

be changed through grant modifications, if necessary.

(c) National emergency grants may provide for supportive services to help workers who require such assistance to participate in activities provided for in the grant. Needs-related payments, in support of other employment and training assistance, may be available for the purpose of enabling dislocated workers who are eligible for such payments to participate in programs of training services. Generally, the terms of a grant must be consistent with Local Board policies regarding such financial assistance with formula funds (including the payment levels and duration of payments). However, the terms of the grant agreement may diverge from established Local Board policies, for example:

(1) If unemployed dislocated workers served by the project are not able to meet the 13 or 8 weeks enrollment in training requirement at WIA section 134(e)(3)(B) because of the lack of formula or emergency grant funds in the State or local area at the time of dislocation, such individuals may be eligible for needs-related payments if they are enrolled in training by the end of the 6th week following the date of the emergency grant award; and

(2) Trade-impacted workers who are not eligible for trade readjustment assistance under NAFTA-TAA may be eligible for needs-related payments under a national emergency grant if the worker is enrolled in training by the end of the 16th week following layoff.

(d) A national emergency grant to respond to a declared emergency or natural disaster, as defined at § 671.110(e) of this subpart, may provide short-term disaster relief employment for:

(1) Individuals who are temporarily or permanently laid off as a consequence of the disaster;

(2) Dislocated workers; and

(3) Long-term unemployed individuals.

(e) Temporary employment assistance is authorized on disaster projects that provide food, clothing, shelter and other humanitarian assistance for disaster victims; and on projects that perform demolition, cleaning, repair, renovation and reconstruction of damaged and destroyed structures, facilities and lands located within the disaster area. For such temporary jobs, each eligible worker is limited to no more than six months of employment for each single disaster. The amounts, duration and other limitations on wages will be negotiated for each grant.

(f) Additional requirements that apply to national emergency grants, including

natural disaster grants, are contained in the application instructions.

**§ 671.150 How do statutory and workflex waivers apply to national emergency grants?**

(a) Application of existing general statutory or regulatory waivers and workflex waivers to National Emergency Grants may be requested by State and Local Board grantees, and approved by the Department for a National Emergency Grant award. The application for grant funds must describe any statutory waivers which the applicant wishes to apply to the project that the State and Local Board, as applicable, have been granted under its waiver plan, or that the State has approved for implementation in the applicable local area under workflex waivers. The Department considers such requests as part of the overall application review and decision process.

(b) If, during the operation of the project, the grantee wishes to apply a waiver not identified in the application, the grantee must request a modification which includes the provision to be waived, the operational barrier to be removed and the effect upon the outcome of the project.

**§ 671.160 What rapid response activities are required before a national emergency grant application is submitted?**

(a) Rapid response is a required Statewide activity under WIA section 134(a)(2)(A), to be carried out by the State or its designee in collaboration with the Local Board(s) and chief elected official(s). Pursuant to 20 CFR 665.310, rapid response encompasses, among other activities, an assessment of the general needs of the affected workers and the resources available to them.

(b) In accordance with national emergency grant application guidelines published by the Department, each applicant must demonstrate that:

(1) The rapid response activities described in 20 CFR 665.310 have been initiated and carried out, or are in the process of being carried out;

(2) State and local funds, including those made available under section 132(b)(2)(B) of the Act, have been used to initiate appropriate services to the eligible workers;

(3) There is a need for additional funds to effectively respond to the assistance needs of the workers and, in the case of declared emergencies and natural disasters, the community; and

(4) The application has been developed by or in conjunction with the Local Board(s) and chief elected

official(s) of the local area(s) in which the proposed project is to operate.

**§ 671.170 What are the program and administrative requirements that apply to national emergency grants?**

(a) In general, the program requirements and administrative standards set forth at 20 CFR parts 663 and 667 will apply.

(b) Exceptions include:

(1) Funds provided in response to a natural disaster may be used for temporary job creation in areas declared eligible for public assistance by FEMA, subject to the limitations of WIA section 173(d), this subpart and the application guidelines issued by the Department;

(2) National emergency grant funds may be used to pay an appropriate level of administrative costs based on the design and complexity of the project. Administration costs are negotiated between the applicant and the Department as part of the application review and grant award and modification processes;

(3) The period of availability for expenditure of funds under a national emergency grant is specified in the grant agreement.

(4) The Secretary may establish supplemental reporting, monitoring and oversight requirements for national emergency grants. The requirements will be identified in the grant application instructions or the grant document.

(5) The Secretary may negotiate and fund projects under terms other than those specified in this subpart where it can be clearly demonstrated that such adjustments will achieve a greater positive benefit for the workers and/or communities being assisted.

**PART 652—ESTABLISHMENT AND FUNCTIONING OF STATE EMPLOYMENT SERVICES**

1. The authority citation for part 652 continues to read as follows:

**Authority:** 29 U.S.C. 49k.

2. Section 652.1 is amended by revising paragraph (a), and in paragraph (b), by adding the definition of *State Workforce Investment Board (State Board)* and the definition of *WIA*, by revising the definition of *State agency*, and by removing the definition of *Director*, to read as follows:

**§ 652.1 Introduction and definitions.**

(a) These regulations implement the provisions of the Wagner-Peyser Act, known hereafter as the Act, as amended by the Workforce Investment Act of 1998 (WIA). Congress intended that the States exercise broad authority in implementing provisions of the Act.

(b) \* \* \*

*State Agency* means the State governmental unit designated under section 4 of the Act to cooperate with the Secretary in the operation of the public employment service system.

*State Workforce Investment Board (State Board)* means the entity within a State appointed by the Governor under section 111 of the Workforce Investment Act.

*WIA* means the Workforce Investment Act of 1998 (29 U.S.C. 2801 *et seq.*).

3. Section 652.3 is amended by revising paragraph (d) to read as follows:

**§ 652.3 Basic labor exchange system.**

\* \* \* \* \*

(d) To participate in a system for clearing labor between the States, including the use of standardized classification systems issued by the Secretary, under section 15 of the Act; and.

\* \* \* \* \*

4. Section 652.5 is revised to read as follows:

**§ 652.5 Services authorized.**

The sums allotted to each State pursuant to section 6 of the Act shall be expended consistent with an approved plan under 20 CFR 660.100–660.104 and §§ 652.222–214 of this part. At a minimum, each State shall provide the basic labor exchange elements at § 652.3 of this part.

**§§ 652.6 and 652.7 [Removed and reserved]**

5. Sections 652.6 and 652.7 are removed and reserved.

**§ 652.8 [Amended]**

6. Section 652.8 is amended in paragraph (j)(1) by removing the phrase “29 CFR part 31.” and adding “the applicable DOL nondiscrimination regulations.” and in paragraph (j)(5) by removing the phrase “the provisions of 29 CFR parts 31 and 32.” and adding “the applicable DOL nondiscrimination regulations.”

7. Subpart C is added to read as follows:

**Subpart C—Wagner-Peyser Act Services in a One-Stop Delivery System Environment**

Sec.

652.200 What is the purpose of this subpart?

652.201 What is the role of the State Agency in the One-Stop delivery system?

652.202 May local Employment Service Offices exist outside the One-Stop delivery system?

652.203 Who is responsible for funds authorized under the Act in the workforce investment system?

652.204 Must funds authorized under section 7(b) of the Act (the Governor’s reserve) flow through the One-Stop delivery system?

652.205 May funds authorized under the Act be used to supplement funding for labor exchange programs authorized under separate legislation?

652.206 May a State use funds authorized under the Act to provide “core services” and “intensive services” as defined in WIA?

652.207 How does a State meet the requirement for universal access to services provided under the Act?

652.208 How are core services and intensive services related to the methods of service delivery described in § 652.207(b)(2)?

652.209 What are the requirements under the Act for providing reemployment services to referred UI claimants?

652.210 What are the Act’s requirements for administration of the work test and assistance to UI claimants?

652.211 What are State planning requirements under the Act?

652.212 When should a State submit modifications to the five-year plan?

652.213 What information must a State include when the plan is modified?

652.214 How often may a State submit modifications to the plan?

652.215 Do any provisions in WIA change the requirement that publicly funded merit-staff employees must deliver services provided under the Act?

652.216 May the One-Stop operator provide guidance to a merit-staffed employee under the Act?

**Subpart C—Wagner-Peyser Act in a One-Stop Delivery System Environment**

**§ 652.200 What is the purpose of this subpart?**

(a) This subpart provides guidance to States to implement the services provided under the Act, as amended by WIA, in a One-Stop delivery system environment.

(b) Except as otherwise provided, the definitions contained in this part 652 and section 2 of the Act apply to this subpart.

**§ 652.201 What is the role of the State Agency in the One-Stop delivery system?**

(a) The role of the State Agency in the One-Stop delivery system is to ensure the delivery of services authorized under section 7(a) of the Act. The State Agency is a required One-Stop partner in each local One-Stop delivery system and is subject to the provisions relating to such partners that are described at 20 CFR part 662.

(b) Consistent with those provisions, the State agency must:

(1) Participate in the One-Stop delivery system in accordance with section 7(e) of the Act;

(2) Be represented on the Workforce Investment Boards that oversee the local and State One-Stop delivery system and be a party to the Memorandum of Understanding described at 20 CFR 662.300 addressing operational issues of the One-Stop delivery system; and

(3) Provide these services as part of the One-Stop delivery system.

**§ 652.202 May local Employment Service Offices exist outside the One-Stop delivery system?**

(a) No.

(b) However, local Employment Service Offices may operate as affiliated sites, or through electronically or technologically linked access points as part of the One-Stop delivery system, provided the following conditions are met:

(1) All labor exchange services are delivered as a part of the local One-Stop delivery system in accordance with section 7(e) of the Act;

(2) The services described in paragraph (b)(1) of this section are available in at least one physical center from which job seekers and employers can access them; and

(3) The Memorandum of Understanding between the State Agency local One-Stop partner and the Local Workforce Investment Board meets the requirements of § 662.300.

**§ 652.203 Who is responsible for funds authorized under the Act in the workforce investment system?**

The State Agency retains responsibility for all funds authorized under the Act, including those funds authorized under section 7(a) required for providing the services and activities delivered as part of the One-Stop delivery system.

**§ 652.204 Must funds authorized under section 7(b) of the Act (the Governor’s reserve) flow through the One-Stop delivery system?**

No. These funds are reserved for use by the Governor for the three categories of activities specified in section 7(b) of the Act. However, these funds may flow through the One-Stop delivery system.

**§ 652.205 May funds authorized under the Act be used to supplement funding for labor exchange programs authorized under separate legislation?**

(a) Section 7(c) of the Act enables States to use funds authorized under section 7(a) or 7(b) of the Act to supplement funding of any workforce activity carried out under WIA.

(b) Funds authorized under the Act may be used under section 7(c) to

provide additional funding to other activities authorized under WIA if:

- (1) The activity meets the requirements of the Act, and its own requirements;
- (2) The activity serves the same individuals as are served under the Act;
- (3) The activity provides services that are coordinated with services under the Act; and
- (4) The funds supplement, rather than supplant, funds provided from non-Federal sources.

**§ 652.206 May a State use funds authorized under the Act to provide "core services" and "intensive services" as defined in WIA?**

Yes. Funds authorized under section 7(a) of the Act must be used to provide core services as defined at 20 CFR 663.150 and may be used to provide intensive services as defined at 20 CFR 663.200. Funds authorized under section 7(b) of the Act may be used to provide core or intensive services. Core and intensive services must be provided consistent with the requirements of the Act.

**§ 652.207 How does a State meet the requirement for universal access to services provided under the Act?**

(a) A State has discretion in how it meets the requirement for universal access to services provided under the Act. In exercising this discretion, a State must meet the Act's requirements.

(b) These requirements are:

(1) Labor exchange services must be available to all employers and job seekers, including unemployment insurance (UI) claimants, veterans, migrant and seasonal farm workers, and individuals with disabilities;

(2) The State must have the capacity to deliver labor exchange services to employers and job seekers, as described in the Act, on a Statewide basis through:

- (i) Self-service,
- (ii) Facilitated self-help service; and
- (iii) Staff-assisted service;

(3) In each Workforce Investment Area, in at least one physical center, staff funded under the Act must provide core and applicable intensive services including staff-assisted labor exchange services.

(4) Those labor exchange services provided under the Act in a Workforce Investment Area must be described in the Memorandum of Understanding.

**§ 652.208 How are core services and intensive services related to the methods of service delivery described in § 652.207(b)(2)?**

Core services and intensive services may be delivered through any of the three methods of service delivery

described in § 652.207(b)(2). These methods are:

- (a) Self-service;
- (b) Facilitated self-help services; and
- (c) Staff-assisted service.

**§ 652.209 What are the requirements under the Act for providing reemployment services to referred UI claimants?**

In accordance with section 3(c)(3) of the Act, a State must provide reemployment services to UI claimants for whom such services are required as a condition for receipt of UI benefits. The State Agency, through the One-Stop delivery system, must provide reemployment services to UI claimants. Services must be appropriate to the needs of the UI claimants who are referred to reemployment services under any Federal or State UI law and must be provided to the extent that funds are available.

**§ 652.210 What are the Act's requirements for administration of the work test and assistance to UI claimants?**

(a) State UI law or rules establish the requirements under which UI claimants must register and search for work in order to fulfill the UI work test requirements.

(b) Staff funded under the Act must assure that:

(1) UI claimants receive the full range of labor exchange services available under the Act that are necessary and appropriate to facilitate their earliest return to work;

(2) UI claimants requiring assistance in seeking work receive the necessary guidance and counseling to ensure they make a meaningful and realistic work search; and

(3) UI program staff receive information about a UI claimant's ability or availability for work, or the suitability of work offered to them.

**§ 652.211 What are State planning requirements under the Act?**

The State Agency designated to administer funds authorized under the Act must prepare and submit a five-year Statewide plan for the delivery of services provided under the Act in accordance with WIA regulations at 20 CFR 661.220. The State Plan must contain a detailed description of services that will be provided under the Act, which are adequate and reasonably appropriate for carrying out the provisions of the Act, including the requirements of section 8(b) of the Act.

**§ 652.212 When should a State submit modifications to the five-year plan?**

(a) A State has the authority to submit modifications to the five-year plan as necessary during the five-year period,

and to do so in accordance with the same collaboration, notification, and other requirements that apply to the original plan. Modifications are likely to be needed to keep the strategic plan a viable and living document over its five-year life.

(b) That portion of the plan addressing the Act must be updated to reflect any reorganization of the State Agency designated to deliver services under the Act, any change in service delivery strategy, any change in levels of performance, or any change in services delivered by public merit-staff employees.

**§ 652.213 What information must a State include when the plan is modified?**

A State must follow the instructions for modifying the strategic five-year plan as addressed in 20 CFR 661.230.

**§ 652.214 How often may a State submit modifications to the plan?**

A State may modify its plan as changes occur in Federal or State law or policies, Statewide vision or strategy, or if changes in economic conditions occur. A State must submit modifications to adjust service strategies if performance goals are not met.

**§ 652.215 Do any provisions in WIA change the requirement that publicly funded merit-staff employees must deliver services provided under the Act?**

No. The Secretary has the legal authority to set staffing standards and requirements to ensure the effective delivery of services provided under the Act. The Secretary requires that labor exchange services provided under authority of the Act, to include services to veterans, be provided by public merit-staff employees. This interpretation is authorized by and consistent with the provisions in sections 3(a) and 5(b) of the Act and the Intergovernmental Personnel Act.

**§ 652.216 May the One-Stop operator provide guidance to a merit-staffed employee under the Act?**

Yes. The One-Stop system envisions a partnership in which Wagner-Peyser Act labor exchange services are coordinated with other activities provided by other partners in a One-Stop setting. As part of the local Memorandum of Understanding, One-Stop partners may agree to have staff receive guidance from the One-Stop operator regarding the provision of labor exchange services. Personnel matters, including compensation, personnel actions, terms and conditions of employment, performance appraisals, and accountability of merit-staff employees funded under the Wagner-

Peysner Act, remain under the authority of the State Agency (including such matters that are delegated to any other public agency). Such guidance given to employees must be consistent with the provisions of the Wagner-Peyser Act.

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