

## **PART 4 – AGENCY PROGRAM REQUIREMENTS**

### **INTRODUCTION**

For each federal program (except R&D and SFA) included in this Supplement, Part 4 provides I, “Program Objectives” and II, “Program Procedures.” Part 4 also provides information about compliance requirements specific to a program in III, “Compliance Requirements.” Finally, Part 4 provides IV, “Other Information,” when there is other useful information pertaining to the program that does not fit in sections I–III. For example, when a program allows funds to be transferred to another program, section IV provides guidance on how those funds are to be treated on the Schedule of Expenditures of Federal Awards and in Type A program determinations.

When any of five types of compliance requirements (A, “Activities Allowed or Unallowed;” E, “Eligibility;” G, “Matching, Level of Effort, Earmarking;” L, “Reporting;” and N, “Special Tests and Provisions”) is subject to audit and applicable to a program included in the Supplement, Part 4 always provides additional information specific to the program. The other seven types of compliance requirements, when subject to audit, generally are not specific to a program and, therefore, usually are not listed in Part 4. However, when one of these other seven types of compliance requirements has information specific to a program, that information is provided with the program in Part 4. When a requirement is marked as “Not Applicable” it means that either there are no compliance requirements specific for the program, or the auditor is not required to test compliance.

In developing the audit procedures to test compliance with the requirements for a federal program, the auditor must first look to the Compliance Requirements section of the program/cluster (summarized for all programs/clusters in Part 2 of the Supplement) to identify which of the 12 types of compliance requirements described in Part 3 have been identified as subject to audit, and then determine which of those requirements is likely to have a direct and material effect on the federal program at the auditee.

For each such compliance requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions, including audit objectives, and suggested audit procedures) and the program supplement in Part 4 (which includes any program-specific requirements) to perform the audit. For N, “Special Tests and Provisions,” Part 3 includes only audit objectives and suggested audit procedures for internal control; all other information is included in Part 4.

The descriptions of the compliance requirements in Parts 3 and 4 generally are a summary of the actual compliance requirements. The auditor must review the referenced citations (e.g., laws and regulations) for the complete compliance requirements.

For 2021, only guidance to the compliance requirement areas that are designated as “Y” in the Matrix are included in part III, Compliance Requirements of the program. If the auditor is to review compliance requirement areas that are designated as “N,” the auditor must refer to the Part 3 for additional information.

**DEPARTMENT OF LABOR****ASSISTANCE LISTING 17.207 EMPLOYMENT SERVICE/WAGNER-PEYSER FUNDED ACTIVITIES****ASSISTANCE LISTING 17.801 DISABLED VETERANS' OUTREACH PROGRAM (DVOP)****ASSISTANCE LISTING 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 2,400 American Job Centers (AJC) (formerly known as One-Stop Career Centers) nationwide. They are coordinated and co-located 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 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 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, VPL 03-19, and Training and Employment Guidance Letter (TEGL) 19-13, including changes 1 and 2, and TEGL 20-13, including changes 1 and 2.

*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), LVER staff 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**

### **A. Overview**

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 or Combined State Plan, which outlines a four-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.

### **B. Subprograms/Program Elements**

#### *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 individualized 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 in need of career services, receive maximum employment and training opportunities. 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 four-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 have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, 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. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.**

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 & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	N	N	Y	N	Y	N	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. Career services are also made available within the one-stop system (20 CFR section 678.430).

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 that are experiencing limited demand due to changes in technology, 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; 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 nonprofit 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; program evaluations; 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))).
- d. In coordination with the state agencies, plan activities that will allow staff to enhance their professional development and career advancement opportunities (Title III, WIOA section 303 (b)(2)).

4. *Section 7(d)*

In addition to the activities described under paragraphs two and three, above, Section 7(d) of the Act authorizes SWAs to perform other activities as 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 nonprofit 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) and agency directives (based on Pub. L. No. 107-288). These services include:

- a. Providing individualized 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 Representative and other agency partners collocated in the AJCs.
- e. Conduct outreach and assistance to individuals identified for participation in Homeless Veterans’ Reintegration Program, 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 staff member, described in item 7 above, as appropriate. More information regarding the criteria for consolidated DVOP/LVER positions can be found in VPL 01-20. It is important to point out that DVOP/LVER staff are prohibited from serving non-veterans and that the secretary must conduct regular audits to ensure compliance with the limitations on DVOP/LVER duties. Limitations on DVOP/LVER duties and/or compliance audit requirements are cited in VPL 04-18, TEGL 19-13, and Sec. 241 of VOW to Hire Heroes Act of 2011.

**E. Eligibility**

**1. Eligibility for Individuals**

- a. The SBE category, defined in VPL 03-14 (including changes 1 and 2), and VPL 03-19 (including changes 1 and 2), implements the priority and maximum emphasis requirements of 38 USC 4103A(a). Special service-connected disabled veterans and service-connected 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, defined in 38 USC 4211(1) and (3), as:
    - (a) A veteran 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 for a disability (i) rated at 30 percent or more, or (ii) rated at 10 or 20 percent in the case of a veteran who has been determined to have a serious employment handicap; or
    - (b) A person who was discharged or released from active duty because of a service-connected disability;



- (2) A disabled veteran is defined in 38 USC 4211(3) as:
  - (a) A veteran 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
  - (b) A person who was discharged or released from active duty because of a service-connected disability;
- (3) Homeless, as defined in Sections 103(a) and (b) of the McKinney Vento Homeless Assistance Act (42 USC 11302(a) and (b));
- (4) A recently separated service member, as defined in 38 USC 4211(6), who at any point in the previous 12 months has been unemployed for 27 weeks;
- (5) An offender, as defined by WIOA Section 3(38), who has been released from incarceration;
- (6) Lack a high school diploma or an equivalent certificate; or
- (7) Low-income (as defined by WIOA in Section 3(36)).
- (8) Veterans aged 18–24 – Veterans aged 18–24 possess limited civilian work history, which can make transitioning to the civilian labor force more difficult. Veterans between the ages of 18 and 24 may need and benefit from services provided by a DVOP specialist.
- (9) Vietnam-era veterans – Pursuant to 38 USC 4211, the term “veteran of the Vietnam era” is an eligible veteran any part of whose active military, naval, or air service was during the Vietnam era. The Bureau of Labor Statistics and the Department of Veterans Affairs (VA) data indicate that there are still a sizeable number of Vietnam-era veterans in the workforce, and many face difficulty in finding and maintaining employment. In 2017, there were 1,689,000 Vietnam-era veterans in the workforce, with 64,000 unemployed and actively seeking employment. (**Note:** The Veterans’ Benefits Improvement Act with amendments defines “Vietnam-era” to mean: (a) the period beginning on February 28, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period; (b) the period beginning on August 5, 1964, and ending on May 7, 1975, in all other cases.)

**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 (Assistance Listing 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 or go directly to the 9130 webpage here: <https://www.dol.gov/agencies/eta/grants/management/reporting>.

- e. *VETS-402 (A/B), Expenditure Detail Report* – This expenditure and staff utilization report separately identifies Jobs for Veterans State Grant-expenditures each quarter and year-to-date as a supplement to the DVOP and LVER SF 425, *Federal Financial Reports*.

## 2. Performance Reporting

*WIOA Participant Individual Record Layout (PIRL) ETA-9170 (OMB No. 1205-0526)* is used to report services, activities, and outcomes of service for all job seekers and veterans. This report is submitted quarterly.

The appropriate statewide performance report is WIOA PIRL ETA-9169.

The Wagner-Peyser Act funded Employment Service is responsible for reporting four of the six WIOA primary indicators of performance, which include:

- Employed 2nd Quarter after Exit
- Employed 4th Quarter after Exit
- Median Earnings
- Effectiveness in Serving Employers (**Note:** this metric is shared across the six WIOA core programs)

For additional information on WIOA performance reporting, including results, requirements, and information about the Workforce Integrated Performance System (WIPS) you may visit <https://www.dol.gov/agencies/eta/performance/>.

ETA 9173-WIOA Quarterly Report. This report is standard for all programs sharing the Workforce Integrated Performance System, utilizing the Participant Individual Record Layout. States submit individual record data files into this system where the results for this report are automatically tabulated. This is approved via OMB Control Number 1205-0521. The report template can be found here: [https://doleta.gov/performance/pfdocs/ETA\\_9173\\_Program\\_Performance\\_Report.xlsx](https://doleta.gov/performance/pfdocs/ETA_9173_Program_Performance_Report.xlsx).

## 3. Special Reporting

Not Applicable

## 4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

## DEPARTMENT OF LABOR

### ASSISTANCE LISTING 17.225 UNEMPLOYMENT INSURANCE (UI)

#### I. PROGRAM OBJECTIVES

The UI program, created by the Social Security Act (SSA), 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 and to ex-members of the Armed Forces in 1958. 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, UC for Federal Employees (UCFE), or UC for Ex-Service Members (UCX).

#### II. PROGRAM PROCEDURES

##### A. Overview

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 and that state law and operations substantially comply with federal law.

Unless otherwise noted, responsibilities of the US Department of Labor (DOL) include: (1) allocating available administrative funds among states; (2) administering the Unemployment Trust Fund (UTF) through the US 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.

Benefits payable under several additional programs also are administered by the SWAs, as agents for the 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 (Assistance Listings 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 Assistance Listing 17.245.

Under the DUA program, the SWA is accountable to DOL and, through DOL, to the Federal Emergency Management Agency (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.

In 2020, in response to the Coronavirus Disease 2019 (COVID-19), new UC programs were created via legislation. Under the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 (Title II, Subtitle A of Pub. L. No. 116-136), Pandemic Unemployment Assistance (PUA), Federal Pandemic Unemployment Compensation (FPUC); and Pandemic Emergency Unemployment Compensation (PEUC) programs were created. The Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) (Division N, Title II, Subtitle A of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260) created the Mixed Earners Unemployment Compensation (MEUC) program and provided for additional changes to the CARES Act programs. Additionally, the American Rescue Plan Act of 2021 (ARP) (Pub. L. No. 117-2), further extended and modified the programs provided under the CARES Act and Continued Assistance Act.

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

**Note:** Informal references are frequently made to eligibility for “weeks” of UC. The auditor is cautioned that, with the exception of PUA, eligibility is generally for a maximum dollar amount of UC, which is often inaccurately referred to as receipt of UC for a given number of weeks. PUA is limited to a specific number of weeks, as discussed further below.

## **B. Subprograms/Program Elements**

We note that federal legislation created four new temporary extension programs in response to the spread of COVID-19, as described below. Because these are temporary programs and subject to changes from subsequent legislation, we provide a high-level summary in this section and refer to Departmental guidance for additional details on the latest iteration. Auditors may refer to Attachment I of UIPL No. 14-21 for the latest summary of coordination across UI programs. Auditors may refer to Attachment II of UIPL No. 14-21 for the latest table describing effective start and end dates for each of the programs.

### *1. Regular UI 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 two states, Arkansas and New York, 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.

### *2. Extended Benefits (EB) Program*

When certain measures of unemployment exceed thresholds established in law, the EB program 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). Eligibility for EB and the period for which the claimant is eligible is determined by the state in which the original claim was established (EUCA Section 202(a)(2), 20 CFR section 615.2(2)). When all measures of unemployment fall below the established thresholds, the EB program will “trigger off” the period of EB, ending benefit payments. An alternate trigger is available in some states. In addition to a mandatory trigger mechanism required in all states, federal law provides for optional triggers which

some states have adopted. For information on the triggers, see Section 203, EUCA, 20 CFR sections 615.11 through 615.13.

Section 266 of the Continued Assistance Act provides states with the option to disregard the 13-week mandatory “off” period described in Section 203(b)(1)(B), EUCA, for weeks between November 1, 2020, and December 31, 2021, if permitted under state law.

Additionally, Section 206(c) of the Continued Assistance Act provides that, if permitted under state law, an individual may be eligible for EB after exhausting PEUC as long as the state is in an EB period after the date the individual exhausts PEUC, even if the individual’s benefit year has expired.

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 measure reaches a benchmark rate established in EUCA. While EB are payable under the terms and conditions of state law, the Federal Unemployment Tax Act (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 Families First Coronavirus Response Act, Pub. L. No. 116-127, specifically Division D, the Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA), makes emergency supplemental appropriations in response to the economic impacts of COVID-19. Section 4105 of EUISAA provides full federal funding, under certain circumstances, of: 1) sharable regular

compensation and sharable extended compensation; and 2) temporary federal matching for the first week of EB for states with no waiting week. Under EUISAA, these provisions were set to expire on December 31, 2020 (Section 6 of UIPL No. 13-20). The Continued Assistance Act extends the availability of these reimbursements as described above to March 14, 2021 (Section 4.a.iii. of UIPL No. 09-21). ARP further extends the availability of these reimbursements to September 6, 2021 (Section 4.a.ii. of UIPL No. 14-21).

On March 27, 2020, the president signed the CARES Act (Pub. L. No. 113-136), which includes the Relief for Workers Affected by Coronavirus Act set out in Title II, Subtitle A. Section 2107 of the CARES Act created the Pandemic Emergency Unemployment Compensation (PEUC) program, which provides additional weeks of benefits to individuals who exhaust regular UC—while an individual generally must exhaust PEUC before becoming eligible for EB, many individuals were receiving EB at the time that additional weeks of PEUC were authorized under the Continued Assistance Act and again under ARP. Individuals who were receiving EB at the time these additional weeks were made available must exhaust EB before resuming collection of the PEUC claim (Section 4.f. of UIPL No. 17-20, Change 2 and Section 4.f. of UIPL No. 17-20, Change 3).

Additionally, the Continued Assistance Act provides optional, time-limited, and temporary waiver authority regarding the 13-week “off” period in Section 203(b)(1)(B) of EUCA, if permitted by state law (Section 4.c. of UIPL No. 24-20, Change 1).

On March 11, 2021, the president signed ARP into law. This Act amends certain provisions of the Emergency Unemployment Insurance Stabilization and Access Act (EUISAA), set out in Division D of the Families First Coronavirus Response Act (Pub. L. No. 116-127) and the CARES Act as amended by the Protecting Nonprofits from Catastrophic Cash Flow Strain Act of 2020 (Protecting Nonprofits Act) (Pub. L. No. 116-151) and the Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) (Pub. L. No. 116-260).

ARP provides temporary federal matching for the first week of EB for states with no waiting week is extended to weeks of unemployment beginning before September 6, 2021. In states where the week of unemployment ends on a Saturday, the last week of unemployment for which this funding is available is the week ending on September 11, 2021. In states where the week of unemployment ends on a Sunday, the last week of unemployment for which this funding is available is the week ending on September 5, 2021.

The auditor should also refer to the following UIPLs for more specific guidance to code payment to the correct source and ensure overpayments are returned to the proper source.



### 3. *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).

### 4. *TRA/RTAA Benefit Payments/Wage Subsidies*

Trade Readjustment Allowance (TRA) is available as weekly income support to eligible workers who have exhausted UI benefits. The federal regulations for the Trade Adjustment Assistance (TAA) program were published in August of 2020 and are found at 20 CFR Part 618. There are various TEGs and UIPLs that also apply to TRA. The most recent version of the TAA Program operates under the amendments enacted by the TAA Reauthorization Act of 2015 (2015 program). The 2015 program includes up to 130 weeks of income support (including regular UI).

In addition to TRA, the 2015 program includes the Reemployment Trade Adjustment Assistance (RTAA) benefit, originally established under the Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA). RTAA is a wage subsidy available to certain eligible workers who are 50 years of age and older and elect to receive this benefit upon obtaining qualifying reemployment. The maximum benefit is \$10,000.

The TAA program has a reversion clause. Effective July 1, 2021, the TAA program will revert to a modified version of the 2002 program unless Congressional action is taken to extend or amend the program. Individuals receive benefits and services based on the version of the program under which their petition was certified. For fiscal year (FY) 2020, more than 96 percent of program participants were eligible under the 2015 version. DOL’s Office of Trade Adjustment Assistance administers the concurrent programs and oversees TAA program operations in the states.

### 5. *DUA Benefit Payments*

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).

#### 6. *PUA Benefit Payments*

The PUA program was created under the CARES Act to provide benefits to covered individuals. A “covered individual” is someone who meets each of the following three conditions:

- a. The individual is not eligible for regular UC, EB, or PEUC. This also includes those who have exhausted all rights to such benefits, self-employed, those seeking part-time employment, individuals lacking sufficient work history. Self-employed individuals include independent contractors and gig economy workers.
- b. Such individual must self-certify that they are unemployed, partially unemployed, or unable or unavailable to work due to one of the COVID-19 related reasons identified in Section 2102(a)(3)(A)(ii)(I) of the CARES Act and in Departmental guidance (see UIPL 16-20 and Attachment I, Section C.1. of UIPL 16-20, Change 4). Because this eligibility is based on self-certification, states may only request supporting documentation if they have reasonable suspicions of fraud (see question 23 of Attachment I to UIPL No. 16-20, Change 2).
- c. Additionally, individuals who are paid on or after December 27, 2020, must submit proof of documentation substantiating employment, self-employment, or the planned commencement of employment or self-employment (see Attachment I, Section C.2. of UIPL No. 16-20, Change 4). This includes individuals requesting retroactive payments that are not received until after December 27, 2020.

PUA is payable for weeks of unemployment, partial unemployment, or inability to work caused by the COVID-19 related reasons listed above beginning on or after January 27, 2020. For states where the week of unemployment ends on a Saturday, the first week for which PUA may be paid is the week ending February 8, 2020. In states where the week of unemployment ends on a Sunday, the first week for which PUA may be paid is the week ending February 9, 2020.

*Identity Verification.* For states to have an adequate system for administering the PUA program, states must include procedures for “identity verification or validation and for timely payment, to the extent reasonable and practicable” by January 26, 2021, which is 30 days after December 27, 2020 (enactment of the Continued Assistance Act). States that previously verified an individual’s identity on a UC, EB, or PEUC claim within the last 12 months are not required to re-verify identity on the PUA claim, though the Department encourages the state to take additional measures if the identity is questioned. Individuals filing new PUA initial claims that have not been through the state’s identity verification process must have their identities verified to be eligible.

*Claim Effective Dates and Backdating Limitations.* Individuals filing for PUA must have their claim backdated to the first week during the Pandemic Assistance Period in which the individual was unemployed, partially unemployed, or unable or unavailable to work because of COVID-19 related reason(s) identified in Attachment I to UIPL No. 16-20, Change 5. Section 201(f) of the Continued Assistance Act provides a limitation on backdating for claims filed after December 27, 2020 (the enactment date of the Continued Assistance Act).

- *PUA initial claims filed on or before December 27, 2020.* Initial PUA claims filed on or before this date may be backdated no earlier than the week that begins on or after February 2, 2020, the first week of the PAP.
- *PUA initial claims filed after December 27, 2020.* Initial PUA claims filed after this date may be backdated no earlier than December 1, 2020 (a claim effective date of December 6, 2020, for states with a Saturday week ending date and a claim effective date of December 7, 2020, for states with a Sunday week ending date).

To comply with the requirements in Section 263 of the Continued Assistance Act, all states must ensure that, with respect to weeks of unemployment beginning on or after January 26, 2021 (30 days after the enactment date of the Continued Assistance Act), their continued claim forms contain a self-certification process for PUA claimants to identify the specific COVID-19 related reason under Section 2102(a)(3)(A)(ii)(I)(aa) through (kk) of the CARES Act for which they are unemployed, partially unemployed, or unable or unavailable to work. For states with a Saturday week ending date, this begins with ending February 6, 2021. For states with a Sunday week ending date, this begins with week ending February 7, 2021.

For continued claims filed with respect to weeks ending before January 26, 2021 (January 30, 2021, for states with a Saturday week ending date and January 31, 2021, for states with a Sunday week ending date), if a state made a good faith effort to implement the PUA program, an individual will not be denied benefits solely for failing to submit a weekly recertification. The determination of whether a state made a “good faith effort” to implement the PUA program will be

performed by the Employment and Training Administration and determine what, if any, retroactive action is required to obtain self-certifications (Section C.7. of Attachment I to UIPL No. 16-20, Change 4).

**Calculating Weekly Benefit Amounts (WBA).** The PUA WBA is equal to the WBA authorized under state UC law where the individual was employed. For individuals without reported wages sufficient to establish a WBA, the WBA will be calculated according to processes for Disaster Unemployment Assistance (see Attachment II of UIPL No. 16-20, Change 1). As set out in 20 CFR section 625.6(b), the minimum PUA WBA is “50 percent of the average weekly payment of regular compensation in the state, as provided quarterly by the Department.” The minimum WBA for all PUA claims is identified by state in UIPL No. 03-20.

**Duration of PUA Claims.** The maximum number of weeks of PUA benefits is 79 weeks. The number of weeks available continues to be reduced by any weeks of regular UC and EB that the individual receives with respect to the Pandemic Assistance Period (Section 4.c.i. of UIPL No. 14-21).

States are reminded, as described in Section C.17. of Attachment I to UIPL No. 16-20, Change 4, the additional 11 weeks provided under the Continued Assistance Act (increasing the duration from 39 weeks to 50 weeks) may only be paid with respect to weeks of unemployment beginning on or after December 27, 2020. In states where the week of unemployment ends on a Saturday, the first week for which these additional 11 weeks may be paid is the week ending January 2, 2021. In states where the week of unemployment ends on a Sunday, the first week for which these additional 11 weeks of benefits may be paid is the week ending January 3, 2021.

The additional 29 weeks of benefits now provided under ARP (increasing the duration from 50 to 79 weeks) may only be paid with respect to weeks of unemployment ending after March 14, 2021. We note that there are 25 weeks between the week ending March 13, 2021, and the last payable week of September 4, 2021. As such, individuals may not exhaust their full PUA entitlement before the program expires.

In states where the week of unemployment ends on a Saturday, the first week for which these additional 29 weeks of benefits may be paid is the week ending on March 20, 2021. In states where the week of unemployment ends on a Sunday, the first week for which these additional 29 weeks of benefits may be paid is the week ending on March 21, 2021.

**Program End Date.** The end of the period of applicability for the PUA program is extended, without interruption, to weeks of unemployment ending on or before September 6, 2021. In states where the week of unemployment ends on a Saturday, the last payable week of PUA is the week ending on September 4, 2021. In states where the week of unemployment ends on a Sunday, the last payable

week of PUA is the week ending on September 5, 2021. The phaseout period originally provided in the Continued Assistance Act is repealed.

New Hold Harmless for Proper Administration (Section 9011(c), ARP).

Generally, an individual must have exhausted all entitlement to regular UC, PEUC, and EB before being eligible for PUA. However, ARP provides a “hold harmless” provision for an individual who previously exhausted PEUC and is now receiving PUA, but, because of Section 9016(b), ARP, becomes eligible for additional amounts of PEUC beginning on or after March 11, 2021. States may temporarily continue paying PUA to an individual currently receiving PUA who is newly eligible to receive PEUC due to the additional weeks of PEUC. This flexibility is allowed for an appropriate period of time as determined by the secretary.

Additional information on the PUA program can be found in UIPL No. 16-20; UIPL No. 16-20, Change 1; UIPL No. 16-20, Change 2; UIPL No. 16-20, Change 3; UIPL No. 16-20, Change 4; UIPL No. 16-20, Change 5 and UIPL No. 14-21. The Department will publish UIPL No. 16-20, Change 6 in April 2021 providing the most up-to-date Implementation and Operating Instructions to incorporate the CARES Act, amendments made by the Continued Assistance Act, and ARP, as well as additional policy guidance.

#### 7. *PEUC Benefit Payments*

Eligible Individuals. PEUC is a temporary program that provides additional weeks of benefits to individuals who:

- have exhausted all rights to regular compensation under state law or federal law with respect to a benefit year that ended on or after July 1, 2019;
- have no rights to regular compensation with respect to a week under any other state UC law or federal UC law, or to compensation under any other federal law;
- are not receiving compensation with respect to a week under the UC law of Canada; and
- are able to work, available to work, and actively seeking work, while recognizing that states must provide flexibility in meeting the “actively seeking work” requirement if individuals are unable to search for work because of COVID-19, including because of illness, quarantine, or movement restriction.

Duration of PEUC Claims. The maximum amount of PEUC compensation that may be established in an individual’s account for the benefit year is

increased from 24 times the individual's average weekly benefit amount (WBA) to 53 times the individual's average WBA (Section 4.c.v. of UIPL No. 14-21).

States are reminded, as described in Section 4.d. of UIPL No. 17-20, Change 2, the additional amount provided under the Continued Assistance Act (increasing entitlement from 13 times the individual's average WBA to 24 times the individual's average WBA) may only be paid with respect to weeks of unemployment beginning on or after December 27, 2020. In states where the week of unemployment ends on a Saturday, the first week for which this additional amount may be paid is the week ending January 2, 2021. In states where the week of unemployment ends on a Sunday, the first week for which this additional amount may be paid is the week ending January 3, 2021.

The additional amount now provided under ARP (increasing entitlement from 24 times the individual's average WBA to 53 times the individual's average WBA) may only be paid with respect to weeks of unemployment ending after March 14, 2021. In states where the week of unemployment ends on a Saturday, the first week for which this additional amount may be paid is week ending on March 20, 2021. We note that there are 25 weeks between the week ending March 13, 2021, and the last payable week of September 4, 2021. As such, individuals may not exhaust their full PEUC entitlement before the program expires.

In states where the week of unemployment ends on a Sunday, the first week for which this additional amount may be paid is week ending on March 21, 2021.

*Program End Date.* The end of the period of applicability for the PEUC program is extended, without interruption, to weeks of unemployment ending on or before September 6, 2021. In states where the week of unemployment ends on a Saturday, the last payable week of PEUC is the week ending on September 4, 2021. In states where the week of unemployment ends on a Sunday, the last payable week of PEUC is the week ending on September 5, 2021. The phaseout period originally provided in the Continued Assistance Act is repealed.

Additional information on the PEUC program can be found in UIPL No. 17-20; UIPL No. 17-20, Change 1; and UIPL No. 17-20, Change 2; UIPL No. 17-20, Change 3; and UIPL No. 14-21.

#### 8. *FPUC Benefit Payments*

The FPUC program was created under Section 2104 of the CARES Act. This program provided an additional \$600 per week to individuals who are collecting regular UC (including UCFE and Unemployment Compensation for Ex-Servicemembers (UCX)), as well as the following unemployment compensation programs:

- Pandemic Emergency Unemployment Compensation (PEUC);

- Pandemic Unemployment Assistance (PUA);
- Extended Benefits (EB);
- Short Time Compensation (STC);
- Trade Readjustment Allowances (TRA);
- Disaster Unemployment Assistance (DUA); and
- Payments under the Self-Employment Assistance (SEA) program.

If an individual is eligible to receive at least \$1 of underlying benefit for the week in question, then they must also receive the \$600 FPUC supplemental payment. This applies to all weeks of unemployment beginning with week ending April 4, 2020, through week ending July 25, 2020.

The FPUC program was reauthorized under the Continued Assistance Act to provide \$300 per week in supplemental benefits for weeks of unemployment starting with week ending January 2, 2021, through week ending March 13, 2021. FPUC is not payable with respect to any week during the gap in applicability, that is, weeks of unemployment ending after July 31, 2020, through weeks of unemployment ending on or before December 26, 2020.

ARP further extends the FPUC program at \$300 per week through the week ending on or before September 6, 2021 (Section 4.c.iii. of UIPL No. 14-21). In states where the week of unemployment ends on a Saturday, the last week of unemployment for which FPUC must be paid is the week ending on September 4, 2021. In states where the week of unemployment ends on a Sunday, the last week of unemployment for which FPUC must be paid is the week ending on September 5, 2021.

Additional information on the FPUC program can be found in UIPL No. 15-20; UIPL No. 15-20, Change 1; UIPL No. 15-20, Change 2; UIPL No. 15-20, Change 3; UIPL No. 15-20, Change 4; and UIPL No. 14-21.

9. *MEUC Benefit Payments*

The MEUC program was created under the Continued Assistance Act. State participation in the MEUC program is optional and requires a state to enter into an agreement with DOL to operate the program. This program provides \$100 each week, in addition to FPUC, to individuals with \$5,000 or more in self-employment income in the previous tax year who are receiving unemployment benefits from a program other than PUA.

Eligible individuals must: (i) have received at least \$5,000 of self-employment income in the most recent taxable year prior to the individual's application for regular UC, (ii) be receiving a UI benefit (other than PUA) for which FPUC is payable, and (iii) submit documentation substantiating their self-employment income. This supplemental payment does not apply to individuals collecting PUA. States must determine an individual's eligibility for MEUC prior to releasing MEUC payments. Once verified, then the state must make the MEUC supplemental payment for each week during the program dates in which the individual qualifies for at least \$1 of underlying benefit (except PUA).

MEUC is payable beginning with weeks of unemployment no earlier than week ending January 2, 2021 (January 3, 2021, for states with a Sunday week ending date) through the week ending March 13, 2021. ARP further extends the MEUC program at \$300 per week through the week ending on or before September 6, 2021 (Section 4.c.iii. of UIPL No. 14-21). In states where the week of unemployment ends on a Saturday, the last week of unemployment for which FPUC must be paid is the week ending on September 4, 2021. In states where the week of unemployment ends on a Sunday, the last week of unemployment for which FPUC must be paid is the week ending on September 5, 2021.

Additional information on the MEUC program can be found in UIPL No.15-20, Change 3; UIPL No. 15-20, Change 4; and UIPL No. 14-21.

### **C. 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 nonprofit 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.

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 US Treasury and those loans remain unpaid for a certain period. When a state has an outstanding UC trust fund loan on January 1 for two 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 0.3 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 US 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.

## 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.), the FUTA (26 USC 3301 et seq.), UCFE (5 USC 8501 et seq.), UCX (5 USC 8521 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.

The DUA program can be found at 42 USC 5177 and the 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

Other information on the UI programs can be found at <https://www.dol.gov/agencies/eta/employment-services> 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 programs created in response to COVID-19 can be found at <https://oui.doleta.gov/unemploy/coronavirus/>.

## 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 have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, 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. **When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.****

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 & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	N	N	Y	N	Y	Y	N	N	Y	N	Y

## A. Activities Allowed or Unallowed

### 1. *Activities Allowed*

- a. 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. *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. *DUA*

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

### 4. *FPUC*

- a. FPUC payments may be payable either as (1) as an increase of the weekly benefit payment to the individual, or (2) as a separate supplemental payment made, on the same schedule as regular UC, to the individual (Section 2004 (b)(2), CARES).
- b. FPUC is not payable to individuals receiving state additional compensation.

## E. Eligibility

### 1. Eligibility for Individuals

*A note on temporary emergency flexibilities.* Section 4102(b), EUISAA, provides states with the ability to modify or waive certain aspects of their UC law as needed to respond to the spread of COVID-19. These provisions include work search, waiting week, good cause, and employer experience rating. If exercised, the state's regular eligibility requirements described below regarding work search, waiting week, good cause, and employer experience rating may be modified or waived for a temporary period of time in response to the spread of COVID-19. A state should have supporting documentation (e.g., statutory changes, emergency rules, or executive orders) if these temporary flexibilities were exercised for the time period in question (see Section 5 of UIPL No. 13-20 for emergency flexibilities).

- 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 four of the last five 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 non-compensable 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, actively seeking work, legally authorized to work in the United States and must not have refused an offer of suitable work.

- 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).

Section 206(c)(2)(B) of the Continued Assistance Act amended Section 2107(a) of the CARES Act regarding the application of Section 203(c) of EUCA to PEUC exhaustees. First, section 206(c)(2)(A) of the Continued Assistance Act provides that any individual who is receiving EB for the week of unemployment that includes December 27, 2020 (the date of enactment of the Continued Assistance Act) shall not be eligible for PEUC until the individual has exhausted all rights to EB.

Second, at a state's option, for weeks of unemployment beginning after December 27, 2020, and before April 12, 2021, an individual's eligibility for EB shall be considered to include any week that begins after the individual exhausts all rights to PEUC and that falls during an EB period that began after the date the individual exhausted all rights to PEUC. This applies even if the individual's benefit year has expired, provided the state is in an EB period as of the date the individual exhausts PEUC.

- c. *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 initial eligibility for UCX benefits is determined in accordance with 20 CFR section 614.3. Continued eligibility for UCX benefits, after the UCX claim has been established 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).
- d. *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 week 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 8th week after the certification or the end of the 16th 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 26th week after the certification or the end of the 26th 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 26th

week after the certification or the end of the 26th week of the most recent qualifying separation, unless the requirement is waived.

- e. *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 26th 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.
- f. *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.
- g. *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).



- h. Aliens must show proof that they are authorized to work by the US Citizenship and Immigration Services (USCIS) in order to be eligible to receive a federal public benefit (42 USC 1302b-7(d) and (e)).
- i. *PUA* – PUA provides benefits to covered individuals, who are those individuals not eligible for regular unemployment compensation (UC or extended benefits under state or federal law or Pandemic Emergency Unemployment Compensation (PEUC), including those who have exhausted all rights to such benefits. Covered individuals also include self-employed, those seeking part-time employment, individuals lacking sufficient work history, and those who otherwise do not qualify for regular unemployment compensation or extended benefits under state or federal law or PEUC.

PUA is payable to individuals who are ineligible for regular UC, and are unemployed, partially unemployed, or unable or unavailable to work due to one of the COVID-19 related reasons identified Attachment I to UIPL No. 16-20, Change 5. Section 2102(a)(3)(A)(ii)(I) of the CARES Act included 10 specific COVID-19 related reasons. The Department, under the authority provided by Section 2102(a)(3)(A)(ii)(I)(kk) of the CARES Act, has added additional COVID-19 related reasons; these are discussed in more detail in Section 4.a. of UIPL No. 16-20, Change 5. While three of these new COVID-19 related reasons were introduced to states with the publication of UIPL No. 16-20, Change 5 on February 25, 2021, all COVID-19 related reasons apply retroactively to the beginning of the PUA program.

Additionally, as described in Section 4.b.i. of UIPL No. 16-20, Change 5, paraphrasing of the COVID-19 related reasons is not permissible; individuals must be permitted to select more than one COVID-19 related reason; individuals must be permitted to select different COVID-19 related reasons each week; and individuals must be permitted to file and select no COVID-19 related reasons.

- (1) The individual has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
- (2) A member of the individual's household has been diagnosed with COVID-19;
- (3) The individual is providing care for a family member or a member of the individual's household who has been diagnosed with COVID-19;
- (4) A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or

another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work;

- (5) The individual is unable to reach the place of employment because of a quarantine imposed as a direct result of the COVID-19 public health emergency;
- (6) The individual is unable to reach the place of employment because the individual has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- (7) The individual was scheduled to commence employment and does not have a job or is unable to reach the job as a direct result of the COVID-19 public health emergency;
- (8) The individual has become the breadwinner or major support for a household because the head of the household has died as a direct result of COVID-19;
- (9) The individual has to quit his or her job as a direct result of COVID-19;
- (10) The individual's place of employment is closed as a direct result of the COVID-19 public health emergency; or
- (11) The individual meets any additional criteria established by the Department for unemployment assistance under this section.
  - (a) An individual who works as an independent contractor with reportable income may also qualify for PUA benefits if he or she is unemployed, partially employed, or unable or unavailable to work because the COVID-19 public health emergency has severely limited his or her ability to continue performing his or her customary work activities, and has thereby forced the individual to suspend such activities;
  - (b) The individual has been denied continued unemployment benefits because the individual refused to return to work or accept an offer of work at a worksite that, in either instance, is not in compliance with local, state, or national health and safety standards directly related to COVID-19. This includes, but is not limited to, those related to facial mask wearing, physical distancing measures, or the provision of personal protective equipment consistent with public health guidelines;

- (c) An individual provides services to an educational institution or educational service agency and the individual is unemployed or partially unemployed because of volatility in the work schedule that is directly caused by the COVID-19 public health emergency. This includes, but is not limited to, changes in schedules and partial closures; or
  - (d) An individual is an employee and their hours have been reduced or the individual was laid off as a direct result of the COVID-19 public health emergency.
- j. *PEUC* – To be eligible for PEUC, a claimant must have exhausted all rights to regular compensation under state law or federal law with respect to a benefit year that ended on or after July 1, 2019; have no rights to regular compensation with respect to a week under any other state UC law or federal UC law, or to compensation under any other federal law; are not receiving compensation with respect to a week under the UC law of Canada; and are able to work, available to work, and actively seeking work, while recognizing that states must provide flexibility in meeting the “actively seeking work” requirement if individuals are unable to search for work because of COVID-19, including because of illness, quarantine, or movement restriction.
- k. *FPUC* – To be eligible for FPUC during the program dates described in Section 8 above, individuals must be eligible to receive at least \$1 of underlying benefits for the week in question (including regular UC, UCFE, UCX, PEUC, PUA, EB, STC, TRA, DUA, and SEA). FPUC does not require the individual to submit a separate initial application or continued claim.
- l. *MEUC* – Eligible individuals must: (i) have received at least \$5,000 of self-employment income in the most recent taxable year prior to the individual’s application for regular UC, (ii) be receiving a UI benefit (other than PUA) for which FPUC is payable, and (iii) submit documentation substantiating their self-employment income. This additional payment does not apply to individuals collecting PUA. States must determine an individual’s eligibility for MEUC prior to releasing MEUC payments. Once verified, then the state must make the MEUC supplemental payment for each week during the program dates in which the individual qualifies for at least \$1 of underlying benefit (except PUA).

## 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.

**The federal government will reimburse the state at 100 percent of eligible costs for EB starting with weeks of unemployment beginning after March 18, 2020, (starting with weeks of unemployment ending March 28, 2020, for states with a Saturday week ending date). This reimbursement continues through weeks of unemployment beginning before September 6, 2021. For states with a Saturday week ending date, the last reimbursable week is week ending September 11, 2021. For states with a Sunday week ending date, the last reimbursable week is week ending September 5, 2021, and before March 14, 2021. 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. In addition, all payments made for the EB program, PEUC, and PUA are 100 percent federally funded and must be returned to EUCA in the UTF.**

#### b. *Federal Pandemic Unemployment Compensation*

The state is required to pay zero of the FPUC paid by the SWA to eligible claimants (i.e., FPUC funds are not required to be matched).

**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. *Extended Benefits* – The start and end date of extended benefits are paid based on statutory triggers.
4. *Temporary Federal Extensions and Supplemental Payments* – For the period of performance for Pandemic Unemployment Assistance (PUA), PEUC, Federal Pandemic Unemployment Compensation (FPUC), and Mixed Earners Unemployment Compensation (MEUC), refer to Attachment II of UIPL No. 14-21 for the most recent start and end dates for these temporary federal extensions.

**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 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, PEUC, and PUA Administration, DUA, TRA/RTAA, 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).

- e. *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).
- f. *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).

## 2. Performance Reporting

States are required to submit periodic reporting to evaluate the performance of the states' UI programs. The auditor should test the information included in the key reports included below that ensure the timeliness of benefits paid. Detailed information on these reports can be accessed under:

[https://wdr.doleta.gov/directives/attach/ETAH/ETHand401\\_5th.pdf](https://wdr.doleta.gov/directives/attach/ETAH/ETHand401_5th.pdf).

Report Name	Frequency of Submission	Reference Core Measure	Sections for Test
ETA 9050 – Time Lapse of All First Payments except Workshare	Monthly	First Payment Time Lapse 14/21 days, Interstate and Intrastate UI, UCFE, and UCX, full and partial weeks	Section A. Do not include Workshare
ETA 9052 – Nonmonetary Determination Time Lapse Detection	Monthly	Nonmonetary Determinations 21-Day Timeliness	Sections A, B, and C
ETA 9055 – Appeals Case Aging – Lower and Higher Authority Appeals	Monthly	Average Age of Pending Lower and Higher Authority Appeals	Section A. Exclude the test for states that do not have Higher Authority Appeals.

## 3. Special Reporting

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

#### 4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

### N. Special Tests and Provisions

#### 1. Employer Experience Rating

**Compliance Requirements** Certain benefits accrue to states and employers as a result of the state having 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).

Note that states were provided with temporary emergency flexibility regarding experience rating as needed in response to the spread of COVID-19. As such, a state should have supporting documentation (e.g., statutory changes, emergency rules, or executive orders) if this temporary flexibility was exercised for the time period in question.

**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 Requirements** 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 Payments Integrity Information Act (PIIA) of 2019 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 statistically sound 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 if the administration of the UC program is consistent with state 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 state agency records, as well as contacting the claimant, employers, and third parties (either in-person, by telephone, or by fax) to conduct new and original fact-finding related to all of the information pertinent to the paid or denied claim that was sampled. BAM investigators review cases for adherence to federal and state law as well as official policy. For claims that were overpaid or underpaid, the BAM investigator determines the amount of payment error, the cause of and the responsibility for any payment error. For erroneously denied, BAM investigators also determine the potential eligibility of the claimant and the point in the UI claims process at which the error was detected. Investigators record the 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 No. 25-20 ([https://wdr.doleta.gov/directives/attach/UIPL/UIPL\\_25-20.pdf](https://wdr.doleta.gov/directives/attach/UIPL/UIPL_25-20.pdf)), No. 28-13 ([http://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=6139](http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=6139)), No. 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 Objectives** 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. Please note that due to the COVID-19 pandemic, on a case-by-case basis, some states were provided operational flexibilities to temporarily suspend BAM sampling and investigations.
- 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 and timeliness requirements and identify any impediments to the state BAM unit's performance in this area.
- e. Conduct reviews of a representative sub-sample of completed cases to ensure that established BAM 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 Requirements** 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 sections 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 Objectives** 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. 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 FUTA to improve program integrity and reduce overpayments (see UIPL No. 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: Cross Program Offset and Recovery Agreement (see UIPL No. 05-13), which allows states to offset state UI from federal UI overpayments; and Interstate Reciprocal Overpayment Recovery Agreement, which allows states to recover overpayments from benefits being administered by another state.

States that recover PEUC 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 (PEUC or EB) when the funds are returned to the UTF. In addition, any FPUC that is recovered must be returned to the UTF.

Additionally, states that recover FPUC, PUA, PEUC, and MEUC overpayments must ensure that the recovered payments are returned to the source of such funds. Program Integrity-related requirements and guidance for each of the programs above are described in more detail in various UIPLs listed below:

FPUC/MEUC: UIPL 15-20, Change 1, 2, and 3, and any subsequent changes.

PUA: UIPL 16-20, Change 1, 2, 3, and 4, and any subsequent changes.

PEUC: UIPL 17-20, Change 1 and 2, and any subsequent changes.

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 (IRC), to recover covered unemployment compensation debts that remain uncollected one year after the debt was determined to be due. Covered unemployment compensation debts include benefit

overpayments due to fraud and benefit overpayments due to a claimant's failure to report earnings. 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. 02-19 and UIPL No. 12-14 for guidance on the implementation of the TOP requirement. Please note that IRC 6103(l)(10) restricts access to TOP federal tax information (FTI). The access limitation extends to contractors employed by the state, including those managing state technology systems that process and store TOP FTI, and to auditors engaged to conduct the Single Audit process, whether they are contractors or employees of the state. DOL recognizes that this restriction to accessing TOP FTI used for benefit administration prevents state auditors from meeting the audit objectives concerning a state's use of TOP for the recovery of UI improper payments. Because of this legal restriction auditors should not create an audit issue or finding based on their lack of access to TOP FTI.

**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. Please note that the suggested audit procedures mentioned below are not applicable to offsets through TOP.

### **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.

Program	Offsets limited to no more than 50 percent	Offsets limited to three years	Subject to Cross-Program Offsets (CPORA)	Subject to Interstate Offsets (IRORA)	Reference
Regular UC	State law	State law	Yes	Yes	State law
EB	State law	State law	Yes	Yes	State law
PEUC	Yes	Yes	Yes	Yes	Section E of Attachment I to UIPL No. 17-20  Section F of Attachment I to UIPL No. 17-20, Change 1
PUA	Yes	No	Yes	Yes	Section C.13.h. of Attachment I to UIPL No. 16-20  Section H of Attachment I to UIPL No. 16-20, Change 1  Questions 20-23 of Attachment I to UIPL No. 16-20, Change 2  Section C.21. of Attachment I to UIPL No. 16-20, Change 4
FPUC	Yes	Yes	Yes	Yes	Section F of Attachment I to UIPL No. 15-20  Section B of Attachment I to UIPL No. 15-20, Change 1
MEUC	Yes	Yes	Yes	Yes	Same as FPUC

## 5. UI Reemployment Programs: Worker Profiling and Reemployment Services (WPRS) and Reemployment Services and Eligibility Assessments (RESEA)

**Compliance Requirements** The UI program serves as one of the principal “gateways” to the workforce system. It is often the first workforce program accessed by individuals who need workforce services. The WPRS and RESEA programs serve as UI’s primary programs that facilitate the reemployment needs of UI claimants.

WPRS, which is mandated by Section 303(j) of the Social Security Act, is designed to identify UI claimants who are most likely to exhaust their benefits and need

reemployment assistance to return to work, and refer them to appropriate reemployment services, such as: job search and job placement assistance; counseling; testing; provision of occupational and labor market information; and assessments. WPRS provides reemployment services to selected claimants through an early intervention process. The number of individuals served under WPRS is determined by the state (and/or local areas) based on its capacity to serve these individuals. UIPL No. 41-94 provides guidance on WPRS requirements.

RESEA is authorized by Section 306 of the Social Security Act and builds on the success of RESEA's predecessor, the former UI Reemployment and Eligibility Assessment (REA) program. RESEA uses an evidence-based integrated approach that combines an eligibility assessment for continuing UI eligibility and the provision of reemployment services. State administration of the RESEA is voluntary and under certain circumstances may be designed to also satisfy WPRS requirements. Operating guidance for the RESEA program is updated annually. UIPL 13-21 provides RESEA operating Guidance for FY 2021.

**Audit Objectives** To verify that states operate a WPRS or RESEA program that satisfies the WPRS mandate in accordance with federal requirements.

### **Suggested Audit Procedures**

- a. Verify that the state is operating a WPRS and/or RESEA program.
- b. If the state operates a WPRS, determine if the state's WPRS program components satisfy the following program components:
  - (1) Verify that the UI agency profiles all claimants to identify those likely to exhaust regular UI and in need of reemployment services.
  - (2) Verify that to the extent that reemployment services are available, the "identified" claimants will either be immediately referred to these services or placed in a selection pool from which a referral may later be made.
  - (3) Verify that services begin with an orientation session advising claimants of the availability and benefit of reemployment services, and, if appropriate, an individual assessment of each claimant's needs including referral to reemployment services tailored to the individual's needs.
  - (4) Verify that procedures and agreements are in place between UI and the reemployment service provider regarding: (1) the number of claimants to be referred to the provider and (2) the information the provider must forward to the UI agency.
- c. If the state operates a RESEA program, to comply with WPRS, determine if the state's RESEA program components satisfy WPRS requirements:

- (1) Verify that the state's procedure for selecting RESEA participants includes the profiling of all claimants to identify those likely to exhaust regular UI and in need of reemployment services.
  - (2) Verify that the state is providing RESEA services statewide. (A state is considered to be operating RESEA statewide if RESEA services are available in each Workforce Innovation and Opportunity Act designated local workforce development area.)
  - (3) Verify that the state operates a WPRS program in addition to the RESEA program if item one and/or two fails verification.
- d. For RESEA programs, determine if UI staff is engaged in the planning, administration, oversight, and training of eligibility issues.
- (1) Select a sub-sample of RESEA cases and perform the following:
    - (a) Verify that the state notice to claimant includes the RESEA's eligibility condition, requirements, benefits, and clear warnings regarding the consequences of failing to complete required elements and reasonable scheduling accommodations are provided.
    - (b) Verify that the UI staff have received feedback that the claimant reported as directed and participated in required RESEA activities.
    - (c) Verify that if UI eligibility issues are identified in the eligibility review, then they have been referred to UI for adjudication.
  - (2) Verify that UI staff provided training to RESEA service provider staff on UC eligibility requirements.
  - (3) Review state procedures and verify that UI staff review quarterly RESEA performance reports prior to submission.

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

State unemployment tax revenues and the governmental, tribal, and nonprofit reimbursements in lieu of state taxes (state UI funds) must be deposited to the UTF in the US 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, PUA, PEUC, FPUC, and MEUC must be included in the total expenditures of Assistance Listing 17.225 when determining Type A programs. Therefore, state UI funds must 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 Assistance Listing 17.225 is encouraged.

## DEPARTMENT OF LABOR

### ASSISTANCE LISTING 17.235 SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

#### I. PROGRAM OBJECTIVES

The Senior Community Service Employment Program (SCSEP) is the only federally funded program that targets older individuals 55 years and older who want to enter or reenter the workforce. SCSEP provides part-time subsidized work experience through community service assignments before transitioning program participants to unsubsidized employment. To be eligible for the SCSEP project program participants must be at least 55 years old, have a family income of no more than 125 percent of the federal poverty level, and considered not job ready. This program provides a significant source of work experience, skilled training, supportive services, and placement and employment opportunities to the participants.

#### 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 (FY) 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, US territories, and national grantees (public and private nonprofit entities other than political parties (Section 506 of the Older Americans Act)). The relative amount of funding for each type of eligible applicant is 22 percent to state and territorial agencies and 78 percent to national grantees. As a result of a national grantee competition conducted in 2016, there are now 19 national grantees. 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 reauthorized by Pub. L. No. 114-144 Older Americans Act Reauthorization Act of 2016 (OAA-2016). OAA implementing regulations are published at 20 CFR Part 641. For more information on SCSEP, visit <https://www.doleta.gov/seniors/>.

#### 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 have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, 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. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors**

**are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.**

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 & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	Y	N	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 134(c) 121(b) 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 subgrantee’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 US Congress or any state legislature (29 CFR section 641.850(c)) and 2 CFR section 200.450.
- 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 (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 six 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 US Department of Health and Human Services (42 USC 3056p). The poverty guidelines are issued each year in the *Federal Register* and the Department of Health and Human Services maintains the poverty guidelines at <https://aspe.hhs.gov/poverty-guidelines>. 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 that 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; or
- c. a project which is exempt by law (42 USC 3056(c)).

## 2. Level of Effort

### 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, subgrantee(s), or host agency(ies) without assistance from the Act 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

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)).

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)).

Grantees are required to negotiate their share in the infrastructure cost with required local partners in accordance with the Workforce Innovation and Opportunity Act (Final Rule 20 CFR 679.370(k))

## 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

- a. The grant recipient maintains a performance management system to manage, track, and measure performance and operating goals, indicators, milestones, and expected outcomes that comply with the terms and conditions of the award. The grant recipient adheres to OMB reporting package requirements for the grant awards including accurate, complete, and timely submission of reports that compare actual results to planned results, describes obstacles to achievement of grant objectives, and provides details on corrective actions.

Examine the grant recipient's most recently available performance reports. Compare actual performance with planned performance from the beginning of the grant period through the most recent quarter for each type of performance outcome identified in the grant.

Quarterly Narrative Reports (QNR) are submitted 45 days after the quarter closes. The most recently submitted QNR should be evaluated based on the actual activities and related results of the project for that period. The submitted narrative report should accurately reflect the current status of the project for the period and the progress to date in meeting its goals and/or objectives and the capacity to use performance data to evaluate and improve the quality of services, including if applicable, reasons why established goals were not met.

ETA-5140, SCSEP Quarterly Progress Report is generated by the department and accessible via the SCSEP Performance and Results QPR (SPARQ) online system and via <https://www.dol.gov/agencies/eta/seniors/performance> requires grantees must meet 80 percent of the agreed-upon level of performance for the

aggregate of all the core performance measures. Performance in the range of 80 percent to 100 percent constitutes meeting the level for the core performance measures.

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

1. *Section E.1* – The number of eligible individuals served. Defined as the total number of participants served divided by a grantee’s authorized number of positions, after adjusting for differences in minimum wage among the states and areas.
2. *Section E.2* – Hours (in the aggregate) of community service employment. Defined as the total number of hours of community service provided by SCSEP participants divided by the number of hours of community service funded by the grantee’s grant, after adjusting for differences in minimum wage among the states and areas. Paid training hours are excluded from this measure.
3. *Section E.3* – Most-in-need or the number of participating individuals described in OAA sec. 518(a)(3)(B)(ii) or (b)(2). Defined by counting the total number of the following characteristics for all participants and dividing by the number of participants served. Participants are characterized as most-in-need if they:
  - (1) Have a severe disability;
  - (2) Are frail;
  - (3) Are age 75 or older;
  - (4) Meet the eligibility requirements related to age for, but do not receive, benefits under title II of the Social Security Act (42 USC 401 et seq.);
  - (5) Live in an area with persistent unemployment and are individuals with severely limited employment prospects;
  - (6) Have limited English proficiency;
  - (7) Have low literacy skills;
  - (8) Have a disability;
  - (9) Reside in a rural area;

- (10) Are veterans;
  - (11) Have low employment prospects;
  - (12) Have failed to find employment after utilizing services provided under title I of the Workforce Innovation and Opportunity Act; or
  - (13) Are homeless or at risk for homelessness.
- 4. *Section E.4* – The percentage of project participants who are in unsubsidized employment during the second quarter after exit from the project. Defined by the formula: The number of participants who exited during the reporting period who are employed in unsubsidized employment during the second quarter after the exit quarter divided by the number of participants who exited during the reporting period multiplied by 100.
  - 5. *Section E.5* – The percentage of project participants who are in unsubsidized employment during the fourth quarter after exit from the project. Defined by the formula: The number of participants who exited during the reporting period who are employed in unsubsidized employment during the fourth quarter after the exit quarter divided by the number of participants who exited during the reporting period multiplied by 100.
  - 6. *Section E.6* – The median earnings of project participants who are in unsubsidized employment during the second quarter after exit from the project. Defined by the formula: For all participants who exited and are in unsubsidized employment during the second quarter after the exit quarter: The wage that is at the midpoint (of all the wages) between the highest and lowest wage earned in the second quarter after the exit quarter.
  - 7. *Section E.7* – Indicators of effectiveness in serving employers, host agencies, and project participants. Defined as the combined results of customer assessments of the services received by each of these three customer groups.

### 3. Special Reporting

- a. SCSEP is required to submit to the Department the Annual Equitable Distribution Report (ETA 8705 A and ETA 8705B), SCSEP positions by grantee and by state. State grantees in collaboration with the national grantees are required to submit a state report.

*Key Line Items* – The following line items contain critical information for ETA 8705A: Equitable Distribution Report (Grantee):

1. *Summary of variance* – Ensure the numbers in this section of the Equitable Distribution Report are consistent with the numbers/percentages/variance reported in the relevant modified position tables downloadable through the ETA System.
2. *Reasons for and significance of the variance* – Describe any significant variance and explain the possible reasons for the variance. Detail any challenges that affect your ability to meet and/or maintain ED. Identify if there is a history of noncompliance with ED in any area. Describe any administrative issues, subgrantee structure, or external factors unrelated to ED patterns (e.g., a change of subgrantee, natural disaster) contributing to the problem.
3. *Plan to improve ED in your grant during program year* – Explain your plans to reduce the variance in your grant during the program year. Provide concrete steps (consolidating positions by county, position swaps, attrition) to fix ED, particularly in difficult to serve areas such as rural counties, counties where there has been a significant historical inequity, and/or areas where there have been recent large increases in numbers of eligible persons.

*Key Line Items* – The following line items contain critical information for ETA 8705B: Equitable Distribution Report (state):

1. *Summary of variance* – Ensure the numbers in this section of the Equitable Distribution Report are consistent with the numbers/percentages/variance reported in the Modified Positions by state tables downloadable from the ETA System.
2. *Reasons for and significance of the variance* – Describe any significant variance and explain the possible reasons for the variance. Detail any collaboration among the state grantee and the national grantees within the state when addressing the variances by county statewide for all grantees. Describe challenges that affect your collective ability to meet and/or maintain ED in each county throughout the state. Identify if there is a history of noncompliance with ED in any area. Describe any administrative issues, grantee/subgrantee structure, or external factors unrelated to ED patterns (e.g., a change of subgrantee, natural disaster) contributing to the problem.
3. *Plan to improve ED in your grant during program year* – Explain your plans to reduce the variance in your state during the program

year. Describe how all SCSEP grantees will collectively work to reduce variances throughout the state. Highlight collaboration between the state grantee and the national grantees operating in the state. Provide concrete steps (consolidating positions by county, position swaps, attrition) to fix ED, particularly in difficult to serve areas such as rural counties, counties where there has been a significant historical inequity, and/or areas where there have been recent large increases in numbers of eligible persons.

**4. Special Reporting for Federal Funding Accountability and Transparency Act**

See Part 3.L for audit guidance.

**M. Subrecipient Monitoring**

- a. SCSEP recipients must ensure that organizations that are subrecipients under the Title V of the Older Americans Act 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 (OAA 502(c)(4)) (including cash management). Each recipient at a minimum must have a monitoring system which provides an annual on-site monitoring review of subrecipient compliance with DOL uniform administrative requirements, including the appropriate administrative requirements and cost principles for subrecipients and other entities receiving OAA funds. Recipient must ensure that subrecipients follow established requirements of the OAA, SCSEP Regulation, and Employment and Training Administration directives to achieve program quality and outcomes and must require prompt corrective action be taken if any substantial violations are identified as result of annual on-site monitoring.
- b. The recipient may issue additional requirements and instructions to subrecipients on monitoring activities.

OMB Control Number 1205-0040 authorizes the collection of the reports mentioned above.

## DEPARTMENT OF LABOR

### ASSISTANCE LISTING 17.245 TRADE ADJUSTMENT ASSISTANCE

#### I. PROGRAM OBJECTIVES

The purpose of the Trade Adjustment Assistance (TAA) program (TAA program) is to provide assistance to workers adversely affected by foreign trade. The TAA program provides adversely affected workers and adversely affected incumbent workers with opportunities to obtain skills, credentials, resources, and support to help them become reemployed.

#### II. PROGRAM PROCEDURES

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 Department of Labor (DOL) administers three versions of the TAA program to provide benefits to all workers covered by certifications of petitions: the 2002, 2009, and 2011/2015 programs, as the 2011 and 2015 programs have the same worker group eligibility and benefits provisions.

Funds are provided to State Workforce Agencies (SWAs) that serve as agents of DOL for administering the worker adjustment assistance provisions of the Trade Act. Funds are awarded for Training and Other Activities, which covers the costs of training, job search and relocation allowances, and related state administration and are available for workers covered by the 2002, 2009, and 2011/2015 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 RTAA (depending on the applicable program) wages supplements paid to participants are administered by the offices that carry out the UI program (see Assistance Listing 17.225 in this Supplement).

#### Source of Governing Requirements

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).



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.

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, and its Change 1 implementing the Trade Act of 2015.

### Availability of Other Program Information

Other 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 have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, 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. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.**

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 & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	N	N	N	N	Y	Y	N

**A. Activities Allowed or Unallowed**

1. *Activities Allowed*

The following requirements apply to TAA benefits.

a. *Trade Act of 2002, the Trade Acts of 2009, 2011, and 2015*

Allowable activities include job search assistance, relocation allowance, and training (including payments for transportation and subsistence when 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).

b. *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 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 two 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 eight 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

**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. 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

*Participant Individual Record Layout (PIRL) (OMB No. 1205-0521)* – 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. 10-16, Change 1, and TEGL No. 14-18).

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

- 1. *Employment Rate Second Quarter*: Section D.01 – Employment and Job Retention Data  
1602 – Employed in 2nd Quarter after Exit Quarter  
The percentage and number of participants who are in unsubsidized employment during the second quarter after exit from the program.
- 2. *Employment Rate Fourth Quarter*: Section D.01 – Employment and Job Retention Data  
1606 – Employed in 4th Quarter after Exit Quarter  
The percentage and number of participants who are in unsubsidized employment during the fourth quarter after exit from the program.
- 3. *Median Earnings*: Section D.02 – Wage Record Data  
1704 – Wages 2nd Quarter after Exit Quarter  
The median earnings of participants who are in unsubsidized employment during the second quarter after exit from the program.
- 4. *Credential Attainment*: Section D.03 – Education and Credential Data  
1800 – Type of Recognized Credential  
1801 – Date Attained Recognized Credential

- 1406 – Date Enrolled in Post Exit Education or Training Program (Section C.05 – Youth Program Services/Elements Not Captured Elsewhere)
- 1600 – Employed in 1st Quarter after Exit (Section D.01 – Employment and Job Retention Data)

The percentage of those participants enrolled in an education or training program (excluding those in on-the-job training and customized training) who attain a recognized postsecondary credential or a secondary school diploma, or its recognized equivalent, during participation in or within one year after exit from the program. A participant who has attained a secondary school diploma or its recognized equivalent is included in the percentage of participants who have attained a secondary school diploma or its recognized equivalent only if the participant also is employed or is enrolled in an education or training program leading to a recognized postsecondary credential within one year after exit from the program.

5. *Measurable Skills Gains*: Section D.03 – Education and Credential Data
- 1806 – Date of Most Recent Measurable Skills Gains: Educational Functioning Level
- 1807 – Date of Most Recent Measurable Skills Gains: Postsecondary Transcript/Report Card
- 1808 – Date of Most Recent Measurable Skills Gains: Secondary Transcript/Report Card
- 1809 – Date of Most Recent Measurable Skills Gains: Training Milestone
- 1810 – Date of Most Recent Measurable Skills Gains: Skills Progression

The percentage of program participants who, during the period, are in an education or training program that leads to a recognized postsecondary credential or employment and who are achieving measurable skill gains, defined as documented academic, technical, occupational, or other forms of progress, towards such a credential or employment.

### **3. Special Reporting**

Not Applicable

### **4. Special Reporting for Federal Funding Accountability and Transparency Act**

See Part 3.L for audit guidance.

**DEPARTMENT OF LABOR****ASSISTANCE LISTING 17.258 WIOA ADULT PROGRAM****ASSISTANCE LISTING 17.259 WIOA YOUTH ACTIVITIES****ASSISTANCE LISTING 17.278 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), also 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 US 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, who 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, with an emphasis on serving individuals with barriers to employment, 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 two years. Each local board, in partnership with the appropriate chief elected officials, develops, and submits a comprehensive four-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 Memorandum 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, nonprofit 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. For a complete list of additional partners, please refer to Section 121(b)(2)(B) of the WIOA.

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.

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.

### **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 DOL and Department of Education regulations found at 20 CFR parts 676 through 678.

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

Other information on programs authorized under the WIOA 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 have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, 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. **When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.****



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 & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	N	N	Y	N	Y	Y	N	N	Y	Y	N

## A. Activities Allowed or Unallowed

### 1. *Statewide Activities*

#### a. Administrative

- (1) 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).
- (2) 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).
- (3) 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).

#### b. Programmatic

- (1) Conducting statewide workforce development activities
  - (a) *Required statewide youth activities.* Administration of youth workforce development activities (Section 129(b)(1), WIOA, 128 Stat. 1506 et seq.).
  - (b) *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).
  - (c) *Required statewide adult dislocated worker 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).

- (d) *Other allowable statewide adult dislocated worker services.* Establishing and implementing innovative incumbent worker training programs (Section 134(a)(3), WIOA, 128 Stat. 1522 et seq.)
- (2) Providing support to local areas for the identification of eligible training providers (Section 122(a)(2), WIOA, 128 Stat. 1493).
- (3) Implementing innovative programs for displaced homemakers and programs to increase the number of individuals trained for and placed in nontraditional employment (Section 134(c)(3), WIOA, 128 Stat. 1528).
- (4) 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).
- (5) Disseminating the following:
  - (a) The state list of eligible training providers for adults and dislocated workers.
  - (b) Information identifying eligible training providers of on-the-job training (OJT) and customized training.
  - (c) Performance and program cost information about these providers.
  - (d) A list of eligible providers of youth activities (Section 122, WIOA, 128 Stat. 1492 et seq.)
- (6) 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).
- (7) Providing incentive grants (Section 134(a)(3)(A)(xi), WIOA, 128 Stat. 1524).
- (8) Providing technical assistance to local areas that fail to meet local performance measures (Section 129(b)(2)(E), WIOA, 128 Stat. 1508).

- (9) Assisting in the establishment and operation of AJC delivery systems, in accordance with the strategy described in the Unified State Plan.
- (10) Providing additional assistance to local areas that have high concentrations of eligible youth (Section 129(b)(1)(F), WIOA, 128 Stat. 1507).

2. *Local Activities*

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

- a. Funds must 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 19-16):
  - (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 provided by 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) Providing information on local area performance.
  - (9) Provision of information on availability of supportive services and assistance.

- (10) Provision of information and meaningful assistance to individuals seeking assistance in filing a claim for unemployment compensation.
  - (11) Providing assistance on financial aid eligibility 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). These services must be provided to participants after AJC staff determine that such services are required to retain or obtain employment, consistent with statutory priorities:
- (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 – When determined appropriate, 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 must 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; TEGL 19-16, 4. *Follow-up Services*, p. 5).
- f. Pay for Performance (PFP) – Pay for Performance (PFP) is a type of performance-based contract allowed under the WIOA that maximizes the likelihood that the government pays only for demonstrably effective services and may secure performance outcomes at a lower cost than might otherwise occur. Local WIOA funds set aside for PFP contract strategies remain available over an extended period, compared to the usual two-year limit for such funds, and are only paid to a service provider upon meeting certain performance outcome thresholds. If a local area opts to implement a PFP contract strategy, the contract must provide Adult and Dislocated Worker training services in WIOA Section 134(c)(3)(D) and/or Youth activities in Section 129(c)(2), as applicable. For the Adult and Dislocated Worker contract strategies, such services are the “allowable training” listed in WIOA Section 134(c)(3)(D), which includes occupational skills training, OJT, incumbent worker training, cooperative education, private sector training, skill upgrading and retraining, entrepreneurial training, transitional jobs, job readiness training, adult education and literacy activities, and customized training.

*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, 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 US Department of Agriculture;
  - (3) Employment and training activities to facilitate remote access to services provided through a 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 individuals with disabilities; and
  - (8) Improving coordination with other federal agency supported workforce development initiatives.
- d. Implementing PFP contract strategies for training services. PFP contract strategies include only the activities listed in the definition of PFP contracting strategies at WIOA Section 3(47), such as payments for performance outcomes and independent validation of results.
- 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).

*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) OJT 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;
- (15) PFP contract strategies must be used to provide Adult and Dislocated Worker training services in WIOA Section 134(c)(3) and/or Youth activities in Section 129(c)(2), as applicable. The Youth services include training and also tutoring, work experience, supportive services, counseling, entrepreneurship, labor market information, financial literacy, and other services listed in WIOA Section 129(c)(2).

A local area conducts a feasibility study or determination to identify the problem the project will address, the population that will be targeted, the services that will be provided, and the performance outcomes that will be used as criteria; and to estimate the acceptable cost to the government associated with achieving the projected performance outcomes. The state modifies its WIOA grant to set aside the funds that will be used for PFP and thus will have a longer obligation period and establishes financial controls to track this fund use at the local level. The local area begins its PFP project, including negotiating and awarding a PFP contract. The local PFP project recruits participants and provides services. An independent validator determines if the project has achieved its outcomes. The local area pays for any outcomes as named in its PFP contract. If outcomes have not been achieved, the local area does not pay for outcomes.

- 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 (e.g., 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).

*Waivers and Workforce-Flexibility*

- (1) 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).
- (2) 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.).

3. *WIOA, 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 OJT 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).

## **E. Eligibility**

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

#### **a. All Programs**

Selective Service – Participants between the ages of 18 and 26 need to register with the Military Selective Service, Section 3 (50 USC App. 453)) Such registration is also required by Section 189 (h), WIOA 113-128.

#### **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

**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 be 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).
- (3) 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).
- (4) At the discretion of the local board, not more than 10 percent of the total funds allocated to the local area under section 128(b) and under section 133(b)(2)-(3) may be used to implement a pay-for-performance contract strategy as defined in WIOA Section 3(47) (WIOA Section 129(c)(1)(D) and 134(d)(1)(A)(iii)).
- (5) As no state has received prior approval for implementation of a PFP contract strategy, no funds from the program years prior to PY 2019 are available for PFP contract strategies or for the accompanying extended disbursement. However, these funds could still be used for other types of performance-based contracting, but the life of those funds remains the normal two-year limit for local WIOA grant funds.

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).



## 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 two succeeding program years (29 USC 3249(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 two-year period must be returned to the state, which can use the funds for statewide projects during the third program year of availability. The state may also distribute the funds to local areas, which may have expended their original allocation and may need additional funds to complete their projects within the two-year period (29 USC 3249(g)(2)).

Funds used to carry out PFP contract strategies by local areas shall remain available until expended through procedures outlined in Attachment III of TEGL 8-20 (WIOA 189(g)(2)(D)).

## 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. Funds reserved and set aside for PFP contract strategies are required to be reported on ETA 9130 basic reports for each WIOA fund source utilized. 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/>; scroll down to the section on Financial Reporting. See TEGL 02-16 for specific and clarifying instructions about

the ETA 9130 at  
[https://wdr.doleta.gov/directives/corr\\_doc.cfm?DOCN=5156](https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5156).

## 2. Performance Reporting

*WIOA Participant Individual Record Layout (PIRL) (OMB No. 1205-0526)*

The report is used to report services, activities, and outcomes of service for all job seekers and veterans at

[https://www.doleta.gov/performance/pfdocs/ETA\\_9170\\_WIOA\\_PIRL\\_Final.pdf](https://www.doleta.gov/performance/pfdocs/ETA_9170_WIOA_PIRL_Final.pdf)

This report is submitted quarterly.

The WIOA Adult and Dislocated Worker Programs are responsible for reporting common WIOA performance indicators. *Key data elements* include:

- Data Element 1602 – Employed 2nd Quarter after Exit Quarter: is the percentage of program participants who are in unsubsidized employment during the second quarter after exit from the program (certain criteria apply);
- Data Element 1606 – Employed 4th Quarter after Exit Quarter: This element is the percentage of program participants who are in unsubsidized employment during the fourth quarter after exit from the program.
- Data Element 1704 – Median Earnings, Median Wages 2nd Quarter After Exit – is the median earnings of program participants who are in unsubsidized employment during the second quarter after exit from the program, as established through direct UI wage record match, federal or military employment records, or supplemental wage information. The median is the number that is in the middle of the series of numbers so that there is the same quantity of numbers above the median as there are below the median.
- Data Element 1800 – Credential Attainment Rate is the percentage of those participants enrolled in an education or training program (excluding those in OJT and customized training) who attained a recognized postsecondary credential or a secondary school diploma, or its recognized equivalent, during participation in or within one year after exit from the program.
- Data Element 1806 – Measurable Skill Gains is the percentage of participants who, during a program year, are in an education or training programs that lead to a recognized postsecondary credential or employment and who are achieving measurable skill gains, defined as documented academic, technical, occupational, or other forms of progress, towards such a credential or employment.

- Data Element 1618 – Effectiveness in Serving Employers. WIOA section 116(b)(2)(A)(i)(VI) requires the departments to establish a primary indicator of performance for effectiveness in serving employers. The departments have determined that this indicator will be measured as a shared outcome across all six core programs within each state to ensure a holistic approach to serving employers. The departments are initially implementing this indicator in the form of a pilot program to test the rigor and feasibility of the three proposed approaches, and to develop a standardized indicator. This indicator is reported on an annual basis; therefore, the reporting period for the effectiveness in serving employers indicators is the program year.
- The correct form numbers for reporting performance indicators are as follows:
  - Participant Reporting WIOA PIRL ETA-9170.
  - Statewide Performance Report WIOA PIRL ETA-9169.

WIOA Youth program grantees are responsible for reporting WIOA performance indicators as identified in WIOA Section 116(a)(2)(A)(ii) which includes:

- Data Element 1900 – Employed, or in Education or Training Activities in the 2nd Quarter after Exit is the percentage of title I youth program participants who are in education or training activities, or in unsubsidized employment, during the second quarter after exit from the program.
- Data Element 1901 – Employed, or in Education or Training Activities in the 4th Quarter after Exit is the percentage of program participants who are in education or training activities, or in unsubsidized employment, during the fourth quarter after exit from the program.
- Data Element 1704 – Median Earnings, see above.
- Data Element 1800 – Credential Attainment Rate, see above.
- Data Element 1806 – Measurable Skill Gains, see above.
- Data Element 1618 – Effectiveness in Serving Employers, see above.

For additional information, on WIOA performance reporting, including results, requirements, and information about the Workforce Integrated Performance System (WIPS), you may visit <https://www.dol.gov/agencies/eta/performance/results>. At this link, you will find program data collected quarterly and annually.

**3. Special Reporting**

Not Applicable

**4. Special Reporting for Federal Funding Accountability and Transparency Act**

See Part 3.L for audit guidance.

**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

### ASSISTANCE LISTING 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 four-year program plans for operating the NFJP in state, substate, 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 four-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 have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject**

to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, 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. **When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.**

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 & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	Y	N	N	N	Y	Y	N	N

**A. Activities Allowed or Unallowed**

1. Activities allowed are in accordance with a service delivery strategy described in the grantee’s approved four-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)).

## **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 nonprofit 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/>; scroll down to the section on Financial Reporting. See TEGl 02-16 for specific and

clarifying instructions about the ETA 9130 at  
[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

**4. Special Reporting for Federal Funding Accountability and Transparency Act**

See Part 3.L for audit guidance.

## DEPARTMENT OF LABOR

### ASSISTANCE LISTING 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) 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 four-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 have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, 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. **When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.**

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 & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	Y	N	N	N	Y	Y	N	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 section 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 ages 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 5 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)).

**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 nonprofit 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 at [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).

See ETA Form 9084 located at

<https://www.dol.gov/sites/dolgov/files/ETA/dinap/pdfs/ETA-Form-9084-and-Instructions.pdf>.

*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 socioeconomic characteristics of participants. Grantees receiving these funds are required to submit a semiannual 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).



See ETA Form 9085 located at

<https://www.dol.gov/sites/dolgov/files/ETA/dinap/pdfs/ETA-Form-9085-and-Instructions.pdf>.

*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

**4. Special Reporting for Federal Funding Accountability and Transparency Act**

See Part 3.L for audit guidance.

**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 Assistance Listing 17.265, including the Tribal Economic Development Principles-at-a-Glance Series, How Public Law 102-477 May Be Used to Create Economic Development Opportunities found at [How Public Law 102-477 May Be Used To Create Economic Development Opportunities \(bia.gov\)](https://www.indianaffairs.gov/bia/ois/dwd). Further information may be found at the index page: <https://www.indianaffairs.gov/bia/ois/dwd>.

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.