



# KWIB Executive Committee Meeting

**DRAFT MINUTES**

**September 28, 2022; 11am – 12:30pm EST**

**In person or Via zoom** - Join from PC, Mac, Linux, iOS or Android: Join from PC, Mac, Linux, iOS or Android: <https://us06web.zoom.us/j/88413032827?pwd=ZE1Y3I5YndVSDRMSGJpYUEwNIRnQT09>  
Password: v6QA4W

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**IN-person MEMBERS PRESENT:** Kim Menke, Kevin Smith, **Virtual MEMBERS PRESENT** – Heidi Margulis, Beth Davisson, Scott Pierce, Amy Luttrell

**OTHERS PRESENT:** Commissioner Kish Cumi Price, Adrian Jacobs, Scott McFarlan, Fran Farris, Scott Secamiglio, Sara Jagers, Tess (OLLS), Debbie Dennison

## **11:01AM CALL TO ORDER**

**Kim Menke, KWIB Chair** called the meeting to order and welcomed everyone.

Minutes from previous meeting were provided to the group in the pre-read packet; Kim asked if there were any changes. No changes **Heidi Margulis** moved to approve; was seconded by Beth Davisson. *Motion carried* unanimously with no discussion or none dissenting.

Mr. Menke introduced **Dr. Kish Cumi Price, Commissioner of the Department of Workforce Development (DWD) within the Education and Labor Cabinet (ELC)** to share updates with the committee. Commissioner Price shared that discussions are on-going to replace Stefanie Ebbens Kingsley and she welcomed suggestions and reminded the committee that the position is Governor-appointed. She noted that Debbie Dennison, Deputy Executive Director, will be designated as Acting Executive Director until one is newly appointed by the Governor. Beth Brindley will begin officially on October 1, 2022, as Deputy Secretary of the ELC. Commissioner Price also lifted that a vacancy exists for the Executive Director within the Career Development Office.

The cabinet has been working on a new **labor exchange system** that will connect to Kee Suite and modernize how state government is working and tracking within the workforce ecosystem. **Rachel Adams** has been named the superuser for **LinkedIn** and can engage the KWIB in training if requested. The Commissioner updated the work being done in Eastern Kentucky from the flood devastation and the cabinet is looking at support options available as weather changes. Additionally, the Commissioner congratulated Amy Luttrell and Goodwill in the planned **ribbon cutting for the Opportunity Excel Center in Louisville, KY**. Current opportunity centers are open in: Corbin, Pikeville, Bowling Green, Lexington, Paducah, Louisville, Morehead, and Somerset.

Discussion was had around prioritizing the characteristics of the next Executive Director of the KWIB to include someone with prior workforce knowledge and experience, a spirit of innovation while learning from the past, and to include continuous collaboration with workforce partners in the ecosystem. Casting a wide net is an option and Commissioner Price added that feedback will be taken into consideration and the position is a governor-appointed position.

Draft policies included in pre-read have been sent to the Local WIB Directors and feedback is being gathered by Scotty McFarlan and his team. He will circulate a more condensed matrix or word doc of the information being received, drawing attention to specific verbiage being questioned prior to next review by the Executive Committee and the KWIB.

Discussion was had about how to best communicate the reasons and goals of these policies. Department of Labor is requesting better benchmarking and more structure for auditing the effectiveness of our workforce development processes. Collaboration and partnership will be key to this process.

Kim Menke, Chair thanked the committee for their candor and discussion.

**11:56 AM      ADJOURNMENT**

Mr. Menke asked for any new business, and as there was none, adjourned the meeting.

DRAFT



**KWIB**  
**Executive Committee**  
**Meeting**

**AGENDA**  
**September 28, 2022**  
**11am – 12:30pm EST**

**Hybrid – Zoom or in-person 500 Mero Street**

Join from PC, Mac, Linux, iOS or Android:

<https://us06web.zoom.us/j/83819583411?pwd=eGF1b2JCRC93RGJUbGpxTUR4YnRZZz09>

Password: 2GWuk5

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- Call Meeting to Order / Welcome  
*Kim Menke, Chair, TMMK*
  
  - Review / Approval of Minutes from last meeting 08/10/22  
*Kim Menke, Chair, TMMK*
  
  - Cabinet updates  
*Dr. Kish Cumi Price, Commissioner  
Department of Workforce Development*
  
  - Draft Policy Discussion  
*Scotty McFarlan, Deputy General Counsel  
Adrian Jacob, Staff Attorney  
Department of Office of Legal and Legislative Affairs (OLLS)*
  
  - New Business  
*Kim Menke, Chair*
  
  - Adjournment  
*Kim Menke, Chair*

COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF WORKFORCE DEVELOPMENT  
AND  
KENTUCKY WORKFORCE INNOVATION BOARD

**GUIDANCE NAME:** WIOA Layoff Aversion

**GUIDANCE NUMBER:** 16-001  
**DATE OF ISSUE:** Reissued [REDACTED], 2022  
**EFFECTIVE DATE:** April 1, 2016

**APPLIES/OF INTEREST TO:** Kentucky Career Center (KCC) Staff and Local Workforce Development Area (LWDA) staff

**POINT OF CONTACT:** The Office of Employer & Apprenticeship Services (OEAS), Email: [workforce@kv.gov](mailto:workforce@kv.gov)

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**HISTORY:** Initially issued 4/1/2016 in preliminary form; reissued [REDACTED], 2022 with no substantive change, thus effective date remains.

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**BACKGROUND:** Layoff aversion is one of the required early intervention business services that the local area business services team providing services must make available. Layoff aversion saves jobs, increases economic productivity, decreases negative impacts of unemployment, and ensures more resources are available to provide comprehensive services to those individuals with greater needs.

Under WIOA, Rapid Response services are designed to be proactive layoff aversion services. Rapid Response benefits employers by helping them prepare for and manage economic transition and related workforce challenges.

Per 20 CFR 682.310, WIOA instructs Rapid Response activities to be carried out by the State or an entity designated by the State in conjunction with the Local Workforce Development Boards, chief elected officials, and other stakeholders. In Kentucky, OEAS is the established unit designated to work with local Rapid Response coordinators and the workforce development systems in the administration of WIOA and business service team's layoff aversion/ Rapid Response programs. OEAS jointly works with Kentucky's Business Service Teams Rapid Response programs to ensure compliance with federal and state requirements. Detailed operation descriptions and procedural guidelines are found in this guidance.

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**PURPOSE:** The purpose of this guidance is to outline layoff aversion strategies when funding is being used to support layoff aversion activities.

OEAS, a partner in the Kentucky Career Center, is committed to providing workforce development solutions throughout the business cycle to all of its customers and can do so with delivery of layoff aversion strategies intended to avert or mitigate employer layoffs and/or closure.

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## **GUIDANCE:**

### **Layoff Aversion Strategies**

WIOA considers a layoff averted when:

1. A worker's job is saved with an existing employer that is at risk of downsizing or closing;
2. A worker at risk of dislocation transitions to a different job with the same employer;
3. A worker at risk of dislocation transitions to a new job with a different employer and experiences no or a minimal period of unemployment.

A local Business Services Team coordinates with community partners, in the local workforce development area and economic development area, to identify at-risk companies and develop a customized plan to address each company's unique set of circumstances. Layoff aversion strategies are effective tools to assist employers in developing the skilled workforce necessary to adapt to the changing economy, to stay in business, and to retain employees.

These layoff aversion strategies, as outlined in 20 CFR 682.320, include, but are not limited to:

1. Providing assistance to employers in managing reductions in force, which may include:
  - a. Early identification of firms at risk of layoffs (e.g., early warning networks or trend monitoring)
  - b. Assessment of the needs of and options for at-risk firms (e.g., asset mapping, employee buy-outs, or succession planning); and
  - c. The delivery of services to address these needs, as provided by section 134(d)(1)(A)(ix)(II)(cc);
2. Ongoing engagement, partnership, and relationship building activities with businesses in the community, in order to create an environment for successful layoff aversion efforts and to enable the provision of assistance to dislocated workers in obtaining reemployment as soon as possible;
3. Funding feasibility studies to determine if a company's operations may be sustained through a buyout or other means to avoid or minimize layoffs;
4. Developing and managing rapid response incumbent worker training (RRIWT) programs or other worker skills upgrading approaches;
  - a. Employers may benefit from the following types of training for incumbent workers:

- Skills upgrade training
  - Customized training
  - Occupational skills training
- b. Local areas may apply for Rapid Response Additional Assistance Layoff Aversion funds to support an incumbent worker project as part of a layoff aversion strategy. To apply for these funds, local areas must send a request for Rapid Response Additional Assistance by specifically selecting the funding type of “Layoff Aversion.” Per guidance, the following information is needed to be sent to the Office of Employer & Apprenticeship Services in the Department of Workforce Investment, Education and Workforce Development Cabinet:
- Copy of the company’s request/application to the local area,
  - Letter to OEAS requesting the funds including attachment A of the RRAA guidance,
  - Justification that supports funds will be used for layoff aversion, and
  - Description of the incumbent worker training to be provided;
5. Connecting companies to:
- a. Program such as On the Job Training (OJT), Work Experience, Incumbent Worker Training (IWT) or other programs designed to prevent layoffs or to quickly reemploy dislocated workers;
  - b. Financial incentive programs from the Kentucky Economic Development Finance Authority, such as the Kentucky Reinvestment Act (KRA). KRA provides tax credits to an existing Kentucky company engaged in manufacturing and related functions on a permanent basis for a reasonable period of time that will be investing in eligible equipment and related costs of at least \$2,500,000 while agreeing to maintain at least 85% of their full-time employment base (KRS 154.34). For more information see <https://ced.ky.gov/kyedc/pdfs/KRAFactSheet.pdf?35>;
  - c. Employer loan programs for employee skill upgrading; and
  - d. Other Federal, State, or local resources as necessary to address other business needs that cannot be funded with resources provided under this title;
6. Establishing linkages with economic development activities at the Federal, State, and local levels, including Federal Department of Commerce programs and available State and local business retention and expansion activities;
7. Partnering or contracting with business-focused organizations to assess risks to companies, propose strategies to address those risks, implement services, and measure impacts of services delivered;
8. Conducting analyses of the suppliers of an affected company to assess their risks and vulnerabilities from a potential closing or shift in production of their major customer;
9. Engaging in proactive measures to identify opportunities for potential economic transition and training needs in growing industry sectors or expanding businesses;
10. Connecting businesses and workers to short-term, on-the-job, or customized training

programs and apprenticeships before or after layoff to help facilitate rapid reemployment;  
and

11. Last, providing Rapid Response services thru the LWDA Rapid Response team per the Kentucky Career Center Rapid Response Manual.

Based upon a thorough needs assessment, it may be determined that an employer could be better served through a program not funded by WIOA. Therefore, it is important to gather sufficient information and work with the Local Business Services team and networks to determine the appropriate mix of services to meet the employers' needs.

Furthermore, WIOA funds for layoff aversion activities should be used to establish or develop layoff aversion strategies; the funds are not to be used for the maintenance of such strategies. The goal is to develop a layoff aversion strategy that will become self-sustaining.

#### Reporting Requirements:

- Rapid Response should be tracked per the Kentucky Career Center Rapid Response Manual.
- Each layoff aversion strategy should be entered and tracked on the employer customer management system of record. LWDAs may choose to collect more information to conduct successful programs.
- LWDAs can choose to collect and document data over and above these requirements to ensure a holistic view of the affected company and/or services provided.

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#### REFERENCES:

- Workforce Innovation and Opportunity Act §134, Pub. L. 113-128
  - 20 CFR §§682.300-682.370
  - USDOL, Training and Employment Guidance Letter 3-15
  - USDOL, Training and Employment Guidance Letter 19-16
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# GUIDANCE

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COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF WORKFORCE DEVELOPMENT  
AND  
KENTUCKY WORKFORCE INNOVATION BOARD

**GUIDANCE NAME:** Workforce Innovation and Opportunity Act (WIOA) Guidance on Requesting Rapid Response Additional Assistance (RRAA) Funding

**GUIDANCE NUMBER:** 16-002

**DATE OF ISSUE:** Reissued [REDACTED], 2022

**EFFECTIVE DATE:** April 1, 2016

**APPLIES/OF INTEREST TO:** Kentucky Career Center (KCC) Staff and Local Workforce Development Area (LWDA) staff

**POINT OF CONTACT:** Office of Employer and Apprenticeship Services, Email: [workforce@ky.gov](mailto:workforce@ky.gov)

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**HISTORY:** Initially issued 4/1/2016; reissued [REDACTED] / [REDACTED] /2022 with no substantive change, thus effective date remains.

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**PURPOSE:** The Workforce Innovation and Opportunity Act (WIOA) identifies, as a required statewide rapid response activity, the provision of additional assistance to local areas that experience disasters, mass layoffs, plant closings, or other events that precipitate substantial increases in the number of locally unemployed individuals. This guidance describes the allowable uses of and the State process to apply for RRAA funds.

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**BACKGROUND:** Under 20 CFR 682.350, States can reserve up to 25 percent of WIOA Title I Dislocated Worker allotments to carry out statewide rapid response activities. The Cabinet will determine the percentage to be withheld after an annual review of three years of trend data. Once the State has reserved funds sufficient for rapid response activities, such as described in 20 CFR §§ 682.310, 682.320, and 682.330, remaining funds may be provided to local areas that have experienced increased unemployment due to natural disasters, mass layoffs or other events. The funds are to be used for provision of direct career services to participants if adequate local funds are not available to assist the dislocated workers. States may establish policies or procedures governing the provision of additional assistance as described in 20 CFR 682.340.

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**GUIDANCE:**

Per the Background provided, local areas may only request RRAA funds when having insufficient resources to address events such as disasters, mass layoffs or plant closings, or other events that precipitate a substantial increase in the number of unemployed individuals. LWDAs may only request RRAA funds when WIOA Title I Dislocated Worker formula funds are insufficient to assist workers impacted by a layoff event (WIOA Title I Dislocated Worker funds insufficiency is defined as a 70% obligation rate).

“Obligations” as defined in 29 CFR 97.3 and 29 CFR 95.2, are an “amount of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.” In sum, an obligation is a term that references action where a legal commitment to pay exists. The obligation may occur at the time a service is rendered or before being rendered when a binding agreement has been executed. Examples of obligations or legal commitments include subgrant agreements, purchase orders, and cash disbursements. Obligations are not projected staff time, future or projected rent payments, future or projected training, or items that are budgeted during the period of the grant award. In sum, obligations are not plans, budgets, or encumbrances.

Per 20 CFR § 682.350, RRAA funds reserved may be provided to local areas that experience increases of unemployment due to natural disasters, mass layoffs or other events, for provision of “direct career services to participants” if there are not adequate local funds available to assist the dislocated workers. The regulations specifically identify “career services” as the allowable activity for additional assistance funds; meaning that training services may not be paid for with RRAA funds if currently covered under the WIOA program.

TEGL 17-16 states all allowable costs for WIOA One-Stop Partners need to meet the Federal Cost Principals of uniform guidance. Not only do costs need to be reasonable and necessary, but cannot be billed to two separate grants for the same work being done by the recipient of the funds (2 CFR 200.405).

Direct Career services, as identified in sec. 134(c)(2) of WIOA, per 20 CFR § 678.430, consist of three types:

1. Basic career services must be made available and, at a minimum, must include the following services, as consistent with allowable program activities and Federal cost principles:
  - A. Determinations of whether the individual is eligible to receive assistance from the adult, dislocated worker, or youth programs;
  - B. Outreach, intake (including worker profiling), and orientation to information and other services available through the one-stop delivery system. Additionally, pursuant to the TANF program, States must provide individuals with the opportunity to initiate an application for TANF assistance and non-assistance benefits and services, which could be implemented through the provision of paper application forms or links to the application

- Web site;
- C. Initial assessment of skill levels including literacy, numeracy, and English language proficiency, as well as aptitudes, abilities (including skills gaps), and supportive service's needs;
  - D. Labor exchange services, including -
    - i. Job search and placement assistance, and, when needed by an individual, career counseling, including –
      - a. Provision of information on in-demand industry sectors and occupations (as defined in sec. 3 (23) of WIOA; and
      - b. Provision of information on nontraditional employment; and
    - ii. Appropriate recruitment and other business services on behalf of employers, including information and referrals to specialized business services other than those traditionally offered through the one-stop delivery system;
  - E. Provision of referrals to and coordination of activities with other programs and services, including programs and services within the one-stop delivery system and, when appropriate, other workforce development programs;
  - F. Provision of workforce and labor market employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including -
    - i. Job vacancy listings in labor market areas;
    - ii. Information on job skills necessary to obtain the vacant jobs listed; and
    - iii. Information relating to local occupations in demand and the earnings, skill requirements, and opportunities for advancement for those occupations;
  - G. Provision of performance information and program cost information on eligible providers of education, training, and workforce services by program and type of providers;
  - H. Provision of information, in usable and understandable formats and languages, about how the local area is performing on local performance accountability measures, as well as any additional performance information relating to the area's one-stop delivery system;
  - I. Provision of information, in usable and understandable formats and languages, relating to the availability of supportive services or assistance, and appropriate referrals to those services and assistance, including Child care; child support; medical or child health assistance available through the State's Medicaid program and Children's Health Insurance Program; benefits under SNAP; assistance through the earned income tax credit; and assistance under a State program for TANF, and other supportive services and transportation provided through that program;
  - J. Provision of information and meaningful assistance to individuals seeking assistance in filing a claim for unemployment compensation:
    - i. "Meaningful assistance" means:
      - a. Providing assistance on-site using staff who are well-trained in unemployment compensation claims filing and the rights and responsibilities of claimants; or
      - b. Assisting by phone or via other technology, as long as the assistance is provided by trained and available staff and within a reasonable time; and
    - ii. The costs associated with providing this assistance may be paid for by the State's unemployment insurance program, or the WIOA adult or dislocated worker programs,

- or some combination thereof; and
- K. Assistance in establishing eligibility for programs of financial aid assistance for training and education programs not provided under WIOA.
2. Individualized career services must be made available if determined to be appropriate for an individual to obtain or retain employment. These services include the following services, as consistent with program requirements and Federal cost principles:
- A. Comprehensive and specialized assessments of the skill levels and service needs of adults and dislocated workers, which may include -
    - i. Diagnostic testing and use of other assessment tools; and
    - ii. In-depth interviewing and evaluation to identify employment barriers and appropriate employment goals;
  - B. Development of an individual employment plan, to identify the employment goals, appropriate achievement objectives, and appropriate combination of services for the participant to achieve his or her employment goals, including information on eligible training providers (as described in 20 CFR § 680.410);
  - C. Group counseling;
  - D. Individual counseling;
  - E. Career planning;
  - F. Short-term pre-vocational services including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct services to prepare individuals for unsubsidized employment or training;
  - G. Internships and work experiences that are linked to careers (as described in 20 CFR § 680.180);
  - H. Workforce preparation activities;
  - I. Financial literacy services as described in sec. 129(b)(2)(D) and 20 CFR § 681.500;
  - J. Out-of-area job search assistance and relocation assistance; and
  - K. English language acquisition and integrated education and training programs.
3. Follow-up services must be provided, as appropriate, including counseling regarding the workplace, for participants in adult or dislocated worker workforce investment activities who are placed in unsubsidized employment, for up to 12 months after the first day of employment.

In addition to the requirements in 20 CFR § 678.430(a)(2), TANF agencies must identify employment services and related support being provided by the TANF program (within the local area) that qualify as career services and ensure access to them via the local one-stop delivery system.

RRAA funds expended for dislocation events or layoff aversion assistance must be event-driven and can be used to support initial start-up costs, short-term staff costs, and direct career services to participants but not to underwrite the general operating budget. Participants enrolled in RRAA programs are considered dislocated workers for federal and state performance measures and

enrolled in WIOA. Therefore, all RRAA grants where participants are enrolled will have to meet all federal dislocated worker performance measures.

RRAA outcomes will be calculated in the overall statewide-dislocated worker performance. Dislocated workers may receive RRAA funded services and/or they may be co-enrolled in other dislocated worker programs.

The Office for Employer and Apprenticeship Services needs the following data elements to review and approve RRAA funding requests:

- Local Workforce Development Area and contact;
- Funding Type;
- Rapid Response Additional Assistance;
- Rapid Response Local Activity;
- Rapid Response/Trade Case Management for a Trade petition;
- Rapid Response Layoff Aversion;
- Description of the need (i.e., Project summary – who, what, when, where, how) which must be inclusive of a line item and narrative budget;
- Description of the dislocation and summary of work done to date to support dislocation;
- Current Obligation Rates for the funding and calculation(s);
- The obligation rate for WIOA Title I Dislocated Worker formula funds;
- Estimated number of participants to be served with the requested funding;
- The Average cost per participant with requested funding;
- Number of active participants currently enrolled in requested funding stream;
- If a trade funding request, the number of Trade petitions active pending; and
- Consequences if not funded.

The Office for Employer and Apprenticeship Services will issue a confirmation of receipt for all requests for funds. Requests will then be reviewed by the Statewide Reserve Fund Review Team and recommendations forwarded to the Department of Workforce Development Commissioner and the Education and Labor Cabinet Secretary for final decision. All project activity for approved requests must be noted and tracked in the designated business services customer relationship system. A final project narrative report must be submitted at the completion of the project.

## **PROCESS AND PROCEDURE FOR SUBMITTING A REQUEST FOR RAPID RESPONSE ADDITIONAL ASSISTANCE FUNDS:**

### **1. SUBMISSION:**

- a. Submit Attachment A and Attachment B, electronically or by paper, to the Office of Employer & Apprenticeship Services when making RRAA Funding Requests.

- b. Applications for RRAA funding requests must be received by close of business on the FIRST Wednesday of the month for consideration within that month. Any applications received after that date will be considered in the following month.
- c. Requests found to be incomplete or missing information will be returned to the applicant for additional information and resubmission. If a resubmission is required, two (2) additional business days will be provided to the applicant to make corrections and resubmit.
  - i. Applicants will receive a NOTICE OF INCOMPLETE/MISSING INFORMATION that specifies areas missing.
  - ii. If the applicant fails to resubmit within or beyond the additional timeframe, the application will be held for the next month's review period.
- d. The Applicant will receive a NOTICE OF RECEIPT via email. The notice will contain a date/time of receipt by the administrator and project name.

## **2. REVIEW TEAM PREPARATION:**

- a. Requests that pass initial application review for completion will be processed and added to the agenda for Review Team in the order received. Each application will be assigned a tracking number.
- b. A summary report will be generated that will contain Project Name, Amount Request, Brief Overview of Program/Project, and Impacted Sector for each application. Full copies of applications will be itemized and included to agenda packet.
- c. Agenda Packet will be finalized by the fund administrator and provided to members of the Review Team by close of business on the FIRST Monday (not including holidays) after the application deadline.

## **3. REVIEW TEAM:**

- a. Review Team Members will review all applications and provide feedback for approval/denial consideration. Members will be required to consider at least the following:
  - i. Statewide Impact/Goals of the State Plan/Local Innovation Priorities;
  - ii. Administration Policy Goals;
  - iii. Amount of request versus available funding;
  - iv. The Need of Program (including Rapid Response); and
  - v. Complete Budget with no disallowed activities/costs.
- b. A meeting of the Review Team will be convened within TWO (2) Weeks for members to discuss applications and make recommendations for approval/denial to the Commissioner and the Secretary.
  - i. Applicants that are denied will be provided NOTICE OF DECLINATION that will outline specific reasons for the denial, which may include:
    - (A) Availability of Funding;

- (B) The Program includes Disallowed Activities or Costs;
- (C) Similar Programs already exist within Local Area;
- (D) Insufficient Detail in Program Overview/Budget;
- (E) Program/Project does not meet established sectors/priorities; or
- (F) The Program does not further the goals of the Kentucky WIOA State Plan.
- (G) This list is not exhaustive, and Rapid Response Program Applications can be declined for reasons not specifically identified here, but the reasons shall be identified in the Notice of Declination at the time of the denial.

- ii. Applicants who are denied can resubmit applications with corrections for consideration in the following month, subject to submission deadlines and review.

#### **4. COMMISSIONER AND SECRETARY APPROVAL**

- a. Once Review Team recommendations have been established and recorded, a FINAL REPORT from the Review Team – prepared by the Fund Administrator – will be transmitted to the Commissioner and the Secretary for final review and approval of each item.
  - i. Applicants that are denied will be issued a NOTICE OF DECLINATION that will outline specific reasons for the denial, which may include:
    - 1. Availability of Funding;
    - 2. The Program includes Disallowed Activities or Costs;
    - 3. Similar Programs already exist within Local Area;
    - 4. Insufficient Detail in Program Overview/Budget;
    - 5. Program/Project does not meet established sectors/priorities; or
    - 6. The Program does not further the goals of the Kentucky WIOA State Plan.
    - 7. This list is not exhaustive, and Rapid Response Program Applications can be declined for reasons not specifically identified here, but the reasons shall be identified in the Notice of Declination at the time of the denial.
  - ii. Applicants who are denied can resubmit applications with corrections for consideration in the following month, subject to submission deadlines and review.
    - 1. If the Commissioner or Secretary chooses to APPROVE WITH ADJUSTMENTS OR CONDITIONS, the Fund Administrator will provide notice to the applicant with the requested adjustments or conditions.
    - 2. If the applicant accepts the adjustments and/or conditions, they will be directed to submit revised APPLICATION and ATTACHMENT B (Budget) documents for review by Commissioner and final approval.

#### **5. AWARD PROCESS:**

Upon approval, the fund administrator will process the grant request.

A NOTICE OF FUNDING AVAILABILITY (“NFA”) will be produced by the Federal Program Specialist and submitted to the Commissioner and for signature.

The NFA will contain all the necessary details and contractual obligations including, but not limited to:

1. Amount of Funding;
2. Reporting Requirements;
3. Funding Expiration Date;
4. Invoice Submission Requirement to Administrator;
5. Requirement that grant progress reports will be monitored per financial expense reports and, if applicable, a narrative report will be provided upon request; and
6. Requirement that all awarded projects will submit an end-of-project narrative report.

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**REFERENCES:** WIOA Sec. 3, Sec. 129, Sec. 134; CFR 200.405; 20 CFR 678.430, 680.180, 680.410, 681.500, 682.300 through 682.350; 29 CFR 95.2, 97.3; & TEGL 17-16

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# POLICY

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COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF WORKFORCE INVESTMENT  
AND  
KENTUCKY WORKFORCE INNOVATION BOARD

**POLICY NAME:** Financial Reporting Requirements

**POLICY NUMBER:** 16-013

**DATE OF ISSUE:** Reissued \_\_\_\_\_, 2022

**EFFECTIVE DATE:** April 1, 2017

**APPLIES/OF INTEREST TO:** Kentucky Career Center (KCC) Staff and Local Workforce Development Areas (LWDA) staff

**FOR FURTHER INFORMATION CONTACT:** Grants Management, email:

[OETLWIAREQUEST@ky.gov](mailto:OETLWIAREQUEST@ky.gov)

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**PURPOSE:** The purpose of this policy is to outline the timeline for financial reporting requirements and set the standards for Workforce Innovation and Opportunity Act (WIOA) fiscal reporting into the Department of Workforce Investment (DWI) Workforce Online Reporting for Kentucky System (WORKS).

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**POLICY:**

Local Workforce Development Areas (LWDAs) shall submit all financial information into WORKS monthly by the 20th calendar day of the following month. Should the 20th calendar day of the month fall on a weekend or holiday, the information shall be entered by close of business the next business day. Failure to enter all financial information necessary for DWI to produce monthly reports will result in delays of processing reimbursement requests and may require technical assistance for compliance.

Further, all expenses and drawdowns shall be taken from the oldest grant year first. Failure to adhere to this policy shall result in a monitoring finding.

In the event an issue should arise where WORKS is not available or your office anticipates not being able to meet the deadline, please send an email to [OETLWIAREQUEST@ky.gov](mailto:OETLWIAREQUEST@ky.gov) detailing the issue or occurrence so we can provide guidance.

Should you have any questions and/or concerns, please send an email to [OETLWIAREQUEST@ky.gov](mailto:OETLWIAREQUEST@ky.gov).

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**REFERENCE:**

WIOA Final Rules:

**§ 683.300 - What are the reporting requirements for programs funded under the Workforce Innovation and Opportunity Act?**

(a) General. All states and other direct grant recipients must report financial, participant, and other performance data in accordance with instructions issued by the secretary. Reports, records, plans, or any other data required to be submitted or made available must, to the extent practicable, be submitted or made available through electronic means. Reports will not be required to be submitted more frequently than quarterly within a time period specified in the reporting instructions.

(b) Subrecipient reporting.

(1) For the annual eligible training provider performance reports described in § 677.230 of this chapter and local area performance reports described in § 677.205 of this chapter, the state must require the template developed under WIOA sec. 116(d)(1) to be used.

(2) For financial reports and performance reports other than those described in paragraph (b)(1) of this section, a state or other grant recipient may impose different forms or formats, shorter due dates, and more frequent reporting requirements on subrecipients.

(3) If a state intends to impose different reporting requirements on subrecipients, it must describe those reporting requirements in its State WIOA Plan.

(c) Financial reports.

(1) Each grant recipient must submit financial reports on a quarterly basis.

(2) Local WDBs will submit quarterly financial reports to the governor.

(3) Each state will submit to the secretary a summary of the reports submitted to the governor pursuant to paragraph (c)(2) of this section.

(4) Reports must include cash on hand, obligations, expenditures, any income or profits earned, including such income or profits earned by sub recipients, indirect costs, recipient share of expenditures and any expenditures incurred (such as stand-in costs) by the recipient that are otherwise allowable except for funding limitations.

(5) Reported expenditures, matching funds, and program income, including any profits earned, must be reported on the accrual basis of accounting and cumulative by fiscal year of appropriation. If the recipient's accounting records are not normally kept on the accrual basis of accounting, the recipient must develop accrual information through an analysis of the documentation on hand.

(d) Performance reports.

(1) States must submit an annual performance report for each of the core workforce programs administered under WIOA as required by sec. 116(d) of WIOA and in accordance with part 677, subpart A, of this chapter.

(2) For all programs authorized under subtitle D of WIOA, each grant recipient must complete reports on performance indicators or goals specified in its grant agreement.

(e) Due date.

(1) For the core programs, performance reports are due on the date set forth in guidance.

(2) Financial reports and all performance and data reports not described in paragraph (e)(1) of this section are due no later than 45 days after the end of each quarter unless otherwise specified in reporting instructions. Closeout financial reports are required no later than 90 calendar days after the expiration of a period of performance or period of fund availability (whichever comes first) and/or termination of the grant. If required by the terms and conditions of the grant, closeout performance reports are required no later than 90 calendar days after the expiration of a period of performance or period of fund availability (whichever comes first) and/or termination of the grant.

(f) Format. All reports whenever practicable should be collected, transmitted and stored in open and machine readable formats.

(g) Systems compatibility. States and grant recipients will develop strategies for aligning data systems based upon guidelines issued by the Secretary of Labor and the Secretary of Education.

(h) Additional reporting. At the Grant Officer's or Secretary's discretion, reporting may be required more frequently of its grant recipients. Such requirement is consistent with 2 CFR parts 200 and 2900.

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COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF WORKFORCE DEVELOPMENT  
AND  
KENTUCKY WORKFORCE INNOVATION BOARD

**GUIDANCE NAME:** Kentucky Career Center and Partner Agency Federal Bonding Program (FBP)

**GUIDANCE NUMBER:** 18-004

**DATE OF ISSUE:** Reissued , 2022

**EFFECTIVE DATE:** July 1, 2018

**APPLIES/OF INTEREST TO:** Kentucky Career Center (KCC) Staff, Local Workforce Development Boards (LWDB) staff and Partner Agency Staff

**POINT OF CONTACT:** Office of Employer and Apprenticeship Services, Email: [workforce@ky.gov](mailto:workforce@ky.gov)

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## PURPOSE:

The Kentucky Career Center (KCC) and partner agencies, in cooperation and collaboration with the US Department of Labor (USDOL), will be offering the Federal Bonding Program (FBP).

FBP provides fidelity bonds to employers, giving them access to job seekers and opening doors of opportunity. The FBP, a unique hiring incentive tool, targets individuals whose backgrounds can pose significant barriers to securing or retaining employment.

The fidelity bonds protect the employer from employee dishonesty including theft, forgery, larceny, and embezzlement. Employers receive the FBP bonds at no cost as an incentive to hire applicants with these barriers. Each fidelity bond has a \$5,000 limit with \$0 deductible and covers the first six months of a selected individual's employment. Please see the FBP employer and job seeker brochure at <http://bonds4jobs.com/wp-content/uploads/2018/06/FBP-Employers-Job-Seekers-Brochure.pdf>

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## GUIDANCE:

The following is the job seeker process for a conditional pre-approval for a federal bond.

KCC staff shall guide, coach, and direct a job seeker to qualifying open job positions, assisting in the resume, job application, and interviewing processes.

1. If the job seeker has a potential qualifying employment opportunity and a background that can pose a barrier to securing employment, KCC staff may conditionally pre-approve the job seeker for a federal bond, for interview purposes, by issuing a Kentucky FBP Conditional Pre-Approval Letter. Backgrounds that can pose a barrier to securing employment include:

- Ex-offender;
  - Individual in recovery from substance use disorder;
  - Individuals who are disabled;
  - Public assistance recipient;
  - Individual with poor credit record;
  - Economically disadvantaged youth and adult who lack work histories;
  - Individual dishonorably discharged from the military;
  - Economically disadvantaged person who lack a stable work history; and
  - Anyone already employed who needs bonding to prevent termination or secure a transfer or promotion.
2. The job seeker will present the Kentucky FBP Conditional Pre-Approval Letter, a Federal Bonding fact sheet, and a sample bond to the employer. If the employer has questions about the program, they can contact Kentucky's FBP coordinator at the KCC Office of Employment & Training, 502-564-7456.
  3. KCC staff shall follow up on all issued Kentucky FBP Conditional Pre-Approval Letters in 3-5 business days. If the job seeker obtains employment and the employer desires a bond, KCC staff shall submit a Kentucky FBP Request for a Federal Bond form to Kentucky's FBP coordinator through an online Google Docs submission form found at [https://docs.google.com/forms/d/e/1FAIpQLSfKWGjjvMch5mzXyD2tqisk1Je0xj\\_wazA-UVR1kMCdi0RMjA/viewform](https://docs.google.com/forms/d/e/1FAIpQLSfKWGjjvMch5mzXyD2tqisk1Je0xj_wazA-UVR1kMCdi0RMjA/viewform).
  4. The employer is not to fill out or sign any paperwork, or keep any records, concerning the request. The request for a Federal Bond form is to be completed only by KCC staff.
  5. Kentucky's FBP coordinator shall complete the process of issuing a bond on the FBP website <http://bonds4jobs.com/>.
  6. The bonding company will mail the bond to the employer within 15 days.
  7. Kentucky's FBP coordinator shall communicate to KCC staff that the bond has been requested.
  8. KCC staff shall inform the job seeker of the bond issuance and continue success coaching, while communicating to the new hires that anyone who is unsuccessful with a fidelity bond is not eligible for a second bond.
  9. KCC staff with access to the Kentucky Integrated Business Engagement System (KIBES) shall document this service as "employer services" in KIBES. Kentucky's FBP coordinator shall enter the service into KIBES for all staff who do not have access to KIBES.

Disclaimer:

The Office of Employer and Apprentice Services will consider awarding the purchased fidelity bonds to employers who participated in the Work Opportunity Tax Credit Program if the fidelity bonds are not used for job seeker hiring incentive purposes.

COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF WORKFORCE DEVELOPMENT  
AND  
KENTUCKY WORKFORCE INNOVATION BOARD

**POLICY NAME:** Infrastructure Funding Agreements of MOU Partnership Agreements

**POLICY NUMBER:** 22-001  
**DATE OF ISSUE:** \_\_\_\_\_, 2022  
**EFFECTIVE DATE:** \_\_\_\_\_, 2022

**APPLIES/OF INTEREST TO:** Local Workforce Development Boards

**FOR FURTHER INFORMATION CONTACT:** [workforce@ky.gov](mailto:workforce@ky.gov)

**PURPOSE:** To establish timeline and procedures for biennial Infrastructure Funding Agreement (IFA) Negotiation by Local Workforce Development Boards (LWDBs) as a mandatory component of the Memorandum of Understanding (MOU) Partnership Agreements required under the Workforce Innovation and Opportunity Act (WIOA).

**BACKGROUND:** All one-stop partners, whether they are required partners or additional partners, must contribute to infrastructure costs of the one-stop centers based on proportionate use and relative benefits received. The required one-stop partners must provide access to their programs in the comprehensive centers and contribute to the infrastructure costs of those centers. These required partners also make other partner program's applicable career services available at the comprehensive one-stop centers, and those partner programs may contribute to shared services and shared operating costs.

Under WIOA and its implementing regulations, consistent with the Uniform Guidance, funding provided by the one-stop partners to cover the operating costs, including infrastructure costs, of the one-stop delivery system must be based on the partner program's proportionate use of the system and relative benefit received. Kentucky follows the below policy regarding infrastructure funding of the one-stop centers.

### Definitions

Term	Definition
Co-location	<i>Co-located Partners</i> – Kentucky Career Center (KCC) Partners who have a physical or virtual presence within the center(s), either full time, part time, or intermittent.

	<i>Non Co-located Partners</i> - KCC Partners with no physical presence in the center(s).
Contributions	<p><i>Cash Contributions</i> - Cash funds used to cover a partner’s proportionate share of the KCC infrastructure costs. Can be paid either directly from the partner or through an interagency transfer on behalf of the partner (<b>20 CFR 678.720(c)(1)</b>).</p> <p><i>Non-Cash Contributions</i> - Expenditures made by one partner on behalf of the KCC or contributions of goods or services contributed by a partner for the center’s use. Contributions must be valued consistent with Uniform Guidance 2 CFR 200.306 (<b>20 CFR 678.720(c)(2-3)</b>).</p> <p><i>Third Party In-Kind Contributions</i> - Contributions by a non-KCC Partner to support the KCC in general, not a specific partner; or contributions by a non-KCC Partner to a KCC Partner to support its proportionate share of the infrastructure costs. Unrestricted contributions that support the KCC in general would lower the total amount of infrastructure costs prior to proportionate division whereas restricted contributions can be used by the intended partner(s) to lower their share of the infrastructure costs (<b>20 CFR 678.720(c)(4)</b>).</p>
Full-time Equivalent (FTE)	The ratio of the total number of hours worked (whether part-time, full-time or contracted) divided by an average full-time work week (e.g., 40 hours). Example: One employee who works 20 hours per week is expressed as .5 FTE.
Infrastructure Costs	<p>The non-personnel costs (e.g., rent, computers, phones, etc.) that are necessary for the general operation of the physical KCC, including:</p> <ul style="list-style-type: none"> <li>- Rental/lease costs of facilities</li> <li>- Costs of utilities and maintenance</li> <li>- Equipment (including assessment-related products and assistive technology for individuals with disabilities)</li> <li>- Technology to facilitate access to the center, including the center’s planning and outreach activities</li> </ul> <p>May want to include Deputy Sec. Wise analysis here</p>
Local Funding Mechanism	The process used by the LWDB, Chief Local Elected Official(s) (CLEO), and KCC Partners to negotiate and agree to the amounts that each partner will contribute for KCC infrastructure funding, as well as the methods of calculating these amounts in order to include the infrastructure funding terms as an IFA in the MOU Partnership Agreement, in accordance with WIOA sec. 121(c)(2)(A)(ii) and (h)(1)(A)(i).
MOU Partnership Agreement	A document defining the agreement between the LWDB, CLEO(s) and co-located partners relating to the operation of the workforce delivery system in the local area, including shared system and infrastructure costs.
KCC Partner	An entity that provides a program in a local area.
Proportionate Use	An amount that represents a required partner’s portion of comprehensive KCC infrastructure costs based on its proportionate use of the KCC,

	relative to benefits received. This amount is determined through a reasonable cost allocation methodology that assigns costs to co-located partners in proportion to relative benefits received.
Relative Benefit	A measurement of a KCC Partner's share of infrastructure costs based on reasonable methods that are agreed to by all partners or determined in accordance with the State Funding Mechanism (SFM).
State Funding Mechanism (SFM)	The process used by the State to calculate the statewide funding caps and the amount available for local areas that have not reached consensus, and to determine the partners' contributions for infrastructure costs as outlined in <b>20 CFR 678.730 through 678.738, 34 CFR 361.730 through 361.738, and 34 CFR 463.730 through 463.738.</b>

**POLICY:**

WIOA divides the operating budget of a KCC into two main elements – Infrastructure Costs and Additional Costs.

**Infrastructure Costs**

Infrastructure costs are non-personnel costs that are necessary for general operation of the KCC. Infrastructure costs include rent, utilities and maintenance, equipment (including assessment products and assistive technology), and technology to facilitate access to the KCC (including technology used for the center’s planning and outreach activities). The costs of branding/common identifier materials may also be considered a part of infrastructure funding.

**Non-personnel costs.** Non-personnel costs are all costs that are not compensation for personal services. For example, technology-related services performed by vendors or contractors are non-personnel costs and may be identified as infrastructure costs if they are necessary for the general operation of the KCC. Such costs may include service contracts with vendors or contractors, equipment, and supplies.

**Personnel costs.** In contrast to non-personnel costs for the KCC system, personnel costs include salaries, wages, and fringe benefits of the employees of partner programs or their subrecipients, as described in 2 CFR 200.430 (Compensation – personal services) and 2 CFR 200.431 (Compensation – fringe benefits) of the Uniform Guidance. For example, allocable salary and fringe benefit costs of partner program staff who work on information technology systems (i.e., common performance and reporting outcomes) for use by the KCC as a whole are personnel costs – not infrastructure costs. Also, the cost of a shared welcome desk or greeter directing employers and customers to the services or staff that are available in that KCC is a personnel cost. These costs, therefore, cannot be included in infrastructure costs, but are included as “additional costs” in the KCC operating budget.

**Additional Costs**

The IFA contains the infrastructure costs budget, which is an integral component of the overall KCC operating budget. The other component of the KCC operating budget consists of additional



costs, which **must** include career services and may include shared services and shared operating costs for a particular KCC.

While each of these components covers different cost categories, an operating budget would be incomplete if any of these cost categories were omitted, as all components are necessary to maintain a fully functioning and successful local KCC system. Therefore, the Department of Workforce Development (DWD) strongly recommends that the LWDBs, KCC Partners, and CLEOs negotiate the IFA, along with additional costs, when developing the operating budget for the local KCC system. The overall KCC operating budget must be included in the MOU.

*Shared Operating Costs and Shared Services.* KCC Partners also may share other costs that support the operations of the KCCs, as well as the costs of shared services. The costs of shared services may include initial intake, assessment of needs, appraisal of basic skills, identification of appropriate services to meet such needs, referrals to other KCC Partners, and business services. As discussed in more detail in the section pertaining to personnel costs, such costs also may include personnel expenses associated with a shared welcome desk or greeter directing employers and customers to the services or staff that are available in that KCC.

A portion of the costs of LWDB staff performing functions that are not otherwise paid with WIOA Title I funds and support the general operations of KCCs may also be included as additional costs as long as these shared operating costs are proportionate and consistent with the Federal Cost Principles of the Uniform Guidance set forth in 2 CFR Part 200).

### **How are Infrastructure and Additional Costs Funded?**

Each local area is expected to reach agreement on how infrastructure costs and additional costs will be shared among required partners. These guidelines and requirements support the local area's efforts in reaching an agreement for the allocation of these costs. It is critical that all steps of the process – establishing the budget, identifying cost allocation, identifying funding sources, and negotiation – be well-documented so that, in the event of an impasse, the Governor may resolve infrastructure funding swiftly and fairly. *See also* “Step 2” of the below SFM explanation, which details the sort of documentation that is needed.

#### **1. Step 1 - Establish the Operating Budget**

Although WIOA creates a special mechanism for funding infrastructure costs, the process for identifying, budgeting and allocating costs among KCC partners is ideally accomplished through the same process establishing the operating budget.

The KCC operating budget is the financial plan developed by the LWDB through negotiation with KCC Partners and with agreement of the CLEO(s). It may be considered the master budget that contains a set of individual budgets or components that consist of costs that are specifically identified in the statute:

- infrastructure costs, defined in **WIOA sec. 121(h)(4)**; and
- additional costs, which must include applicable career services and may include shared operating costs and shared services that are related to the operation of the KCC delivery



system but do not constitute infrastructure costs. These additional costs are described in **WIOA sec. 121(i)**.

The operating budget will be included in a MOU Partnership Agreement between the LWDB, the CLEO(s), and the KCC Partners in each local area that outlines the sharing of costs and services and the overall program design for the Local Workforce Development Area. The MOU must contain, among other things, provisions describing how the costs of services provided by the KCC system and how the operating costs of such system will be funded, including the infrastructure costs for the KCC system.

Once the LWDB establishes the operating budget and the infrastructure costs that are part of that budget, it will work with KCC Partners to develop the MOU and accompanying IFA. The IFA is a critical component of the MOU and must be included within the MOU.

The expected approach for funding infrastructure costs in the KCCs is through the development of a Local Funding Mechanism (LFM) where all co-located partners agree how infrastructure costs will be shared. In the event that a local area is unable to reach agreement, a SFM will be put into effect as a last resort and remain in effect until such time that a local area can find consensus. The SFM process is described in a later section of this guidance.

## **2. Step 2 - Identify Cost Allocation Methods**

**Note:** Cost allocation methods are pre-selected in the SharePoint/Access database.

After developing the operating budget, the local board must select allocation methodologies for the allocation of infrastructure costs and other shared costs. Any methodology selected must also be consistent with federal laws that authorize each partner's programs, comply with the Uniform Guidance cost principles to include allowable, allocable, reasonable and necessary costs, and be based on the proportionate use and benefit received by each partner's programs. Examples of cost pools and allocation bases are in Attachment I of TEGL 17-16.

The specific methodologies used to allocate costs are not prescribed in WIOA, its implementing regulations, the Uniform Guidance, or in this guidance. Each local KCC system is unique and presents a different set of circumstances within which costs are allocated. When developing the local MOU, LWDBs and partner agencies may choose from any number of methods, provided they are consistent with WIOA, its implementing regulations, and the Uniform Guidance, including the Federal Cost Principles.

Once the partners determine the infrastructure costs and budget(s) for additional costs, they must determine which methodologies are reasonable and acceptable and select the methodology (or methodologies) that will be applied. In other words, the partners are selecting the appropriate distribution base(s) under which they allocate infrastructure (and additional) costs.

Partner programs may agree to select different cost allocation methodologies and allocation or distribution bases for cost objectives within infrastructure costs and additional costs, such as applicable career services, shared operating costs, and shared services categories. Partners should

focus on identifying methodologies that most effectively allocate costs based upon proportionate use and relative benefits received by the partners.

The negotiations of cost sharing and allocation among partners must be conducted in good faith and in an open and transparent environment. Full disclosure of costs and funding is essential to this process. Because of the need to provide maximum flexibility to accommodate various organization structures, costs, and budgets in local areas, there is no single method prescribed for allocating costs.

### **Two Examples of Cost Allocation Bases:**

#### 1. Proportionate share of partner's occupancy percentage of a KCC

The allocation based on proportionate share of partner's occupancy percentage of a KCC determines infrastructure costs based on percent of use of total KCC square footage per partner. For example, if a specific partner is utilizing 300 sq. ft. out of 1000 total square footage, said partner would be responsible for 30% ( $300/1000 = 30\%$ ) of the total KCC infrastructure costs. The ideal way to use square footage as the basis for allocation would be to identify the amount of dedicated space for each organization. For example, if a KCC is 10,000 square feet total, Organization A has 100 square ft. of dedicated space (used only for organization A) out of 2,000 of total dedicated square footage in the Center, the calculation would be that Organization A would pay 5% of the facilities costs ( $100/2000$ ).

#### 2. Proportionate share of FTE staffing

The allocation based on proportionate share of partner's total employees of KCC determines infrastructure costs based on percent of total KCC employee FTEs per partner. For example, if a specific partner employs 25 FTEs out of 250 total FTEs at the KCC, said partner would be responsible for 10% ( $25/250 = 10\%$ ) of the total KCC infrastructure costs.

FTE staffing is defined to include:

1. Required partner or contractor FTE staff onsite at the KCC.
2. Required partner or contractor FTE staff offsite but who are dedicated and available on demand to meet service access requirements via "direct-linkage."

### **3. Step 3 – Identify Sources of Funding for Infrastructure Costs**

After the KCC's operational budget and the cost sharing methodology are agreed upon, each partner must detail how they will provide their cash, non-cash (in-kind), and/or third party in-kind contributions.

As defined in TEGl 17-16, contributions for infrastructure and additional costs may be made from cash, non-cash, or third-party in-kind contributions. Non-cash and third-party in-kind contributions must be fairly evaluated in accordance with the Uniform Guidance at **2 CFR 200.306**

and must be in the agreed upon KCC operating budget that must contain an infrastructure cost budget and an additional costs budget. All partner contributions, regardless of the source, must be reconciled and adjusted accordingly on a regular basis (e.g., monthly or quarterly) to ensure each partner program is contributing no more than its proportionate share based upon relative benefits received in accordance with the Uniform Guidance at 2 CFR Part 200. To ensure that non-cash and third-party in-kind contributions are fairly evaluated, KCC Partners should agree on which sources or companies they use to assess or appraise the fair market value or fair rental value of non-cash and third-party in-kind contributions.

*Cash contributions.* Cash contributions are cash funds provided to the LWDB or its designee by KCC Partners, either directly or by an interagency transfer, or by a third party.

*Non-cash contributions.* Non-cash contributions are expenditures incurred by KCC Partners on behalf of the KCC and goods or services contributed by a partner program and used by the KCC. The value of non-cash contributions must be consistent with 2 CFR 200.306 and reconciled on a regular basis (e.g., monthly or quarterly) to ensure they are fairly evaluated and meet the partners' proportionate share.

*Third-party in-kind contributions.* Third-party in-kind contributions are contributions of space, equipment, technology, non-personnel services, or other like items by a non-partner (i.e., a third-party) to support the infrastructure costs associated with one-stop operations. The value of third-party in-kind contributions must also be consistent with the Uniform Guidance at 2 CFR 200.306 and reconciled on a regular basis (e.g., monthly or quarterly) to ensure they are fairly evaluated and, if contributed on behalf of a particular program partner, meet the partner's proportionate share.

Non-Core Partners should meet their infrastructure cost obligations in accordance with their program guidance and rules. Core Partner fund availability is detailed in the chart below, which briefly summarizes 20 CFR 678.720 and 678.740. A more detailed summary for all required partners may be found in Attachment III of TEGL 17-16.

Source	Available Funds to Pay Infrastructure Costs
WIOA Title I	Program funds, administrative funds, or both
WIOA Title II	Funds available for local administrative expenses or from non-federal resources that are cash, in-kind, or third party contributions
WIOA Title III	Any available funds
WIOA Title IV	Administrative funds

There are no specific caps on the amount or percentage of overall funding a specific KCC Partner program may contribute to the LFM, except that the amount may not exceed the amount available for administrative costs under the authorizing statute. The amounts must be allowable and based on proportional use of the KCC and relative benefit received by the partner program, and must be consistent with 2 CFR Part 200, including the Federal cost principles.

In the LFM, the LWDB, CLEO(s), and, at a minimum, all required KCC Partners must agree to *the amounts* and the *method of calculating the amounts* that each partner must contribute. Ultimately, those amounts must be included in the signed MOU.

#### 4. Step 4 - Negotiation of Infrastructure Cost Sharing Agreements

In negotiations, the LWDB and CLEO(s) must work to achieve consensus and informally mediate conflicts or disagreements. The LWDB and CLEO(s) must provide technical assistance to new KCC Partners and local grant recipients so that they are informed and knowledgeable of the MOU and IFA.

IFAs are a mandatory component of the MOU Partnership Agreement, as described in **WIOA sec.121(c) and 20 CFR 678.500 and 678.755, 34 CFR 361.500 and 361.755, and 34 CFR 463.500 and 463.755.**

Similar to MOUs, the LWDB may negotiate an umbrella IFA or individual IFAs for one or more of its KCC centers. Consistent with **20 CFR 678.755, 34 CFR 361.755, and 34 CFR 463.755,** IFAs must include the following elements:

- The period of time in which the IFA is effective;
- Identification of the infrastructure costs budget, which is a component of the KCC operating budget;
- Identification of all KCC Partners, CLEO(s), and the LWDB participating in the IFA;
- A description of the periodic modification and review process to ensure equitable benefit among KCC Partners;
- Information on the steps the LWDB, CLEO(s), and KCC Partners used to reach consensus or the assurance that the local area followed the SFM process; and
- A description of the process to be used among partners to resolve issues related to infrastructure funding during the MOU duration period when consensus cannot be reached.

**Note:** At the conclusion of negotiations, the IFA must be included in the appropriate section of the MOU. Additionally, the agreed upon IFA and operating budgets must be entered in the SharePoint/Access application.

The one-stop operating budget may be considered the master budget that contains a set of individual budgets or components that consist of costs that are specifically identified in the statute – infrastructure costs and additional costs. To determine the total operating cost of the KCC, the State is requesting the budget also include direct costs. These are nonshared costs that are partner specific (e.g., Individual Training Accounts-ITAs).

All of the shared costs and actual expenditures will be provided by the Education & Labor Cabinet Fiscal Division at the close of each Quarter. These figures will be shared by the 30<sup>th</sup> of the month following the close of each Quarter, so for Q3 2022 that will be October 30, 2022. These files will be organized by each Kentucky Career Center facility for each Comprehensive and Affiliate site, for all of the State Partners of the KCC by the fiscal team at the Education & Labor Cabinet, and loaded into a Shared File that all KCC Partners and local Workforce Development Boards will be

able to then access. All Quarterly reconciliations can then be loaded into the Access Database/VPN Sharepoint once they are completed. The figures will be tracked internally by ELC Fiscal, to ensure that the State Partners in the KCC are meeting their shared cost obligations as negotiated through the FIA, and at the close of each fiscal year, the Education & Labor Cabinet will reconcile the projected v. actual costs and make any remaining grant transfers that are appropriate under the circumstances for partners who's obligation remains outstanding.

### **State Funding Mechanism**

Local board negotiations related to services, methods of delivery, infrastructure and other shared costs must be concluded, and a final report must be submitted, on or before June 20, 2022. Failure to reach an agreement by the end of the remediation period will trigger the SFM.

The SFM is the process used by the State to calculate the statewide funding caps and the amount available for local areas that have not reached consensus, and to determine the partners' contributions for infrastructure costs as outlined in 20 CFR 678.730 through 678.738, 34 CFR 361.730 through 361.738, and 34 CFR 463.730 through 463.738.

In accordance with 20 CFR 678.730, if the LWDB, CLEO(s), and KCC partners in a local area do not reach consensus agreement on methods of sufficiently funding KCC infrastructure costs for a program year, the SFM is applicable to the local area for that program year. The LWDB must notify the Governor by the deadline established herein (i.e., June 20, 2023 of any failure to reach a consensus for funding infrastructure costs.

The SFM has eight discrete steps that must be followed by the Governor and LWDB in accordance with WIOA sec. 121(h), TEGL 17-16, and 20 CFR 678.730 through 678.750, 34 CFR 361.730 through 361.750, and 34 CFR 463.730 through 463.750. These steps are addressed in detail below.

*Step 1: Notice of failure to reach consensus given to the Governor.* If the LWDB, local one-stop partners, and CLEO(s) cannot reach consensus on methods of sufficiently funding a one-stop center's infrastructure costs and the amounts to be contributed by each local partner program, the LWDB is required to notify the Governor, through his designee (i.e., the Commissioner of the Department of Workforce Development).

*Step 2: Local negotiation materials provided to the Governor.* To assist the Governor in making these calculations and determinations, the LWDB must provide the appropriate and relevant materials and documents used in the negotiations under the LFM, preferably when notifying the Governor of the failure to reach consensus. At a minimum, the LWDB must give the Governor: (1) the local WIOA plan; (2) the cost allocation methodology or methodologies proposed by the partners to be used in determining the proportionate share; (3) the proposed amounts or budget to fund infrastructure costs and the amount of partner funds included; (4) the type of funds (i.e., cash, non-cash, and third-party in-kind contributions) available; (5) any proposed or agreed upon one-stop center or system budget; and (6) any partially agreed upon, proposed, or draft IFAs. The LWDBs may also provide the Governor with any additional materials that they or the Governor find to be appropriate.

Step 3: *The Governor determines one-stop center infrastructure budget(s).* The Governor must determine the infrastructure budget(s) by either: (1) accepting a budget previously agreed upon by partner programs in the local negotiations, in accordance with 20 CFR 678.735(b)(1); or (2) creating a budget for the one-stop center using the State WDB formula (as described in 20 CFR 678.745) in accordance with 20 CFR 678.735(b)(3).

Step 4: *Governor establishes cost allocation methodology.* The Governor then must establish a cost allocation methodology to determine the one-stop partner programs' proportionate shares of infrastructure costs, in accordance with 20 CFR 678.736. That allocation methodology will be based on the proportion of the FTEs of each program that provides services in the respective Comprehensive or Affiliate Center and will include both in person and virtual services provided from the program partners.

Step 5: *Partners' proportionate shares are determined.* Using the selected methodology and taking into consideration the factors concerning individual partner programs listed in 20 CFR 678.737(b)(2), the Governor must determine each partner's proportionate share of the infrastructure costs.

Step 6: *Governor calculates statewide caps.* Once the Governor has created a cost allocation methodology, the Governor then must calculate the statewide caps to determine the maximum amounts that required partner programs could be required to contribute toward infrastructure funding in that local area. There are no statewide caps for additional partners because the SFM does not apply to them.

Step 7: *Governor assesses the aggregate total of infrastructure contributions as it relates to the statewide cap.* Once the Governor has determined the applicable program cap for each program, as well as the proportionate share of the infrastructure costs that the Governor has determined under Step 5 would be required of each local required one-stop partner in a non-consensus area without regard to the cap, the Governor must ensure that the funds required to be contributed by each partner program in the non-consensus local area(s), in aggregate, do not exceed the applicable program cap.

If the aggregate total contributions are below the applicable program cap, then the Governor must direct the one-stop partners to contribute what was determined to be their proportionate shares. If the aggregate total contributions exceed the cap, then the Governor may either:

A. Inquire as to whether those local partner programs that have pushed the aggregate total contributions above the applicable program cap (i.e., those whose contributions would have otherwise exceeded the Statewide cap on contributions) are willing to contribute beyond the applicable program cap in accordance with their proportionate share; or

B. Allow the LWDB, one-stop partners, and CLEO(s) to re-enter negotiations to reassess each one-stop partner's proportionate share, make adjustments, and identify alternate sources of funding to make up the difference between the capped amount and the proportionate share of infrastructure funding of the one-stop partner or reduce



infrastructure costs to reflect the amount of funds available without exceeding the applicable program cap level.

Step 8: *Governor adjusts proportionate shares.* The Governor must make adjustments to specific local partners' proportionate shares in accordance with the amounts available under the applicable program cap for the associated program, if the LWDB, CLEO(s), and the required one-stop partners fail to reach agreement on how to address the situation in which the proportionate share exceeds the cap using the approaches described in Step 7. The aggregate total contribution of a program's local one-stop partners under the SFM may not exceed the applicable program cap.

**Statewide Caps on Proportionate Share (to be used only if the Governor needs to determine local share):**

<u>Program Type</u>	<u>Limiting Percentage</u>
WIOA Title I programs (youth, adult, or dislocated worker)	3%
Wagner-Peyser Act ES	3%
AEFLA	1.5%
Perkins IV	1.5% of funds made available for postsecondary level programs and activities and funds used to administer postsecondary level programs and activities in the prior year
VR (PY 2020 and subsequent years)	1.5% of immediately preceding Fiscal Year

**Appeals Process for Infrastructure Costs Determined by the Governor**

The appeals process relating to the Governor's determinations of infrastructure costs is below. This process will ensure efficient resolution of an appeal so that the funds are distributed in a timely manner, consistent with the requirements of 20 CFR 683.630:

1. The Governor, with assistance of the Kentucky Workforce Innovation Board, will make the final determination of each required partner's proportionate share of statewide infrastructure costs under the SFM.
2. Any required partner may appeal the Governor's determination on the basis of a claim that:
  - a. The Governor's determination is inconsistent with the proportionate share requirements of 20 CFR 678.735(a) or;
  - b. The Governor's determination is inconsistent with the cost contribution caps described in 20 CFR 678.735(c) and 678.738.

3. An appeal must be made within 21 days of the Governor’s determination and must be submitted formally, in writing, by registered mail no later than the 21st day from the date of the notice of determination.

**Timelines for Negotiating Infrastructure Cost Sharing Agreements**

The following section details the structured process and typical timeline by which KCC Partners can negotiate the infrastructure cost sharing agreement. Timeline for IFA negotiations due in PY 2024.

Process	Description	Timeline
Information Sharing	1. Identify KCC operating costs, including infrastructure costs and additional costs.	Jan - March 2024
Budget Development and Review	2. Develop the KCC operating budget that includes an infrastructure costs budget and additional costs budget. 3. Develop the cost allocation methodology, including the identification of cost pools and allocation bases. 4. Determine estimated partner contributions.	April – May 2024
Budget Approval	5. Prepare and agree to the IFA(s). 6. Notify Governor if failure to reach consensus 7. Allocate actual costs by each partner's proportionate use and relative benefit received.	May 2024 Notify Gov on last business day before May 10
Follow Up	8. Conduct a periodic reconciliation (quarterly). 9. Modify infrastructure costs budget and/or cost allocation methodology, as appropriate. 10. Evaluate the existing process and prepare for the following program year. 11. Provide annual reconciliation to DWD at close of Fiscal Year.	June
SFM Application	Failure to reach agreement on KCC infrastructure costs will result in application of a state funding mechanism per 20 CFR 678.730.	June 1, 2024

Again, each LWDB must provide a signed MOU Partnership Agreement and final agreed-upon operating budget, including all cost sharing agreements, (IFA) by June 1, 2024 for all subsequent program years. The MOU Partnership Agreements, IFAs, and One-Stop Certification process will all be completed biennially, in conjunction with the Master Agreement for WIOA funding.



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**REFERENCES:** WIOA sec. 121 (c), (h), and (i); 2 CFR Part 200, 200.306, 200.430, & 200.431; 20 CFR 678.500 & 678.700 through 678.760; 20 CFR 683.630; 34 CFR 361.500 & 361.700 through 361.760; 34 CFR 463.500 & 463.700 through 463.760; TEGL 17-16 & Attachments I & III

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# POLICY

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COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF WORKFORCE DEVELOPMENT  
AND  
KENTUCKY WORKFORCE INNOVATION BOARD

**POLICY NAME:** Individual Training Account Policy

**POLICY NUMBER:** 22-002

**DATE OF ISSUE:** [REDACTED], 2022

**EFFECTIVE DATE:** [REDACTED], 2022

**APPLIES /OF INTEREST TO:** Service Providers in Local Workforce Development Areas

**FOR FURTHER INFORMATION CONTACT:** [workforce@ky.gov](mailto:workforce@ky.gov)

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## PURPOSE:

The purpose of this policy is to provide guidelines to the Service Providers in Local Workforce Development Areas for the provision of Individual Training Accounts (ITAs) to Workforce Innovation and Opportunity Act (WIOA) participants.

The following provides information on the minimum requirements for the provision of services. Service Providers may include additional elements in their local policies and procedures, as long as they are in conformance with this policy, WIOA, U.S. Department of Labor (DOL) Regulations, DOL Training and Employment Guidance Letters (TEGLs), and Kentucky Department of Workforce Development (DWD) policies and guidance.

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## POLICY:

An ITA is a payment agreement established on behalf of a participant with a training provider. The ITA is for tuition and training related costs noted as mandatory on a course description and/or class syllabus.

Additional items needed by the participant to complete the course of study may also be provided, but they must be classified as a supportive service and the participant's financial need for such items must be documented in the participant file.

Training providers shall be selected by Adult and Dislocated Workers in consultation/agreement with their case managers, after an assessment and the development of an Individual Employment Plan (IEP).

Training providers shall be selected by Out-of-School Youth in consultation/agreement with their case managers, after an assessment and the development of an Individual Service Strategy (ISS).

### **PARTICIPANT ELIGIBILITY**

To be eligible to receive an ITA, the participant must:

1. Be enrolled in the Adult, Dislocated Worker, or Out-of-School Youth program; and
2. Be assessed by a WIOA Service Provider staff member and be determined to be in need of training to secure or retain employment; and
3. Select an eligible training provider in consultation with a WIOA Service Provider staff member that is listed on the State of Kentucky's Eligible Training Provider List (ETPL); and
4. Have an IEP/ISS in the participant file showing the need for an ITA and confirmation that completion of the training is likely to lead to employment; and
5. If the participant is an eligible Out-of-School Youth, assure that the training:
  - a. Is outcome orientated and focused on an occupation goal specified in the ISS;
  - b. Be of sufficient duration to impart the skills needed to meet the occupational goal; and
  - c. Results in the attainment of a recognized post-secondary credential.

### **PARTICIPANT TRAINING TRACKING**

All participant training activities shall be tracked in the case management system of record.

Training activities shall be tracked as follows:

#### **A. Adults/Dislocated Workers**

##### **1. Training Providers Listed on the ETPL**

- a. When an enrolled individual is participating in a training activity with a training provider listed on the ETPL, the individual shall be enrolled in Occupational Skills Training. Tuition and all appropriate training related costs may be charged as Training Expenditures.
- b. When an enrolled individual is participating in a training activity with a training provider listed on the ETPL and all or part of the tuition is being paid for with funding from a non-WIOA funding source, and the Service Provider is paying for the remaining training related costs, the individual shall be enrolled in Occupational Skills Training. All appropriate training related costs (including any part of the tuition not paid by non-WIOA funding source) may be charged as Training Expenditures.

##### **2. Training Providers Listed on Another State's ETPL**

When an enrolled individual is participating in a training activity with a training provider that is outside the Commonwealth of Kentucky and does not have an in-state training facility, but the provider is listed on another State's ETPL, the individual shall be enrolled in Out-of-State Training Provider. Tuition and all appropriate training related costs may be charged as Training Expenditures.

**Note:** Service Providers must include a case note in the participant file explaining why this provider was chosen instead of a Kentucky ETPL provider. A printout from the Internet, with a date and time stamp on the printout, verifying the provider is listed on another State's ETPL shall be included in the case note.

### **3. Training Providers Not Listed on the ETPL**

When an enrolled individual is participating in a training activity with a training provider that is not listed on the ETPL, the individual shall be enrolled in Occupational Skills Training. However, WIOA does not allow the payment of tuition (full or in part) through an ITA. Only "training related" expenses may be paid. These "training related" costs, however, may not be charged as Training Expenditures. Instead, they must be charged to the "Supportive Services" cost category, and the financial need of the individual for such services must be documented in the participant file.

## **B. Youth (Out-of-School Youth, Aged 16-24 Only)**

### **1. Training Providers Listed on the ETPL**

When an Out-of-School Youth, aged 16-24, is participating in a training activity with a training provider listed on the ETPL, the individual shall be enrolled in Occupational Skills Training. Priority shall be given to training programs that lead to recognized post-secondary credentials, and that align with in-demand industry sectors or occupations in the local area. Costs shall be charged as "program expenditures."

### **2. Training Providers Listed on Another State's ETPL**

WIOA Youth funds shall not be utilized to fund an ITA for Out-of-School Youth with a training provider that is headquartered outside of the Commonwealth of Kentucky and does not have an in-state training facility, even if the provider is listed on another State's ETPL.

### **3. Training Providers Not Listed on the ETPL**

When an Out-of-School Youth, aged 16-24, is participating in a training activity with a training provider that is not listed on the ETPL, tuition payments cannot be made with WIOA funding. The participant shall be enrolled in Enrolled Post-Secondary Education.

The participant can be assisted with books, fees (not tuition), school supplies, and other necessary costs, and these costs shall be charged as "Supportive Services," and the individual's financial need must be documented in the participant file. Youth receiving this type of supportive service shall be enrolled in Supportive Service.

## **C. Youth (In-School Youth, Aged 14-21)**

WIOA funds may not be utilized to provide ITAs to In-School Youth. In-School Youth may, however, be assisted with books, fees (not tuition), school supplies, and other necessary costs, and these costs shall be charged as "Supportive Services". The Youth's

financial need must be documented in the participant file. Youth receiving this type of supportive service shall be enrolled in Supportive Service.

In-School Youth who are attending post-secondary education that subcontractors are supporting through supportive services as outlined in the previous paragraph should also be enrolled in Enrolled Post-Secondary Education. Although subcontractors are not paying tuition on behalf of this participant, they are supporting the Youth through this activity. As with any Youth (In-School or Out-of-School) enrolled in Enrolled Post-Secondary Education, monthly progress reports are required for as long as the Youth is participating in post-secondary education and is enrolled in the WIOA program.

### **REQUIREMENTS/LIMITATIONS**

- A. The dollar amount of each ITA varies based upon local WIOA Service Provider policy, but shall not exceed \$5,000 per participant unless prior written approval is obtained from the LWDB.
- B. All efforts should be made to issue ITAs for providers that appear on the Commonwealth of Kentucky's ETPL. If it can be justified to utilize a training provider in another State, the provider must be listed on the ETPL of its home State and documentation of the listing must be included in the participant file as set forth in the Participant Training Tracking section.
- C. Each Service Provider shall develop and implement an ITA Policy that reflects local practice, including any additional restrictions beyond those outlined in this policy statement.
- D. It is the responsibility of the WIOA Service Provider to appropriately monitor a participant's progress in occupational classroom training (at least once each calendar month), and diligently pursue timely collection of tuition refunds when the participant is unable/unwilling to complete the training program.

### **MONITORING**

DWD's Monitoring Team shall review a sample of charges included in an ITA during on-site and desk reviews to monitor compliance with this policy.

DWD may require additional documentation to determine if the ITA costs were proper. The LWDB may elect to transfer the charges to the Supportive Service cost category or pay for them with non-WIOA funding if the additional documentation is unavailable, or if DWD determines that the additional documentation is still insufficient to justify the ITA cost .

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**REFERENCE:** WIOA Sec. 108(b)(19), Sec. 122(g), Sec. 134(c)(3)(F) & (G); 20 CFR 663.400-440, 663.585; 20 CFR 664.510; 20 CFR 680.300-350; 20 CFR 681.550

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COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF WORKFORCE DEVELOPMENT  
AND  
KENTUCKY WORKFORCE INNOVATION BOARD

**POLICY NAME:** Allowable Costs

**POLICY NUMBER:** 22-003  
**DATE OF ISSUE:** [REDACTED], 2022  
**EFFECTIVE DATE:** [REDACTED], 2022

**APPLIES/OF INTEREST TO:** Local Workforce Development Boards and staff and service providers in Local Workforce Development Areas

**FOR FURTHER INFORMATION CONTACT:** [workforce@ky.gov](mailto:workforce@ky.gov)

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**PURPOSE:** This policy provides guidance on allowable and unallowable WIOA program costs (including food and beverage expenses in the context of a “working lunch,” at conferences, and during travel). This policy will also define, and differentiate between, external and internal customers and provide instances where state employees, sub-grantee employees, and service providers fall into both categories. The policy also outlines guidance for employment generating activities under WIOA.

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**POLICY:**

**I. General Guidelines:**

Expenditures of WIOA Title 1-B funds are allowable only for those activities permitted by the WIOA regulations.

For the Adult and Dislocated Worker programs, allowable activities include:

- basic career,
- individualized career, and
- training services.

Basic career and individualized career services are described in the WIOA Title 1-B Workforce Investment Activities and Providers. Training services are described in WIOA Title 1-B Use of Funds for Employment and Training Activities Section 134.

Youth services, provided as a requirement of the WIOA Title 1-8 Section 129 Use of Funds for Youth Workforce Investment Activities, are allowable activities.

**II. Allowable Costs<sup>1</sup>:**

Federal law sets different requirements for different types of organizations. Local Workforce Development Boards (LWDBs) and sub-recipients are required to comply with the federal allowable cost principles that apply to their organization.

Grant funds may only be used for:

- The allowable costs of the grantees, sub-grantees and cost-type contractors, including allowable costs in the form of payments to fixed-price contractors; and
- Reasonable fees or profit to cost-type contractors but not any fee or profit (or other increment above allowable costs) to the grantee or sub-grantee.

**A. Applicable Cost Principles:**

There is a set of Federal principles used to determine allowable costs for each kind of organization as follows:

<b>For the cost Incurred by:</b>	<b>Use the principles in:</b>
State, local or Indian tribal government	OMB Circular A-87 (as codified at 2 CFR Part 225).
Private nonprofit organization other than an: (1) institution of higher education, (2) hospital, or (3) organization named in OMB Circular A-122 (as codified at 2 CFR part 230) as not subject to that circular	OMB Circular A-122 (as codified at 2 CFR Part 230).
Educational institutions	OMB Circular A-21 (as codified at 2 CFR Part 220).
For-profit organization other than a hospital and an organization named in OMB Circular A-122 (as codified at 2 CFR part 230) as not subject to that circular	48 CFR Part 31. Contract Cost Principles and Procedures, or uniform cost accounting standards that comply with cost principles acceptable to the Federal agency.

**B. Factors Affecting Whether a Cost is Allowable<sup>2</sup>:**

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under federal awards:

- Be necessary and reasonable for the performance of the federal award and be allocable thereto under applicable cost principles.
- Conform to any limitations or exclusions set forth in the applicable principles or in the Federal award as to types or amount of cost items.
- Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-federal entity.

<sup>1</sup> 29 CFR 97.22

<sup>2</sup> 2 CFR 200.403

- Be accorded consistent treatment. A cost may not be assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the federal award as an indirect cost.
- Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in 2 CFR Part 200.
- Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also 2 CFR 200.306(b).
- Be adequately documented. See also 2 CFR 200.300 through 2 CFR 200.309.

### **III. Reasonability of the Cost<sup>3</sup>:**

Use the following guidelines to assess reasonability of a cost:

- Do I have the capacity to use what I am purchasing? The sub-recipient must provide a narrative on efficient and effective use when requesting WIOA funds and drawdowns from the Kentucky Department of Workforce Investment (DWI).
- Did I pay a fair rate?
- Do I have documentation to support a fair rate was paid? Documentation must be submitted.
- If I were asked to defend this purchase, would I be comfortable doing so?

### **IV. Necessary:**

Use the following guidelines to assess cost necessity:

- Is this item or service needed to meet grant goals?
- Is this the minimum amount I need to spend to meet my need?
- Repetition and frequency.
- Costs are similar to that which would be incurred by a reasonable and prudent person.

### **V. Technical Assistance Meetings and Conferences:**

- The cost of meetings and conferences (examples could include: lodging, facilities, food, beverages, materials, and supplies) are allowable only when the primary purpose is to receive technical assistance, and participation is necessary and reasonable for successful performance under the federal award.
- Outreach costs associated with promoting WIOA program services, including American Job Center (AJC) location information and participant recruitment at job fairs in the local area are considered allowable costs. Examples of outreach costs include, but are not limited to: flyers, brochures, banners, and other promotional material.

### **VI. Procurement Restrictions:**

- WIOA Title 1-B funds shall only be expended for American-made equipment and programs as required by the Buy American Act.
- Sub-awards or contracts with parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal programs or activities are prohibited.

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<sup>3</sup> 2 CFR 200.404



## VII. Disallowed Costs:

All costs associated with an unallowable activity are considered disallowed costs, regardless of their permissibility under other circumstances. Examples of unallowable activities include, but are not limited to:

- Any legal expenses incurred for the prosecution of claims against the government are unallowable. This includes appeals to the Administrative Law Judge of disallowed costs or other claims and civil actions where the Federal government is a defendant<sup>4</sup>.
- The costs of construction or purchase of facilities or buildings or other capital expenditures for improvements to land or buildings, are unallowable for all WIOA Title 1-B programs, except with prior written approval from the U.S. Department of Labor<sup>5</sup>.
- Public service employment, except when authorized under Title I of WIOA.
- Employment-generating activities, investment in revolving loan funds, capitalization of businesses, investment in contact bidding resource centers, economic development activities or similar activities. An exception is made only for those employer outreach and job development activities directly related to participants.
- The wages of incumbent workers during participation in economic development activities provided through the state workforce system.
- Foreign travel and first-class airline tickets.
- Employment or training programs for sectarian activities. This section does not prohibit the provision of services by faith-based organizations, unless those services are sectarian in nature.
- Expenses prohibited under any other federal, state, or local law or regulation.
- Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable<sup>6</sup>.
- Costs of promotional items and memorabilia, including models, gifts, and souvenirs are unallowable<sup>7</sup>.

## VIII. Salary and Bonus Restrictions Using WIOA Funds:

In instances where funds awarded under WIOA Title I or the Wagner-Peyser Act pay only a portion of the salary or bonus, the WIOA Title I or Wagner-Peyser Act funds may only be charged for the share of the employee's salary or bonus attributable to the work performed on the WIOA Title I or Wagner-Peyser Act grant. The restriction applies to the sum of salaries and bonuses charged as either direct costs or indirect costs under WIOA Title I and the Wagner-Peyser Act<sup>8</sup>.

## IX. Internal and External Customer Definitions:

- **External Customers:**

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<sup>4</sup> 2 CFR 200.435(g)

<sup>5</sup> 20 CFR 683.235

<sup>6</sup> 2 CFR 200.438

<sup>7</sup> 2 CFR 200.421(e)

<sup>8</sup> 20 CFR 683.290(b)

Participants, employers and/or LWDB members are considered external customers. Professional colleagues are individuals outside of the organizations influence who share the common interests and goals of the organization.

- **Internal Customers:**

Employees and sub-recipients are considered internal customers.

## **X. Contributions and Donations:**

Public funds cannot be used to sponsor third-party events (such as a Chamber of Commerce event). Sponsorship costs of contributions and donations (including, but not limited to: cash, property, and services) from the non-federal entity to other entities, are unallowable<sup>9</sup>. Furthermore, sponsoring events such as purchasing/sponsoring tables, paying to have entity's name placed on event material, or purchasing tickets to an event (considered entertainment) would be considered a donation. When making determinations on the number of staff to send to events/functions, as well as determining if the fees/costs associated with attendance are appropriate or allowable, management should abide by the necessary and reasonable standards as outlined in the 'Necessary' section of this policy.

## **XI. Employment-Generating Activities<sup>10</sup>:**

WIOA Title I funds must not be spent on employment-generating activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, economic development activities, or similar activities, unless they are directly related to training for eligible individuals. For purposes of this prohibition, employer outreach and job development activities are directly related to training for eligible individuals.

Employer outreach and job development activities may include, but are not limited to:

- Contacts with potential employers for the purpose of placement of WIOA participants;
- Participation in business associations (such as Chambers of Commerce), joint labor management committees, labor associations, and resource centers; or
- WIOA staff participation on economic development boards and commissions, and work with economic development agencies to provide information about WIOA programs.

When participating in employer outreach activities, management must ensure that the participation is:

- Necessary and reasonable;
- Directly related to placing eligible individuals in training;
- Directly related to placing WIOA participants into employment; and
- Furthering the delivery of WIOA services.

In addition, management must ensure that any funds spent on employer outreach activities meet allowable costs standards.

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<sup>9</sup> 2 CFR 200.434(a)

<sup>10</sup> 20 CFR 683.245

## **XII. Food and Beverages:**

The cost of food and beverages will not be considered an allowable cost unless the cost serves a public purpose. Alcoholic beverages are disallowed under any circumstances<sup>11</sup>.

### **A. Food and Beverages Provided During Conferences<sup>12</sup>:**

Costs of meetings and conferences, the primary purpose of which is the dissemination of technical information, are allowable. This includes costs of meals if the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award<sup>13</sup>.

Agencies sponsoring a conference may provide light refreshments to agency employees attending an official conference. Light refreshments for morning, afternoon, or evening breaks are defined to include, but are not limited to: coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips or muffins.

### **B. Expenses During Travel<sup>14</sup>:**

Furthermore, costs incurred by employees and officers for travel—to include subsistence and incidental expenses—must be considered reasonable and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the non-federal entity. Costs for meals during travel must justify that:

- Participation of the individual is necessary to the federal award; and
- The costs are reasonable and consistent with the non-federal entity's established travel policy.

### **C. Working Lunches:**

The cost of a “working lunch,” with external customers and other colleagues, is only considered reasonable and necessary when there is adequate documentation for the necessity of having a meeting during a meal time instead of during normal business hours. This validating documentation should specify:

- Which employment, training, and administration-related subjects (e.g., technical assistance components) were discussed;
- Include a list of participants; and
- Dated, itemized meal cost receipts.

### **D. Examples:**

Below are four (4) examples to help differentiate allowable food and beverage costs for external or internal customers:

#### **Example One:**

A meeting with twenty (20) employers, ten (10) state and/or local administrative staff members, and/or local sub-grantee staff is convened to offer technical information to the employers. The employers are external customers in this scenario.

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<sup>11</sup> 2 CFR 200.423

<sup>12</sup> 41 CFR 301-74.7

<sup>13</sup> 2 CFR 200.404

<sup>14</sup> 2 CFR 200.475(b)

Food costs are allowable because the meeting is convened to benefit an external customer, the employers.

**Example Two:**

There is a meeting during regular business hours (not lunch hours) where five (5) WIOA partner staff are discussing, debating, and planning activities with ten (10) state administrative staff members in attendance. In this case the state administrative staff members, which are internal customers, are the majority of the attendees. Purchase of food with WIOA funds is not allowable in this scenario.

Food costs are unallowable because state administrative staff is considered to be the attendees.

**Example Three:**

State administrative staff and/or local sub-grantee staff are giving technical assistance to service delivery staff and providing lunch is reasonable and necessary due to heavy traffic that would hinder productivity. This is an example of an allowable cost.

Food costs are allowable so long as they are reasonable and necessary, which is true due to the burden of time that traffic and logistics would impose productivity (e.g., during a conference).

**Example Four:**

WIOA funds may not be utilized on expenses associated with social gatherings, including holiday gatherings, even if there is a “technical assistance” component at the gathering. The atmosphere of a gathering (renting a facility, buffets, etc.) is not within the confines of necessary and reasonable if the technical assistance time is much less than the social or networking time.

Reasonable costs per person must be in accordance with the per diem rate allowed by the State.

Each LWDB and each grant recipient shall make readily accessible reports concerning its operations and expenditures<sup>15</sup>.

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**REFERENCES:** 2 CFR 200.403; 2 CFR 200.404; 2 CFR 200.434(a); 2 CFR 200.435(g); 2 CFR 200.438; 2 CFR 200.475(b); 20 CFR 683.235; 20 CFR 683.710; 41 CFR 301-74.11; 29 CFR 97.22; Buy American Act of 1933; 20 CFR 683.290(b); 20 CFR 683.425; 20 CFR 683.290(b); WIOA Section 107; WIOA Section 129(c)(2); WIOA Section 134(c)(3)

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<sup>15</sup> WIOA Section 185(c)(1)



# POLICY

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COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF WORKFORCE DEVELOPMENT  
AND  
KENTUCKY WORKFORCE INNOVATION BOARD

**POLICY NAME:** Common Exit From WIOA Partner Programs

**POLICY NUMBER:** 22-004  
**DATE OF ISSUE:** [REDACTED], 2022  
**EFFECTIVE DATE:** [REDACTED], 2022

**APPLIES/OF INTEREST TO:** Kentucky Career Center (KCC) Staff and Local Workforce Development Areas

**POINT OF CONTACT:** [REDACTED]

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## PURPOSE:

This policy is intended to provide guidance on how and when to exit participants that enrolled in the Adult, Dislocated Worker, Youth, Wagner-Peyser, and Trade Adjustment Act programs. The policy also establishes what WIOA programs are considered in a common exit in Kentucky as required by WIOA law.

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## POLICY:

### Exit:

As defined for the purpose of performance calculations, exit is the point after which a participant who has received services through any program meets the following criteria:

1. For the adult, dislocated worker, and youth programs authorized under WIOA Title I and the Employment Service program authorized under the Wagner-Peyser Act, as amended by WIOA Title III, the exit date is the last date of service.
2. The last day of service cannot be determined until at least 90 days have elapsed since the participant last received services; services do not include self-service, information-only services, or follow up services.

**Common Exit:**

A common exit occurs when a participant, who is enrolled in multiple DOL-administered partner programs, has not received services from any of those programs to which the common exit policy applies, for at least 90 days, and no future services are planned.

Any participant who receives services funded in whole or in part from the partner programs listed below, sequentially or simultaneously, will be counted as a participant in each program, and will share a common “date of exit” for federal reporting.

**Partner Programs to which Common Exit Applies:**

- Adult, Dislocated Worker, and Youth Activities (Title I)
- Wagner-Peyser Employment Service programs (Title III)
- Trade Adjustment Act / Trade and Globalization Adjustment Act (TAA/TGAA)
- Jobs for Veterans State Grants (JVSG)

**Timely Exit:**

A case worker shall follow up with the participant every 30 days via phone or primary method of contact. The case worker should document a detailed description of contact attempts. In the event that the case worker attempts to contact the participant but is unable to reach them on that day, the case worker should do a follow up call in 5 days from that date. If contact is not made on the second attempt via phone or primary method of contact, the case worker shall make reasonable efforts to use alternative contact methods (i.e., social media, Facebook, alternative contacts, email, etc.), for a time not to exceed 90 days. If these contact attempts fail and the case worker is unable to reach the participant, the case worker shall close all open activities and create a closure with appropriate closure reason.

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**REFERENCES:**     TEGL 10-16 Change I, TEGL 10-16 attachment 1, 20 CFR 677.150

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COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF WORKFORCE DEVELOPMENT  
AND  
KENTUCKY WORKFORCE INNOVATION BOARD

**POLICY NAME:** Data Validation

**POLICY NUMBER:** 22-005  
**DATE OF ISSUE:** [REDACTED], 2022  
**EFFECTIVE DATE:** [REDACTED], 2022

**APPLIES/OF INTEREST TO:** Local Workforce Development Boards and staff

**FOR FURTHER INFORMATION CONTACT:** [workforce@ky.gov](mailto:workforce@ky.gov)

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**PURPOSE:**

Data validation is a series of internal controls—or quality assurance techniques—to verify the accuracy, validity, and reliability of data. Data validation framework requires a consistent review across programs to ensure that all data consistently and accurately reflect the performance of each grant recipient. Data validation procedures:

- Verify that the performance data reported by grant recipients to the United States Department of Labor (USDOL) are valid, accurate, reliable, and comparable across programs;
  - Identify anomalies in the data and resolve issues that may cause inaccurate reporting;
  - Outline source documentation required for common data elements; and
  - Improve program performance accountability through the results of data validation efforts.
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**POLICY:**

**I. Applicable Programs for Data Validation:**

All USDOL programs must be validated annually. The Kentucky Department of Workforce Development (DWD) will also require additional programs operated by the Division of Technical Assistance to undergo data validation. These programs include:

- Title I- Adult, Dislocated Worker, and Youth
- Title II- Adult Education and Family Literacy Act (AEFLA)

- Title III- Wagner-Peyser
- Trade Adjustment Assistance (TAA)
- Jobs for Veterans State Grants (JVSG)
- Apprenticeship Program Grants
- National Dislocated Worker Grants (NDWG)
- Reemployment Services and Eligibility Assessment (RESEA) Program

## **II. Frequency of Data Validation:**

Data validation will be conducted by both DWD staff and by each Local Workforce Development Board (LWDB). The frequency will be on a quarterly basis, culminating in an annual review.

### **A. Quarterly Data Validation:**

Both DWD staff and the LWDB will be responsible to conduct data validation on the applicable programs listed in this policy. The quarterly responsibilities for each party are listed below.

#### **1. LWDB Quarterly Responsibilities:**

Each LWDB will be responsible to conduct a quarterly review of each program for which they are a sub-recipient of program funds. The results of their data validation must be submitted quarterly to the Division of Technical Assistance along with the LWDB's quarterly monitoring report.

The specific steps for conducting the review of each program will be listed in separate monitoring guidance as well as be provided during staff training. The LWDB must conduct the number of reviews based on the sample size established by DWD. Notification of sample size will be sent to the LWDBs through a 'Notice of Data Validation'

During the validation process, any files that contain data errors shall be corrected within 30 business days after the submission of their quarterly monitoring report.

#### **2. DWD Quarterly Responsibilities:**

DWD staff shall conduct quarterly reviews on all programs listed in this policy. The results of the data validation from each program shall be sent to the Program Integrity unit twenty-five (25) calendar days after the end of each quarter.

The specific steps on conducting the review of each program shall be listed in the attachments as well as be provided during the staff training. DWD staff shall conduct a quality review of the samples submitted by each LWDB. This sample size will be a reduced sample based on the number of samples reviewed by the LWDB.

During the validation process, any files that contain data errors shall be corrected within 30 business days after the submission of the quarterly monitoring, as long as it is not past the allowable editable period.

### **B. Annual Data Validation:**



At the end of each program year after the submission of the certified annual report, annual data validation classes shall be conducted. Staff members from each Local Workforce Development Area (LWDA) and shall attend including service providers, one-stop operator managers, and LWDB staff. Each LWDB shall provide a minimum number of staff (established by DWD) to participate in these classes. These classes will serve as a method to train LWDB staff and their contractors on data validation, as well as conduct data validation. Each LWDA will be required to use the samples from an LWDA that is not their own to conduct data validation. Before the data validation takes place, each LWDB staff member will receive training on required performance reporting, as well as a review of applicable documentation for data validation along with a validation tool. The annual data validation process is a four (4) week period.

The submitted annual report will be utilized to pull samples for these classes based on the established sample size for each program. The samples are organized into ten record sets. Each record is sorted vertically within the Data Element Validation (DEV) sample tool established by DWD staff. It includes the data element number that corresponds to the PIRL, a listing of appropriate documents and a list of the applicable programs for each data element.

Staff members who are participating in the DEV are to check each file in the Case Management System of Record to ensure that the appropriate documentation is present to support program eligibility, enrollment, and service provision. After validation, the data elements are evaluated to determine which elements had the highest incidence of error. Each LWDB receives a report from DWD staff to identify where the highest error rates are so they can perform an internal audit of their files and make necessary corrections.

### **III. Random Sampling Methodology:**

Random sampling for the annual data validation review is conducted by first determining the proportionate number of enrollments in each program to the total number of enrollments in each program across the state. If a given area is responsible for 10 percent of the total enrollments for the state, then 10 percent of that area's total enrollments are counted. This is done to determine each area's proportion of the total. When each area's proportion is determined those numbers are totaled and divided by nine, rounded up, to determine how many records will be sampled by each area.

To select the sample, DWD staff shall sort the PIRL first by area, next by program and third by active or exited status. The desired number of records are manually chosen in a nonsequential, random fashion from the sorted PIRL for each area. For areas with programs that do not have enough participants to meet the sample size, one hundred percent of their files for that program will be included in the sample. The remaining number of files are then pulled from the area that contributed the largest percentage of enrollments.

### **IV. Staff Training for Data Validation:**

All staff that conducts data validation throughout the year is required to attend training on how to validate each program's data. This training will be conducted, at a minimum, one (1) time per year by staff from the Division of Technical Assistance. The training will be conducted in-person at the DWD Central Office, unless travel restrictions require the training to be conducted in a virtual setting utilizing video conferencing technology.

#### **V. Annual Report Validation:**

The annual report must be validated before it is submitted to USDOL. The report is validated through two methods as described below.

##### **A. Quarterly and Annual Data Validation:**

The Quarterly and annual data submitted by program and LWDB staff shall be used to create the Annual Report.

##### **B. Quarterly Performance Reports:**

Before the quarterly submission of performance reports, the reports are processed, and run through a process of checks including valid values edit checks and logical rules edit checks in WIPS. Records that contain errors will be identified and assigned to the appropriate program staff for correction. The responsible staff will then review and make corrections within five (5) calendar days. After errors are corrected, the file is then re-processed and submitted in WIPS.

#### **VI. Documentation Process:**

All data validation records that are conducted quarterly and annually are maintained on internal servers by DWD. All reports are submitted to the Division of Technical Assistance to compile and maintain the data validation efforts.

#### **VII. Corrective Action:**

The data validation process is aligned with the overall monitoring process for DWD. Any issues identified through data validation will follow the established corrective action process in the Monitoring policy.

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**REFERENCES:**     TEGL 23-19 and TEGL 7-18

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COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF WORKFORCE DEVELOPMENT  
AND  
KENTUCKY WORKFORCE INNOVATION BOARD

**POLICY NAME:** Minimum Participant Cost Rate (MPCR)

**POLICY NUMBER:** 22-006

**DATE OF ISSUE:** [REDACTED], 2022

**EFFECTIVE DATE:** [REDACTED], 2022

**APPLIES/OF INTEREST TO:** Local Workforce Development Areas, Local Workforce Development Boards and staff

**FOR FURTHER INFORMATION CONTACT:** [workforce@ky.gov](mailto:workforce@ky.gov)

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**PURPOSE:** To implement, in accordance with Kentucky Workforce Innovation Board (KWIB) guidance, the Workforce Innovation and Opportunity Act (WIOA) Title I local area formula funds minimum participant cost rate for allowable WIOA funded services.

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**BACKGROUND:** The KWIB must assist in the development and updating of comprehensive State performance accountability measures<sup>1</sup>, including State adjusted levels of performance, to assess the effectiveness of the core programs in the State as required under section 116(b). Under this policy the KWIB establishes a minimum participant cost rate (MPCR) as an additional State identified performance accountability measure<sup>2</sup>. This policy is designed to set a benchmark for participant expenditures to more effectively focus Federal resources on serving more individuals which impacts performance and outcomes. This will place more of an emphasis on ensuring financial integrity of taxpayer dollars in partnership with our workforce system stakeholders.

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<sup>1</sup> WIOA Section 101(d)(4)

<sup>2</sup> WIOA Section 116(b)(2)(B)

**POLICY:**

- I. Each local workforce development board must ensure a minimum of 40 percent (40%) of their WIOA Title I formula allocations<sup>3</sup> is expended on allowable participant costs under WIOA funded services<sup>4</sup>.

For all other types of allowable WIOA funded services not mentioned below, the LWDB or staff must request clarification from DWI staff prior to incurring the cost to ensure the service is allowable and to determine if the costs can be included in the minimum expenditure calculation.

**II. Qualifying Expenditures under this Policy:**

As defined within this policy, certain WIOA funded services<sup>5</sup> will be considered as “qualifying” expenditures toward the minimum expenditure calculation. In all cases, qualifying expenditures are those that represent the cost of services as described below and do not include costs direct to participants such as administrative, personnel staff or operating expenditures of the LWDB, LWDB staff, one-stop operators, and/or contracted service providers.

**A. Youth Services:**

- Tutoring, study skills training, instruction, and dropout prevention services<sup>6</sup>
- Alternative secondary school services or dropout recovery services<sup>7</sup>
- Paid and unpaid work experience<sup>8</sup>
- Occupational skills training<sup>9</sup>
- Education offered concurrently with workforce preparation and training for a specific occupation<sup>10</sup>
- Leadership development opportunities<sup>11</sup>
- Supportive services<sup>12</sup>
- Adult mentoring<sup>13</sup>
- Follow-up services<sup>14</sup>
- Comprehensive guidance and counseling<sup>15</sup>
- Financial literacy education<sup>16</sup>

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<sup>3</sup> WIOA Sections 128(a)(1), 128(b)(1), 133(a), and 133(b)(1)

<sup>4</sup> WIOA Sections 129(c)(2) and 134, TEGL 19-16, and TEGL 21-16

<sup>5</sup> 20 CFR Part 681, TEGL 19-16, and 21-16

<sup>6</sup> 20 CFR 681.460(a)(1)

<sup>7</sup> 20 CFR 681.460(a)(2)

<sup>8</sup> 20 CFR 681.600

<sup>9</sup> 20 CFR 681.540

<sup>10</sup> 20 CFR 681.630

<sup>11</sup> 20 CFR 681.520

<sup>12</sup> 20 CFR 681.570

<sup>13</sup> 20 CFR 681.490

<sup>14</sup> 20 CFR 681.580

<sup>15</sup> 20 CFR 681.510

<sup>16</sup> 20 CFR 681.500

- Entrepreneurial skills training<sup>17</sup>
- Services that provide labor market information<sup>18</sup>
- Postsecondary preparation and transition activities<sup>19</sup>

LWDBs must not use 100% of youth contract expenditures in the calculation of the 40% minimum participant cost rate. In order for an expenditure to be considered in the calculation of the MPCR, the service must be considered a direct participant benefit associated with a fundable service in the Case Management System of Record.

#### Test to Determine a Direct Youth Participant Expense

In order to determine if the cost of an activity should be considered a direct youth participant expense (e.g., fundable activity) that will count towards the LWDA's 40% MPCR, please consider the factors below:

- If the activity is listed on Attachment 2 of this guidance, the activity qualifies as a direct participant cost to be included in the MPCR calculation.
- If the activity is not listed, conduct the analysis below:
  - o But for the WIOA Youth program, in order to receive this service/activity, would the participant have to incur an out of pocket personal expense? If the answer is yes, count the activity as a direct participant expense. (i.e., there are no free or available financial literacy classes offered in the community, if not for the youth program offering the class, the individual would have to incur expenses to participate in a class).

#### **B. Adult and Dislocated Worker Services:**

- Career Services<sup>20</sup> – Defined as costs directly benefiting participants (i.e., assessments) and does not include salaries of staff providing the assessments.
- Training Services<sup>21</sup> – Types of training services that may be provided include:
  - o Occupational skills training, including training for nontraditional employment;
  - o On-the-job training;
  - o Programs that combine workplace training with related instruction, which may include cooperative education programs;
  - o Training programs operated by the private sector;
  - o Skill upgrading and retraining;
  - o Entrepreneurial training;
  - o Job readiness training provided in combination with the training services described in any of clauses (a) through (g) or transitional jobs;
  - o Adult education and literacy activities, including activities of English Language acquisition and integrated education and training programs, provided concurrently or in combination with services provided in any of clauses (a) through (g); and
  - o Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

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<sup>17</sup> 20 CFR 681.560

<sup>18</sup> 20 CFR 681.460(a)(13)

<sup>19</sup> 20 CFR 681.460(a)(14)

<sup>20</sup> 20 CFR 678.430

<sup>21</sup> 20 CFR 680.200 to 680.230 and 20 CFR 680.300 to 680.350

- Supportive Services<sup>22</sup>

### III. Base Year:

MPCR is calculated by dividing the Total Qualifying Expenditures Incurred by the Total Cumulative Expenditures-Program Only (as reported on the Monthly Expenditure Report). Each quarter, calculate and report the MPCR to DWI utilizing the attached MPCR Calculation Template. This report is to be attached to the Status Report submitted via the Compliance Unit mailbox for the respective quarter end month. The MPCR will be calculated following the above formula; however, Incumbent Worker Training (IWT) will be exempted from both Total Qualifying Expenditures Incurred, and the Total Cumulative Expenditures-Program Only.

### IV. Required Action:

The following provisions address continuous improvement steps and include requested information from all LWDA's to assist the areas in meeting and/or exceeding the MPCR by the end of the program year:

- All local boards must develop and maintain a policy and local operating procedures to ensure compliance with the 40% minimum expenditure requirement to include determination of the qualifying expenditures.
- For LWDA's that may fall below the 40% MPCR, the respective LWDB must address the issue and report out a plan that identifies the measures to be taken in order to reach the MPCR by the end of the program year. This information must be submitted by email to the Compliance Unit mailbox with the information provided in #2 of these provisions.
- The 40% expenditure rate will be reviewed quarterly by the KWIB. To provide for continuous improvement, a local area performing below 40% must submit a brief narrative with the quarterly report explaining why the expenditure rate was not attained. A local Area performing below 40% for three consecutive quarters must submit a local board approved Corrective Action Plan providing a detailed analysis of the inability to attain a minimum 40% training expenditure rate. This Corrective Action must include at a minimum:
  - o Local Board approved action steps to meet the minimum required rate;
  - o Timeline for meeting the 40% minimum required rate;
  - o Any measurable benchmarks or indicators demonstrating the LWDA is on track to meet the expected outcome; and
  - o Acknowledgement by the LWDB that the area is subject to remedies for non-compliance as outlined in 2 CFR 200.207, 200.338, until the MPCR is attained.
  - o Other information the LWDB may want to include in the Corrective Action Plan that will be beneficial for state review and comment.

### V. Reporting and Monitoring:

WIOA requires that LWDBs track training-related expenditures<sup>23</sup>. A review of the requirement to expend 40% of the WIOA funding that is within their direct board control on training as described in this policy will be incorporated into the Monitoring Guide each program year. For the purposes of this policy, LWDBs will report prior program year training expenditure

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<sup>22</sup> 20 CFR 680.900

<sup>23</sup> WIOA Sections 116(d)(2)(D) and 116(d)(3)(A)

outcomes during Program Accountability Review (PAR) monitoring. For example, program year 2022 annualized expenses will be monitored in program year 2022 to ensure compliance.

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**REFERENCES:** 2 CFR Part 200; 20 CFR 680.200, 681.460; TEGL 19-16; TEGL 21-16; WIOA Section 101(d)(4); WIOA Section 116(b), Section 116(d); WIOA Section 128(a)(1), 128(b)(1); WIOA Section 129; WIOA Section 133(a), 133(b)(1); WIOA Section 134

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<b>Direct Youth Participant Expense Activities</b>
Child Care
Transportation
Medical
Temporary Shelter
Seminar/Workshop Allowance
Job Search Allowance
Out-of-area job search
Relocation Assistance
Work Experience
Financial Literacy Services
ITA
OJT
Entrepreneurial Training
Distance Learning
Customized Training
Enrolled in Apprenticeship Training
Private Sector Training
Workplace Training & Cooperative Ed
Adult Ed ITA
Employed Worker Sills Upgrade
Youth - Summer Employment
Youth - Tutoring, study skills T&I
Youth - Leadership Development
Youth - Enrolled in Alternative Second Ed
Youth - Occupational Skills - Approved Provider
YOUTH - Work Experience - Paid
Youth - Work Experience - unpaid
Youth - Internship - Paid
Youth - OJT
Youth - Occ Skills Training - non approved provider
Youth - Financial Literacy
Youth - Ed offered concurrent w/ Workforce prep
Youth - Entrepreneurial Training
Youth - Pre-Apprenticeship Activities
Youth - Child Care
Youth - Transportation
Youth - Medical
Youth - Temporary Shelter
Youth - Incentives/Bonuses
Youth - Other
Tutoring
Leadership Development
Youth - Post exit ed/Trng Prgrm leading to Postsec Cred
Youth Financial Literacy svcs follow up



COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF WORKFORCE DEVELOPMENT  
AND  
KENTUCKY WORKFORCE INNOVATION BOARD

**POLICY NAME:** Monitoring

**POLICY NUMBER:** 22-007

**DATE OF ISSUE:** [REDACTED], 2022

**EFFECTIVE DATE:** [REDACTED], 2022

**APPLIES/OF INTEREST TO:** Local Workforce Development Boards and other sub-recipients

**FOR FURTHER INFORMATION CONTACT:** [workforce@ky.gov](mailto:workforce@ky.gov)

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**PURPOSE:** To ensure Kentucky's workforce system complies with federal monitoring requirements, which help determine the effectiveness of the system and allow best practices to be identified and shared among stakeholders. Annual, on-site monitoring shall be used to ensure the compliance of Local Workforce Development Boards (LWDBs)<sup>1</sup>.

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**POLICY:**

**I. Establishment of Monitoring:**

Federal law requires every state to monitor and maintain oversight of program performance and fiscal management<sup>2</sup>. The monitoring system must:

- Provide annual on-site monitoring of local area compliance with 2 CFR Part 200<sup>3</sup>
- Ensure established policies meet objectives of WIOA<sup>4</sup>
- Determine if sub-recipients demonstrate substantial compliance<sup>5</sup>
- Determine if a local plan is disapproved for failure to make progress in addressing deficiencies<sup>6</sup>

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<sup>1</sup> 20 CFR 683.410

<sup>2</sup> 2 CFR Part 200

<sup>3</sup> 20 CFR 683.410 (b)(2)(i)

<sup>4</sup> 20 CFR 683.410 (b)(2)(ii)

<sup>5</sup> 20 CFR 683.410 (b)(2)(iii)

<sup>6</sup> 20 CFR 683.410 (b)(2)(iv)

- Ensure compliance with WIOA Section 188<sup>7</sup>

Kentucky's monitoring system shall include:

- Title I- Adult, Dislocated Worker, and Youth
- Title III- Wagner-Peyser
- Trade Adjustment Assistance (TAA)
- Jobs for Veterans State Grants (JVSG)
- Senior Community Service Employment Program (SCSEP)
- Apprenticeship Program Grants
- National Dislocated Worker Grants (NDWG)
- H1-B Job Training Programs
- National Farmworker Jobs Program (NFJP)
- Reemployment Services and Eligibility Assessment (RESEA) Program
- Supplemental Nutrition Assistance Program- Employment & Training (SNAP E&T)
- Work Opportunity Tax Credit (WOTC)
- Eligible Training Provider List (ETPL)
- Business Services
- Fiscal Management
- Indian and Native American (INA) Program<sup>8</sup>
- Job Corps<sup>9</sup>
- Youthbuild<sup>10</sup>
- Reentry Employment Opportunities (REO)<sup>11</sup>

## II. Responsibilities for Monitoring:

### A. Quarterly Monitoring:

The Kentucky Department of Workforce Investment (DWI) staff and subrecipients shall conduct monitoring on a quarterly basis at a minimum. The frequency of quarterly monitoring will allow DWI and subrecipients to identify potential compliance issues, track progress on initiatives, and alter strategies. The quarterly monitoring shall include:

#### 1. Data Validation:

Data validation will be conducted quarterly by both DWI program staff and LWDB staff. Specific instructions on the process and responsibilities are established in the Data Validation Policy.

#### 2. Submission of Quarterly Monitoring Reports:

The LWDBs must conduct monitoring and submit a quarterly report that outlines the results of their monitoring. This report must be submitted by the 25<sup>th</sup> calendar day following the end of each quarter. The report must be submitted by email to the Department of Technical Assistance. The report must be structured based on guidance provided by DWI. The report shall include the following elements:

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<sup>7</sup> 20 CFR 683.410 (b)(2)(v)

<sup>8</sup> Not currently overseeing this program

<sup>9</sup> Not currently overseeing this program

<sup>10</sup> Not currently overseeing this program

<sup>11</sup> Not currently overseeing this program

- LWDB Governance Requirements
- Complaints regarding Equal Opportunity violations
- Fiscal Analysis
- Current Key Performance Indicator (KPI) Data
- Business Engagement
- Copies of New/Amended LWDB policies
- Best Practices, New Initiatives, and Challenges
- Update on Regional and Local Plan

**3. Review of Quarterly Monitoring:**

The first business day following the submission of quarterly monitoring reports will begin the quarterly monitoring review period. The submitted reports will be compiled and reviewed to ensure compliance, track progress, identify concerns and locate best practices. The review will be conducted by Department of Technical Assistance staff in consultation with DWI subject matter experts. A report for each LWDA and planning region will be compiled and submitted to the Department of Technical Assistance by the last business day of each quarter. The results of the quarterly reviews will be shared with DWI to either address concerns or to establish the need for technical assistance.

**B. Annual Responsibilities:**

The State must conduct fiscal<sup>12</sup> monitoring and data validation<sup>13</sup> on an annual basis. Along with the required monitoring that must take place, DWI will be conducting annual reviews for programs and the workforce system to ensure compliance and effectiveness. Below are the required monitoring efforts that will be conducted annually.

**1. Data Validation:**

Data validation will be conducted annually by both DWI program staff and LWDB staff. Specific instructions on the process and responsibilities are established in the Data Validation Policy.

**2. On-site Fiscal Reviews:**

The Department of Technical Assistance Monitoring Team. The Monitoring Team will provide the on-site monitoring for fiscal management for each LWDB that is awarded federal funding for WIOA Title I funding. Along with monitoring the LWDBs, The Monitoring Team will monitor other sub-recipients based on the established contracts by DWI. These reviews of other sub-recipients will be conducted once every three (3) years unless otherwise stated by the specific grant. The total number of grants for review, the specific instructions on what to review, along with a tentative schedule will be provided to the Department of Technical Assistance on October 1<sup>st</sup> each year.

**3. Program and System Reviews:**

Outside of case file reviews and fiscal monitoring, the DWI staff will conduct annual monitoring for each LWDB and sub-recipient on the programmatic requirement and system effectiveness. This monitoring will be conducted by utilizing the established DWI Monitoring tool along with applicable program guidance or tools. The timeline for conducting this monitoring will be established by October 1<sup>st</sup> each year. The following process will be utilized to conduct this monitoring:

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<sup>12</sup> 2 CFR Part 200

<sup>13</sup> TEGL 23-19

- A notification of monitoring will be submitted to the LWDB thirty (30) business days prior to the monitoring being conducted. The notification will include a timeline and request for documentation needed to conduct monitoring.
- An entrance conference will take place on the first day of monitoring. The entrance conference will take place either in-person or by video technology. The entrance conference will outline the expectations and process that will take place during the monitoring review.
- Most of the monitoring will be conducted via desktop reviews and/or other virtual reviews. However, DWI staff will reserve time with the sub-recipient to conduct staff interviews to determine programs are operated within compliance and is operating effectively.
- After a review is conducted, an exit conference will be scheduled with the sub-recipient to present the results. Any findings or observations will be presented and discussed during this time.
- Within thirty (30) business days of the exit conference, an official report will be provided to the sub-recipient that contains all findings and observations discussed during the exit conference. After this report is submitted, the sub-recipient must follow the established corrective action process.

### **III. Collection of Monitoring Records:**

The physical act of monitoring will be conducted by a range of staff from the LWDBs to DWI. However, all monitoring that is conducted will be submitted to the Department of Technical Assistance. The Department of Technical Assistance will collect all monitoring results conducted and maintain the records for a minimum of five (5) years.

### **IV. Technical Assistance:**

The results of monitoring will indicate the efficiencies or deficiencies of a sub-recipient. The information obtained from collecting and analyzing all monitoring results will influence the need for technical assistance. At the beginning of each quarter, technical assistance will be scheduled by the Department of Technical Assistance, in consultation with DWI subject matter experts, with the applicable sub-recipient(s) to address any deficiencies or share best practices discovered through monitoring. The sub-recipients identified for technical assistance due to any deficiencies or findings found during monitoring must attend the scheduled times assigned to them.

### **V. Corrective Action:**

Monitoring conducted through annual reviews of fiscal and program requirements will participate in a corrective action process if the reviews result in a finding(s). After the monitoring review is conducted, an exit conference will be scheduled with the sub-recipient to discuss any findings or observations. An official written report will follow the exit conference to list out the findings and/or observations. This report will provide instruction on how, where, and when to submit a corrective action plan. The written report will be sent to the sub-recipient within thirty (30) business days from the exit conference. After the report is received by the sub-recipient, they will have thirty (30) business days to submit that information to the

Department of Technical Assistance. Any communication regarding the submitted Corrective Action Plan will need to be responded to within thirty (30) business days.

Quarterly monitoring of data validation, programmatic, and fiscal reviews will not follow the above established process, unless otherwise stated. Any findings or observations will warrant a follow-up and immediate correction. However, if the finding during the quarterly or additional monitoring is considered egregious or significant, the above process related to annual reviews will be followed.

#### **VI. Additional Monitoring:**

The Kentucky Workforce Innovation Board (KWIB) and DWI staff reserve the right to conduct additional monitoring outside the established procedures in this policy. Additional monitoring will only take place when there is reason to suspect that there are non-compliant practices occurring by the sub-recipient. If additional monitoring is conducted, the sub-recipient will be notified in writing to identify the reason and timeline to be established.

#### **VII. Local Policy Requirements:**

Each LWDB must create a monitoring policy that describes the monitoring process at the local level. This policy must contain:

- The roles and functions of LWDBs, LWDB staff, and fiscal agents in their oversight or monitoring processes;
- Who, by title, is responsible for the monitoring of each program activity;
- The types of reports which will be prepared as a result of such monitoring;
- The scope and frequency of monitoring efforts for each program activity;
- The methods which will be used to monitor program activities;
- Who, by title, is responsible for ensuring corrective actions are taken when problems are found;
- The timeframe, in terms of calendar days or weeks, for completion of corrective actions;
- Guidelines for follow-through monitoring, when necessary, to determine if corrective action has been completed; and
- An appeal process for disagreements.

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**REFERENCES:** 2 CFR Part 200; 20 CFR 683.400-420; 2 CFR Part 2900; WIOA Section 188; TEGL 23-19

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COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF WORKFORCE DEVELOPMENT  
AND  
KENTUCKY WORKFORCE INNOVATION BOARD

**POLICY NAME:** Sanctions for Failure to Meet Federal and State Standards

**POLICY NUMBER:** 22-008  
**DATE OF ISSUE:** [REDACTED], 2022  
**EFFECTIVE DATE:** [REDACTED], 2022

**APPLIES/OF INTEREST TO:** Local Workforce Development Boards and other subrecipients

**FOR FURTHER INFORMATION CONTACT:** [workforce@ky.gov](mailto:workforce@ky.gov)

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**PURPOSE:** The purpose of this policy is to inform Local Workforce Development Boards (LWDBs), and other subrecipients (e.g., Local Workforce Development Areas (LWDAs), Third Party Contractors, etc.) utilizing Workforce Innovation and Opportunity Act (WIOA) Title I funds, or other Workforce Development pass-through funds, about the potential remedies and sanctions that the Kentucky Workforce Innovation Board (KWIB) may impose on LWDAs and LWDBs failing to meet the Federal and State fiscal standards and performance measures.

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**BACKGROUND:** The KWIB takes regulatory compliance standards for financial and program management very seriously. The effect of subrecipient noncompliance places the State at risk for loss in confidence of data used to support management decisions, increased risk for non-compliance findings during an audit, and potential for a reduction/recapture of funding at the State level.

Subrecipients are required to comply with all WIOA regulatory standards and policies. In an effort to ensure program integrity at the local level, any subrecipient not meeting the regulatory standards may be subject to the specific conditions or remedies and sanctions set forth in this policy.

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**POLICY:**

**Methodology for Remedies of Non-Compliance:**

Subrecipient infractions shall be categorized by severity as Category 1, 2, 3, or 4, with Category 1 being the least serious and Category 4 being the most serious. The Category shall

be determined by the level of risk associated with observed deficiencies relative to the 2 CFR Part 200, Appendix XI Compliance Supplement (available on the OMB website, at <https://www.whitehouse.gov/omb/office-federal-financial-management/>). The KWIB will maintain an internal tracker by local area detailing the status of compliance with requirements outlined in State policies and/or guidance.

The risk categories will be assigned as follows: Category 1 (Low); Category 2 (Moderate); Category 3 (High). Not satisfying Category 1 leads to a Category 2 and so forth through Category 4.

The following are examples of Category 1, 2, 3, and 4 infractions:

- **Category 1 (Low Risk)**
  - Untimely/Inaccurate reporting (i.e., monthly status reports, complaint logs, etc.)
- **Category 2 (Moderate Risk)**
  - Infractions leading to potential disallowed costs (i.e., eligibility issues, inaccurate cost classification, etc.)
- **Category 3 (High Risk)**
  - Inadequate use or non-utilization of State systems per contract agreements
  - Improper use of funds leading to waste, fraud, or abuse
- **Category 4**
  - Recurrent activity leading to lack of sustained program and/or fiscal integrity
  - Intentional acts that result in improper use of funds leading to waste, fraud, or abuse

*Note: This is not an exhaustive list. The KWIB reserves the right to levy heavier penalties on more egregious offenses.*

## **I. Specific Conditions:**

The Kentucky Department of Workforce Development (DWD), as the Federal awarding pass through agency, may impose additional specific award conditions as needed, especially in instances of noncompliance with Federal and State regulations.<sup>1</sup>

### **A. Category 1 Infractions may result in the following conditions:**

1. Requiring the non-Federal entity to obtain technical or management assistance. This may be required through several means such as:
  - Webinars and Conference Calls
  - Required attendance at central office training
  - On-Site group technical assistance visits and/or fiscal reviews
2. Requiring additional project monitoring.

### **B. Category 2 Infractions may result in the following conditions:**

1. Requiring additional, more detailed financial reports.
  - This may include providing invoices and additional support documentation/justification for expenditures detailed in the drawdowns.
  - This is in addition to the desktop monitoring. Depending upon the nature of the noncompliance, a greater sample may be pulled for all programs.

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<sup>1</sup> 2 CFR 200.208(b) & (c)



2. Establishing additional prior approvals. This may be achieved through various means, including but not limited to:
  - Requiring LWDB approval on a variety of actions as determined necessary by DWD
  - Written approval and acknowledgment from the Chief Local Elected Official (CLEO) and LWDB Chair
  - Other related personnel as needed
3. Placing the Subrecipient on Reimbursement Status:
  - a) This Corrective action may be used when the subrecipient is receiving limited advance payments
  - b) For those areas that are already on reimbursements, one or more of the following specific conditions may apply:
    - i. Subrecipients may be required to submit additional, more detailed financial reports
    - ii. Subrecipients may be required to provide invoices and additional support documentations/justification for expenditures detailed in the drawdowns.

Once in place, specific conditions shall remain in effect until either expiration of the time period set forth in the probationary status (where applicable), or until the specific conditions have been met and evidence of acceptable performance has been demonstrated, as determined by DWD.<sup>2</sup>

Once specific conditions have been removed from the subrecipient, DWD reserves the right to monitor the sub-recipient as necessary.

## II. Remedies and Sanctions:

If the severity of the subrecipient noncompliance cannot be remedied by imposing specific conditions, as determined by DWD and/or the KWIB, then the following remedies and sanctions may apply<sup>3</sup>.

Subject to the notification and approval of the KWIB, DWD, as the Federal awarding pass-through agency, may impose remedies and sanctions when noncompliance cannot be remedied by imposing additional conditions<sup>4</sup>. The following is a non-exhaustive listing of potential actions that will be taken against a noncompliant subrecipient where additional conditions have failed:

### A. Category 3 Infractions may result in the following sanctions:

1. Recommend the LWDB reassess LWDB staff and their capacity to serve to ensure the LWDB functions are being carried out effectively and efficiently.
2. Additional on-site visits, including a full fiscal review of WIOA-related expenditures.
3. Deny additional funding requests.
4. Wholly or partly suspend or terminate the Federal award.

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<sup>2</sup> 2 CFR 200.208(d) & (e)

<sup>3</sup> 2 CFR 200.339

<sup>4</sup> 2 CFR 200.339



5. Temporarily withhold reimbursements.
6. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
7. Reduce Infrastructure funding allotment.

**B. Category 4:**

Failure to address Category 1 through 3 Infractions will result in the following possible remedies and sanctions:

1. Initiation of suspension or debarment proceedings<sup>5</sup> (or in the case of a pass-through entity, a recommendation that such a proceeding be initiated by the Federal awarding agency).
2. Decertification of the LWDB<sup>6</sup>.
3. Any and all other legally available remedies.

Any action taken by the KWIB against a subrecipient is not intended in any way to cause adverse effects to the delivery of services in the respective LWDB.

**III. Provision of Notice of Corrective Action:**

DWD shall issue a Notice of Corrective Action (Notice) via electronic mail or certified mail to the subrecipient and all related parties. The Notice shall contain the following:

- A. The reason why the additional requirements/sanctions are being imposed;
- B. The nature of the additional requirements/sanctions;
- C. The nature of the action needed to remove the additional requirement, if applicable;
- D. The time allowed for completing the actions if applicable, and;
- E. The method for requesting reconsideration of the additional requirements/sanctions imposed.

**IV. Process for Appealing Decisions to Impose Remedies and Sanctions<sup>7</sup>:**

An area seeking to appeal the decision made regarding Remedies and Sanctions may file an appeal with DWD.

- A. An appeal must be in writing and submitted to the Commissioner of DWD within thirty (30) calendar days the Notice of Corrective Action was issued. .
- B. The appeal shall contain a specific statement of the basis for the appeal. A list of the remedies and sanctions that have been imposed on the LWDA and/or subrecipient shall be included and justification as to why the remedies and sanction(s) imposed were not justifiable. The appellant may submit additional supplemental information relevant to the appeal.
- C. The DWD Commissioner shall forward the appeal to the KWIB, through the Office of the KWIB, within fourteen (14) business days.
- D. The KWIB or specially convened executive committee meeting shall have sixty (60) calendar days, from the date the appeal is received by the Office of the KWIB, to review the appeal and make a recommendation to the Governor. The review shall take into account

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<sup>5</sup> 2 CFR Part 180

<sup>6</sup> WIOA Section 107(c)(3)

<sup>7</sup> 2 CFR 200.342

the information in the appeal filed to DWD, including any supplemental information, to determine if each remedy or sanction is justified according to the criteria set forth in this policy.

- E.** The final decision rests with the Governor.
- F.** If a LWDB chooses to appeal the Governor's decision, a detailed statement of the grounds on which the appeal is sought, plus a copy of the Governor's decision must be sent to the U.S. Department of Labor Secretary via certified mail, return receipt requested, to the Secretary, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210, Attention: Assistant Secretary for Employment Training (ASET). A copy of the appeal must be simultaneously provided to the ETA Regional Administrator and Governor.
- G.** The Secretary will notify the Governor and the appellant in writing of the Secretary's decision within forty-five (45) days after receipt of the appeal. In making this determination, the Secretary may consider any comments submitted by the Governor in response to the appeal.

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**REFERENCES:** 2 CFR 200.208; 2 CFR 200.339; 20 CFR 677.220; 2 CFR Part 180; WIOA Section 107(c)(3); 2 CFR 200.342

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COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF WORKFORCE DEVELOPMENT  
AND  
KENTUCKY WORKFORCE INNOVATION BOARD

**POLICY NAME:** Title I Formula Allocation Methodology

**POLICY NUMBER:** 22-009  
**DATE OF ISSUE:** [REDACTED], 2022  
**EFFECTIVE DATE:** [REDACTED], 2022

**APPLIES/OF INTEREST TO:** Local Workforce Development Areas, Local Workforce Development Boards, Chief Local Elected Officials

**FOR FURTHER INFORMATION CONTACT:** [workforce@ky.gov](mailto:workforce@ky.gov)

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**PURPOSE:** Methods and factors used to distribute Workforce Innovation and Opportunity Act (WIOA) funds to Local Workforce Development Areas (LWDAs).

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**BACKGROUND:** WIOA requires the Governor of a state to distribute employment and training formula funds to the Chief Local Elected Official (CLEO), who has responsibility for oversight and management of WIOA funds. The procedures below define how the Kentucky Department of Workforce Development (DWD) distributes formula funds to each LWDA. Furthermore, this provides guidance and encouragement to those CLEOs and Local Workforce Development Boards (LWDBs) choosing to equitably distribute funds to counties within a LWDA.

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**POLICY:**

**I. Distribution of Formula Funds:**

DWD receives funding for the three (3) WIOA programs (Adult, Dislocated Worker, and Youth) from the U.S. Department of Labor. The Secretary of Labor distributes these funds based on a set of factors for each of these funding streams. DWD uses the same methodology as the Secretary of Labor to distribute funds to LWDAs. DWD must distribute WIOA Youth, Adult and Dislocated Worker (DW) activities funds among LWDAs (subject to reservation of

the fifteen percent [15%] limitation for statewide workforce employment and training activities)<sup>1</sup>.

Sub-state allocations must be made available to LWDA's no later than thirty (30) calendar days after the date funds are made available to DWD or seven (7) calendar days after the date the Local Plan for the area is approved, whichever is later<sup>2</sup>.

States must utilize a minimum percentage (otherwise known as a 'stop loss') to ensure that no LWDA receives an allocation percentage that is less than ninety percent (90%) of the average allocation percentage received by the LWDA for the previous two (2) years. An allocation percentage is the LWDA's share, or percentage, of funds allocated to all LWDA's. States must **not** use ninety percent (90%) of the average amount allocated to the LWDA for the last two (2) years. States must obtain amounts necessary to increase allocations to LWDA's to comply with the minimum percentage requirement by proportionately reducing the allocations to be made to other LWDA's.

## II. Youth Funds:

In allocating Youth activities funds to LWDA's, DWD may use either the allocation formula described in WIOA Section 128(b)(2) or the discretionary allocation formula in WIOA Section 128(b)(3).

### A. Allocation Formula:

Thirty-three and one-third percent (33 1/3%) of the total funds available for local allocations are allocated based on each LWDA's relative share of each data factor listed below:

1. The relative number of unemployed individuals in Areas of Substantial Unemployment (ASUs) in each LWDA, compared to the total number of unemployed individuals in ASUs in all LWDA's in the state.
2. The relative excess number of unemployed individuals in each LWDA, compared to the total excess number of unemployed individuals in all LWDA's in the state. See the definition of "excess number" below, which requires a comparison of the excess unemployed in ASUs with excess unemployed in all LWDA's.
3. The relative number of disadvantaged youth (age 16 to 21, excluding college students not in the workforce and military), in each LWDA, compared to the total number of disadvantaged youth in all LWDA's in the state. The number of disadvantaged youth comes from special tabulations of data from the ACS prepared in accordance with the definition provided in WIOA.

## III. Adult Funds:

In allocating Adult Activities funds to LWDA's, DWD may use either the allocation formula described in WIOA Section 133(b)(2)(A) or the discretionary allocation formula in WIOA Section 133(b)(3).

### A. Allocation Formula:

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<sup>1</sup> WIOA Sections 128 and 133

<sup>2</sup> WIOA Section 182(e)

The adult formula allocations are based on the same factors used in youth formula allocations except for disadvantaged adults age 22 to 72, which are based on Low Income.

#### **IV. Dislocated Workers:**

In allocating Dislocated Worker Activities funds to local areas, DWD will distribute Dislocated Worker Activities funds among local workforce areas (subject to the Governor's reservation of up to twenty five percent [25%] for statewide Rapid Response activities)<sup>3</sup>.

##### **A. Allocation Formula:**

Under WIOA, the data factors that must be included are:

- Insured unemployment data;
- Unemployment concentrations;
- Plant closure and mass layoff data;
- Declining industries data;
- Farmer-rancher economic hardship data; and
- Long-term unemployment data.

The farmer-rancher economic hardship data factor is based on the designation of Significant Migrant Seasonal Farm Worker (MSFW) State, Significant MSFW One-Stop Center (now branded as Kentucky Career Centers [KCCs]), and Significant Multilingual MSFW One-Stop Centers, in accordance with the number of MSFWs who participate or are estimated to be available to participate in the employment services provided in those states and through those One-Stop Centers<sup>4</sup>.

WIOA Title I formula allotment methodologies and/or weights will be reviewed before communicating the coming program year local area allotments. Subsequently, a recommendation will be prepared as an agenda item at a regularly scheduled or special Kentucky Workforce Innovation Board (KWIB) meeting for review and approval of proposed allotment methodologies and/or weights. If the proposed allotment and/or weights are not adopted by the KWIB, the preceding program year methodologies and/or weights will remain in effect.

In response to an emergency or disaster (i.e., large, unexpected layoff event causing significant job losses) DWD's Office of the Kentucky Workforce Innovation Board shall have discretionary Authority, with the written approval of the DWD Commissioner, to propose and adjust allotment methodologies and/or weights to remedy such emergent activities.

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**REFERENCES:** TEGL 20-16; WIOA Section 128; WIOA section 133; WIOA Section 182(e)

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<sup>3</sup> WIOA Section 133(a)(2)

<sup>4</sup> TEGL 20-16

# PROCEDURE

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COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF WORKFORCE DEVELOPMENT  
AND  
KENTUCKY WORKFORCE INNOVATION BOARD

**SUBJECT:** TRADE PAYMENTS RECONCILIATION

**PROCEDURE NUMBER:** 22-010

**DATE OF ISSUE:** [REDACTED], 2022

**EFFECTIVE DATE:** [REDACTED], 2022

**APPLIES/OF INTEREST TO:** Kentucky Education and Labor Cabinet staff and Local Workforce Development Area staff

**FOR FURTHER INFORMATION CONTACT:** [workforce@ky.gov](mailto:workforce@ky.gov)

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**BACKGROUND:** The Participant Individual Record Layout (PIRL) was developed collaboratively by the U.S. Departments of Labor and Education as a part of the Workforce Innovation and Opportunity Act (WIOA) performance accountability related provisions. The PIRL provides a framework to help the public workforce development system meet federal reporting requirements while ensuring consistency and comparability across grantees and programs.

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**PURPOSE:** Issuance of this procedure is based upon an internal need to provide guidance to Kentucky Education and Labor Cabinet (Cabinet) staff on the flow of information for the purpose of reconciling financial payments to the PIRL for calculation of WIOA primary indicators of performance.

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**PROCEDURE:**

Reconciliation of Financial Payments to the PIRL involves the following:

- Step One -- Financial information (9130's) shall be sent on a quarterly basis to the individual designated to submit the PIRL.
- Step Two -- Training Payment files, RTAA files and TRA files shall be extracted from the mainframe on a quarterly basis from COT and provided to the individual designated to submit the PIRL.
- Step Three -- files from the mainframe shall be reviewed and reconciled with the 9130 financial information prior to uploading into the PIRL.

Additional Information:

Upon receipt of Trade Training Payment files from each LWDA, DWI staff shall compare the quarterly expenses to the expenses entered in the WORK (Workforce Online Reporting for Kentucky) financial system. If a local area total does not match that of the financial file, DWI staff will contact the appropriate LWDA staff member with details of the discrepancy and determine the basis. Often, irregularities are due to reimbursements or credits having not been updated in the WORK system in concert with the Trade report. Once DWI has determined the basis for discrepancy, it then sends that information to Labor Cabinet fiscal staff so that they can research possible errors in the WORK system. If totals do not match after all data has been updated in WORK, further consultation and collaboration with the LWDA is needed.

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COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF WORKFORCE DEVELOPMENT  
AND  
KENTUCKY WORKFORCE INNOVATION BOARD

**GUIDANCE NAME:** Utilization of Work-Readiness Certificates, to Include the National Career Readiness Certificate and the WIN Career Readiness system

**GUIDANCE NUMBER:** 22-011

**DATE OF ISSUE:** \_\_\_\_\_, 2022

**EFFECTIVE DATE:** \_\_\_\_\_, 2022

**APPLIES/OF INTEREST TO:** Kentucky Career Center staff and Local Workforce Development Board staff, State Partners in ACT WorkKeys Administration

**FOR FURTHER INFORMATION CONTACT:** Office of Employer and Apprenticeship Services, 500 Mero Street, 4<sup>th</sup> Floor, Frankfort, KY 40601; [workforce@ky.gov](mailto:workforce@ky.gov)

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**PURPOSE:** The Kentucky Career Center (KCC) and Kentucky Adult Education (KYAE) provide the service of ACT WorkKeys Testing, including for the National Career Readiness Certificates (NCRC), for customers, both employers and jobseekers, in communities investing in their local workforce. The NCRC is an objective tool for employers to identify qualified job seekers who demonstrate the cognitive workplace skills that their job openings require. The NCRC is based on the three ACT, Inc. WorkKeys assessments – Applied Math, Graphic Literacy, and Workplace Documents. To comply with US Department of Labor (US DOL) requirements, all examinees must be registered in the state’s online reporting system.

This guidance addresses requirements and allowable contexts associated with the expense and utilization of career readiness certificates.

The Kentucky Department for Workforce Development (DWD), as a part of employer requirements for a qualified and trained workforce, has made available the Kentucky Essential Skills Certificate training and courseware in essential “soft” skills. Additional training is available through the WIN online site through the College Readiness modules which provide training in math and language arts at postsecondary levels.

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**BACKGROUND:** Work readiness certificates may be utilized as a screening tool to assist both employers and job seekers. These certificates enable job seekers to obtain a standardized certificate to enhance their marketability to employers; employers utilize the certificates to set standards for their workforce.



Utilization of these certificates must adhere to requirements set forth in Workforce Innovation and Opportunity Act (WIOA) performance regulations, including allowable and non-allowable costs principles. Although NCRCs are the more commonly utilized certificate, the principles outlined in this guidance – as well as applicable codes of federal regulations – should be applied to all work readiness certificate models.

The US DOL's Employment and Training Administration (ETA) recognizes NCRCs as a certificate and not as a credential<sup>1</sup>. They are not included in ETA's definition of an approved credential because they do not document measurable technical or occupational skills necessary to gain employment or advance within an occupation (as required in ETA's definition of credential). This does not mean that these certificates cannot assist in preparing people for the workforce, or that some employers do not value these certificates. ETA guidance encourages Local Workforce Development Boards (LWDBs) to utilize all tools they find necessary to assist in educating, training, and employing individuals. DWD encourages LWDBs to utilize work readiness certificates; however, when utilizing WIOA funding to make work readiness certificate opportunities available, LWDBs must adhere to the fiscal guidelines set forth with the administration and utilization of WIOA funding.

The Kentucky Workforce Investment Board (KWIB) recognizes the WIN Essential Skills courseware and assessment as a measure of “soft” skills. Attainment of these skills are seen as a necessary part of success in finding and maintaining employment that pays a sustainable wage.

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## **GUIDANCE:**

### **I. Registration and WIOA Enrollment Requirements:**

Adults and dislocated workers receiving services (other than self-service) funded through WIOA Title I funds must be registered and must be a participant<sup>2</sup>. Thus, any individual that participates in the NCRC—or other work ready certificate process—through the use of WIOA Title I funding must be both eligible for, and enrolled in, WIOA. WIOA Title I funds utilized on non-WIOA participants will be considered disallowed costs.

Individuals receiving NCRC assistance through the use of Title I formula funds must be registered in cabinet system and enrolled in WIOA.

For individuals to be eligible to utilize WIOA funds to cover the fee for the NCRC, or other work readiness certificates, staff must first determine if the individual is eligible for WIOA<sup>3</sup>. If eligible, customers should be enrolled; WIOA funding may be used for the fee along with other supportive services based on the needs of the job seeker.

### **II. Eligible Participants/Performance (WIOA Title I):**

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<sup>1</sup> TEGL 07-14, Change 1

<sup>2</sup> 20 CFR 680.110(b)

<sup>3</sup> 20 CFR 678.430(a)(1)

Participant and a reportable individual are defined as:

**A. Participant<sup>4</sup>:**

A reportable individual who has received services, other than the services described in 20 CFR 677.150(a)(3), after satisfying all applicable programmatic requirements for the provision of services, such as eligibility determination.

**B. Reportable Individual<sup>5</sup>:**

An individual who has taken action that demonstrates intent to use program services and who meets specific reporting criteria of the program, including:

- Individuals who provide identifying information;
- Individuals who only use the self-service system; or
- Individuals who only receive information-only services or activities.

Individuals receiving services such as work readiness certificate testing through the use of WIOA funding are considered reportable participants.

If the individual is not an enrolled participant in WIOA Title I, then the following sections of this Guidance cover how the NCRC (or other work ready certificates) may be administered utilizing fees for services to employers.

**III. Allowable/Reasonable/Necessary Costs:**

An allowable cost is defined as a cost to a particular award or other cost objective if the goods or services involved are chargeable or assignable to the award or cost objective in accordance with relative benefits received. Expenditures of WIOA Title I and Title III (Wagner-Peyser) funds are allowable only for those activities permitted by WIOA regulations. Allowable costs must be necessary and reasonable for the performance of a federal award<sup>6</sup>. The following questions can be used to determine if the costs are reasonable and necessary:

**A. Reasonable (WIOA Title I and Title III):**

- Do I have the capacity to use what I am purchasing? (The sub-recipient must provide a narrative on efficient and effective use when requesting WIOA funds and drawdowns from DWD.)
- Did I pay a fair rate?
- Do I have documentation to support a fair rate was paid? (Documentation must be submitted.)
- If I were asked to defend this purchase, would I be comfortable doing so?

**B. Necessary:**

**1. WIOA Title I:**

- Is this item or service needed to meet grant goals?
- Is this the minimum amount I need to spend to meet my need?
- Repetition and frequency

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<sup>4</sup> 20 CFR 677.150(a)

<sup>5</sup> 20 CFR 677.150(b)

<sup>6</sup> 2 CFR 200.403(a)

- Costs are similar to that which would be incurred by a reasonable and prudent person

## 2. WIOA Title III (Wagner-Peyser):

- Is this item required by the employer as a condition of hire or interview?
- Per Wagner-Peyser section 7(a)(1) and (3)(F):
  - (a) Ninety percent of the sums allotted to each State pursuant to [Wagner-Peyser] section 6 may be used -
    - (1) for job search and placement services to job seekers, including unemployment insurance claimants, including counseling, testing, occupational and labor market information, assessment, and referral to employers; [and] ...
    - (3) ...
      - (F) administering the work test for the State unemployment compensation system, including making eligibility assessments, and providing job finding and placement services for unemployment insurance claimants ...
- Additionally, per Wagner-Peyser section 7(b):
  - (b) Ten percent of the sums allotted to each State pursuant to section 6 shall be reserved for use in accordance with this subsection by the Governor of each such State to provide -
    - (1) performance incentives for public employment service offices and programs, consistent with the performance accountability measures that are based on indicators described in section 116(b)(2)(A)(i) of [WIOA], taking into account direct or indirect placements (including those resulting from self-directed job search or group job search activities assisted by such offices or programs), wages on entered employment, retention, and other appropriate factors;
    - (2) services for groups with special needs, carried out pursuant to joint agreements between the employment service offices and the appropriate local workforce investment board and chief elected official or officials or other public agencies or private nonprofit organizations; and
    - (3) the extra costs of exemplary models for delivering services of the types described in subsection (a), and models for enhancing professional development and career advancement opportunities of State agency staff, as described in section 3(c)(4).

## IV. Examples of Allowed and Disallowed Costs (WIOA Title I):

Administering a NCRC test, or other work readiness certificate tests, to an individual who is currently employed at local self-sustainable levels is neither reasonable nor necessary. Administering the NCRC to a participant who is underemployed, unemployed, or has barriers to employment would be considered a reasonable and necessary cost.

### A. Scenario 1:

Jane Doe is a single Mother with 2 children, currently employed at \$9.00 per hour and only working 30 hours per week. Jane wishes to apply for a position that pays \$14.00 per hour at 40 hours per week, with benefits. The employer requires a NCRC test. The Local Area

should enroll Jane into WIOA, provide supportive services as needed, and utilize WIOA funding for the NCRC fee. This expense is allowed.

**B. Scenario 2:**

John Doe is employed at \$20.00 per hour but wishes to apply for a position that pays \$23.00 per hour. The employer requires or desires to utilize the NCRC as part of the application/screening process. Utilizing WIOA funding for the NCRC fee in this scenario is not a reasonable or necessary expense. The Local Area should utilize the ability of a fee for service to employers to cover the fee of the NCRC for John Doe. This expense is disallowed.

**V. Fees to Employers for Administering NCRCs to Non-WIOA Participants (WIOA Title I):**

A fee may be charged for services provided under 20 CFR 678.435(b) and (c)<sup>7</sup>. Services provided under 20 CFR 678.435(c) may be provided through effective business intermediaries working in conjunction with the LWDB and may also be provided on a fee-for-service basis or through the leveraging of economic development, philanthropic, and other public and private resources in a manner determined appropriate by the LWDB. The LWDB may examine the services provided compared with the assets and resources available within the local one-stop delivery system and through its partners to determine an appropriate cost structure for services, if any.

Customized business services may be provided to employers, employer associations, or other such organizations<sup>8</sup>. These services are tailored for specific employers and may include customized screening and referral of qualified participants in training services to employers. NCRCs and other work readiness certificates are classified as a customized screening.

**VI. Program Income:**

Any fees earned are recognized as program income and must be expended by the partner in accordance with the partner program's authorizing statute, implementing regulations, and Federal cost principles identified in Uniform Guidance<sup>9</sup>. Fees recognized as program income must be reported on the Federal ETA-9130 monthly report.

**VII. Basic Skills Deficiencies:**

NCRCs should not be utilized as an assessment tool for determining basic skills deficiencies. Per the DWD Office of Adult Education Assessment Policy, the only assessments allowable to determine adult education functioning levels is the Test of Adult Basic Education (TABE). The NCRC may be used by KCC and KYAE professionals to determine measurable skills gain during a course of study. LWDBs should consult with their Adult Education partners to establish proper basic skills deficiencies assessments within the KCC system.

**VIII. WIN Career Readiness System:**

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<sup>7</sup> 20 CFR 678.440(c)

<sup>8</sup> 20 CFR 678.435(b)

<sup>9</sup> 20 CFR 678.440(d)

The WIN Career Readiness System was purchased as a work readiness and skills building system for Kentucky employers and jobseekers. Specifically, jobseekers or incumbent workers can be enrolled in the system, free of charge, to obtain those skills for which the employer is searching, including Essential Skills and Digital Literacy.

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**REFERENCES:** 2 CFR 200.403(a); 20 CFR 677.150(a) & (b); 20 CFR 678.430(a)(1); 20 CFR 678.435(b) & (c); 20 CFR 678.440(c) & (d); 20 CFR 680.110(b); Wagner-Peyser Act of 1933, as amended, section 7; TEGL 07-14, Change 1; DWD Office of Adult Education Assessment Policy

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# POLICY

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COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF WORKFORCE DEVELOPMENT  
AND  
KENTUCKY WORKFORCE INNOVATION BOARD

**POLICY NAME:** Veteran Referral Process

**POLICY NUMBER:** 22-012  
**DATE OF ISSUE:** [REDACTED], 2022  
**EFFECTIVE DATE:** [REDACTED], 2022

**APPLIES/OF INTEREST TO:** Kentucky Career Centers, One-Stop Operators, Local Workforce Development Areas, Local Workforce Development Boards, the general public, and partners

**FOR FURTHER INFORMATION CONTACT:** [workforce@ky.gov](mailto:workforce@ky.gov)

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**PURPOSE:**

The purpose of this policy is to provide guidance to Kentucky Career Centers (KCCs), One-Stop Operators, Local Workforce Development Areas (LWDAs), Local Workforce Development Boards (LWDBs), the general public, and partners regarding the process involved in KCC staff referring veterans and other eligible persons to the appropriate Veteran program services.

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**BACKGROUND:**

In accordance with all relevant Veterans' Program Letters (VPLs), there are multiple categories of veterans and other eligible persons that are eligible for services provided by Disabled Veteran Outreach Program (DVOP) specialists. The guidance as set forth in VPL 03-14, with Change 1 and Change 2; VPL 07-14; VPL 03-16; and VPL 03-19 clarify the populations of service members who can receive DVOP services. These criteria will be henceforth referred to as Significant Barriers to Employment (SBE).

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**POLICY:**

**Instruction to Welcome Staff:**

It is the responsibility of the public workforce system to identify veterans or other eligible persons with SBEs and refer these individuals for assistance. Standard procedure for all KCC customers, including veterans, is that they are greeted by the welcome desk and referred to the appropriate KCC staff for assistance. As part of greeting patrons, each career seeker should be asked the question "have you ever served in the military?". If the response is "yes," that patron will be given

Veterans Priority of Service and will be given the Veteran Intake Form to identify their qualification for services.

The staff will use the Veteran Information Form as an initial screening tool to establish eligibility for DVOP specialist services. Once a veteran or other eligible person is identified, the intake process will be the same as other career seekers with the patron receiving Priority of Service. The veteran or other eligible person will then be referred to the appropriate KCC Partner as needed. A veteran must respond yes to at least one (1) question on the Veteran Information Form to be referred to a DVOP specialist. If a DVOP specialist is not available, the veteran or other eligible person should be referred to the appropriate KCC staff. In some cases where the eligible individual requests to specifically be seen by the DVOP specialist, the staff should instruct them to schedule an appointment with their local DVOP specialist. If a veteran is experiencing homelessness, they should immediately be referred to the DVOP specialist, or in instances where a DVOP specialist is not available, be referred to another AJC provider of individualized career services at the time the veteran is enrolled.

KCC Staff working with veterans that are deemed job ready should contact the Local Veterans Employment Representative for job search assistance.

**Veteran Staff:**

DVOP specialists shall provide services to veterans and other eligible persons with SBEs in accordance with all direction and guidance provided by US Department of Labor Veterans' Employment and Training Service (US DOL VETS) and the Veterans Program Coordinator (VPC) as deemed appropriate. The goal is to provide Individualized Career Services through case management, which can include:

- Conducting a comprehensive assessment
- Developing an employment plan that must be documented
- Coordinating supportive services
- Career counseling
- Providing short term prevocational services
- Group Employment Counseling and Employment Skills Workshops
- Referrals to AJC Partner or Federal Agencies as appropriate

**Case Management and Tracking:**

DVOP specialists shall record and track services provided to veterans, and other eligible persons, and conduct extensive follow-up services. Coordinating with partners' services can provide additional resources that will benefit the veteran. The DVOP specialist should work closely with the Local Veteran Employment Representatives and the Business Services Team staff for veterans who are identified as job ready so they can be promoted to employers for job placement.

**Case notes:**

All activities, along with corresponding case notes, shall be recorded in the state case management system as required by additional guidance provided to DVOP specialist by the VPLs.

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**ATTACHMENTS:** Veteran Information Form

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**REFERENCES:** TEGL 19-13, with Change 1 and Change 2; TEGL 20-13; Jobs for Veterans Act, Public Law 107-288 (Nov. 7, 2002); VPL 03-14, with Change 1 and Change 2; VPL 07-14; VPL 03-16; and VPL 03-19.



# Kentucky Career Center Rapid Response Manual

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## Introduction

Per 20 CFR 682.310(b), States must establish and maintain a rapid response unit to carry out statewide rapid response activities and to oversee rapid response activities undertaken by a designated State entity, Local Workforce Development Board (WDB), or the chief elected officials for affected local areas, as provided under WIOA sec. 134(a)(2)(A)(i)(I). The Education and Labor Cabinet, Department of Workforce Development (DWD), Office of Employer & Apprenticeship Services is the designated statewide unit for Kentucky to work with local Kentucky Career Center (KCC) Rapid Response teams to carryout the necessary services.

The purpose of Rapid Response is to promote economic recovery and vitality by developing an ongoing, comprehensive approach to identifying, planning for, and responding to layoffs and dislocations and preventing or minimizing their impacts on workers, businesses, and communities. Rapid Response is a primary gateway to the workforce system for both dislocated workers and employers and is a component of a demand-driven system.

Work ready, work first Rapid Response programs are flexible, agile and focused on promptly delivering comprehensive solutions to businesses and workers in transition. Rapid Response, when operated successfully, delivers on the promises that the workforce system makes to businesses, workers, and communities — to provide economically valuable solutions to businesses and critically important services to workers at the time, when needed.

To ensure high quality and maximum effectiveness, successful Rapid Response strategies must include the following:

- Layoff Aversion as a required activity such as:
  - Proactive forward-thinking Business Services Teams.
  - Implementing strategies and activities designed to prevent, or minimize the duration of, unemployment resulting from layoffs.
  - Developing a comprehensive approach that allows an assessment of the economic situation in each area.
  - Adopting an approach that enables the development of a plan to intervene and manage the transition in the area.
  - Creating strategies that are customizable, quickly deployable, informed by economic data, inclusive of multiple partners.
- Convening, Facilitating and Brokering Connections, Networks and Partners within the business service teams and local Rapid Response participation partners.
  - Effective Rapid Response networks develop and maintain a comprehensive set of partnerships.
  - Effective Rapid Response and layoff aversion occur where strong, diverse partnerships exist with:

# Kentucky Career Center Rapid Response Manual

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- Kentucky Personnel Cabinet
  - Economic Development
  - Education Providers, e.g., KCTCS, Workforce Solutions
  - U.S. Department of Labor, Employee Benefits Security Administration
  - Business Associations
  - Other State and Local Governmental Organizations
- Strategic Planning, Data Gathering and Analysis Designed to Prepare for, Anticipate and Manage Economic Transition.
    - Effective Rapid Response networks have access to real-time information on layoffs and growth, as well as information on available skilled workers for growing companies.
    - Effective Rapid Response networks develop early warning networks and systems to understand economic transition trends within industries, communities, or at specific employers, and plan strategies for intervention when necessary and appropriate.
    - Strategic planning, data gathering, and analysis are not only a function of Rapid Response, but of the local area's larger demand-driven system.
    - Information can be found from:
      - Office of Employer & Apprenticeship Services' Dun & Bradstreet Radius Search report of like employers
      - KYSTATS (<https://kystats.ky.gov/KYLM1>)
      - Labor Insight Jobs (<https://laborinsight.burning-glass.com/jobs/us/#jobs/loginwindow>)
- Informational and Direct Reemployment Services for Workers.
    - Local areas should provide the widest array of services possible based on the needs of the workers and the employer.
    - Provision of information and access to unemployment compensation benefits and programs, comprehensive One-Stop services, and employment and training activities (including information on the Trade Adjustment Assistance Program, Pell Grants, the GI Bill and other resources) should be present in strategies.
- Solutions for Businesses in Transition; Growth and Decline.
    - Rapid Response is a business service that builds and maintains relationships with employers across the business cycle.
    - Rapid Response is more than a single, on-site visit in response to a Worker Adjustment Retraining Notification (WARN) Act notice; it is a primary gateway to the workforce system for both dislocated workers and employers and is a component of a demand-driven system.

# Kentucky Career Center Rapid Response Manual

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- Kentucky Integrated Business Engagement System (KIBES) is an employer management system used by staff as a tool. KIBES helps assist staff with engagement with businesses and monitor collected performance matrix.

## Rapid Response in a Demand-Driven System

The planning and information gathering necessary for effective Rapid Response also establishes an awareness of and familiarity with the talent needs of a region and allows the workforce system the ability to meet the needs of both hiring employers and those facing layoffs. Providing an environment to engage industry leadership on a broad range of workforce issues facilitates the identification of necessary resources. Convening employers, and when appropriate, partners and other resources, allows comprehensive dialogue between employers and training institutions, resulting in collaborative problem-solving; creating unique approaches to career pathways; addressing curriculum strategies; creating customized training and incumbent worker training and ultimately enhancing competitiveness and reducing the potential for future layoffs.

In a demand-driven system, employer engagement results in:

- Employers identifying industry demand and vacancies.
- Employers providing direct input into the design of educational program offerings that directly respond to industry identified demand, and curriculum that addresses occupational skill requirements (work-based learning).
- State and local services and programs align with industry's need for workers and skills.
- The state's eligible training provider list includes programs representing high-demand occupations based on input from employers.
- KCTCS – Workforce Solutions will provide workforce education, deliver programs and services that address the full spectrum of needs faced by business and industry, as well as programs for individuals who want to upgrade their skills. KCTCS is training Kentucky's workforce today for the jobs of tomorrow.

The overarching objective is to adapt the workforce system to help ensure the pipeline of workers with skills and competencies align better with industry, and thus increase employment and retention. Pre-existing relationships can build the trust needed to share information and to create a dialogue with employers to encourage them to seek assistance before it is too late. Economic and market intelligence gathering is more robust if there are positive working relationships with business and industry groups that are developed outside of specific dislocations. Employers should be comfortable approaching the workforce system when they are looking for new workers, seeking assistance to avert a layoff, and helping their workers transition to a new job in the event they have to end their local operation.

Therefore, it is critical to develop a long-term Business Outreach Plan to engage employers and develop a relationship with them to earn their trust and ensure they understand the full range of business solutions offered through the local workforce system, including but not limited to, Rapid Response.

# Kentucky Career Center Rapid Response Manual

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Thus, the state’s Kentucky Workforce Innovation Board (KWIB), which focuses on aligning efforts – initiatives, programs, and funding - around priority sectors for a demand-driven workforce system, helps facilitate such employer engagement. Through extensive labor market research, the KWIB has identified five primary targeted sectors (i.e., advanced manufacturing, business finance and information technology services, construction, distribution transportation and logistics, and healthcare) and is driving workforce development efforts toward meeting the skill needs within these sectors. This approach is in partnership with employers, the Kentucky Career Center system and partners. A key activity of the KWIB is the convening of groups of employers to identify and develop solutions to address workforce needs along the entire business cycle continuum.

The KWIB seeks to:

- Implement an employer-based demand-driven system for workforce development using an industry sector approach
- Take the industry sector approach to statewide scale
- Obtain accurate data on in-demand jobs and skill gaps
- Establish a strategic training fund to sustain the demand-driven workforce system to better address skill gaps

## Reference

20 CFR Subpart C – Rapid Response Activities

# Kentucky Career Center Rapid Response Manual

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Office of Employer & Apprenticeship Services (OEAS) State Rapid Response Unit Responsibilities:

- Receive and maintain all Worker Adjustment & Retraining Notification (WARN) notices in the Kentucky Integrated Business Engagement system (KIBES) as well as maintain dislocated worker and Rapid Response information on the department's websites and in KIBES
- Provide grant oversight of the Rapid Response program
- Recommend grants and contracts related to overall Rapid Response management to leadership
- Implement and maintain the necessary state partnerships related to dislocations, i.e., U.S. Department of Labor, Employee Benefits Security Administration (DOL-EBSA) and the Personnel Cabinet
- Serve as the central point of communication for Rapid Response
- Provide technical assistance and training to the local areas
- Develop prospective strategies for addressing dislocation events that ensure rapid access to the broad range of allowable assistance in conjunction with other appropriate federal, state and local service agencies and officials, employer associations, technical or other business councils and labor organizations
- Compile information and distribute it to the Kentucky Workforce Innovation Board (KWIB), the US DOL, and others as needed
- Serve as a WARN contact, email WARN and layoff/ closure notices to local rapid response coordinators and appropriate partners within 24 to 48 hours
- Maintain the WARN notices at [www.kcc.ky.gov](http://www.kcc.ky.gov).
- Coordinate and track duty and performance of outreach efforts with local workforce development areas (LWDAs) regarding Rapid Response
- Monitor participation in all planned activities to ensure appropriate and meaningful activities and programs are provided for program compliance

Local Rapid Response Coordinator Responsibilities include the following:

## **Responding to WARN or Other Dislocation Event**

WIOA holds states responsible for the provision of Rapid Response services pursuant to 20 CFR 682.310(b). OEAS maintains responsibility for ensuring compliance with federal and state

# Kentucky Career Center Rapid Response Manual

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requirements regarding Rapid Response, implementation of program initiatives, and providing support, guidance, technical assistance and financial resources to the LWDA. As such, OEAS will remain the state's designated recipient of WARNs to fulfill its statutory requirements. However, it is the expectation that the Kentucky Career Center along with other key partners will act in coordination during all layoffs in a particular region regardless of the size of the event.

Each LWDA must identify a lead Rapid Response coordinator to ensure that all Rapid Response partners are included in the Rapid Response process. The local Rapid Response Coordinator must be an active, engaging member of the LWDA's Kentucky Career Center business services team. Because of the uniqueness of each event, OEAS recognizes that flexibility is key. The following provides guidance on how to respond:

## Receipt of Notification

Notifications (whether a WARN, a substantial layoff, or smaller event) come through various channels to the KCC, the LWDA and other partners. The important factors in the response process are making all partners aware of the notice, immediate contact with the company, and gathering information to disseminate for planning of services.

- When the Rapid Response central office staff at OEAS or KCC staff receives information regarding the event, they should immediately contact the other thru the KIBES notification section to start the response process. Immediate contact must be made within 48 hours.
  - If OEAS is the first to be contacted, a response will be made via email and documented in KIBES, or via a KIBES email, connecting the employer to the LWDA Rapid Response Coordinator.
  - Initial contact with the employer should attempt to secure the following information:
    - Company Name (including address and telephone number)
    - Company Contact Name and Title
    - Description of the business, including North American Industry Classification System code
    - Type of dislocation (e.g., Mass Layoff or Plant Closure)
    - Notification type (e.g., WARN, news article, letter, phone call, other)
    - Number of impacted workers and total workers at the facility
    - NOTE: Employer should be informed of all relevant assistance programs, including Trade Adjustment Assistance (TAA) and Trade Readjustment Act (TRA), and provided with the TAA application ([www.doleta.gov/tradeact/](http://www.doleta.gov/tradeact/)), if appropriate, and advised on WARN (<https://doleta.gov/layoff/warn.cfm>) if the company needs assistance.

## Employer Meeting/Contact

- When KCC Rapid Response Coordinator meets with the employer they should attempt to secure the following information:

# Kentucky Career Center Rapid Response Manual

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- Brief description of impacted employee skill sets and corresponding occupations that can be linked to a Standardized Occupational Classification code
- Identification of potential days and times for a Rapid Response employer meeting and/or Rapid Response worker/employee service session.
- A determination should be made as to what other partners need to be notified and how they will take part in the process. Other partners may include:
  - The Office of Unemployment Insurance
  - The Cabinet for Economic Development
  - Local Economic Development
  - The Department of Health and Human Services
  - The United Way
  - A Union Official
- The lead KCC Rapid Response Coordinator will be responsible for the timely dissemination of information to other partners and key stakeholders to ensure accurate and up-to-date information is available and communicated
- When a meeting date is determined for Rapid Response, the KCC Rapid Response Coordinator will remain responsible for securing the requested agency representation
- The initial Rapid Response employer meeting should include the KCC Rapid Response coordinator, the KCC Rapid Response staff, and other local partners as necessary, company officials and employee representation (union or other). The meeting is to discuss business services and solutions that may avert or lessen the impact of the layoff. Each partner has a role in the meeting that adds value to the process as a whole. A Rapid Response meeting should include:
  - The opportunity to gather information regarding the layoff, timelines, and demographic information and skill sets of the affected workers; and
  - The dissemination of information to assist both the business and worker through the transition to reemployment.

## **Rapid Response Worker/Employee Services**

These services provide information on available resources to the impacted employees. The services meet the specific needs of each unique group of affected workers.

Rapid Response Workers/Employee Services may include other partners from the local One-Stop service centers and community agencies, listed below, presenting information and providing informational materials.

- LWDA

# Kentucky Career Center Rapid Response Manual

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- OEAS
- Kentucky Career Center
- WIOA Dislocated Worker Job Training
- Unemployment Insurance
- Veterans Services
- Trade Adjustment Assistance Program (TAA)
- Kentucky Vocational Rehabilitation
- Kentucky Economic Development
- Kentucky Adult Education
- Kentucky Personnel Cabinet
- Local Community Organizations
- Local Health and Human Services
- Consumer Credit Counseling
- Chambers of Commerce
- USDOL-EBSA
- Federal financial assistance for students

All Rapid Response Employee services and/or meetings may feature presentations from appropriate partners in the local area. Workers attending a Rapid Response session should receive information and access to:

- Kentucky Career Center services (NOTE: Staff should encourage affected workers to self-register in Citizen Connect and Focus Career as soon as possible even though not dislocated at that time.)
- Employment services
- WIOA training activities
- TAA; if a TAA petition has not been filed, petitioning information will be provided
- Unemployment Insurance benefits
- Internet websites that provide job search and preparation guidelines
- Résumé and interview workshops
- Veterans Program assistance
- Financial counseling programs
- Federal financial assistance for students
- Local Health and Human Services programs
- Adult Education Representative
- Cabinet for Economic Development information.

The meeting may not always follow a Rapid Response (leadership) meeting due to timing of the layoff or lack of cooperation from an employer. The Business Services Staff will provide emergency assistance adapted to the particular closing, layoff, or disaster.

State Rapid Response staff assistance is available upon LWDA request.

## **Inability to Schedule a Rapid Response or Rapid Response Worker/Employee Sessions**

Scheduling a meeting is not always feasible. Workers may be laid off prior to the Rapid Response Team being notified, the employer does not want a meeting, the timing of events does not allow



# Kentucky Career Center Rapid Response Manual

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the process to play out, or other reasons may come into play. Because information and data are always helpful in determining strategy for delivery of services, the appropriate KCC Rapid Response coordinator and area Business Services Teams (BST) should attempt to obtain the needed information and arrange a Rapid Response Worker/Employee community event. One-Stop and partner services information should to be distributed to the impacted employees.

The data elements in KIBES should be collected when a business closes without prior notification. KCC Rapid Response staff should complete the entire data field, to the best of their ability. The information from the Rapid Response program in KIBES is used for the following:

- Keep the Governor and leadership fully informed of dislocation events and their potential impact on local communities
- Respond to Legislative and other inquiries
- Enable the DWD to make informed budgetary decisions with respect to allocation of National Dislocated Worker grants and the WIOA discretionary funding
- Comply with federal reporting requirements to include the maintenance of layoff information in the KIBES system
- Serve customers with transparency and accountability

The KCC Rapid Response Coordinator is required to have local policy describing how the Local Workforce Development Board will coordinate Rapid Response activities with the Kentucky Career Center to address actual or potential dislocation events. The policy may be covered separately or included in the LWDA local plan. Layoff aversion strategies must be addressed as part of the policy. Layoff aversion may be part of the overall Rapid Response policy or under separate cover. In addition to the general Rapid Response elements, the policy must include the following actions, at a minimum:

- The name of the local Rapid Response coordinator primarily responsible for activities including scheduling and facilitating Rapid Response and Rapid Response Employee/Worker Session along with title, mailing address, email address, and telephone number.
- A description of the coordination of business services which may include layoff aversion strategies.
- A listing of all agencies represented on the LWSA Rapid Response Team

## **Reporting Requirements**

Rapid Response service activity is tracked in KIBES. All information requested, with weekly status updates, must be entered in the KIBES under the Rapid Response program tab. All final data must be entered within 10 days of a Rapid Response session.

Below are the needed data elements, if applicable to the Rapid Response service provided:

# Kentucky Career Center Rapid Response Manual

<p>Company <a href="#">American Greetings Corp-Bardstown</a></p> <p>Program Type ① Rapid Response/Downsizing Assistance</p> <p>Program Type Sub-Category ① <a href="#">Plan Layoff Resp/Delivery of Rapid Resp</a></p> <p>CHFS Programs</p> <p>CHFS Sub-services</p> <p>Description <a href="#">Received WARN referred to LWDA for Rapid Response.</a></p> <p>Job Title Zip</p> <p>Employees Served(If applicable) ①</p> <p>Applicants Served ①</p> <p>Number Of KCC Customers Hired(If applica ①</p> <p>Target Group for Untapped Labor Pools</p> <p>Case Number</p>	<p>Approval Status Approved</p> <p>Approval/Start Date 1/12/2018</p> <p>Completed/End Date <a href="#">3/14/2018</a></p> <p>Related Notice</p>
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▼ Rapid Response Requirements

<p>Date LWDA received WARN</p> <p>RR Jobs Report Completed &amp; Attached ① <input type="checkbox"/></p> <p>Initial Visit/Contact Date 1/24/2018</p> <p>Num. of Employees Affected</p> <p>Type of Rapid Response Action Provided Employee Meetings</p> <p>Rapid Response Action Provided -Describe Rapid Response information sessions were provided to the employees on 3/14/18 at 10:00 pm and 11:00 pm at the company.</p> <p>Refusal/Rejection Notes ①</p> <p>Num. of Employees Re-Employed</p> <p>Num. referred to a KCC Partner</p> <p>Agencies involved in providing services Employment Services;Kentucky Adult Education;LWDA;Unemployment Insurance;US DOL/Employee Benefits Security Admin</p>	<p>RR Reportable Status Update -Week #1</p> <p>RR Reportable Status Update -Week #2</p> <p>RR Reportable Status Update -Week #3</p> <p>RR Reportable Status Update -Week #4</p> <p>RR Reportable Status Update -Week #5</p> <p>RR Reportable Status Update -Week #6</p> <p>RR Reportable Status Update -Week #7</p> <p>RR Reportable Status Update -Week #8</p>
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# Kentucky Career Center Rapid Response Manual

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Different Layoff Count ⓘ	/
Secondary LWDA Impacted by this Layoff	/
Average Age of Workers	/
45+ years	/
Will/Has State or LWDA filed a NDWG? ⓘ	/
No	/
Average Education Level of Workers	/
HS graduate or equivalent	/
Has a trade petition been filed&certified	/
No	/
Average Length of Service	/
15-21 years	/
Describe affected work force ⓘ	/
Average Wage of Workers	/
\$16.00-\$20.99 per hour	/
Veterans Affected?	<input type="checkbox"/> /
Date of Employee Rapid Response Services	/
3/14/2018	/
Individual(s)with a disability affected?	<input type="checkbox"/> /
Where will the services be provided?	/
Onsite Business Location	/
Non-English speakers affected?	<input type="checkbox"/> /

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# Kentucky Career Center Rapid Response Manual

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## References

20 CFR Subpart C – Rapid Response Activities (20 CFR 682.300 - 682.370)  
WIOA Section 134(a)(2)(A)  
TEN 31-11 – The Rapid Response Framework  
TEN 9-12 – Layoff Aversion in Rapid Response Systems  
TEN 32-11 – Rapid Response Self-Assessment Tool  
TEGL 19-16 - Operating Guidance for the WIOA

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# **Kentucky Education & Labor Cabinet**

## **Standard Operating Procedures Jobs for Veterans State Grant (JVSG)**



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## **History of the Jobs for Veterans State Grant**

The Servicemen's Readjustment Act, commonly known as the G.I. Bill of Rights, was passed in 1944 to assist veterans reintegrating into the civilian workforce. It reestablished the Veterans' Employment Service and provided for the appointment of Local Veterans' Employment Representatives (LVER staff). The 92nd Congress passed the Vietnam Veterans' Readjustment Assistance Act of 1972 (P.L. 92-540) which extended priority service for employment counseling, job training and placement services to Vietnam era veterans. This landmark legislation also extended veterans' priority to widows and spouses of totally disabled veterans, prisoners of war, and servicemen missing in action, and required the Secretary of Labor to implement stringent administrative controls to ensure the delivery of preferential services to veterans.

In 1977, President Carter issued an Executive Order that created the Disabled Veterans' Outreach Program (DVOP) as a pilot under the Comprehensive Employment and Training Act (CETA). Staffed in Job Service offices, DVOP specialists conduct outreach in their communities to identify and encourage veterans to use the employment service. Passed in 1980, P.L. 96-466 established the DVOP as a permanent program and placed DVOP specialists and LVER staff under a new Assistant Secretary for Veterans' Employment (ASVE).

The ASVE was renamed by Secretary's Order 4-83 on March 24, 1983, to the Assistant Secretary for Veterans' Employment and Training (ASVET). VMS Vol. VIII - 1 - Last Update: 10/21/2008 The Veterans' Employment, Education and Counseling Amendments of 1988 (P.L. 100-323) detailed position duty statements for Federal and State staff down to the DVOP and LVER positions in the states including hiring and reduction-in-force protections. The Act revised Chapter 41 of Title 38, U.S.C. and added in Chapter 42, the requirement of VETS to monitor and report the affirmative action hiring of veterans by Federal contractors (38 U.S.C. 4212), and affirmative action requirements for hiring and advancement within Federal agencies (38 U.S.C. 4214).

In 1998, President Clinton enacted the Workforce Investment Act (P.L. 105-220) to replace the Job Training Partnership Act (JTPA) and required labor exchange services be provided through a One-Stop Career Center concept. This legislation defined intensive services to include case management. President Bush enacted the Jobs for Veterans Act (P.L. 107-288) on November 7, 2002. This legislation revised Chapters 41-43 of Title 38 to give states more latitude in the conduct of their DVOP and LVER staff and placed more emphasis on accountability. It requires states to submit a detailed plan of services to veterans, requires the ASVET to monitor the distribution and use of the funds by the states, and mandates priority of service to veterans for all employment and training programs funded in whole or in part by the Department of Labor.

### **Jobs for Veterans State Grant Objectives**

The objectives of the JVSG grant are clearly spelled out in the “Purpose” of 38 U.S.C. Chapter 41, where Congress declares that there will be “an effective job and job training program and an employment placement program for veterans and other eligible persons” that maximizes employment and training opportunities for covered persons (38 U.S.C. 4102). This section further stipulates that priority will be given to the “needs of disabled veterans and veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized through existing programs.” The objectives include “coordination and merger of programs and implementation of new programs, including programs carried out by the Veterans' Employment and Training Service to implement all efforts to ease the transition of service members to civilian careers that are consistent with, or an outgrowth of, the military experience of the service members.”

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## Standard Operating Procedures for DVOP / LVER

The purpose of this manual is to explain required roles and responsibilities for Disabled Veterans' Outreach Program (DVOP) specialists and Local Veterans' Employment Representatives (LVER) staff in the Kentucky Education and Labor Cabinet, Career Development Office's American Job Centers (AJCs). In Kentucky, AJCs are called Kentucky Career Centers (KCCs) and are referred to as such throughout these Standard Operating Procedures.

### Definitions

- **Eligible veteran**, as defined in 38 U.S.C. 4211(4), is a person who:
    - Served on active duty for a period of more than 180 days and was discharged or released therefrom with other than a dishonorable discharge;
    - Was discharged or released from active duty because of a service-connected disability;
    - As a member of a reserve component under an order to active duty pursuant to section 12301(a), (d), or (g), 12302, or 12304 of Title 10, served on active duty during a period of war or in a campaign or expedition for which a campaign badge is authorized and was discharged or released from such duty with other than a dishonorable discharge; or
    - Was discharged or released from active duty by reason of a sole survivorship discharge as defined in section 1174(i) of title 10).
  
  - **Eligible Person**  
As defined in 38 U.S.C. 4101(5), means:
    - The spouse of any person who died of a service-connected disability;
    - The spouse of any member of the Armed Forces serving on active duty who, at the time of application for assistance under this chapter, is listed, pursuant to section 556 of Title 37 and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than ninety days:
      - Missing in action,
      - Captured in line of duty by a hostile force, or
      - Forcibly detained or interned in line of duty by a foreign government or power; or
    - The spouse of any person who has a total disability permanent in nature resulting from a service-connected disability or the spouse of a veteran who died while a disability so evaluated was in existence.
- Pursuant to Veterans' Program Letter (VPL) 03-14, including Change 1 and Change 2, and VPL 03-19, the list of eligible persons includes the following additional populations:
- A special disabled or disabled veteran, as those terms are defined in 38 U.S.C. 4211(1) and (3); special disabled and disabled veterans are those:

- who are 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
    - were discharged or released from active duty because of a service-connected disability;
  - A homeless person, as defined in Sections 103(a) and (b) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a) and (b)), as amended (see definition below);
  - A recently-separated service member, as defined in 38 U.S.C. 4211(6) to mean any veteran during the three-year period beginning on the date of such veteran's discharge or release from active duty, who has been unemployed for 27 or more weeks in the previous 12 months;
  - An offender, as defined by WIOA Section 3 (38), who is currently incarcerated or who has been released from incarceration (see definition below); offender is defined as an adult or juvenile:
    - Who is or has been subject to any stage of the criminal justice process, and for whom services under WIOA may be beneficial; or
    - Who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction;
  - A veteran lacking a high school diploma or equivalent certificate;
  - A low-income individual (as defined in WIOA Section 3 (36)) (see definition below);
  - Veterans aged 18-24;
  - Vietnam-era veterans (see definition below);
  - Transitioning members of the Armed Forces (see definition below) who have been identified as in need of intensive services (now referred to as Individualized Career Services);
  - Members of the Armed Forces who are wounded, ill, or injured and receiving treatment in military treatment facilities or warrior transition units; and
  - The spouses or other family caregivers of such wounded, ill, or injured members.
- **Homeless person**, as defined in Sections 103(a) and (b) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a) and (b)), as amended, means:
  - In general –
    - an individual or family who lacks a fixed, regular, and adequate nighttime residence;
    - an individual or family with a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;

- an individual or family living in a supervised publicly or privately operated shelter designated to provide temporary living arrangements (including hotels and motels paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing);
  - an individual who resided in a shelter or place not meant for human habitation and who is exiting an institution where he or she temporarily resided;
  - an individual or family who –
    - A. will imminently lose their housing, including housing they own, rent, or live in without paying rent, are sharing with others, and rooms in hotels or motels not paid for by Federal, State, or local government programs for low-income individuals or by charitable organizations, as evidenced by –
      - i. a court order resulting from an eviction action that notifies the individual or family that they must leave within 14 days;
      - ii. the individual or family having a primary nighttime residence that is a room in a hotel or motel and where they lack the resources necessary to reside there for more than 14 days; or
      - iii. credible evidence indicating that the owner or renter of the housing will not allow the individual or family to stay for more than 14 days, and any oral statement from an individual or family seeking homeless assistance that is found to be credible shall be considered credible evidence for purposes of this clause;
    - B. has no subsequent residence identified; and
    - C. lacks the resource or support networks needed to obtain other permanent housing; and
  - unaccompanied youth and homeless families with children and youth defined as homeless under other Federal statutes who –
    - A. have experienced a long term period without living independently in permanent housing,
    - B. have experienced persistent instability as measured by frequent moves over such period, and
    - C. can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical health or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.
- Additionally, homeless refers to any individual or family who is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or

life-threatening conditions in the individual's or family's current housing situation, including where the health and safety of children are jeopardized, and who have no other residence and lack the resources or support networks to obtain other permanent housing.

- **Low-income individual**, as defined in WIOA Section 3(36), means an individual who:
  - Receives, or in the past 6 months has received, or is a member of a family that is receiving or in the past 6 months has received, assistance through the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.), the program of block grants to States for temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), or the supplemental security income program established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or State or local income-based public assistance;
  - Is in a family with total family income that does not exceed the higher of –
    - the poverty line; or
    - 70 percent of the lower living standard income level;
  - Is a homeless individual (as defined in section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6))), or a homeless child or youth (as defined under section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)));
  - Receives or is eligible to receive a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);
  - Is a foster child on behalf of whom State or local government payment are made; or
  - Is an individual with a disability whose own income meets the income requirement above but who is a member of a family whose income does not meet that requirement.
- **Vietnam-era veterans**, as defined in 38 U.S.C. 101(29), means 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, and the period beginning on August 5, 1964, and ending on May 7, 1975, in all other cases.
- **Transitioning service member** as defined in 38 U.S.C. 4211(6) and VPL 03-19, Change 2, means any veteran who has been unemployed for 27 or more weeks in the previous 12 months during the three-year period beginning on the date of such veteran's discharge or release from active duty.
- **Family caregiver**, as defined in 38 U.S.C. 1720G(d), is a family member who is a caregiver of the veteran.
  - Family member is defined thereunder as an individual who:
    - Is a member of the family of the veteran, including a parent, a spouse, a child, a step-family member, and an extended family member; or

- Lives with, but is not a member of, the family of the veteran.
- Caregiver is defined thereunder as an individual who provides personal care services to the veteran.

DRAFT

## Priority of Service

It is the responsibility of the public workforce system to provide priority of service for all veterans and other eligible persons (covered persons) who receive services under any qualified job training program. Veterans and other eligible persons are given priority over non-covered persons for the receipt of career assistance provided under workforce services. This priority means that a veteran or other eligible person shall receive access to a service earlier than a non-covered person.

For a service such as classroom training or other training services, priority of services applies to the selection procedure as follows:

- First, if there is a waiting list for the formation of a training class or other training services then priority of service requires a veteran or other eligible person to go to the top of that list.
- Second, priority of service applies up to the point at which an individual is both approved for funding and accepted or enrolled in a training class, priority of service is not intended to allow a veteran or other eligible person to “bump” the non-covered person from that training class.

It is important to distinguish between the identification of a veteran or other eligible person for priority of services and the verification of a veteran’s or other eligible person’s eligibility for the priority. If an individual self-identifies as a veteran or other eligible person at the KCC, that individual should be given immediate priority in the delivery of employment services before eligibility is verified.\* When a self-identified veteran or other eligible person undergoes eligibility determination for enrollment (e.g., in WIOA Adult Program), the priority will be rescinded if the individual’s status as a veteran or other eligible person is not verified.

\*The only employment services that require prior verification of eligibility for priority of service are those that require a commitment, such as classroom training.

KCCs must ensure that veterans and other eligible persons are identified at the “point of entry” (reception area, resource area, Websites, Self Service and informational bulletin boards etc.), and informing veterans and other eligible persons of their entitlement to priority of services. These services include the full array of employment, training, and placement services.

### **Procedure to Ensure Priority of Service**

1. Identify veterans and other eligible persons when they visit service delivery points by asking “have you or a spouse served in the military or are you a family caregiver of a veteran?”
2. Display signs that clearly describe the priority of services and the registration process. This information must also be conveyed when veterans and other eligible persons access services electronically or by telephone.
3. It is neither necessary nor appropriate to require verification of the status of a veteran or other eligible person at the point of entry.
4. If a person self-identifies as a veteran or other eligible person, immediate priority of service is required.
5. Persons who self-identify as a veteran or other eligible person and who have not already been determined to be eligible for DVOP services should fill out the Veteran Information Form (VIF) (See on Pg. 16) to determine eligibility.
  - a. A veteran answering “yes” to any of the questions on the VIF indicates that the veteran is eligible for DVOP services, or;
  - b. A veteran answering that the veteran’s present annual household family income falls below the HHS Poverty Guidelines amounts, as determined yearly by the U.S. DOL and listed on the VIF (<https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>), indicates that the veteran is eligible for DVOP services.
6. Coordinate employer outreach development activities with related responsibilities of LVER staff.
7. Identify employers who are interested in hiring veterans.
8. Promote job fairs for veterans and other eligible persons.
9. Monitor to ensure priority of services from the point of entry and during training or employment services.

## General Roles and Responsibilities of KCC Staff Serving Veterans

- **Welcome Team Staff** – Identify those eligible veterans or other eligible persons with significant barriers to employment (SBE) and direct those individuals to the DVOP specialist for assistance through individualized career services and case management. In the event that a DVOP specialist is not available, the veteran or other eligible person will be referred to the appropriate Wagner-Peyser or WIOA staff in addition to scheduling or referring the individual to an available DVOP specialist by appointment. Under normal operating circumstances, all KCC customers are greeted by the welcome team and moved on to the appropriate staff for assistance.
- **Wagner-Peyser Staff** – Unless the veteran or other eligible person qualifies for JVSG services, the majority of veterans should be served by Wagner-Peyser or WIOA staff rather than the JVSG Veteran staff.
- **Veteran staff (DVOP specialists)** – Efforts of veteran staff will be focused on eligible veterans and other eligible persons with significant barriers to employment (SBE), in accordance with Veterans Program Letter 03-14, including Change 1 and Change 2, and 03-19. A list of eligible persons recognized as having SBE is contained within the Definitions section of these Standard Operating Procedures, under the term “eligible person.”

### DVOP Specialist Roles

In accordance with VPL 03-14, including Change 1 and Change 2, and VPL 03-19, DVOP specialists facilitate individualized services to veterans with SBE and/or special training needs which include:

- Conducting a comprehensive assessment (minimum requirement);
- Developing an individual employment plan (IEP) that is documented (minimum requirement);
- Chapter 31 Vocational Rehabilitation & Employment Case Management;
- Coordinating supportive services;
- One-on-one career counseling;
- Providing short term pre-vocational services; and
- Group employment workshops and employment counseling.

### **Case Management and Tracking**

The DVOP specialist is the case tracker for veterans in the United States Department of Veterans Affairs (VA) Vocational Rehabilitation and Employment Program (Title 38, Code of Federal Regulations, and Chapter 31). This program requires extensive follow-up and the DVOP specialist will be allowed sufficient time to do the case management and individualized career services to meet these requirements. The DVOP specialist will work closely with the LVER and KCC's Business Service Team (BST) to ensure that



veterans in Chapter 31 programs who are “job ready” receive priority in their job search, as determined by the Veteran Readiness & Employment Counselor (VRC) at the VA.

In accordance with VPL 01-16, Change 1, and Change 1 ATT (TAG), DVOPs are required to serve Chapter 31 veterans. If a DVOP is not available, the Chapter 31 veteran will be served by an appropriate KCC staff member.

The DVOP specialist is the resident expert on programs available to assist SBE veterans in improving their skills so they can take the next step in their careers. This includes workshops the DVOP may present and other staff services available at the Kentucky Career Center, such as additional Career Development Office programs, and other WIOA training programs. There are additional programs available through the Veterans’ Administration, such as the Veteran Readiness and Employment Program Services (VR&E). DVOP specialists will coordinate outreach activities with their formal and functional managers to ensure maximum efficiency. In the event that a DVOP specialist does not have a full case load of eligible veterans or other eligible persons, the DVOP specialist may perform additional outreach activities. For example, at such locations:

- Veteran Readiness & Employment (VR&E) Services
- Homeless Veterans Reintegration Program (HVRP)
- VA medical and other Centers
- Veterans’ Administration Community Based Outpatient Clinic (CBOC)
- Homeless shelters
- Civic and service organizations
- Community Stand Downs
- Military installations
- WIOA partners
- State Vocational Rehabilitation Services
- County Service Veterans Service Officer
- Others as deemed appropriate and necessary

### **Rapid Response for Dislocated Veterans**

It is recommended that the DVOP be a part of the rapid Response Team at selected Rapid Response events for dislocated veterans, ensuring that SBE veterans are offered JVSG services.

## Local Veterans' Employment Representative (LVER) Roles

In Veterans' Program Letter 07-10 and 03-14, the following are the mandated functions for the Local Veterans' Employment Representative Staff:

1. As an integral part of the State's Labor Exchange System, LVER staff work with employers to promote veterans as job seekers who have highly marketable skills and experience.
2. LVER staff advocate for veterans to gain employment and training opportunities with business, industry, and community-based organizations to accomplish this, LVER staff participate in a variety of outreach activities including, but not limited to:
  - a. Planning and participation in job fairs;
  - b. Coordinating with unions, apprenticeship programs, and business organizations to promote employment, and training opportunities for veterans; and
  - c. Promoting credentialing and training opportunities for veterans with training providers and licensing agencies.
3. LVER staff establish, facilitate, and/or maintain regular contact with employers to include federal contractors. They will coordinate with employer relations representatives as part of the KCC system to include veterans in their marketing efforts.
4. LVER staff provide and facilitate a full range of employment, training, and placement services to meet the needs of priority veterans in targeted categories identified and approved in the State Plan. These services may include, but are not limited to:
  - a. Conducting job search assistance workshops in conjunction with employer; and
  - b. Providing job development opportunities.

The LVER will be integrated into the KCC's Employment Team or Business Services Team (or equivalents). The LVER's role on Business Services Team is to advocate for veterans in KCC programs and services. LVER staff seek employment and training opportunities with business, industries, union, and apprenticeship programs. They may ask employers specifically to seek veterans for positions in their companies. Optimally, the employer would target specific positions for veterans with certain skills (based on the veterans' military training/military occupational specialty).

Under no circumstances will the LVER provide related services to nonveteran customers unless the customer is another eligible person covered by priority of service. The LVER can act as a liaison to introduce businesses to the services the Business Service Team and KCC provide while advocating for Veteran placement.

The LVER staff should perform outreach to inform the community of Veteran Services. LVER staff may be encouraged to attend community meetings such as area Unions, hiring events, and local Chamber of Commerce meetings and events to promote all the KCC services, both as a networking tool and for the

opportunity to speak about veterans' programs. These activities will be coordinated with the Business Services Team.

### **DVOPs and LVERs Outreach Accountability**

In order to maintain accountability for time spent on outreach, each LVER, DVOP specialist, and Consolidated staff will report the results of their outreach activities. Appointments, meetings, and scheduled outreach should be updated on respective Outlook calendars and should be accessible by the staff's supervisor. An approved Outreach Plan is due into the JSVG coordinator no later than November 15<sup>th</sup> of each year. The number of contacts and outreach activities will be logged, and numbers will be reported on the JSVG Quarterly Managers Report. This report will be used by JSVG leadership to produce the required quarterly reports for the U.S. Department of Labor Veterans' Employment and Training Services as required in the Jobs for Veterans Act and VPL 07-19. Outreach activities will be reviewed by supervisors and those that are determined by the management team to be unproductive may be discontinued.

### **National Veterans Training Institute (NVTI)**

All DVOP specialists and LVERs are required to attend veteran related courses at NVTI within 18 months of assignment or hire, including completing a core competency course. DVOP specialists and LVER staff will attend four (4) prerequisite courses and Consolidated staff will attend five (5) courses offered by NVTI, which include the completion of the core competency course(s). The State Veterans Coordinator may elect to send JSVG staff to additional courses for career development.

NVTI Required Courses:

- 9635: A Day in the Life of JSVG Staff in an American Job Center
- 9636: Legal Guidance Affecting Veterans' Employment Services
- 9637: Removing the Employability Gap for Veterans with Significant Barriers to Employment
- 9608: Disabled Veterans' Outreach Program (DVOP) Specialist Core Competency Development (DVOP specialist and Consolidated only)
- 9609: Local Veterans' Employment Representative (LVER) Core Competency Development (LVER and Consolidated staff only)

# Veteran Information Form

Date: \_\_\_\_\_ Name: \_\_\_\_\_

SSN (Last 4 numbers): \_\_\_\_\_ Email: \_\_\_\_\_ Phone: \_\_\_\_\_

Military Dates: Entered: \_\_\_\_\_ Released: \_\_\_\_\_ Branch of Service: \_\_\_\_\_

Discharge Type: \_\_\_\_\_

\*Must have served at least 180 days for military purposes other than training. We accept all Discharges except "Dishonorable"

**If you meet the above qualifications, please complete the below section.**

## Conditions of Employment

1. Do you have a service connected disability or a claim pending? If you already have a disability rating, what is the percentage?  Yes  No  
% \_\_\_\_\_
2. Are you experiencing homelessness?  Yes  No
3. Were you discharged from the military within the last 3 years AND have you been unemployed for 27 weeks in the last 12 months?  Yes  No
4. Have you been released from jail, prison or any detention facility?  Yes  No
5. Are you between ages 18 and 24 years old?  Yes  No
6. Are you a transitioning service member?  Yes  No
7. Are you lacking a High School Diploma or GED?  Yes  No
8. Are you a Vietnam Veteran/Served during the Vietnam Era?  Yes  No
9. What is the **PRESENT ANNUAL FAMILY** household Income? \$ \_\_\_\_\_  
Number of people in your household? \_\_\_\_\_

## 2022 Poverty Guidelines for the 48 Contiguous States and the District of Columbia

Persons in Family/ Household	Poverty Guideline
1	\$13,590
2	\$18,310
3	\$23,030
4	\$27,750
5	\$32,470
6	\$37,190
7	\$41,910
8	\$46,630

\*For families/households with more than 8 persons, add \$4,720 for each additional person.

**Criteria For Veteran Spouses/Caregivers**  
*Please Refer to Veteran Staff for Eligibility.*

**STAFF ONLY**

Referred By: \_\_\_\_\_

Referred To: \_\_\_\_\_



**Notes:**

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## **Regions and Counties**

### **Bluegrass (2 DVOP/1 LVER)**

Anderson, Bourbon, Boyle, Clark, Estill, Fayette, Franklin, Garrard, Harrison, Jessamine, Lincoln, Madison, Mercer, Nicholas, Powell, Scott, Woodford

### **Cumberlands (1 Consolidated)**

Adair, Casey, Clinton, Cumberland, Green, Laurel, McCreary, Pulaski, Rockcastle, Russell, Taylor, Wayne, Whitley

### **EKCEP (2 Consolidated)**

Bell, Breathitt, Carter, Clay, Elliott, Floyd, Harlan, Jackson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Magoffin, Martin, Menifee, Morgan, Owsley, Perry, Pike, Wolfe

### **Green River (1 Consolidated)**

Daviess, Hancock, Henderson, McLean, Ohio, Union, Webster

### **Kentuckiana Works (2 DVOP/1 LVER)**

Bullitt, Henry, Jefferson, Oldham, Shelby, Spencer, Trimble

### **Lincoln Trail (1 Consolidated)**

Breckinridge, Grayson, Hardin, LaRue, Marion, Meade, Nelson, Washington

### **Northern Kentucky (1 DVOP/1 LVER)**

Boone, Campbell, Carroll, Gallatin, Grant, Kenton, Owen, Pendleton

### **South Central (1 DVOP/1 LVER)**

Allen, Barren, Butler, Edmonson, Hart, Logan, Metcalfe, Monroe, Simpson, Warren

### **TENCO (1 Consolidated)**

Bath, Boyd, Bracken, Fleming, Greenup, Lewis, Mason, Montgomery, Robertson, Rowan

### **West Kentucky (1 DVOP/1 LVER/1 Consolidated)**

Ballard, Caldwell, Calloway, Carlisle, Christian, Crittenden, Fulton, Graves, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, Muhlenberg, Todd, Trigg