowable (20 CFR section 641.850(b)).

- b. In addition to the prohibition contained in 29 CFR part 93 and 2 CFR section 200.450, SCSEP funds cannot be used to pay any salaries or expenses related to any activity designed to influence legislation or appropriations pending before the U.S. Congress or any State legislature (20 CFR section 641.850(c)).
- c. SCSEP funds may not be used for the purchase, construction, or renovation of any building except for the labor involved in minor remodeling of a public building to make it suitable for use for project purposes; minor repair and rehabilitation of publicly used facilities for the general benefit of the community; and minor repair and rehabilitation by participants of housing occupied by persons with low incomes who are declared eligible for such services by authorized local agencies (20 CFR section 641.850(e)).

## **E. Eligibility**

### **1. Eligibility for Individuals**

Persons 55 years or older whose family is low-income (i.e., income does not exceed the low-income standards defined in 20 CFR section 641.507) are eligible for enrollment (20 CFR section 641.500). Low-income means an income of the family which, during the preceding 6 months on an annualized basis or the actual income during the preceding 12 months (whichever method is more favorable to the individual) is not more than 125 percent of the poverty levels established and periodically updated by the U.S. Department of Health and Human Services (42 USC 3056p(a)(3)(A)). The poverty guidelines are issued each year in the *Federal Register* and the Department of Health and Human Services maintains the poverty guidelines at <http://www.aspe.hhs.gov/poverty/index.shtml>. Enrollee eligibility is redetermined on an annual basis (20 CFR section 641.505).

### **2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable**

### **3. Eligibility for Subrecipients – Not Applicable**

## **G. Matching, Level of Effort, Earmarking**

### **1. Matching**

The grantee must contribute matching, in cash or in-kind, of not less than 10 percent of the total cost of the project, except that the Federal Government may pay all costs of any project which is

- a. an emergency or disaster project; or
- b. a project located in an economically depressed area as determined by the Secretary of Labor in consultation with the Secretary of Commerce and

the Director of the Office of Community Services of the Department of Health and Human Services;

- c. a project which is exempt by law (42 USC 3056(c)).

**2.1 Level of Effort – *Maintenance of Effort* – Not Applicable**

**2.2 Level of Effort – *Supplement Not Supplant***

Employment of an enrollee shall be only in addition to budgeted employment which would otherwise be funded by the grantee, subrecipient(s), or host agency(ies) without assistance from the OAA, and shall not result in employee displacement (including persons in lay-off status) or substitute project jobs for contracted work or other Federal jobs (20 CFR section 641.844).

**3. Earmarking**

- a. The amount of Federal funds expended for enrollee wages and fringe benefits shall be no less than 75 percent of the grant (20 CFR section 641.873) except in those instances in which a grantee has requested, and DOL has approved such request, to use not less than 65 percent of the grant funds to pay for participant wage and fringe benefits so as to use up to an additional 10 percent of grant funds for participant training and supportive services (42 USC 3056(c)(6)(C)(i)).
- b. The amount of Federal funds expended for the costs of administration during the program year shall be no more than 13.5 percent of the grant (20 CFR section 641.867(a)). A waiver of this requirement to increase administrative expenditures to 15 percent may be granted by the Secretary of Labor (20 CFR section 641.867(b)).

**L. Reporting**

**1. Financial Reporting**

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable
- d. ETA 9130, *Financial Report, (OMB No. 1205-0461)* – All ETA grantees are required to submit quarterly financial reports for each grant award they receive. Reports are required to be prepared using the specific format and instructions for the applicable program(s); in this case, *Older Worker Program*. Reports are due 45 days after the end of the reporting quarter. Financial data is required to be reported cumulatively from grant inception

through the end of each reporting period. Additional information can be accessed at <http://www.doleta.gov/grants/> and scroll down to the section on Financial Reporting. See TEGL 02-16 for specific and clarifying instructions about the ETA 9130

([http://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=5156](http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5156)).

2. **Performance Reporting** – Not Applicable
3. **Special Reporting** – Not Applicable

## DEPARTMENT OF LABOR

### CFDA 17.245 TRADE ADJUSTMENT ASSISTANCE

#### I. PROGRAM OBJECTIVES

The purpose of the Trade Adjustment Assistance (TAA) program is to provide assistance to workers adversely affected by foreign trade. Services are provided under the TAA program to enable workers to return as quickly as possible to work that will use the highest skill levels and pay the highest wages, given the workers' preexisting skill and educational levels, as well as the condition of the labor market.

The Trade Act of 1974 has been amended multiple times—most recently by the Trade Adjustment Assistance Reform Act of 2002 (Pub. L. No. 107-210) (TAARA or Trade Act of 2002); the Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA or Trade Act of 2009) (Division B, Title I, Subtitle I of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5); the Trade Adjustment Assistance Extension Act of 2011 (TAAEA or Trade Act of 2011) (Title II of Pub. L. No. 112-40); and the Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015 or Trade Act of 2015) (Title IV of the Trade Preferences Extension Act of 2015, Pub. L. No. 114-27).

Compared to the Trade Act of 2002, the Trade Act of 2011 expanded eligibility of the TAA program and replaced Alternative Trade Adjustment Assistance (ATAA) with Reemployment Trade Adjustment Assistance (RTAA), but at the 2002 benefit levels. The TGAAA extended the TAA program through December 31, 2010, and the Omnibus Trade Act of 2010 further extended TAA through February 15, 2011. After that date, the TGAAA amendments to the Trade Act expired, and the TGAAA required the TAA program to operate under the TAARA provisions, through October 21, 2011. On this date, the TAAEA was passed, which reauthorized many of the provisions under the Trade Act of 2009, but with slight modifications. The TAAEA amendments to the Trade Act expired on December 31, 2013, and the TAAEA required the TAA program to operate under the provisions of the Trade Act of 2002, with three provisions of the Trade Act of 2011 remaining (referred to as Reversion 2014). The TAARA 2015 both amends and reauthorizes the TAA Program. The TAARA 2015 restores the worker group eligibility and benefits established by TAAEA.

The TAARA 2015 also (1) authorizes the operation of the 2015 Program and continuation of the 2002 Program, the 2009 Program, and the 2011 Program through June 30, 2021; (2) provides a 90-day transition period for Reversion 2014 Program participants to transition to the 2015 Program; (3) expands coverage of certifications of petitions filed since January 1, 2014 for 90 days; (4) requires reconsideration of negative determinations of petitions filed since that date and before the date of enactment under 2015 Act certification requirements; and (5) reauthorizes the Health Coverage Tax Credit (HCTC) program benefit for eligible TAA participants. TAARA 2015 also added new requirements to align performance reporting for the TAA Program with the requirements of the Workforce Innovation and Opportunity Act (WIOA).

The Trade Act amendments provided workers covered by certifications of petitions the benefits and services that were available under the provisions of the Trade Act that were in effect on the date the petitions were filed. Therefore, the Office of Trade Adjustment Assistance administers three versions of TAA programs to provide benefits to all workers covered by certifications of petitions filed since the enactment of TAARA: the 2002, 2009, and 2011/2015 TAA programs, as the 2011 and 2015 TAA Programs have the same worker group eligibility and benefits provisions.

## **II. PROGRAM PROCEDURES**

Funds are provided to State Workforce Agencies (SWAs) which serve as agents of the U.S. Department of Labor (DOL) for administering the worker adjustment assistance provisions of the Trade Act. Funds are awarded for the costs of training, job search and relocation allowances, and administrative costs, and are available for workers covered by the 2002, 2009, 2011, and 2015 TAA programs.

Through the American Job Centers network (formerly known as One-Stop Career Centers or by another name) and other local offices, SWAs arrange for eligible program participants to receive training, job search assistance, relocation allowances, and transportation and/or subsistence allowances for the purpose of attending approved training outside the normal commuting distance of their place of residence (20 CFR part 617).

The weekly trade readjustment assistance (TRA) income support and ATAA/RTAA (depending on the applicable TAA program) wages subsidies paid to TAA program participants are administered by the offices that carry out the UI program (see CFDA 17.225 in this Supplement). The Trade Act of 2002 applies to petitions with TA-W Numbers less than 69,999 with a petition institution date prior to May 17, 2009, and most petitions with TA-W Numbers greater than 80,000 and less than 81,000 with a petition institution date of February 15, 2011, through October 20, 2011. The Trade Act of 2009 applies to petitions with TA-W Numbers greater than 70,000 and less than 80,000 with a petition institution date of May 18, 2009 through February 14, 2011, the Trade Act of 2011 applies to petitions with TA-W Numbers greater than 81,000 and less than 85,000, with a petition institution date of October 21, 2011, through December 31, 2013, and the Trade Act of 2015 applies to petitions with TA-W Numbers greater than 90,000, with a petition institution date of June 29, 2015. Reversion 2014 applied to petitions with TA-W numbers greater than 85,000 and less than 90,000, with a petition institution date of January 1, 2014, through June 28, 2015, but these worker groups transitioned to the Trade Act of 2015 on September 28, 2015.

### **Source of Governing Requirements**

This program is authorized by the Trade Act of 1974 (19 USC 2271 *et seq.*), as amended by the Trade Adjustment Assistance Reform Act of 2002 (Pub. L. No. 107-210), the Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA) (Division B, Title I, Subtitle I of ARRA, the Trade Adjustment Assistance Extension Act of 2011 (TAAEA, Title II, Pub. L. No. 112-40), and the Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015 or Trade Act of 2015) (Title IV of the Trade Preferences Extension Act of 2015, Pub. L. No. 114-27). Implementing regulations are 29 CFR part 90, subpart B, and 20 CFR part 617. Operating

instructions for the TAA program are found in: Training and Employment Guidance Letter (TEGL) No. 22-08, implementing the Trade Act of 2009; TEGL No. 10-11, implementing the Trade Act of 2011; TEGL No. 07-13, implementing Reversion 2014, and TEGL No. 05-15, implementing the Trade Act of 2015. Operating instructions for the ATAA program (which operates under the Trade Act of 2002) are found in TEGL 11-02, implementing the Trade Act of 2002.

**Availability of Other Program Information**

Additional information on TAA program procedures may be obtained through the agency website at <http://www.doleta.gov/tradeact>.

**III. COMPLIANCE REQUIREMENTS**

**In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.**

Compliance Requirements											
A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period of Performance	Procurement/Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	N	Y	N	N	Y	Y	N

## A. Activities Allowed or Unallowed

The following requirements apply to TAA and ATAA/RTAA benefits.

### 1. *Activities Allowed under the Trade Act of 2002, the Trade Acts of 2009, 2011, and 2015*

Allowable activities include TRA, job search assistance, relocation allowance, and training (including payments for transportation and subsistence where required for training) to eligible participants (Trade Act sections 231- 238, and 246, under the Trade Act of 2002, the Trade Act of 2009, the Trade Act of 2011, and the Trade Act of 2015).

### 2. *Activities Allowed only under the Trade Acts of 2009, 2011 and 2015*

Allowable activities for workers covered under certifications of petitions filed under the Trade Acts of 2009, 2011, and 2015 include employment and case management activities such as vocational testing, counseling, and job placement services; however, all TAA participants may receive these services and other employment services through other programs such as the Workforce Innovation and Opportunity Act (WIOA) (20 CFR part 617).

## E. Eligibility

### 1. Eligibility for Individuals

#### a. *Department of Labor Certification and Qualifying Separations*

*TAA* – In order to be eligible for TRA, training and other reemployment services under the TAA program, an individual must be an adversely affected worker covered under a DOL certification, and have a qualifying separation which occurred (1) on or after the impact date specified in the certification as the beginning of the import caused unemployment or underemployment; and (2) before the expiration of the period specified in the certification (generally 2 years after the date of the certification), or before the termination date, if one is issued (19 USC 2272; 29 CFR sections 90.16 and 90.17).

#### b. *Training*

Under the Trade Act of 2002, workers must be enrolled in their approved training within 8 weeks of the issuance of the certification or within 16 weeks of their most recent qualifying separation, whichever is later, unless this requirement is waived prior to reaching those deadlines (19 USC 2291(a)(5)(A) and (c)).

Under the Trade Act of 2009, 2011, or 2015, workers must be enrolled in their approved training within 26 weeks of the issuance of the certification



or their most recent qualifying separation, whichever is later, unless this requirement is waived prior to reaching those deadlines (19 USC 2291(a)(5)(A)(II) and (c)), as amended by Section 231, TAARA 2015)

c. *Maximum Number of Weeks for Receipt of Approved Training*

Under the Trade Act of 2002, the maximum duration for any approvable training program is 130 weeks, and no individual shall be entitled to more than one training program under a single certification (20 CFR section 617.22(f)(2)).

Under the Trade Act of 2009, the maximum duration for any approvable training program is 156 weeks and no individual shall be entitled to more than one training program under a single certification (20 CFR section 617.22(f)(2)).

Under the Trade Act of 2011 or 2015, the maximum duration for any approvable training program is 130 weeks and no individual shall be entitled to more than one training program under a single certification (20 CFR section 617.22(f)(2)).

2. **Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable**
3. **Eligibility for Subrecipients – Not Applicable**

**H. Period of Performance**

Funds allotted to a State for any fiscal year are available for expenditure by the State during the year of award and the 2 succeeding fiscal years (19 USC 2317(b)).

**L. Reporting**

**1. Financial Reporting**

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable
- d. ETA-9130, *Financial Report (OMB No. 1205-0461)* – All ETA grantees are required to submit quarterly financial reports for each grant award they receive. Reports are due 45 days after the end of the reporting quarter. Financial data is required to be reported cumulatively from grant inception through the end of each reporting period. Additional information can be accessed at <http://www.doleta.gov/grants/> and scroll down to the section on Financial Reporting. See TEGL 02-16 for specific and clarifying

instructions about the ETA 9130

[https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=5156](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5156).

- e. ETA-9117, *Trade Adjustment Assistance (TAA) Program Reserve Funding Request Form (OMB No. 1205-0275)* – SWAs are required to furnish this form to ETA, in conjunction with the SF-424, with each request for TAA program reserve training funds and/or job search and relocation allowances (20 CFR section 617.61; 29 CFR section 97.41).

## 2. Performance Reporting

*Trade Act Participant Report (TAPR) (OMB No. 1205-0392)* – SWAs are required to submit quarterly reports on participant characteristics, services and benefits received, and outcomes achieved on a rolling four quarter basis (TEGL 6-09).

*Key Line Items* – The following line items contain critical information:

- (1) Section A.01: Identifying Data – *Individual Identifier*
- (2) Section D.01: Employment and Job Retention Information – *Employed in second full quarter after exit*
- (3) Section D.01: Employment and Job Retention Information – *Employed in third full quarter after exit*
- (4) Section D.01: Employment and Job Retention Information – *Employed in fourth full quarter after exit*

*Total Earnings from Wage Records:*

- (5) Section D. 02 Wage Record Data – *Third quarter following exit*
- (6) Section D. 02 Wage Record Data – *Fourth quarter following exit*

## 3. Special Reporting – Not Applicable

## DEPARTMENT OF LABOR

**CFDA 17.258 WIA/WIOA ADULT PROGRAM**  
**CFDA 17.259 WIA/WIOA YOUTH ACTIVITIES**  
**CFDA 17.278 WIA/WIOA DISLOCATED WORKER FORMULA GRANTS**

### I. PROGRAM OBJECTIVES

The Workforce Innovation and Opportunity Act of 2014 (WIOA) authorizes formula grant programs to States to help job seekers access employment, education, training and support services to succeed in the labor market. Using a variety of methods, States provide employment and training services through a network of American Job Centers (AJC) (formerly known as One-Stop Career Centers). The WIOA programs provide employment and training programs for adults, dislocated workers, and youth, and Wagner-Peyser Act employment services administered by the Department of Labor (DOL). The programs also provide adult education and literacy services that complement the Vocational Rehabilitation State grants awarded by the U.S. Department of Education. These grants assist individuals with disabilities in obtaining employment and help job seekers achieve gainful employment. Youth employment and educational services are available to eligible out-of-school youth, ages 16 to 24, and low-income in-school youth, ages 14-21, that face barriers to employment.

### II. PROGRAM PROCEDURES

#### **Subtitle B Statewide and Local Workforce Development Programs**

These programs provide the framework for delivery of workforce activities at the State and local levels to individuals who need those services, including job seekers, dislocated workers, youth, incumbent workers, new entrants to the workforce, veterans, persons with disabilities, and employers. Each State's Governor is required to establish a State Workforce Development Board and develop a Unified State Plan or a Combined State Plan.

A Local Workforce Development Board (local board) is appointed by the chief elected official in each local area in accordance with State criteria established under WIOA Section 107(b), and must be certified by the Governor every 2 years. Each local board, in partnership with the appropriate chief elected officials, develops and submits a comprehensive 4-year plan to the Governor, which identifies and describes certain policies, procedures, and local activities that are consistent with the Unified State Plan or the Combined State Plan. The plan must include a description of the AJC delivery system to be established or designated in the local area, including a copy of the local Memorandums of Understanding (MOU) between the local board and each of the AJC partners (1) describing the operation of the local AJC delivery system; (2) identifying the AJC operator or entity responsible for the disbursement of grant funds; and (3) describing the competitive process to be used to award grants and contracts for activities carried out under Subtitle I of WIOA.

The agreement between the local board and the AJC operator specifies the operator's role. That role may range from simply coordinating service providers within the center, to being the primary provider of services within the center to coordinating activities throughout the local AJC system. The AJC operator may be a single entity or consortium of entities and may operate one

or more AJC centers. In addition, there may be more than one AJC operator in a local area. The types of entities that may be selected to be the AJC operator include (1) an institution of higher education; (2) an employment service State agency established under the Wagner-Peyser Act on behalf of the local office of the agency; (3) a community-based organization, non-profit organization, or intermediary; (4) a private for-profit entity; (5) a government agency; and (6) another interested organization or entity, which may include a local Chamber of Commerce or other business organization, or a labor organization. The following Federal programs are required to be partners in the local AJC system: (1) programs authorized under Title I of WIOA; (2) programs authorized under the Wagner-Peyser Act (29 USC 49 *et seq.*); (3) adult education and literacy activities authorized under Title II of WIOA; (4) programs authorized under Title I of the Rehabilitation Act of 1973 (29 USC 720 *et seq.*), other than Section 112, WIOA, or Part C of that title; (5) senior community service employment activities authorized under Title V of the Older Americans Act of 1965 (42 USC 3056 *et seq.*); (6) career and technical education programs at the postsecondary level authorized under the Carl D. Perkins Career and Technical Education Act of 2006 (20 USC 2301 *et seq.*); (7) activities authorized under chapter 2 of Title II of the Trade Act of 1974 (19 USC 2271 *et seq.*); (8) activities authorized under chapter 41 of Title 38, USC; (9) employment and training activities carried out under the Community Services Block Grant (42 USC 9901 *et seq.*); (10) employment and training activities carried out by the Department of Housing and Urban Development; (11) programs authorized under State unemployment compensation laws (in accordance with applicable Federal law); (12) programs authorized under Section 212 of the Second Chance Act of 2007 (42 USC 17532); and (13) programs authorized under part A of Title IV of the Social Security Act (42 USC 601 *et seq.*).

WIOA also provides that other entities delivering workforce development programs may serve as additional partners in the AJC system with the approval of the local board and chief elected official. Additional partners may include: (1) employment and training programs administered by the Social Security Administration, including the Ticket to Work and Self-Sufficiency Program established under Section 1148 of the Social Security Act (42 USC 1320b-19); (2) employment and administration programs carried out by the Small Business Administration; (3) programs authorized under Section 6(d)(4) of the Food and Nutrition Act of 2008 (7 USC 2015(d)(4)); (4) work programs authorized under Section 6(o) of the Food and Nutrition Act of 2008 (7 USC 2015(o)); (5) programs carried out under Section 112 of the Rehabilitation Act of 1973 (29 USC 732); (6) programs authorized under the National and Community Service Act of 1990 (42 USC 12501 *et seq.*); and (7) other appropriate Federal, State or local programs, including employment, education, and training programs provided by public libraries or in the private sector.

Each entity in a local area must (1) provide access through the AJC delivery system to the one-stop career services; (2) use a portion of funds made available for the program and activities to maintain the AJC delivery system, including payment of infrastructure costs; (3) enter into a local MOU with the local board relating to the operation of the AJC system; (4) participate in the operation of the AJC system consistent with the terms of the MOU and requirements of authorizing laws; and (5) provide representation on the State Workforce Development Board.

Career services are available at any comprehensive AJC center. Well-trained staff are co-located at each center, and cross-trained. Cost-reimbursement or other agreements between service providers at the comprehensive AJC center and the partner programs are available and are described in the Unified State Plan and the local MOU.

The workforce investment system authorized under WIOA focuses on better aligning its services with education and economic development, and creating a collective response to economic and labor market challenges on the national, State, and local levels. The eligible training provider process is part of the strategy for achieving these goals. A local board may not itself provide training services to adults and dislocated workers unless it receives a waiver from the Governor and meets the requirements of Section 106(b)(1)(B) of the WIOA. Instead, local boards, in partnership with the State, identify training providers and programs whose performance qualifies them to receive WIOA funds to train adults and dislocated workers. After receiving career services, and in consultation with case managers, eligible participants who need training use the eligible training provider list, which contains performance and cost information on training eligible providers, to make an informed choice.

Individual Training Accounts (ITAs) are established for eligible individuals to finance training through these eligible training providers. Payments from ITAs may be made in a variety of ways, including the electronic transfer of funds through financial institutions, vouchers, or other appropriate methods. Payments also may be made through payment of a portion of the costs at different points in the training course. Exceptions to the use of ITAs are permissible only where the services provided are for on-the-job or customized training; and where the local board determines that there is an insufficient number of eligible providers available locally.

The ability of providers to successfully perform, the procedures State and local boards use to establish training provider eligibility, and the degree to which information, including performance information, on those providers is made available to customers eligible for training services, are key factors affecting the successful implementation of the statewide workforce development system.

### **Source of Governing Requirements**

The WIOA program is authorized by Title I of the Workforce Innovation and Opportunity Act of 2014 (Pub. L. No. 113-128). The regulations for the Title I WIOA adult, dislocated worker, and youth programs are at 20 CFR parts 680, 681, 682, and 683, as well as the joint Department of Labor and Department of Education regulations found at 20 CFR parts 676 through 678.

### **Availability of Other Program Information**

Additional information on programs authorized under the Workforce Innovation and Opportunity Act can be found at: <http://www.doleta.gov/wioa>.

**III. COMPLIANCE REQUIREMENTS**

**In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.**

Compliance Requirements											
A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period of Performance	Procurement/Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N

**A. Activities Allowed or Unallowed**

**1. *Waivers and Workforce-Flexibility – Allowed***

- a. Under the Secretary of Labor’s general waiver authority (Adult, Dislocated Worker, and Youth Waivers), the Secretary may waive statutory or regulatory requirements of the adult and youth provisions of the WIOA and Sections 8 through 10 of the Wagner-Peyser Act) (29 USC 49g through 49i) (Section 189(i)(3), WIOA, 128 Stat. 1601).
- b. Under an approved Workforce Flexibility plan, a Governor may be granted authority to approve requests for waivers of statutory or regulatory provisions of Title I submitted by local workforce areas (29 USC 2942; Sections 190(a)-(d), WIOA, 128 Stat.1602 *et seq.*).

## 2. *Statewide Activities – Allowed*

- a. Preparing the annual performance progress report and submitting it to the Secretary of Labor, (20 CFR sections 677.160 and 683.300(d) and WIOA, Section 116(d)(1), WIOA, 128 Stat. 1476).
- b. Operating a fiscal and management accountability information system (20 CFR sections 652.8(b) and 682.200(1); Section 116(i), WIOA, 128 Stat. 1481).
- c. Carrying out monitoring and oversight activities (20 CFR sections 682.200(j) and 683.410; Sections 129(b)(1)(E), 134(a)(2)(B)(iv), and 184(a)(4), WIOA, 128 Stat. 1507, 1521, and 1591).
- d. Statewide workforce development activities include:
  - (1) *Required statewide youth activities.* Administration of youth workforce development activities (Section 129(b)(1), WIOA, 128 Stat. 1506 *et seq.*).
  - (2) *Other allowable statewide youth activities.* Providing technical assistance and career services to local areas, including local boards, AJC operators, AJC partners, and eligible training providers (Section 129(b)(2), WIOA, 128 Stat. 1507).
  - (3) *Required statewide adult dislocated workers' services.* Providing employment and training activities, such as rapid response activities, and additional assistance to local areas (Section 134(a)(2), WIOA, 128 Stat. 1520).
  - (4) *Other allowable statewide adult dislocated workers' services.* Establishing and implementing innovative incumbent worker training programs (Section 134(a)(3), WIOA, 128 Stat. 1522 *et seq.*)
- e. Providing support to local areas for the identification of eligible training providers, (Section 122(a)(2), WIOA, 128 Stat. 1493).
- f. Implementing innovative programs for displaced homemakers and programs to increase the number of individuals trained for and placed in non-traditional employment (Section 134(c)(3), WIOA, 128 Stat. 1528).
- g. Carrying out adult and dislocated worker employment and training activities as the State determines are necessary to assist local areas in carrying out local employment and training activities (Section 134(a)(2), WIOA, 128 Stat. 1520).
- h. Carrying out youth activities statewide.

- i. Carrying out required rapid response activities (Section 134(a)(2)(A), WIOA, 128 Stat. 1520).
  - j. Disseminating the following:
    - (1) The State list of eligible training providers for adults and dislocated workers.
    - (2) Information identifying eligible training providers of on-the-job training and customized training.
    - (3) Performance and program cost information about these providers.
    - (4) A list of eligible providers of youth activities (Section 122, WIOA, 128 Stat. 1492 *et seq.*)
  - k. Conducting evaluations of workforce activities for adults, dislocated workers and youth, in order to promote, establish, implement, and utilize methods for continuously improving core program activities to achieve high-level performance within, and high-level outcomes from, the workforce development system (Section 116(e), WIOA, 128 Stat. 1479).
  - l. Providing incentive grants (Section 134(a)(3)(A)(xi), WIOA, 128 Stat. 1524).
  - m. Providing technical assistance to local areas that fail to meet local performance measures (Section 129(b)(2)(E), WIOA, 128 Stat. 1508).
  - n. Assisting in the establishment and operation of AJC delivery systems, in accordance with the strategy described in the Unified State Plan.
  - o. Providing additional assistance to local areas that have high concentrations of eligible youth (Section 129(b)(1)(F), WIOA, 128 Stat. 1507).
3. ***Local Activities – Allowed***

*Subtitle B, Chapter 3 Adult and Dislocated Worker Employment and Training Activities – Required Activities*

- a. Funds may be used at the local level to pay for career and training services through the AJC system for program participants.
- b. ***Basic Career Services*** – The following are basic career services (Sections 134(c)(2)(A)(i) through (xi), WIOA, 128 Stat. 1525 *et seq.*, and TEGL 09-16):
  - (1) Eligibility determination for WIOA services.



- (2) Outreach, intake, and orientation to available information and services.
  - (3) Initial assessment of skill levels, including literacy, numeracy, and English language proficiency, as well as aptitudes, abilities (including skills gaps), and supportive service needs.
  - (4) Provision of labor exchange services, including job search and placement assistance, as well as career counseling and appropriate recruitment and other business services on behalf of employers.
  - (5) Provision of referrals to and coordination of activities with other programs and services within the AJC system.
  - (6) Provision of workforce and labor market employment statistics and job information.
  - (7) Provision of performance information and program cost information on eligible training providers by program and type of provider.
  - (8) Provision of information on local area performance.
  - (9) Provision of information on availability of supportive services and assistance.
  - (10) Provision of information regarding filing Unemployment Insurance (UI) claims, including meaningful assistance to individuals seeking assistance in filing claims.
  - (11) Assistance in establishing eligibility for programs of financial aid assistance for training and education programs that are not funded under the WIOA.
- c. *Individualized Career Services* – The following are individualized career services (Section 134(c)(2)(A)(xii), WIOA, 128 Stat. 1527):
- (1) Comprehensive and specialized assessments of skill levels and service needs, including diagnostic testing, in-depth interviewing, and evaluation.
  - (2) Development of an individual employment plan.
  - (3) Group and/or individual counseling and mentoring.
  - (4) Career planning.

- (5) Short-term pre-vocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and workplace behavior skills training.
  - (6) Internships and work experiences linked to careers.
  - (7) Workforce preparation activities, including basic academic skills, critical thinking skills, digital literacy skills, and self-management skills.
  - (8) Financial literacy services.
  - (9) Out-of-area job search assistance and relocation assistance.
  - (10) English-language acquisition and integrated education and training programs.
- d. *Training Services* – The following training services are allowable (Section 134(c)(3)(D), WIOA, 128 Stat. 1529):
- (1) Occupational skills training, including training for nontraditional employment
  - (2) *On-the-job-training (OJT)*. Employers may be reimbursed up to 50 percent, and, in some instances, 75 percent, of the wage rate of an OJT participant for the extraordinary costs of providing the training and additional supervision related to the OJT. The employer is not required to document its extraordinary costs (Section 134(c)(3)(H), WIOA, 128 Stat. 1531). Instances in which the reimbursement level may be up to 75 percent are based on the following criteria:
    - (a) Participant characteristics, e.g. length of unemployment, current skill level, and barriers to employment;
    - (b) Size of the employer;
    - (c) Quality of employer-provided training and advancement opportunities, and
    - (d) Other factors the State or local board may determine appropriate, such as number of employees participating in the training, wage and benefit levels of employees, and relation of the training to the competitiveness of the participant.

- (3) Incumbent worker training (20 CFR section 680.800; Section 134(d)(4), WIOA, 128 Stat. 1535) (see III.G.3.b.(2), “Matching, Level of Effort, Earmarking – Earmarking,” for a limitation).
  - (4) Programs that combine workplace training with related instruction, including cooperative education programs.
  - (5) Training programs operated by the private sector.
  - (6) Skill upgrading and retraining.
  - (7) Entrepreneurial training.
  - (8) Transitional jobs, as long as they do not exceed 10 percent of the funds allocated to the local area and are consistent with the requirements of Section 134(d)(5), WIOA, 128 Stat. 1537.
  - (9) Job readiness training in combination with other training programs.
  - (10) Adult education and literacy training.
  - (11) Customized training (Customized training is designed to meet the specific requirements of an employer. Such employers are required to pay a significant portion of the cost of the training (Section 3(14), WIOA, 128 Stat. 1431)).
- e. *Follow-up Services* – Follow-up services may be provided, as appropriate, for participants who are placed in unsubsidized employment, for up to 12 months after the first day of employment. Follow-up services may include counseling about the work place (Section 134(c)(2)(A)(xiii), WIOA, 128 Stat. 1527).

*Subtitle B, Chapter 3 Adult and Dislocated Worker Employment and Training Activities – Other Activities*

At the discretion of the State and local boards, the following services may be provided (Section 134(d), WIOA, 128 Stat. 1532 *et seq.*):

- a. Job seeker services, including:
  - (1) Customer support to enable individuals with barriers to employment to navigate among multiple services,
  - (2) Training programs for displaced homemakers and for individuals training for nontraditional occupations, and
  - (3) Work support activities for low-wage workers.

- b. Employer services, including:
  - (1) Customized screening and referral of individuals in career and training services to employers; and
  - (2) Customized employment-related services to employers, employer associations, or other organization on a fee-for-service basis that are in addition to labor exchange services available to employers under the Wagner-Peyser Act; and
  - (3) Activities to provide business services and strategies.
- c. Coordination activities, including:
  - (1) Employment and training activities in coordination with child support enforcement and child support services;
  - (2) Employment and training activities in coordination with cooperative extension programs carried out by the U. S. Department of Agriculture;
  - (3) Employment and training activities in coordination with activities to facilitate remote access to services provided through the one-stop delivery system, including facilitating access through the use of technology;
  - (4) Improving coordination with economic development activities to promote entrepreneurial skills training and microenterprise services;
  - (5) Improving linkages with small employers;
  - (6) Strengthening linkages with unemployment insurance programs;
  - (7) Improving coordination of activities for individual with disabilities; and
  - (8) Improving coordination with other Federal agency supported workforce development initiatives.
- d. Implementing pay-for-performance contract strategies for training services.
- e. Technical assistance for AJCs, partners, and eligible training providers on the provision of services to individuals with disabilities.
- f. Activities for setting self-sufficiency standards for the provision of career and training services.

- g. Implementing promising services to workers and businesses.
- h. Supportive services, including needs related payments.
- i. Locating transitional jobs, which are time-limited work experiences that are subsidized and are in the public, private, or nonprofit sectors. They are for individuals with barriers to employment who are chronically unemployed or who have an inconsistent work history, and are combined with comprehensive career and supportive services. (Section 134(d)(5)(A), WIOA, 128 Stat. 1537).

#### 4. ***Local Activities – Allowed***

##### *Subtitle B Youth Activities*

- a. Youth activities can provide a wide array of activities relating to employment, education and youth development. The activities identified in Section 129(c)(2), WIOA (128 Stat. 1509 and 1510) include the following:
  - (1) Tutoring, study skills training, instruction and evidence-based dropout prevention and recovery strategies that lead to completion of the 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 post-secondary credential;
  - (2) Alternative secondary school services or dropout recovery services, as appropriate;
  - (3) Paid and unpaid work experiences that have academic and occupational education as a component of the work experience, which may include the following types of work experiences:
    - (a) summer employment opportunities and other employment opportunities available throughout the school year;
    - (b) pre-apprenticeship programs;
    - (c) internships and job shadowing; and
    - (d) on-the-job training opportunities;
  - (4) Occupational skill training, which includes priority consideration for training programs that lead to recognized post-secondary credentials that align with in-demand industry sectors or occupations in the local area involved, if the local board determines that the programs meet the quality criteria described in Section 123, WIOA (128 Stat. 1498);
  - (5) Education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;

- (6) Leadership development opportunities, including community service and peer-centered activities encouraging responsibility and other positive social and civil behaviors;
  - (7) Supportive services;
  - (8) Adult mentoring for a duration of at least 12 months that may occur both during and after program participation;
  - (9) Follow-up services for not less than 12 months after the completion of participation;
  - (10) Comprehensive guidance and counseling, which may include drug and alcohol abuse counseling and referral, as appropriate;
  - (11) Financial literacy education;
  - (12) Entrepreneurial skills training;
  - (13) 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
  - (14) Activities that help youth prepare for and transition to post-secondary education and training.
- b. Funds allocated to a local area for eligible youth shall be used for programs that:
- (1) Objectively assess academic levels, occupational skills levels, service needs (i.e., occupational, prior work experience, employability, interests, aptitudes), supportive service needs of each participant, and developmental needs of each participant, for the purpose of identifying appropriate services and career pathways;
  - (2) Develop service strategies that are directly linked to one or more indicators of performance of the youth program described in Section 116(b)(2)(A)(ii), WIOA, 128 Stat. 1472, and identify career pathways that include education and employment goals, appropriate achievement objectives, and the appropriate services needed to achieve the goals and objectives for each participant taking into account the assessment conducted; and
  - (3) Provide activities leading to the attainment of a secondary school diploma or its recognized equivalent, postsecondary education preparation, strong linkages between academic instruction and

occupational education that lead to the attainment of recognized postsecondary credentials, preparation for unsubsidized employment opportunities, and effective connections to employers in in-demand industry sectors and occupations of the local and regional labor markets (Section 129(c)(1)(A)(B)(C), WIOA, 128 Stat. 1508).

## **5. *Activities Unallowed***

- a. WIOA Title I funds may not be used for the following activities, except as indicated:
- (1) Construction, purchase of facilities or buildings, or other capital expenditures for improvements to land or buildings except with the prior approval of the Secretary of Labor. WIOA Title I funds can be used for construction only in limited situations, including meeting obligations to provide physical and programmatic accessibility and reasonable accommodations, certain repairs, renovations, alterations, and capital improvements of property, and for disaster relief projects under Section 170(d), WIOA, 128 Stat. 1575, Youth Build programs under Section 171(c)(2)(A)(i), WIOA, 128 Stat. 1578, and for other projects that the Secretary determines necessary to carry out the WIOA, as described under Section 189(c) of WIOA, 128 Stat. 1599.
  - (2) Employment-generating activities, economic development activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, and similar activities not directly related to training for eligible individuals, with the exception of employer outreach and job development activities, which are considered directly related to training for eligible individuals (Section 181(e), WIOA, 128 Stat. 1588).
  - (3) The employment or training of participants in sectarian activities. Participants shall not be employed in the construction, operation, or maintenance of a facility that is or will be used for sectarian instruction or as a place for religious worship. However, WIOA funds may be used for the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship if the organization operating the facility is part of a program or activity providing services to WIOA participants (Section 188(a)(3), WIOA, 128 Stat. 1598).
  - (4) Encouraging or inducing the relocation of a business or part of a business from any location in the United States if the relocation

results in any employee losing his or her job at the original location (Section 181(d)(1)), WIOA, 128 Stat. 1588).

- (5) Providing customized training, skill training, or on-the-job training or company specific assessments of job applicants or employees of a business or a part of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation resulted in any employee losing his or her job at the original location (Section 181(d)(2), WIOA, 128 Stat. 1588).
- (6) Paying the wages of incumbent employees during their participation in economic development activities provided through a Statewide workforce investment system (Section 181(b)(1), WIOA, 128 Stat. 1586).
- (7) Public service employment, except to provide disaster relief employment, as specifically authorized in Section 194(10), WIOA (128 Stat.1606).

- b. Funds available to States and local areas under Subtitle B may not be used for foreign travel (29 USC 2931(e), WIOA, 128 Stat. 1588).

## **B. Allowable Costs/Cost Principles**

### 1. *AJC Centers*

DOL, in a collaborative effort with other Federal agencies, published in the *Federal Register*, dated May 31, 2001 (66 FR 29637) a notice that provides guidance on resource sharing methodologies for the shared costs of an AJC service delivery system.

### 2. *All Subtitle B Statewide and Local Programs*

For those selected items of cost requiring prior approval, the authority to grant or deny approval is delegated to the Governor for youth, adult, and dislocated worker programs.

## **E. Eligibility**

### 1. **Eligibility for Individuals**

#### a. *All Programs*

*Selective Service* – No participant may be in violation of section 3 of the Military Selective Service Act (50 USC App. 453) by not presenting and submitting to registration under that Act (29 USC 2939(h)).



b. *All Subtitle B Statewide and Local Programs*

- (1) An adult must be 18 years of age or older (Section 3(2), WIOA, 128 Stat. 1429).
- (2) A dislocated worker means an individual who meets the definition in Section 3(15), WIOA, 128 Stat. 1431).
- (3) A dislocated homemaker means an individual who meets the definition in Section 3(16), WIOA, 128 Stat. 1432).
- (4) An in-school youth and an out-of-school youth are eligible to participate in workforce investment activities if they meet the definition in Section 129(a)(1)(B) and (C), WIOA, 128 Stat. 1504 *et seq.*

c. *Subtitle B Youth Activities*

A person is eligible to receive services under Youth Activities if they are an out-of-school youth or an in-school youth (Section 129(a)(1), WIOA, 128 Stat. 1504).

- (1) An “out-of-school youth” is an individual who is:
  - (a) Not attending any school (as defined under State law);
  - (b) Not younger than 16 or older than age 24 at time of enrollment. (Because age eligibility is based on age at enrollment, participants may continue to receive services beyond the age of 24 once they are enrolled in the program); and
  - (c) 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 school year calendar quarter (school year calendar quarter is based on how a local school district defines its school year quarters); in cases where schools do not use school year quarters, local programs must use calendar year quarters);

- (iii) A recipient of a secondary school diploma or its recognized equivalent who is a low-income individual and is either basic skills deficient or an English language learner;
  - (d) An offender;
  - (e) A homeless individual, aged 16 to 24 who meets the criteria defined in Section 41403(6) of the Violence Against Women Act of 1994 (42 USC 14043e–2(6)), a homeless child or youth aged 16 to 24 who meets the criteria defined in Section 725(2) of the McKinney-Vento Homeless Assistance Act (42 USC 11434a(2)) or a runaway;
  - (f) An individual in foster care or who has aged out of the foster care system or who has attained 16 years of age and left foster care for kinship guardianship or adoption, a child eligible for assistance under Section 477 of the Social Security Act (42 USC 677), or in an out-of-home placement;
  - (g) An individual who is pregnant or parenting;
  - (h) An individual with a disability;
  - (i) A low-income individual who requires additional assistance to enter or complete an educational program or to secure or hold employment. (Sections 3(46) and 129(a)(1)(B), WIOA, 128 Stat. 1437 and 1504).
- (2) An “in-school youth” is an individual who is:
  - (a) Attending school (as defined by State law);
  - (b) Not younger than age 14 or (unless an individual with a disability who is attending school under State law) older than age 21;
  - (c) A low-income individual; and
  - (d) One or more of the following:
    - (i) Basic skills deficient;
    - (ii) An English language learner;
    - (iii) An offender;

- (iv) A homeless individual, aged 14 to 21 who meets the criteria in Section 41403(6) of the Violence Against Women Act of 1994 (42 USC 14043e–2(6)), a homeless child or youth aged 14 to 21 who meets the criteria in Section 725(2) of the McKinney-Vento Homeless Assistance Act (42 USC 11434a(2)), or a runaway;
- (v) An individual in foster care or who has aged out of the foster care system or who has attained 16 years of age and left foster care for kinship guardianship or adoption, a child eligible for assistance under Section 477 of the Social Security Act (42 USC 677), or in an out-of-home placement;
- (vi) An individual who is pregnant or parenting;
- (vii) An individual with a disability;
- (viii) An individual who requires additional assistance to complete an educational program or to secure or hold employment (Sections 3(27) and 129(a)(1)(C), WIOA, 128 Stat. 1435 and 1505).

**2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable**

**3. Eligibility for Subrecipients – Not Applicable**

**F. Equipment and Real Property Management**

Recipients and subrecipients may permit employers to use WIOA-funded local area services, facilities, or equipment, on a fee-for-service basis, to provide employment and training activities to incumbent workers if this does not interfere with utilization by eligible participants and the income generated from such fees is treated as program income (Section 194(13), WIOA, 128 Stat. 1607; 20 CFR section 683.200(c)(9)).

**G. Matching, Level of Effort, Earmarking**

**1. Matching – Not Applicable**

**2. Level of Effort – Not Applicable**

### 3. Earmarking

#### a. *Statewide Activities*

- (1) The Governor shall reserve not more than 15 percent of each of the amounts allotted to the State Adult, Dislocated Worker, and Youth Activities for a fiscal year to carry out statewide activities under Section 129(b) or statewide employment and training activities for adults or dislocated workers under section 134(a) (Section 128(a), WIOA, 128 Stat. 1502).
- (2) Not more than 5 percent of the funds allotted to a State under Section 127(b)(1)(C) of WIOA shall be used by the State for administrative activities related to youth workforce investment and employment and training activities (Section 129(b)(3), WIOA, 128 Stat 1508).
- (3) The State must reserve for rapid response activities a portion of funds, up to 25 percent, allotted for dislocated workers. The funds are used to plan and deliver services to enable dislocated workers to transition to new employment as quickly as possible, following either a permanent closure or mass layoff, or a natural or other disaster resulting in a mass job relocation (20 CFR section 682.350; Sections 133(a)(2) and 134(a)(2)(A), WIOA, 128 Stat. 1516 and 1520).

#### b. *Local Areas*

- (1) A local area may expend no more than 10 percent of the Adult, Dislocated Worker, and Youth Activities funds allocated to the local area under Sections 128(b) (WIOA, 128 Stat. 1502) and 133(b) (WIOA, 128 Stat. 1516) for within State allocations. The funds provided for administrative costs by one of the three fund sources (Adult, Dislocated Worker, Youth Activities) can be used for administrative costs of the other two sources.
- (2) The amount that may spent on incumbent worker training may not exceed 20 percent of the amount of the combined total of Federal funds allocated to local areas to carry out the Adult and Dislocated Worker programs for a program year (20 CFR section 680.800; Section 134(d)(4), WIOA, 128 Stat. 1535).

#### c. *Youth Activities*

- (1) A minimum of 75 percent of the Youth Activity funds allocated to States and local areas, except for the local area expenditures for administration, must be used to provide services to out-of-school youth (Section 129(a)(4)(A), WIOA, 128 Stat. 1506).

(2) Not less than 20 percent of Youth Activity funds allocated to the local area, except for the local area expenditures for administration, must be used to provide paid and unpaid work experiences (Section 129(c)(4)), WIOA, 128 Stat. 1510).

d. WIOA authorizes workforce investment areas, with the approval of the Governor, to transfer up to 100 percent of the Adult Activities funds to Dislocated Workers Activities, and up to 100 percent of Dislocated Workers Activities funds to Adult Activities (Section 133(b)(4), WIOA, 128 Stat. 1518).

## **H. Period of Performance**

### *1. Statewide Activities*

Funds allotted to a State for any program year are available for expenditure by the State during that program year and the 2 succeeding program years (29 USC 2939(g)(2)).

### *2. Local Areas*

Funds allocated by a State to a local area for any program year are available for expenditure only during that program year and the succeeding program year. Funds which are not expended by a local area in the first 2-year period must be returned to the State, which can use the funds for statewide projects during the third program year of availability, or distribute the funds to local areas which had fully expended their allocation of funds for the same program year within the 2-year period (29 USC 2939(g)(2)).

## **I. Procurement and Suspension and Debarment**

### *1. All Subtitle B Statewide and Local Programs*

All procurement contracts and other transactions between local boards and units of State or local governments must be conducted only on a cost-reimbursement basis. No provision for profit is allowed (20 CFR section 683.200(c)(4); Section 184(a)(3)(B), WIOA, 128 Stat. 1591).

### *2. Subtitle B Youth Activities*

The grant recipient/fiscal agent has the option to provide directly some or all of the youth workforce investment activities. However, as provided in WIOA Section 123, if a local board chooses to award grants or contracts to youth service providers to carry out some or all of the youth workforce investment activities, the local board must award such grants or contracts on a competitive basis. If the local board determines there is an insufficient number of eligible youth providers in the local area, such as a rural area, the local board may award grants or contracts on a sole-source basis (20 CFR section 681.400).

**J. Program Income**

1. The addition method is required for use of all program income earned under WIOA grants. When the cost of generating program income has been charged to the program, the gross amount earned must be added to the WIOA program. However, the cost of generating program income must be subtracted from the amount earned to establish the net amount of program income available for use under the grants when these costs have not been charged to the WIOA program (Section 194(7), WIOA, 128 Stat. 1606; 20 CFR section 683.200(c)(6)).
2. WIOA specifically includes as program income: (a) receipts from goods and services, including conferences; (b) funds provided to a service provider in excess of the costs associated with the services provided; and (c) interest income earned on funds received under WIOA. Any excess of revenue over costs incurred for services provided by a governmental or non-profit entity must be included in program income earned (Section 194(7), WIOA, 128 Stat. 1606; 20 CFR sections 683.200(c)(7) and (c)(8)).

**L. Reporting****1. Financial Reporting**

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable
- d. ETA-9130, *Financial Report (OMB No. 1205-0461)* – All ETA grantees are required to submit quarterly financial reports for each grant award they receive. Reports are required to be prepared using the specific format and instructions for the applicable program(s); in this case, *Workforce Innovation and Opportunity Act* instructions for the following: *Statewide Adult; Workforce Statewide Youth; Statewide Dislocated Worker; Local Adult; Local Youth; and Local Dislocated Worker*. A separate ETA 9130 is submitted for each of these categories. Reports are due 45 days after the end of the reporting quarter. Financial data is required to be reported cumulatively from grant inception through the end of each reporting period. Additional information can be accessed at <http://www.doleta.gov/grants/> and scroll down to the section on Financial Reporting. See TEGL 02-16 for specific and clarifying instructions about the ETA 9130 [https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=5156](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5156)

**2. Performance Reporting** – Not Applicable**3. Special Reporting** – Not Applicable

**M. Subrecipient Monitoring**

1. Recipients must ensure that commercial organizations that are subrecipients under WIOA Title I and expend more than the minimum level specified in 2 CFR part 200, subpart F, have either an organization-wide audit conducted in accordance with 2 CFR part 200 or a program-specific financial and compliance audit (20 CFR section 683.210).
2. Each State must have a monitoring system which:
  - a. Provides for annual on-site monitoring reviews of local areas' compliance with DOL uniform administrative requirements, including the appropriate administrative requirements and cost principles for subrecipients and other entities receiving WIOA funds, as required by Section 184(a)(4), WIOA (128 Stat. 1591);
  - b. Ensures that established policies to achieve program quality and outcomes meet the Act's objectives, including policies relating to the provision of services by AJC Centers, eligible providers of training services, and eligible providers of youth activities;
  - c. Enables the Governor to determine if subrecipients and contractors are in substantial compliance with WIOA requirements;
  - d. Enables the Governor to determine whether a local plan will be disapproved for failure to make acceptable progress in addressing deficiencies; and
  - e. Enables the Governor to ensure compliance with WIOA nondiscrimination and equal opportunity requirements (29 USC 3248) (20 CFR sections 683.410(b)(1) through (3)).
3. The State must require that prompt corrective action be taken if any substantial violations are identified as result of annual on-site monitoring and must impose the sanctions provided in Sections 184(b) and (c) of WIOA if a subrecipient fails to take required corrective action. The State may issue additional requirements and instructions to subrecipients on monitoring activities (20 CFR sections 683.410(b)(4) and (5)).

## DEPARTMENT OF LABOR

### CFDA 17.264 NATIONAL FARMWORKER JOBS PROGRAM

#### I. PROGRAM OBJECTIVES

The National Farmworker Jobs Program (NFJP) is a nationally directed, locally administered program of services for eligible migrant and seasonal farmworkers (MSFWs), including youth MSFWs, and their dependents, who encounter chronic unemployment and underemployment. The program partners with community organizations, State agencies, and State monitor advocates to provide services, including career services, training services, housing assistance services, youth services, and related assistance services, to farmworkers who depend primarily on jobs in agricultural labor performed across the country to obtain or retain unsubsidized employment, or stabilize their unsubsidized employment, including upgraded employment in agriculture.

#### II. PROGRAM PROCEDURES

The Department of Labor (DOL) awards NFJP grants competitively to eligible applicants that submit 4-year program plans for operating the NFJP in State, sub-state and multi-State service areas. Grantees provide career services, training services, youth services, housing assistance and other related assistance. Funds for Employment and Training grants are allocated through an administrative formula to State service areas. A percentage of program funds is designated for Housing Assistance grants and is allocated based on the services described and the service areas specified in grantee program plans. Grants are awarded for a 4-year period.

The NFJP is a required one-stop partner. Therefore, Local Workforce Development Boards, in the areas of the State where an NFJP operates, must negotiate Memorandums of Understanding (MOUs) with NFJP grantees. Additionally, State Monitor Advocates are required to negotiate MOUs with NFJP grantees.

#### Source of Governing Requirements

The WIOA program is authorized by Title I, Subtitle D, Section 167, of the Workforce Innovation and Opportunity Act (Pub. L. No. 113-128). The NFJP regulations under WIOA are located at 20 CFR part 685.

#### Availability of Other Program Information

Additional information on programs authorized under the WIOA can be found at <http://www.doleta.gov>.



**III. COMPLIANCE REQUIREMENTS**

**In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.**

Compliance Requirements											
A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period of Performance	Procurement/Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N

**A. Activities Allowed or Unallowed**

1. Activities allowed are in accordance with a service delivery strategy described in the grantee’s approved 4-year program plan.
  - a. Career services.
  - b. Training services, including, but are not limited to, occupational-skills training and on-the-job training.
  - c. Related assistance services that support farmworkers and their families to obtain or retain unsubsidized employment, or stabilize their unsubsidized employment, including upgraded employment in agriculture.
  - d. Housing Assistance grantees may provide permanent and temporary housing services.
  - e. Youth services that include, but are not limited to (1) career services and training; (2) youth workforce investment activities specified in WIOA, (Section 129, WIOA, 128 Stat. 1504 *et seq.*); (3) life skills activities,

which may include self- and interpersonal skills development; (4) community service projects; and (5) other activities and services that conform to the use of funds for youth activities described in Section 129, WIOA).

2. WIOA Title I funds may not be used for the following activities, except as indicated:
  - a. Construction, purchase of facilities or buildings, or other capital expenditures for improvements to land or buildings except with the prior approval of the Secretary of Labor. WIOA Title I funds can be used for construction only in limited situations, including meeting obligations to provide physical and programmatic accessibility and reasonable accommodations, certain repairs, renovations, alterations, and capital improvements of property, and for disaster relief projects under Section 170(d), WIOA, 128 Stat.1575, Youth Build programs under Section 171(c)(2)(A)(i), WIOA, 128 Stat. 1578, and for other projects that the Secretary determines necessary to carry out the WIOA, as described under Section 189(c) of WIOA, 128 Stat. 1599.
  - b. Employment-generating activities, economic development activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, and similar activities not directly related to training for eligible individuals, with the exception of employer outreach and job development activities, which are considered directly related to training for eligible individuals (Section 181(e), WIOA, 128 Stat. 1588).
  - c. The employment or training of participants in sectarian activities. Participants shall not be employed in the construction, operation, or maintenance of a facility that is or will be used for sectarian instruction or as a place for religious worship. However, WIOA funds may be used for the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship if the organization operating the facility is part of a program or activity providing services to WIOA participants (Section 188(a)(3), WIOA, 128 Stat. 1598).
  - d. Encouraging or inducing the relocation of a business or part of a business from any location in the United States if the relocation results in any employee losing his or her job at the original location (Section 181(d)(1)), WIOA, 128 Stat. 1588).
  - e. Providing customized training, skill training, or on-the-job training or company specific assessments of job applicants or employees of a business or a part of a business that has relocated from any location in the United States, until the company has operated at that location for 120

days, if the relocation resulted in any employee losing his or her job at the original location (Section 181(d)(2), WIOA, 128 Stat. 1588).

- f. Paying the wages of incumbent employees during their participation in economic development activities provided through a Statewide workforce investment system (Section 181(b)(1), WIOA, 128 Stat. 1586).
- g. Public service employment, except to provide disaster relief employment, as specifically authorized in Section 194(10), WIOA, 128 Stat. 1606).

## **E. Eligibility**

### **1. Eligibility for Individuals**

- a. *Selective Service* – No participant may be in violation of Section 3 of the Military Selective Service Act (50 USC App. 453) by not presenting and submitting to registration under that Act (29 USC 2939(h)).
- b. To be eligible for participation in the NFJP, an individual must be an eligible as follows:(Section 167(i), WIOA, 128 Stat. 1566).
  - (1) Eligible migrant farmworker, as defined in WIOA Section 167(i)(2), means an eligible seasonal farmworker, as defined in WIOA Section 167(i)(3), whose agricultural labor requires travel to a job site such that the farmworker is unable to return to a permanent place of residence within the same day. Dependents of migrant farmworkers also are eligible.
  - (2) Eligible seasonal farmworker, as defined in WIOA Section 167(i)(3), means a low-income individual who for 12 consecutive months out of the 24 months prior to application for the program involved, has been primarily employed in agricultural or fish farming labor that is characterized by chronic unemployment or underemployment, and faces multiple barriers to economic self-sufficiency. Dependents of seasonal farmworkers also are eligible.
  - (3) Eligible migrant and seasonal farmworker youth means an eligible MSFW aged 14-24 who is individually eligible or a dependent of an eligible MSFW (described in 20 CFR section 685.110). Grantees may enroll participants aged 18-24 as either a MSFW adult or a MSFW youth participant (described in 20 CFR section 685.320), but not in both categories.

### **2. Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable**

### **3. Eligibility for Subrecipients – Not Applicable**

**F. Equipment and Real Property Management**

Recipients and subrecipients may permit employers in a local area to use WIOA-funded services, facilities, or equipment, on a fee-for-service basis, to provide employment and training activities to incumbent workers if their use does not interfere with utilization by eligible participants and the income generated from such fees is treated as program income (Section 194(13), WIOA, 128 Stat. 1607; 20 CFR section 683.200(c)(9)).

**G. Matching, Level of Effort, Earmarking**

1. **Matching** – Not Applicable
2. **Level of Effort** – Not Applicable
3. **Earmarking**

The percentage of grant funds that may be expended on administrative costs is specified in the grant or contract award document. The term “administrative cost” is defined at 20 CFR section 683.205(b).

**H. Period of Performance**

The period of availability for expenditures is set out in the terms and conditions of the award document.

**I. Procurement and Suspension and Debarment**

All procurement contracts and other transactions between local boards and units of State or local governments must be conducted only on a cost-reimbursement basis. No provision for profit is allowed (20 CFR section 683.200(c)(4); Section 184(a)(3)(B), WIOA, 128 Stat. 1591).

**J. Program Income**

1. There is no requirement that a fee-for-service be charged to employers. However, if a fee is charged for services provided under 20 CFR sections 678.435(b) or (c), the fees are considered program income (20 CFR section 678.440).
2. The addition method is required for use on all program income earned under Title I WIOA grants. When the cost of generating program income has been charged to the program, the gross amount earned must be added to the program in which it was earned. However, the cost of generating program income must be subtracted from the amount earned to establish the net amount of program income available for use under the grants when these costs have not been charged to the program (Section 194(7), WIOA, 128 Stat. 1606; 20 CFR section 683.200(c)(6)).
3. WIOA specifically include as program income: (a) receipts from goods and services, including conferences; (b) funds provided to a service provider in excess

of the costs associated with the services provided; and (c) interest income earned on funds received under Title I WIOA. Any excess of revenue over costs incurred for services provided by a governmental or non-profit entity must be included in program income earned (Section 194(7), WIOA, 128 Stat. 1606; 20 CFR sections 683.200(c)(7) and (c)(8)).

## **L. Reporting**

### **1. Financial Reporting**

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable
- d. ETA 9130(J), *Financial Report (OMB 1205-0461)* – DOL requires financial reports to be cumulative by fiscal year of appropriation. All ETA grantees are required to submit quarterly financial reports for each grant award which they receive. Reports are required to be prepared using the specific instructions for the applicable program(s); in this case, *National Farmworkers Jobs Program*. Reports are due 45 days after the end of the reporting quarter. Financial data is required to be reported cumulatively from grant inception through the end of each reporting period. Additional information can be accessed at <http://www.doleta.gov/grants/> and scroll down to the section on Financial Reporting. See TEGL 02-16 for specific and clarifying instructions about the ETA 9130 ([https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=5156](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5156)).

### **2. Performance Reporting** – Not Applicable

### **3. Special Reporting** – Not Applicable

## DEPARTMENT OF LABOR

### CFDA 17.265 NATIVE AMERICAN EMPLOYMENT AND TRAINING

#### I. PROGRAM OBJECTIVES

Section 166 of the Workforce Innovation and Opportunity Act (WIOA) authorizes funding to Indian tribes, tribal organizations, Alaska Native entities, Indian-controlled organizations serving Indians, and Native Hawaiian organizations to provide employment and training services to unemployed and low-income Native Americans, Alaska Natives, and Native Hawaiians. The stated purpose of Section 166 of WIOA is to support employment and training activities in order to (1) develop more fully the academic, occupational, and literacy skills of such individuals; (2) make individuals more competitive in the workforce and equip them with the entrepreneurial skills necessary for successful self-employment; and (3) promote economic and social development in accordance with the goals and values of such communities.

#### II. PROGRAM PROCEDURES

The Department of Labor's (DOL's) Division of Indian and Native American Programs (DINAP) makes grant funds available for comprehensive workforce investment activities for Indians, Alaskan Natives, and Native Hawaiians. In addition, supplemental funding is made available to entities serving Native American youth "on or near Indian reservations and in Oklahoma, Alaska, or Hawaii" through grants to American Indian, Native American, and Native Hawaiian organizations. Funding is made available through a competitive grants process and award amounts are determined by use of a funding formula.

Grantees are required to submit a Comprehensive Services Plan for DOL approval. The Plan must (1) identify program emphasis areas, (2) designate a specific target population to be served by the grant, (3) establish specific plans for serving youth (if they receive supplemental funding), (4) develop a budget and identify the level of administrative costs needed for the 4-year plan, and (5) identify appropriate program linkages with other agencies. Section 166 grantees are required to negotiate Memorandums of Understanding (MOUs) with the Local Workforce Development Board(s) (LWDBs) which operate in whole or in part within the grantee's service area. The LWDBs receive grant funds from the DOL, which come through the State, to provide employment and training services that are similar to the Native American Section 166 program.

#### Source of Governing Requirements

This program is authorized by Title I of the WIOA (Pub. L. No. 113-128). The WIOA superseded the Workforce Investment Act of 1998. WIOA regulations are located at 20 CFR parts 678, 683, and 684.

#### Availability of Other Program Information

Additional information on programs authorized under the WIOA can be found at <http://www.doleta.gov/dinap/> and <http://www.doleta.gov/>.

### III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

Compliance Requirements											
A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period of Performance	Procurement/Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	N

#### A. Activities Allowed or Unallowed

##### 1. *Activities Allowed*

Funds must be used for the following types of activities that are necessary to meet the needs of Indians, Alaska Natives, or Native Hawaiians preparing to enter, reenter, or retain unsubsidized employment leading to self-sufficiency:

- a. Comprehensive workforce development activities for Indians, Alaska Natives, or Native Hawaiians, including training on entrepreneurial skills; or
- b. Supplemental services for Indian, Alaska Native, or Native Hawaiian youth on or near Indian reservations and in Oklahoma, Alaska, or Hawaii (29 USC 3221(d), Section 166(d), WIOA, 128 Stat. 1560 and 1561).

## 2. *Activities Unallowed*

Funds may not be used for the following activities, except as indicated:

- a. Construction, purchase of facilities or buildings, or other capital expenditures for improvements to land or buildings except with the prior approval of the Secretary of Labor. WIOA Title I funds can be used for construction only in limited situations, including meeting obligations to provide physical and programmatic accessibility and reasonable accommodations, certain repairs, renovations, alterations, and capital improvements of property, and for other projects that the Secretary determines necessary to carry out the WIOA, as described under Section 189(c), WIOA, 128 Stat. 1599.
- b. Employment-generating activities, economic development activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, and similar activities not directly related to training for eligible individuals, with the exception of employer outreach and job development activities, which are considered directly related to training for eligible individuals (Section 181(e), WIOA, 128 Stat. 1588); 20 CFR section 683.245).
- c. The employment or training of participants in sectarian activities. Participants shall not be employed in the construction, operation, or maintenance of a facility that is or will be used for sectarian instruction or as a place for religious worship. However, WIOA funds may be used for the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship if the organization operating the facility is part of a program or activity providing services to WIOA participants (Section 188(a)(3), WIOA, 128 Stat. 1598); 20 CFR section 683.255).
- d. Encouraging or inducing the relocation of a business or part of a business from any location in the United States if the relocation results in any employee losing his or her job at the original location (Section 181(d)(1)), WIOA, 128 Stat. 1588); 20 CFR section 683.260(a)(1)).
- e. Providing customized training, skill training, or on-the-job training or company-specific assessments of job applicants or employees of a business or a part of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation resulted in any employee losing his or her job at the original location (Section 181(d)(2), WIOA, 128 Stat. 1588); 20 CFR section 683.260(a)(2)).



- f. Paying the wages of incumbent employees during their participation in economic development activities provided through a Statewide workforce investment system (Section 181(b)(1), WIOA, 128 Stat. 1586); 20 CFR 683.250(a)(1)).
- g. Public service employment, except to provide disaster relief employment, as specifically authorized in Section 194(10), WIOA, 128 Stat. 1606); 20 CFR section 683.250(a)(2)).

## **E. Eligibility**

### **1. Eligibility for Individuals**

- a. *Selective Service* – No participant may be in violation of Section 3 of the Military Selective Service Act (50 USC App. 453) by not presenting and submitting to registration under that Act (29 USC 2939(h)).

- b. *Adults*

An individual is eligible to receive services under the Indian and Native American adult program if he or she meets the definition of an Indian, as defined in Section 4(d) of the Indian Self-Determination and Education Assistance Act (25 USC 450b), and also is one of the following:

- (1) Unemployed (Section 3(61), WIOA, 128 Stat. 1439).
- (2) Underemployed.
- (3) A low-income individual as defined in Section (3)(36), WIOA (128 Stat. 1435).

- c. *Youth*

Funds available to serve Indian, Alaska Native, and Native Hawaiian youth on or near Indian reservations and in Oklahoma, Alaska, and Hawaii are available as a supplement to the adult funds. To be eligible to receive supplemental youth services, an individual must be:

- (1) American Indian, Alaska Native or Native Hawaiian;
- (2) Between the age of 14 and 24; and
- (3) A low-income individual, as defined at WIOA Section 3(36). However, 20 CFR section 684.430(a)(3) allows up to five percent of individuals who do not meet the minimum income criteria to be eligible to receive supplemental youth services if such individuals meet the eligibility requirements of paragraphs (1) and (2) above. The term low-income also includes a youth living in a high-

poverty area (Sections 129(a)(1)(B)(ii), (a)(1)(C)(ii), (a)(2), and (a)(3), WIOA, 128 Stat. 1505 and 1506; 20 CFR section 684.430(b)). “High-poverty area” is defined at 20 CFR section 684.130.

2. **Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable**
3. **Eligibility for Subrecipients – Not Applicable**

#### **F. Equipment and Real Property Management**

Recipients and subrecipients may permit employers to use WIOA-funded local area services, facilities, or on a fee-for-service basis, to provide employment and training activities to incumbent workers if this does not interfere with utilization by eligible participants and the income generated from such fees is treated as program income (Section 194(13), WIOA, 128 Stat. 1607; 20 CFR section 683.200(c)(9)).

#### **G. Matching, Level of Effort, Earmarking**

1. **Matching – Not Applicable**
2. **Level of Effort – Not Applicable**
3. **Earmarking**

The percentage of grant funds that may be expended on administrative costs is specified in the grant or contract award document. The term “administrative costs” is defined at Section 3(1), WIOA, 128 Stat. 1429; 20 CFR sections 683.205(b) and 683.215).

#### **H. Period of Performance**

The period of availability for expenditures is set out in the terms and conditions of the award document.

#### **J. Program Income**

1. The addition method is required for use on all program income earned under WIOA grants. When the cost of generating program income has been charged to the program, the gross amount earned must be added to the WIOA program. However, the cost of generating program income must be subtracted from the amount earned to establish the net amount of program income available for use under the grants when these costs have not been charged to the WIOA program (Section 194(7), WIOA, 128 Stat.1606; 20 CFR section 683.200(c)(6)).
2. WIOA specifically include as program income: (a) receipts from goods and services, including conferences; (b) funds provided to a service provider in excess

of the costs associated with the services provided; and (c) interest income earned on funds received under WIOA. Any excess of revenue over costs incurred for services provided by a governmental or non-profit entity must be included in program income earned (Section 194(7), WIOA, 128 Stat. 1606; 20 CFR sections 683.200(c)(7) and (c)(8)).

## **L. Reporting**

### **1. Financial Reporting**

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Not Applicable
- d. ETA-9130, *Indian and Native American Programs-Workforce Investment Act-Grantee Activities (OMB No.1205-0461)* –This electronic reporting format, based on the ETA 9130, Financial Report, is used to report accrued income, cash on hand, and program and administrative expenditures funded by grants under WIOA Section 166. Tribes participating in the “477” program authorized by the Indian Employment, Training, and Related Services Demonstration Act of 1992 (Pub. L. No. 102-477) are required to submit a single financial report covering all Federal formula programs that are part of their 477 plan to the Bureau of Indian Affairs. Financial data is required to be reported cumulatively from grant inception through the end of each reporting period. See TEGL 02-16 for specific and clarifying instructions about the ETA 9130 ([https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=5156](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5156)).

### **2. Performance Reporting**

- a. ETA-9084, *Indian and Native American Comprehensive Services Report (OMB No. 1205-0422)* – Reports data on participation, termination, performance measures outcomes, and the socio-economic characteristics of all exiters. The information is used to determine the levels of program service and program accomplishments for the Program Year. Grantees receiving these funds are required to submit this report quarterly, within 45 days after the end of the quarter, except that federally recognized Indian tribes participating in the demonstration under Pub. L. No. 102-477 are not required to submit quarterly reports (as is the case for ETA-9130 and ETA-9085 grantees are required to submit these reports quarterly, within 45 days after the end of the quarter).

*Key Line Items* – The following line items contain critical information:

- (1) Line B.1. – *Total Exiters*
- (2) Line B. 3. – *Total Participants Served*
- (3) Line D.1. – *Entered Employment Rate*
- (4) Line D. 2. – *Retention Rate*
- (5) Line D. 3. – *Average Earnings*

- b. ETA-9085, *Indian and Native American Supplemental Youth Services Program Report (OMB No. 1205-0422)* – Reports cumulative data on participation, termination, performance outcomes, and socio-economic characteristics of participants. Grantees receiving these funds are required to submit a semi-annual and annual report except federally recognized Indian tribes participating in the demonstration under Pub. L. No. 102-477 (as is the case for ETA-9130 and ETA-9084).

*Key Line Items* – The following line items contain critical information:

- (1) Line 1 – *Total Participants*
- (2) Line 2 – *Total Exiters*
- (3) Line 3 – *Total Current Participants*
- (4) Line 29 – *Improved Basic Skills by at Least Two Grade Levels*
- (5) Line 30 – *Attained High School Diploma*
- (6) Line 31 – *Attained GED*
- (7) Line 35 – *Attainment of Two or More Goals*

**3. Special Reporting** – Not Applicable

**M. Subrecipient Monitoring**

Recipients must ensure that commercial organizations that are subrecipients under WIOA Title I and which expend more than the minimum level specified in 2 CFR part 200, subpart F have either an organization-wide audit conducted in accordance with 2 CFR part 200, subpart F, or a program-specific financial and compliance audit (20 CFR section 683.210(a)).

#### IV. OTHER INFORMATION

Audits of Indian tribal governments with the Native American Employment and Training program in their approved 477 Plan with reporting under Version 2 forms (75 FR 57970 (September 26, 2014)) must follow the guidance in the 477 Cluster found in the Department of the Interior's section of Part 4 of this Supplement. See the "Note" at the beginning of the 477 Cluster for additional information.

Audits of Indian tribal governments with the Native American Employment and Training program in their approved 477 Plan with reporting under Version 1 forms must follow this program supplement for CFDA 17.265, including the following (per Tri-Agency 477 Tribal Leader Letter 9-30-11, Tri-Agency Letter to Committee on Appropriations 10-7-11, and Frequently Asked Questions Regarding P. L. 102-477 (Questions 5 through 9) found at <http://www.indianaffairs.gov/WhoWeAre/AS-IA/IEED/DWD/index.htm>):

1. The auditor should use the approved Pub. L. No. 102-477 plan in determining compliance requirements to be tested;
2. The auditor is permitted to audit the Pub. L. No. 102-477 demonstration project as a cluster of programs; and
3. The Native American Employment and Training program grantee may present demonstration project expenditures in its Schedule of Expenditures of Federal Awards (SEFA) in the same manner in which it had been presenting these expenditures in the period immediately prior to this Supplement or in the same manner in which it had been presenting these expenditures in the period immediately prior to the 2009 Compliance Supplement.