

# State of Nebraska



## **Combined State Plan for Nebraska's Workforce System**

July 1, 2016 to June 30, 2020

## Public Comments

The Nebraska Departments of Labor, Education, and Health and Human Services and the Nebraska Commission for the Blind and Visually Impaired released the Combined State Plan for Nebraska's Workforce System in compliance with the Workforce Innovation and Opportunity Act and sought public comment for a 30-day period beginning January 15, 2016 and ending February 18, 2016.

In addition, a public hearing was held on February 5, 2016 at the Nebraska State Office Building, 14<sup>th</sup> & M Streets, Lincoln, Nebraska. The hearing was made available simultaneously at ten (10) Nebraska Vocational Rehabilitation locations across the state through interactive video conferencing technology:

- Columbus - 3100 23rd Street, Suite 5
- Fremont - 827 North D Street
- Grand Island - 203 East Stolley Park Road, Suite B
- Kearney - 315 West 60th Street, Suite 400
- Lincoln - 3901 North 27th Street, Suite 6
- Norfolk - 1212 Benjamin Avenue
- North Platte - 200 South Silber, Building 2
- Omaha - 1313 Farnam on the Mall
- Omaha - 12011 Q Street
- Scottsbluff - 505A Broadway, Suite 500

The summary of the public comments and plan partner responses are accessible at <http://dol.nebraska.gov/EmploymentAndTraining/WIOA/ManualsPlansReports?sideMenu=JobSeekerResources>.

# Preface

## How this Combined State Plan is Organized

The major content areas of this Combined State Plan include strategic and operational planning elements. WIOA separates the strategic and operational elements to facilitate cross-program strategic planning.

The Strategic Planning Elements section includes analyses of the State's economic conditions, workforce characteristics, and workforce development activities. These analyses drive the required vision and goals for the State's workforce development system and alignment strategies for workforce development programs to support economic growth.

The Operational Planning Elements section identifies the State's efforts to support the State's strategic vision and goals as identified in the Strategic Planning Elements section. This section ensures that the State has the necessary infrastructure, policies, and activities to meet its strategic goals, implement its alignment strategy, and support ongoing program development and coordination. Operational planning elements include:

- State Strategy Implementation,
- State Operating Systems and Policies,
- Assurances, and
- Program-Specific Requirements for the Core Programs, and
- Program-Specific Requirements for the Combined State Plan partner programs.

## How this Combined State Plan was Submitted

The U.S. Departments of Education and Labor (the Departments) require states to submit their state plans through the WIOA State Plan Portal. Within the portal are instructions for each required state-plan component.

Following submission of this Combined State Plan, it was exported in Microsoft Word format. This exported version of the Combined State Plan includes the instructions provided by the Departments' for each state-plan components. The instructions have been retained in this Combined State Plan to provide context and are indicated in by green **Times New Roman** font.

## Technical Assistance

If you experience issues with this document, please send an email to [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov) requesting technical assistance.

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### Message from Nebraska Governor Pete Ricketts

Growing Nebraska is key to ensuring that our state remains the best place to live, work, and raise a family for the next generation. By providing tax relief, investing in infrastructure, and running government more like a business, we are building a climate where companies can grow and expand in a global economy. With one of the highest workforce participation rates in the country and a work ethic that is second-to-none, Nebraska is building a reputation for itself as one of the most business-friendly states in the nation.

Over the past year, the State of Nebraska has crafted an ambitious statewide plan for workforce development. *The Combined State Plan for Nebraska's Workforce System* outlines a strategic approach to coordinate plans for jobseekers and employers throughout Nebraska's diverse communities and in-demand industry sectors. This plan centers on helping job-seeking Nebraskans secure gainful employment while also providing Nebraska employers with the skilled workforce they need to remain competitive.

One of the primary tools in carrying out this mission is the new reemployment program launched by my office and the Nebraska Department of Labor. This first-in-the-nation program won approval from the U.S. Department of Labor, and is already helping Nebraskans reenter the workforce swiftly by utilizing personal one-on-one assistance to connect workers with the jobs in the state's online jobs database. By focusing on reemployment, we can help Nebraskans reenter the workforce more quickly and ensure that they are meeting their career goals, while connecting our state's job creators with talent across our state.

The reemployment program is just one component of the strategies we are utilizing that you will read about in this plan. The development of Nebraska's state plan involved several months of intense planning by Nebraska's core workforce development programs, extensive outreach to obtain input from workforce stakeholders throughout Nebraska, and the articulation of a vision for Nebraska's plan for workforce development through June 30, 2020. This plan accounts for Nebraska's unique economic and geographic characteristics, as well as the diverse workforce skills and competencies of residents throughout the state. This plan will help grow Nebraska.

Sincerely,



Pete Ricketts  
Governor

## I. Overview

The State of Nebraska has elected to adopt a Combined State Plan for its Workforce System. The plan, which follows, represents the collective planning, resources and vision of the six core workforce development programs (i.e., the Adult, Dislocated, and Youth Programs, the Wagner-Peyser Act, Adult Education and Family Literacy Program and the Vocational Rehabilitation Program comprised of Nebraska Vocational Rehabilitation and the Nebraska Commission for the Blind and Visually Impaired). In addition to the Core Partners, the following programs are also participating in the combined plan: Jobs for Veterans State Grant, Unemployment Insurance, Senior Community Service Employment Program, Trade Assistance Act, Temporary Assistance for Needy Families, and Migrant Seasonal Farmworker Program. Each of these entities actively participated during the planning process, which occurred over the course of the past year, and is fully committed to participate in the implementation of the Combined State Plan for Nebraska's Workforce System.

## II. Strategic Elements

The Unified or Combined State Plan must include a Strategic Planning Elements section that analyzes the State's current economic environment and identifies the State's overall vision for its workforce development system. The required elements in this section allow the State to develop data-driven goals for preparing an educated and skilled workforce and to identify successful strategies for aligning workforce development programs. Unless otherwise noted, all Strategic Planning Elements apply to Combined State Plan partner programs included in the plan as well as to core programs.

## **a. Economic, Workforce, and Workforce Development Activities Analysis**

The Unified or Combined State Plan must include an analysis of the economic conditions, economic development strategies, and labor market in which the State's workforce system and programs will operate.

### **1. Economic and Workforce Analysis**

#### **A. *Economic Analysis***

The Unified or Combined State Plan must include an analysis of the economic conditions and trends in the State, including sub-State regions and any specific economic areas identified by the State. This must include;

##### **i. Existing Demand Industry Sectors and Occupations**

Provide an analysis of the industries and occupations for which there is existing demand.

##### **ii. Emerging Industry Sectors and Occupation**

Provide an analysis of the industries and occupations for which demand is emerging.

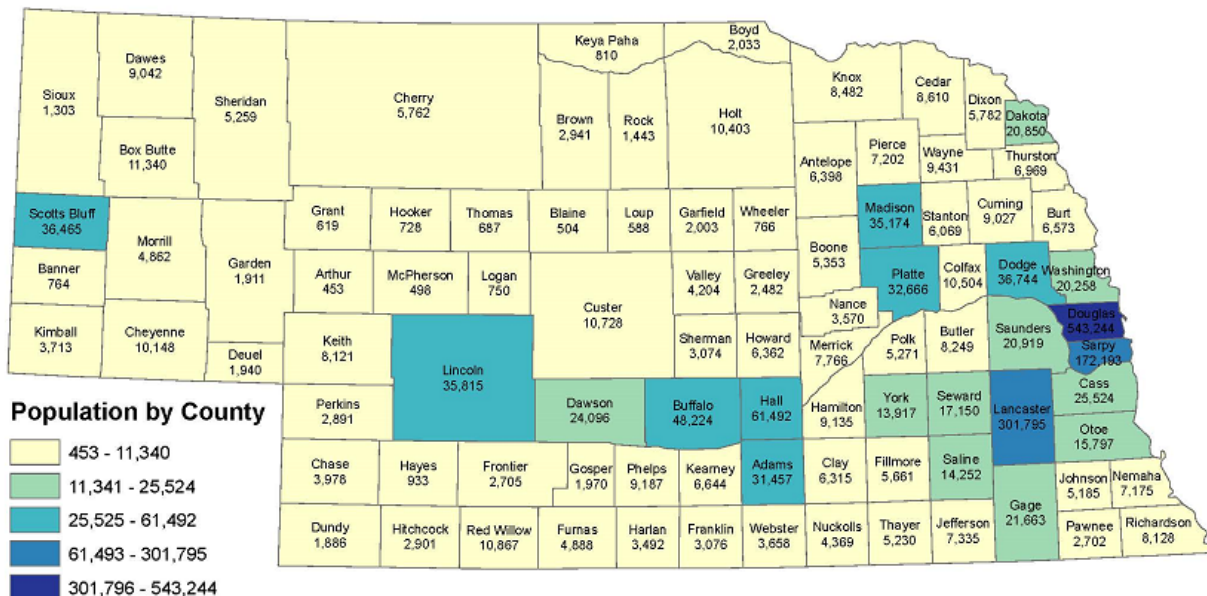
##### **iii. Employers' Employment Needs**

With regard to the industry sectors and occupations identified in 1 and 2 above, provide an assessment of the employment needs of employers, including a description of the knowledge, skills, and abilities required, including credentials and licenses.

### **STRATEGIC ELEMENTS**

Situated in America's heartland, the State of Nebraska is comprised of 77,358 square miles, which makes it the 16th largest state in terms of sheer geographic area. In 2014, Nebraska's population was estimated at 1,881,503 residents using 1-year estimates from the American Community Survey, which places Nebraska 37 out of 50 states. According to Map 1, nearly 40% of the state's population is concentrated in the metropolitan areas of Omaha, Lincoln and South Sioux City (*American Community Survey, 1-year estimates, 2014*).

Map 1: Nebraska Population Density by County



Source: U.S. Census Bureau, Population Division, 2014.

Colors from www.ColorBrewer.org by Cynthia A. Brewer, Geography, Pennsylvania State University.

Map 1 is a location quotient map that provides a visual representation of economic activity statewide within one such sector, the growing Software and Computer Services Industry. The map accounts for such factors as average employment within the industry cluster, total employment within the county, average employment within the cluster statewide and total employment statewide. A value of 1.00 means that the concentration in the county equals that of the state and a value greater than 1.00 means a higher concentration of the industry than in the state.

Nebraska is a state that offers the very best in both rural and urban living, a range of industries and occupations providing employment opportunities, a cost of living index that ranked 9th in the nation during the 3rd quarter of 2015 (*Council for Community and Economic Research*), a workforce that is well-regarded for its strong work ethic, appealing tax incentives for new and existing businesses, and several unique regions and areas that contribute to the state's economic climate. Simultaneously, in this ever-changing 21st economy, Nebraska struggles like many states to provide all of its residents with meaningful and gainful employment opportunities.

Nebraska's workforce system is driven by several telling pieces of data, shared throughout the economic and workforce analysis, which reveal some troubling gaps and trends in Nebraska's economy and workforce. Most illustrative through this data is (1) the extremely high number of underemployed workers within the state who earn less than a

living wage or must hold two or more jobs in order to earn a living wage; (2) the plight of disadvantaged workers such as low-income individuals, individuals with disabilities, ex-offenders, homeless individuals, youth who have aged out of the foster care system, English Language Learners, individuals with low levels of literacy, single parents, farmworkers, those within two years of exhausting lifetime TANF eligibility, and the long-term unemployed; and (3) the need for a pipeline of workers with the technical skills and work readiness skills desired by employers, including those in industries that will drive Nebraska's economy well into the future.

### Economic Analysis

Gross Domestic Product, Personal Income, and Inflation Data from the Bureau of Economic Analysis show that the current-dollar gross domestic product (GDP) for Nebraska in 2014 was \$112.2 billion, up slightly from \$109.4 billion in 2013. During this timeframe, Nebraska's real GDP grew 0.7% in 2014 while the 2013-2014 national change was 2.2%. Real GDP for the Lincoln Metropolitan Statistical Area (MSA) has increased steadily since a slight dip in 2008 and currently stands at just over \$16 billion. GDP for the Omaha MSA has been increasing since 2010; and in 2014, the real GDP in Omaha was \$52.7 billion. The Sioux City MSA has been fluctuating for over the past decade but had experienced an increase from \$7.85 billion in 2013 to \$7.86 billion in 2014 (Bureau of Economic Analysis, 2015).

Personal income in Nebraska has increased steadily since experiencing a slight dip in 2009. Total Personal Income (TPI) in Nebraska for 2014 was \$89.5 million which ranked 36th in the United States. In 2014, Nebraska ranked 18th in per capita personal income (PCPI) at \$47,557, which was 103% of the national average and represented an increase of 2.8% from 2013. In September 2015, the Consumer Price Index (CPI) for the Midwest urban region was 225.184, which was lower than the U.S. city average CPI of 237.945 (Bureau of Economic Analysis, 2015).

### *Existing and Emerging Demand Industry Sectors*

From 2010 to 2014, employment in the Trade, Transportation and Utilities industry (comprised of wholesale trade, retail trade, transportation and warehousing) in Nebraska steadily increased annually. Similarly, over the same period, the Educational and Health Services industries employment increased steadily. Employment in the Manufacturing industry, the Finance industry, and the Professional and Business Services industry also increased annually since 2010. From 2010 to 2014, the Leisure and Hospitality industry also experienced employment gains annually. Other industries in Nebraska have had employment fluctuations from 2010 to 2014. The Natural Resources and Mining and Construction industries employment decreased in 2011 from 2010, but increased every year since. Employment in the Information industry, which includes the broadcasting, telecommunications and data processing industries, peaked in 2012 but has declined each following year. Government and Other Services jobs declined in 2011 compared to 2010, but jobs in both industries increased annually from 2011 to 2014 (*NEworks, Data Download Center: Projections Data Files, 2015*).

Industry projections across all Nebraska industries show total growth of 9.54% through 2022. This includes annual growth of .92% and an employment change of 102,252 job openings. It is anticipated that jobs will grow from 1,071,406 jobs in 2012 to 1,173,658 jobs in 2022 (*Nebraska Department of Labor, Labor Market Information, Projections, 2016*). Table 1 details Nebraska's top 12 industries in terms of 2022 projected total employment. The industry with the most projected employment in 2022 is Health Care and Social Assistance with an anticipated 1,156,933 jobs. This figure represents 13.4% of all projected Nebraska jobs in 2022. Other high-employment industries, in terms of sheer numbers of projected jobs, include retail trade, educational services, and manufacturing.

**Table 1: Industry Projections, 2012-2022**

Industry	2012 Estimated Employment	2022 Projected Employment	Total 2012- 2022 Employment Change	Annual Avg. Percent Change	Total Percent Change
Total, All Industries	1,071,406	1,173,658	102,252	0.92%	9.54%
Health Care and Social Assistance	132,514	156,933	24,419	1.71%	18.43%
Retail Trade	105,261	110,728	5,467	0.51%	5.19%
Educational Services	99,114	109,097	9,983	0.96%	10.07%
Manufacturing	94,773	101,315	6,542	0.67%	6.90%
Accommodation and Food Services	71,323	79,979	8,656	1.15%	12.14%
Finance and Insurance	61,801	66,880	5,079	0.79%	8.22%
Transportation and Warehousing	51,198	58,420	7,222	1.33%	14.11%
Construction	42,192	52,805	10,613	2.27%	25.15%
Professional, Scientific, and Technical Services	42,487	51,912	9,425	2.02%	22.18%
Administrative and Support and Waste Management and Remediation Services	44,937	50,310	5,373	1.14%	11.96%
Agriculture, Forestry, Fishing and Hunting	50,183	44,723	-5,460	-1.15%	-10.88%
Wholesale Trade	41,236	43,004	1,768	0.42%	4.29%

Source: *Nebraska Department of Labor, Labor Market Information, Projections*

### High Wage, High Skill, High Demand (H3)

In recent years, the Nebraska Departments of Labor and Education, in partnership with the Nebraska Department of Economic Development, have focused their respective efforts towards existing and emerging occupations that meet certain high wage, high skill and high demand criteria. Known as H3 occupations, these occupations are considered high wage when at least half of their wage measures are at or above the regional average

for all occupations. Occupations that require either some college or a higher level of educational attainment are high skill; these include occupations that require a high school diploma or equivalent plus long-term on-the-job training, an apprenticeship, or an internship or residency. The number of annual openings, net change in employment, and growth rate determine whether an occupation is in high demand. While Nebraska's economy has historically been driven by agriculture, several industries within the state have emerged recently to also offer tremendous employment opportunities. Using an H3-driven approach, Nebraska is working to place unemployed workers in training programs leading to H3 jobs that pay above Nebraska's \$9.13 median wage.

Using data for the week ending March 11, 2016, the top H3 occupations in the state, ranked by the number of then-current openings, were Licensed Practical and Licensed Vocational Nurses (389 openings); Heavy and Tractor-Trailer Truck Drivers (348); Registered Nurses (209); Welders, Cutters, Solderers, and Brazers (159); Child, Family, and School Social Workers (95); Healthcare Social Workers (80); and Computer User Support Specialists (77) (*H3 Website, H3 Demand Report, March 14, 2016*).

As shown in Table 2, the top H3 occupations in terms of the projected number of jobs includes Heavy and Tractor-Trailer Truck Drivers; Registered Nurses; General and Operations Managers; Carpenters; Accountants and Auditors; Elementary School Teachers, Except Special Education; Maintenance and Repair Workers, General; Secondary School Teachers, Except Special and Career/Technical Education; Licensed Practical and Licensed Vocational Nurses; and Plumbers, Pipefitters, and Steamfitters. These occupations are projected to experience growth ranging from 7.8% to 23.2%. As previously stated, each of these occupations meets the criteria of an H3 job and represents a diverse array of career options (*H3 Website, H3 Demand Report, December 28, 2015*). Subsequently, these professions offer an attractive wage and provide jobseekers with a range of rewarding career options within the state.

*Table 2: Employment Projections for H3 Occupations by 2022 Estimated Employment*

SOC Code	Standard Occupation Classification (SOC) Title	2012 Estimated Employment	2022 Estimated Employment	Percent Change
53-3032	Heavy and Tractor-Trailer Truck Drivers	27,997	32,713	16.8%
29-1141	Registered Nurses	22,053	24,792	12.4%
11-1021	General and Operations Managers	11,091	12,425	12.0%
47-2031	Carpenters	9,783	12,057	23.2%
13-2011	Accountants and Auditors	9,848	11,171	13.4%
25-2021	Elementary School Teachers, Except Special Education	9,683	10,659	10.1%
49-9071	Maintenance and Repair Workers, General	8,375	9,029	7.8%
25-2031	Secondary School Teachers, Except Special and Career/Technical Education	7,681	8,451	10.0%

SOC Code	Standard Occupation Classification (SOC) Title	2012 Estimated Employment	2022 Estimated Employment	Percent Change
29-2061	Licensed Practical and Licensed Vocational Nurses	6,287	7,678	22.1%
47-2152	Plumbers, Pipefitters, and Steamfitters	5,462	6,097	11.6%

Source: H3 Website, H3 Demand Report.

In looking specifically at those H3 jobs projected to experience the most growth by percentage through 2022, Table 3 details the top 10 fastest growing occupations. It should be noted that several of these occupations, while fast growing, are expected to add relatively low numbers of jobs to the economy.

**Table 3: Fastest Growing H3 Occupations by Percent Growth Through 2022**

SOC Code	Standard Occupation Classification (SOC) Title	Percent Growth	2012 Estimated Employment	2022 Estimated Employment
31-2011	Occupational Therapy Assistants	45.1%	111	161
29-2091	Orthotists and Prosthetists	41.9%	93	132
47-2132	Insulation Workers, Mechanical	41.5%	106	150
31-2021	Physical Therapist Assistants	36.5%	668	912
51-4012	Computer Numerically Controlled Machine Tool Programmers, Metal and Plastic	35.2%	145	196
15-1122	Information Security Analysts	33.7%	493	659
29-1071	Physician Assistants	33.1%	850	1,131
39-5094	Skincare Specialists	32.1%	380	502
15-2031	Operations Research Analysts	31.8%	239	315
29-1181	Audiologists	30.5%	128	167

Source: NEworks, Data Download Center: Projections Data Files, 2015.

In looking specifically at those H3 occupations expected to experience the most annual openings because of new growth and replacement openings, see the table that follows, Heavy and Tractor-Trailer Truck Drivers are expected to add an average of 920 jobs each year through 2022, followed by Registered Nurses, which are anticipated to average 702 openings per year. These occupations are followed by Accountants and Auditors; Carpenters; General and Operations Managers; Elementary School Teachers, Except Special Education; Licensed Practical and Licensed Vocational Nurses; Secondary School Teachers, Except Special and Career/Technical Education; Maintenance and Repair Workers, General; and Industrial Machinery Mechanics. As H3-designated occupations, annual salaries within these occupations range from \$35,235 for Carpenters to as much as \$109,991 for General and Operations Managers (NEworks, Data Download Center: Projections Data Files, 2015).

**Table 4: Top H3 Occupations with Annual Openings, Annual Salary, and Current Hourly Entry Wage**

SOC Code	Standard Occupation Classification (SOC) Title	Average Annual Openings	Average Annual Salary	Average Hourly Wage
53-3032	Heavy and Tractor-Trailer Truck Drivers	920	\$43,201	\$20.77
29-1141	Registered Nurses	702	\$58,726	\$28.24
13-2011	Accountants and Auditors	424	\$67,183	\$32.30
47-2031	Carpenters	347	\$35,235	\$16.94
11-1021	General and Operations Managers	341	\$109,991	\$52.88
25-2021	Elementary School Teachers, Except Special Education	311	\$50,560	Not applicable
29-2061	Licensed Practical and Licensed Vocational Nurses	293	\$39,553	\$19.01
25-2031	Secondary School Teachers, Except Special and Career/Technical Education	286	\$51,919	Not applicable
49-9071	Maintenance and Repair Workers, General	226	\$36,828	\$17.70
49-9041	Industrial Machinery Mechanics	195	\$46,139	\$22.18

Source: NEworks, Data Download Center: Projections Data Files, 2015.

### Battelle Report

The H3 strategy being implemented by Nebraska is an extension of the findings from a report developed by Battelle in 2010 and updated in 2015, included in Appendices B and B.1 respectively. The report, which was jointly commissioned by the Nebraska Department of Labor and the Nebraska Department of Economic Development, sought to provide an assessment and an associated recommended strategy to promote economic development within Nebraska.

The 2010 study, titled *Growing Jobs, Industries, and Talent: A Competitive Advantage Assessment and Strategy for Nebraska*, led to the creation of Nebraska's Economic Industry Clusters. As defined by the Battelle study, Nebraska Economic Industry Clusters are "closely related industries that are logically connected" and contribute to a significant level of state economic activity and wealth. Economic Industry Clusters "may share a common market that they serve, while others are based more on shared 'know how' such as in the biosciences or information technology" related clusters (*Battelle, 2010*). Appendix 2A of this Combined State Plan includes location quotient concentration maps from the 2010 Battelle Report providing a visual representation of economic activity within each of the 12 primary industry clusters identified in the 2010 Battelle Report: Maps 7 through 18. It should be noted that these maps do not necessarily reflect overall economic activity from a statewide perspective, but instead provide a snapshot of relative industry sector activity within a county.

The 2010 Battelle Report identified 12 primary industry clusters within Nebraska that drive economic growth within the state. These include (1) Agricultural Machinery, (2) Agriculture and Food Processing, (3) Biosciences, (4) Business Management and Administrative Services, (5) Financial Services, (6) Health Services, (7) Hospitality and Tourism, (8) Precision Metals Manufacturing, (9) Renewable Energy, (10) Research, Development and Engineering Services, (11) Software and Computer Services, and (12) Transportation, Warehousing, and Transportation Logistics (*Battelle, 2010*). Appendix 2A of this Combined State Plan includes location quotient concentration maps from the 2010 Battelle Report providing a visual representation of economic activity within each of the 12 primary industry clusters identified in the 2010 Battelle Report: Maps 7 through 18. It should be noted that these maps do not necessarily reflect overall economic activity from a statewide perspective, but instead provide a snapshot of relative industry sector activity within a county.

In 2015, Battelle provided two updates to the 2010 report: the 2015 Target Industry Report and the 2015 Review of Nebraska's Innovation Drivers (included as Appendix 2B, *2015 Battelle Report (Target Industry Report)* and Appendix 2C, *2015 Battelle Report (Review of Nebraska's Innovation Drivers)* to this Combined State Plan). The 2015 reports review the targeted industry clusters and the performance of the state from 2010 to 2014 using a variety of metrics to determine the state's preparedness for an innovation-driven economy that can remain competitive. These included such measures as academic performance in science and engineering, entrepreneurial activity, availability of risk capital, research and development, including new patents and university technology transfer activity. These measures were then compared to several benchmark states that were identified in 2010 to show comparative progress over time relative to the identified metrics.

### *Battelle Report Conclusions*

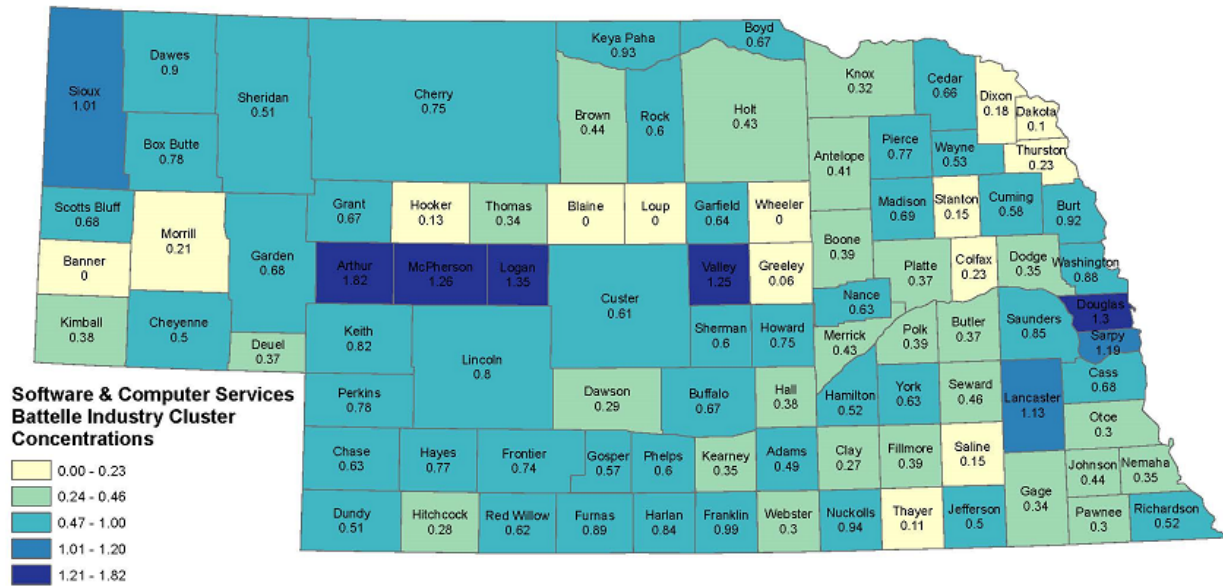
The 2015 reports conclude that:

1. Nebraska's 12 primary industry clusters largely held up well during the 2010-2014 timeframe and should remain unchanged for the time being. The report mentions specifically that while certain clusters may have performed poorly during that timeframe, it would be premature to suggest changes to these clusters.
2. Performance in producing highly skilled talent (as measured by the attainment of science and engineering degrees) was mixed. While Nebraska has improved in nearly every measure of education attainment, it still lags behind the national averages in most areas. However, it did outperform several benchmark states in education measures.
3. Entrepreneurial activity within the state, as measured by the growth of new business establishments, job creation from new business establishments, and *Inc.* magazine's listing of the fastest growing US businesses, is lagging behind the nation as a whole and the benchmark states. Despite the lagging performance, the report did note that Nebraska has improved somewhat compared to the benchmark states.

4. The availability of risk capital within the state remains relatively low when using such indicators as venture capital investments and Small Business Innovation Research grants awarded to entrepreneurs within the state. In fact, from 2009-2014, Nebraska ranked 41<sup>st</sup> out of 50 states in the dollar amount of venture capital invested and last among the nine benchmark states. Further, despite some improvement in the number of SBIR grants secured, Nebraska inventors continue to lag severely behind their peers nationally and in most of the benchmark states in successfully pursuing SBIR funding.
5. Research and development expenditures within Nebraska, measured within the industry and academic sectors, perform well given the state's economy and growth rate. Specifically, the 2015 report noted that Nebraska is well above the national level and one of the highest among the benchmark states.
6. Patent generation within the state continues to trail the amount of patent generation at the national level and within the benchmark states. The report did note that Nebraska has shown some improvement in this area since 2010 and the growth rate of new patents is increasing faster than average.

The 2010 Battelle Report and the 2015 reports provide several key pieces of data that are critical to developing those sectors that promote wealth creation within the state. Map 2 is a location quotient map that provides a visual representation of economic activity statewide within one such sector, the growing Software and Computer Services Industry. The map accounts for such factors as average employment within the industry cluster, total employment within the county, average employment within the cluster statewide and total employment statewide. A value of 1.00 means that the concentration in the county equals that of the state and a value greater than 1.00 means a higher concentration of the industry than in the state.

Map 2: Software & Computer Services Battelle Industry Cluster Concentration Map



Source and Methodology: Nebraska Department of Labor using Quarterly Census of Employment and Wages (QCEW) data for the first quarter of 2015, which was first filtered for only private establishments, then summed by county and 6 digit NAICS code, and average employment for the quarter was computed. The data were then summed into 3 digit NAICS codes and run through the Battelle to NAICS crosswalk to assign Battelle cluster codes to each 3 digit NAICS code.

Colors from [www.ColorBrewer.org](http://www.ColorBrewer.org) by Cynthia A. Brewer, Geography, Pennsylvania State University.

### H-1B Visa Labor Condition Applications

In addition to the occupational and industry needs identified herein, Nebraska submitted 1,697 Labor Condition Applications for H-1B Visas in 2014, of which 1,502 were certified. These certifications represent 3,032 high-skill jobs in the state with an average salary of \$74,362 (*Office of Foreign Labor Certification, 2014 Annual Report*). Table 5 details the top occupations within Nebraska for which H-1B Visa applications were submitted in 2014. Table 5 also includes the number of applications certified and the average salary for those positions using national H-1B wage data (*Office of Foreign Labor Certification, 2014 Annual Report*).

Table 5: Top H-1B Occupations by Number of Applications in 2014

SOC Code	Standard Occupation Classification (SOC) Title	Number of H-1B Applications Certified	Average Wage Offer
15-1121	Computer Systems Analysts	854	\$66,489
15-1131	Computer Programmers	432	\$61,835
15-1132	Software Developers, Applications	391	\$79,816
15-1199	Computer Occupations	305	\$70,248
13-2011	Accountants and Auditors	211	\$51,392

Source: Office of Foreign Labor Certification, 2014 Annual Report.

While the occupations and industries detailed within the tables document growth and potential across the state as a whole, the unique economic and workforce dynamics of communities and economic regions designated by the Governor will continue to inform strategies implemented at the regional and local levels. This includes sector strategies and career pathways as described later in this plan, as well as customized short-term training and rapid response protocols in order to support, maintain and promote the economic vitality of Nebraska's communities.

### *Employer Employment Needs*

As shown in Table 6, of Nebraska's top 10 H3 occupations with the most projected openings between 2012 and 2022, all but three of the occupations require education beyond high school. The remainder of these occupations requires a high school diploma and some equivalent job experience or training. In keeping with the definition of an H3 occupation (i.e., at least half of their wage measures are at or above the regional average for all occupations), each of these jobs offer an attractive entry wage that ranges from \$12.05 for Maintenance and Repair Workers, General to \$27.29 for General and Operations Managers. Longer term, these occupations offer workers the potential for higher wages as shown in Table 6 and as measured by the median wage within these occupations (*NEworks, Data Download Center: Projections Data Files, 2015; Nebraska Department of Labor, Labor Market Information, Occupational Employment Statistics*).

*Table 6: 2012-2022 H3 Occupation Projections by Average Annual Openings Positions*

SOC Code	Standard Occupation Classification (SOC) Title	Average Annual Openings	Average Entry Wage	Median Wage	Education
53-3032	Heavy and Tractor-Trailer Truck Drivers	920	\$14.40	\$20.65	Postsecondary non-degree award
29-1141	Registered Nurses	702	\$21.50	\$27.81	Associate's degree
13-2011	Accountants and Auditors	424	\$20.17	\$28.76	Bachelor's degree
47-2031	Carpenters	347	\$12.11	\$16.44	HS diploma or equivalent
11-1021	General and Operations Managers	341	\$27.29	\$45.07	Bachelor's degree
25-2021	Elementary School Teachers, Except Special Education	311	\$39,735*	\$50,562*	Bachelor's degree
29-2061	Licensed Practical and Licensed Vocational Nurses	293	\$16.37	\$18.70	Postsecondary non-degree award
25-2031	Secondary School Teachers, Except Special and Career/Technical Education	286	\$40,307*	\$51,893*	Bachelor's degree

SOC Code	Standard Occupation Classification (SOC) Title	Average Annual Openings	Average Entry Wage	Median Wage	Education
49-9071	Maintenance and Repair Workers, General	226	\$12.05	\$17.35	HS diploma or equivalent
49-9041	Industrial Machinery Mechanics	195	\$15.55	\$21.37	HS diploma or equivalent

*\*Average entry and median annual salary information provided when wage data not available.*

*Source: NEworks, Data Download Center: Projections Data Files, 2015; Nebraska Department of Labor, Labor Market Information, Occupational Employment Statistics.*

The Postsecondary Non-Degree Award category includes those occupations that require less than two years of training for entry-level employment and encompass a variety of occupations and are summarized in Table 7. Heavy and Tractor-Trailer Truck Drivers are projected to experience the highest number of annual openings through 2022 with an estimated 920 openings per year; truck driving usually requires one to five years of work experience in addition to short-term on-the-job training. Licensed Practical and Licensed Vocational Nurses; Electricians; and Welders, Cutters, Solderers and Brazers are the next fastest growing occupations, respectively, in the Postsecondary Non-Degree Award category. Of the occupations listed in Table 7, First-Line Supervisors of Production and Operating Workers and Electrical Power-Line Installers and Repairers have the highest entry-level hourly wage (\$18.17 and \$17.42, respectively) (*NEworks, Data Download Center: Projections Data Files, 2015; Nebraska Occupational Employment Statistics Employment and Wage Estimates, 2015*).

**Table 7: 2012-2022 Occupational Projections Top 10 Most Annual Openings for Postsecondary Non-Degree Award Education Level with Entry Wages**

SOC Code	Standard Occupation Classification (SOC) Title	Average Annual Openings	Hourly Entry Wage (3 <sup>rd</sup> quarter 2015)	Median Wage
53-3032	Heavy and Tractor-Trailer Truck Drivers	920	\$14.40	\$20.65
29-2061	Licensed Practical and Licensed Vocational Nurses	293	\$16.37	\$18.70
47-2111	Electricians	155	\$14.37	\$20.56
51-4121	Welders, Cutters, Solderers, and Brazers	153	\$13.15	\$17.18
51-4041	Machinists	144	\$12.93	\$18.23
47-2152	Plumbers, Pipefitters, and Steamfitters	132	\$15.93	\$24.04
51-1011	First-Line Supervisors of Production and Operating Workers	94	\$18.17	\$26.33
49-9021	Heating, Air Conditioning, and Refrigeration Mechanics and Installers	85	\$15.55	\$22.20

SOC Code	Standard Occupation Classification (SOC) Title	Average Annual Openings	Hourly Entry Wage (3 <sup>rd</sup> quarter 2015)	Median Wage
49-9051	Electrical Power-Line Installers and Repairers	72	\$17.42	\$27.86
29-2071	Medical Records and Health Information Technicians	69	\$13.24	\$17.56

Source: NEworks, Data Download Center: Projections Data Files, 2015. Nebraska Occupational Employment Statistics Employment and Wage Estimates, 2015.

For those occupations that require an associate's degree, six of the top 10 projected occupations in Nebraska are in medical fields. As detailed in Table 8, Registered Nurses top the list with 702 average annual openings. Other medical occupations with large numbers of openings include Dental Hygienists, Medical and Clinical Laboratory Technicians, Radiologic Technologists, Physical Therapist Assistants, and Respiratory Therapists. Other occupations, such as Preschool Teachers, Except Special Education and Web Developers, are also included (NEworks, Data Download Center: Projections Data Files, 2015. Nebraska Occupational Employment Statistics Employment and Wage Estimates, 2015).

*Table 8: 2012-2022 H3 Occupational Projections Top 10 Most Annual Openings for Associate's Degree with Entry Wages from the Occupational Employment Statistics Survey*

SOC Code	Standard Occupation Classification (SOC) Title	Average Annual Openings	Hourly Entry Wage (3 <sup>rd</sup> quarter 2015)	Median Wage
29-1141	Registered Nurses	702	\$21.50	\$27.81
29-2021	Dental Hygienists	68	\$25.35	\$31.90
29-2012	Medical and Clinical Laboratory Technicians	59	\$12.92	\$18.33
29-2034	Radiologic Technologists	52	\$19.27	\$24.26
15-1134	Web Developers	46	\$15.86	\$26.20
23-2011	Paralegals and Legal Assistants	46	\$15.31	\$19.86
31-2021	Physical Therapist Assistants	39	\$18.08	\$24.44
15-1152	Computer Network Support Specialists	32	\$19.77	\$28.53
29-1126	Respiratory Therapists	27	\$21.07	\$24.52
29-2032	Diagnostic Medical Sonographers	17	\$25.82	\$30.25

Source: NEworks, Data Download Center: Projections Data Files, 2015. Nebraska Occupational Employment Statistics Employment and Wage Estimates, 2015.

As documented in Table 9 below, of the top 10 occupations with the most openings for bachelor's degrees, four are computer-related occupations, three are education related and the remaining three occupations are comprised of Accountants and Auditors, General and Operations Managers, and Market Research Analysts and Marketing Specialists. The

highest hourly entry wage for occupations was for General and Operations Managers (\$27.29) and Software Developers, Applications (\$25.55). Hourly entry wage was not available for education-related occupations but an annual entry and median salary are provided (*NEworks, Data Download Center: Projections Data Files, 2015. Nebraska Occupational Employment Statistics Employment and Wage Estimates, 2015*).

**Table 9: 2012-2022 H3 Occupational Projections Top 10 Most Annual Openings for Bachelor's Degree with Entry Wages**

SOC Code	Standard Occupation Classification (SOC) Title	Average Annual Openings	Hourly Entry Wage (3rd quarter 2015)	Median Wage
13-2011	Accountants and Auditors	424	\$20.17	\$28.76
11-1021	General and Operations Managers	341	\$27.29	\$45.07
25-2021	Elementary School Teachers, Except Special Education	311	\$39,735*	\$50,562*
25-2031	Secondary School Teachers, Except Special and Career/Technical Education	286	\$40,307*	\$51,893*
15-1132	Software Developers, Applications	164	\$25.55	\$37.87
13-1161	Market Research Analysts and Marketing Specialists	154	\$17.94	\$27.94
15-1121	Computer Systems Analysts	139	\$24.61	\$35.10
15-1142	Network and Computer Systems Administrators	134	\$23.04	\$31.60
15-1131	Computer Programmers	121	\$22.63	\$36.31
25-2022	Middle School Teachers, Except Special and Career/Technical Education	113	\$41,462*	\$50,664*

\*Annual entry wages is provided when hourly wage data are not available

Source: *NEworks, Data Download Center: Projections Data Files, 2015. Nebraska Occupational Employment Statistics Employment and Wage Estimates, 2015*.

In addition to these projected occupational needs, industry groups in the state have expressed concern over a shortage of skilled workers in certain trade occupations, such as welding and construction. The Nebraska Departments of Labor, Economic Development and Education along with postsecondary education institutions across the state continue to work to alleviate these shortages and grow high wage, high skill and high demand occupations. These are strong focus areas in the Combined State Plan for Nebraska's Workforce System. Targeted approaches including career pathways and sector strategies will be initiated as appropriate to meet the needs identified through labor and economic data and those expressed by employers in the state.

## ***B. Workforce Analysis***

The Unified or Combined State Plan must include an analysis of the current workforce, including individuals with barriers to employment, as defined in section 3 of WIOA.\* This population must include individuals with disabilities among other groups\*\* in the State and across regions identified by the State. This includes: Individuals with barriers to employment include displaced homemakers; low-income individuals; Indians, Alaska Natives, and Native Hawaiians; individuals with disabilities, including youth who are individuals with disabilities; older individuals; ex-offenders; homeless individuals, or homeless children and youths; youth who are in or have aged out of the foster care system; individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers; farmworkers (as defined at section 167(i) of WIOA and Training and Employment Guidance Letter No. 35-14); individuals within 2 years of exhausting lifetime eligibility under the Temporary Assistance for Needy Families program; single parents (including single pregnant women); and long-term unemployed individuals. \*\* Veterans, unemployed workers, and youth, and others that the State may identify.

### **i. Employment and Unemployment**

Provide an analysis of current employment and unemployment data, including labor force participation rates, and trends in the State.

### **ii. Labor Market Trends**

Provide an analysis of key labor market trends, including across existing industries and occupations.

### **iii. Education and Skill Levels of the Workforce**

Provide an analysis of the educational and skill levels of the workforce.

### **iv. Skill Gaps**

Describe apparent skill gaps.

## **WORKFORCE ANALYSIS**

### **Population and Age**

According to 2013 American Community Survey three-year estimates, of those 62-69 years of age, a higher percentage of Nebraskans (54.1%) participated in the labor force when compared to the nation as a whole (43.6%). Older workers continue to be served through the core, intensive and training services offered at the American Job Centers, and fill employers' needs for experienced workers. The state's Senior Community Service Employment Program and the USDOL Title V Program known in Nebraska as Experience Works, are resources for older workers who are also ensured nondiscrimination and equal opportunity by the Equal Opportunity and Nondiscrimination policy (*U.S. Census Bureau,*

*Population Division, Annual Estimates of the Resident Population by Single Year of Age and Sex for the United States, States, and Puerto Rico Commonwealth: April 1, 2010 to July 1, 2014).*

The workforce system within Nebraska must account for the growing number of workers who are approaching retirement age. Table 10 provides the number and percentage of workers in each industry who are ages 55 and older, as well as younger workers who represent a significant segment of Nebraska's present and future workforce. Of particular note are the high percentages of older workers within the Construction; Manufacturing; Professional, Scientific, and Technical Services; and Transportation and Warehousing industries where nearly one in every three workers are 55 years of age or older. These industries have long been essential drivers of economic growth and stability within Nebraska, and developing a talent pipeline to assume projected openings will not only help to support these industries but also to provide employment opportunities in industries offering an abundance of occupations that are high wage, high skill and high demand.

**Table 10: Industry Employment by Age Group Second Quarter 2015**

Industry Title	Total	Age 24 and Younger	Percent 24 and Younger	Age 55 and Older	Percent 55 and Older
Accommodation and Food Services	72,860	33,369	45.7%	5,774	7.9%
Administrative and Support and Waste Management and Remediation Services	52,908	9,951	18.8%	8,275	15.6%
Agriculture, Forestry, Fishing and Hunting	11,562	2,082	18.0%	3,055	26.4%
Arts, Entertainment, and Recreation	17,295	6,558	37.9%	2,990	17.3%
Construction	46,195	6,684	14.5%	8,555	18.5%
Educational Services	89,113	5,780	6.5%	28,813	32.3%
Finance and Insurance	54,429	4,516	8.3%	12,460	22.9%
Health Care and Social Assistance	131,263	18,067	13.8%	30,795	23.5%
Information	19,259	2,387	12.4%	4,139	21.5%
Management of Companies and Enterprises	11,136	663	6.0%	2,200	19.8%
Manufacturing	95,951	8,312	8.7%	22,586	23.5%
Mining, Quarrying, and Oil and Gas Extraction	1,148	103	2.1%	337	29.4%
Other Services (except Public Administration)	25,810	5,424	19.6%	5,704	22.1%
Professional, Scientific, and Technical Services	43,677	5,070	11.3%	9,155	21.0%
Public Administration	49,564	6,938	14.1%	15,376	31.0%
Real Estate and Rental and Leasing	10,064	1,359	10.5%	2,750	27.3%
Retail Trade	119,417	35,624	30.9%	24,053	20.1%

Industry Title	Total	Age 24 and Younger	Percent 24 and Younger	Age 55 and Older	Percent 55 and Older
Transportation and Warehousing	24,557	2,062	7.8%	7,232	29.4%
Utilities	8,831	467	3.8%	2,604	29.5%
Wholesale Trade	43,525	4,373	9.9%	11,761	27.0%

Source: NEworks, Data Download Center, 2015.

## Disability

Estimates from the 2011-2013 American Community Survey show that 5.2% of Nebraskans in the labor force have a disability. Of those who are unemployed in Nebraska, 11.5% have a disability. Nearly 5% of employed Nebraskans reported having a disability, with the greatest percentage of those having a hearing difficulty (36.8%) (*U.S. Census Bureau, 2011-2013 3-Year American Community Survey*).

Further, statistics show that the significant population of persons with disabilities in Nebraska is in need of workforce services in order to bridge the gap between themselves and their peers across the state.

- There are 205,354 persons within Nebraska with a disability (*Annual Disability Statistics Compendium, 2014*), of which 88,700 are between the ages of 21 and 64 (*2012 Disability Status Report, disabilitystatistics.org*).
- Of those Nebraskans ages 18-64 with a disability, only 45.5% are employed, a rate that is significantly less than the 82.6% employment rate for Nebraskans, ages 18-64, without a disability (*Annual Disability Statistics Compendium, 2014*).
- There are 16,900 persons with disabilities in Nebraska receive benefits (*2012 Disability Status Report, disabilitystatistics.org*).
- In 2012 alone, Nebraska's total expenditure on SSDI benefits was \$594,300,000 (*Annual Disability Statistics Compendium, 2014*).

Nebraska has many offerings to assist disabled customers in finding work. NEworks, which offers job search and career exploration resources, has text sizing options and is designed to work with JAWS for visually impaired customers, and assistive technologies have been upgraded in the American Job Centers to assist disabled customers. American Job Center staff are aware of the resources in the Job Accommodation Network (JAN) and can provide employers information on options for accommodations in the Searchable Online Accommodation Resource (SOAR). Disabled Veterans may also be assisted through the Jobs for Veterans State Grant (JVSG) outreach program in which staff are actively involved in employer contacts and individual counseling for Veterans with significant barriers to employment. Nebraska Vocational Rehabilitation is a primary partner in the service delivery system offered at the local American Job Centers. Referrals as well as co-enrollment of participants in WIOA and Vocational Rehabilitation programs is common practice in Nebraska.

## Homeless

According to the *2015 Annual Homeless Assessment Report to Congress*, there were approximately 2,744 homeless people in Nebraska in 2015. The unsheltered homeless rate in Nebraska was 4.5% in 2014, which was the 5<sup>th</sup> lowest such rate in the country behind only Delaware (3.9%), Rhode Island (3.2%), Massachusetts (2.8%), and Maine (2.5%) (*2015 Annual Homeless Assessment Report to Congress*). American Job Center staff is available to help homeless customers find employment and are knowledgeable about additional community services such as shelters, food banks, and transitional services.

## Race, Ethnicity, Immigration, and Language

According to 2014 population estimates from the U.S. Census Bureau, there were nearly 38,000 people living in Nebraska who identify as two or more races. Of those who identified with one race, the greatest number were White (1,682,074), followed by Black (92,289), Asian (41,216), American Indian and Alaska Native (41,216), and Native Hawaiian and Other Pacific Islander (2,235). In terms of ethnicity, there were 191,325 people identifying with the Hispanic or Latino ethnicity living in Nebraska in 2014, which accounts for 10.2% of Nebraska's total population. Nearly 24% of those who reported identifying with the Hispanic or Latino ethnicity were foreign born and became naturalized U.S. citizens (*U.S. Census Bureau, 2014 American Community Survey 1-Year Estimates*).

Of those who were foreign born and living in Nebraska, the race with the greatest percentage of naturalized citizenship was Black (47.1%), followed by Asian (44.5%), White (31.2%), Two or More Races (30.9%), American Indian and Alaska Native (3.1%) (*U.S. Census Bureau, Population Division, Annual Estimates of the Resident Population by Sex, Age, Race Alone or in Combination, and Hispanic Origin for the United States and States: April 1, 2010 to July 1, 2014*). Since 2010, the fastest growing minority group within the state has been the Asian population, which has increased from more than 33,322 in 2010 to nearly 41,216 in 2014, an increase of 23.5% (*Census Bureau, 2010 and 2014 Population Estimates*).

Given the influx of Hispanic, Asian and other foreign-born populations, there is a small but steady population with limited English proficiency, which can hinder the ability to seek, apply for and succeed in maintaining employment. Data from the American Community Survey shows that 2.6% of the state's population, ages 14 or older, does not speak English or speak English very well (*U.S. Census Bureau, 2010-2014 American Community Survey 5-Year Estimates*).

## Employment and Unemployment

### *Employment*

Since January 2010, the total Nebraska civilian labor force (not seasonally adjusted) peaked in July 2013 at 1,039,199 of which 993,176 were employed, for a 4.1% unemployment rate. The lowest level the total civilian labor force reached was in the first month of the sample, January 2010. The total civilian labor force had been over one million since September 2011, but in September 2015 dropped to 997,841 of which 971,682 were employed, equating to an unemployment rate of 2.6%. Preliminary data from October 2015 showed the civilian labor force increased to 1,010,068, of which 983,401 were employed, and the unemployment rate remained unchanged at 2.6%. Since January 2010, when the unemployment rate hit a recent high of 5.4%, the unemployment rate has dropped at a steady rate and reached a low in April 2015 of 2.5% (*NEworks, Labor Force, Employment and Unemployment for Nebraska in Multiple Time Periods, 2015*).

### *Unemployment*

Using data from 2013, claims show that 57.8% of individuals initially applying for unemployment insurance were male and 42.2% female. When aggregated by race, the greatest percentage of claimants were White (71.2%), Unknown/Not Provided (15%), Black (10.8%), American Indian or Alaska Native (1.8%), Asian (0.9%), and Native Hawaiian or Other Pacific Islander (0.2%) (*NEworks, Unemployment Insurance Claims Data, 2013*).

Nebraskans in the 25-34 age group (29.4%) had the greatest percentage of claimants by age followed by the 45-54 group (22%), 35-44 group (21%), 55-64 group (15.1%), 24 and younger group (8.5%), and lastly the 65 and over group (4.1%). The top 5 occupations in initial claims were Production (13,713), Construction and Extraction (11,941), Office and Administrative Support (11,180), Transportation and Material Moving (10,414), and Sales and Related (5,881) (*NEworks, Unemployment Insurance Claims Data, 2013*).

The education level of individuals filing claims revealed that 47.8% of claimants had a high school diploma. The second highest education category was some college education (22.5%) followed by less than a high school degree (16.2%). The education categories with the lowest percentage of initial claims were for bachelor's degree (7.4%), master's degree or higher (4.9%), and unknown/not provided (1.2%). Of Nebraska's unemployment insurance claimant population, a large percentage (64%) holds a high school diploma or less. These individuals could potentially benefit from Adult Basic Education or occupational skills training in order to obtain the skills needed by Nebraska employers (*NEworks, Data Download Center, Unemployment Insurance Claims Data: 2013 Unemployment Insurance Initial Claimant Characteristics, 2015*).

## Underemployment

Nebraska has long enjoyed relatively low unemployment rates, and recorded the nation's second lowest such rate using November 2015 seasonally adjusted monthly rankings (Bureau of Labor Statistics, 2015). Despite the low number of unemployed Nebraskans, there are a significant number of workers within the state who work two or more jobs in order to make ends meet. Over the past three years, Nebraska has experienced a significant, steady decrease of the number of jobseekers who are unemployed when they begin their job search. According to Nebraska's public labor exchange, the fourth Quarter ETA 9002A for PY12, PY13, and PY14, the percentage of those who are employed when they first seek services from Wagner-Peyser has more than doubled as represented in Table 11. This indicates that roughly one third of those individuals seeking employment are probably underemployed or working multiple low-paying jobs.

*Table 11: Number and Percentage of Employed Workers Who Initiate Employment Search*

Program Year	Total Participants	Employed	Not Employed	Percentage
PY12	114,257	14,489	99,768	14.5%
PY13	95,776	22,462	73,314	30.6%
PY14	73,565	18,189	55,376	32.8%

*Source: NEworks using Wagner-Peyser Participation data, 2016.*

Data from a June 2015 Metro Area Labor Availability Report developed jointly by the Nebraska Department of Labor and the Nebraska Department of Economic Development confirm the relatively high percentage of Nebraskans who are underemployed. The survey, which included the Omaha and Lincoln metropolitan areas, found that 14.1% of the survey's respondents held multiple jobs, or nearly one in every seven workers. Most telling in the data collected was the alarmingly high number of potential jobseekers (i.e., those who responded yes to one of the questions *Are you actively seeking a new job?* *Are you likely to change jobs in the next year if a suitable job is available?* or *Are you likely to reenter the workforce in the next year if a suitable job is available?*). In fact, the survey data found that there are 312,737 potential jobseekers within the Omaha and Lincoln areas, a figure that represents nearly one in every three Nebraska workers (*Metro Area Labor Availability Report, 2015*).

An abundance of employment opportunities that offer a competitive or living wage is a necessary component of a robust workforce system. A 2010 report released by Nebraska Appleseed found that a single parent with a preschooler residing in Omaha would need to make at least \$16.39 per hour simply to make ends meet (*Self Sufficiency Standard for Nebraska 2010*). Using the Living Wage Calculator established by the Massachusetts Institute of Technology, the living wage for an Omaha family comprised of 2 adults and 3 children is \$24.98. This is significantly higher than Nebraska's 2015 minimum wage of \$8.00 per hour and higher than the median wage earned by all Nebraska workers \$15.95, suggesting a large percentage of families in Nebraska do not make ends meet or rely on multiple jobs to provide for basic necessities.

One issue facing underemployed and other disadvantaged workers seeking a higher wage is the cliff effect, a term that describes the various levels at which a low-income person begins to lose benefits with increased income. The cliff effect was the focus of a 2010 report developed by Voices for Children in Nebraska. Using a family of three as the example, the report found that the family would need to make at least \$20.62 per hour in order to meet basic needs, which included food, childcare, medical expenses, housing transportation and other expenses. Highlighted in the report were various hourly wage levels at which the earner begins to lose work supports, based on full-time work. At \$5.11 per hour, the worker will lose eligibility for adult Medicaid; at \$11.44 per hour, the worker loses eligibility for food stamps; at \$16.29 per hour access to childcare subsidies are lost; and at \$17.82 per hour, the worker is no longer eligible for health insurance for their children. The absorption of these costs often places a family in a worse position financially than they were prior to the increase in pay, creating a system that punishes rather than rewards hard work. Given the high percentage of underemployed workers within the state, the cliff effect is a strong concern for many of Nebraska's workforce partners as they work to move their underemployed customers into employment opportunities that lead to economic self-sufficiency.

### Labor Market Trends

Nebraska is expected to expand its workforce by 9.93% from 2012 to 2022, with a projected increase of 100,340 wage and salary jobs. In the state as a whole, both Information and Natural Resources and Mining supersectors are expected to decline. Education and Health Services is expected to add 34,402 jobs from 2012 to 2022, the most of any supersector. Construction is expected to be the fastest growing with a 2.27% compound annual growth rate (CAGR). Of the industries projected to expand, Government is expected to experience the slowest growth, at 0.23% CAGR. The Services-Providing sector, which includes trade, transportation, retail, et al., is projected to have a greater percent change in employment (10.77%) compared to the Goods-Producing sector (6.23%). Additionally, the Services-Providing sector is expected to experience faster growth (1.03% CAGR) compared to the Goods-Producing sector (0.61% CAGR). Services-Providing jobs are expected to make up 82% of total wage and salary jobs.

As detailed in Table 12, overall wages in Nebraska across all industries have increased since 2001. However, annual wage increases have generally been more modest since 2008 with the current median hourly wage only .96% greater than the median hourly wage in 2014. Nebraska occupational wages as reported by the Occupational Employment Statistics survey tend to be lower than the national rate for the same occupation. The average entry wage across all occupations is \$9.70 per hour in the third quarter of 2015 while the average wage for an experienced worker is \$25.35 per hour (*Nebraska Occupational Employment Statistics Employment and Wage Estimates*).

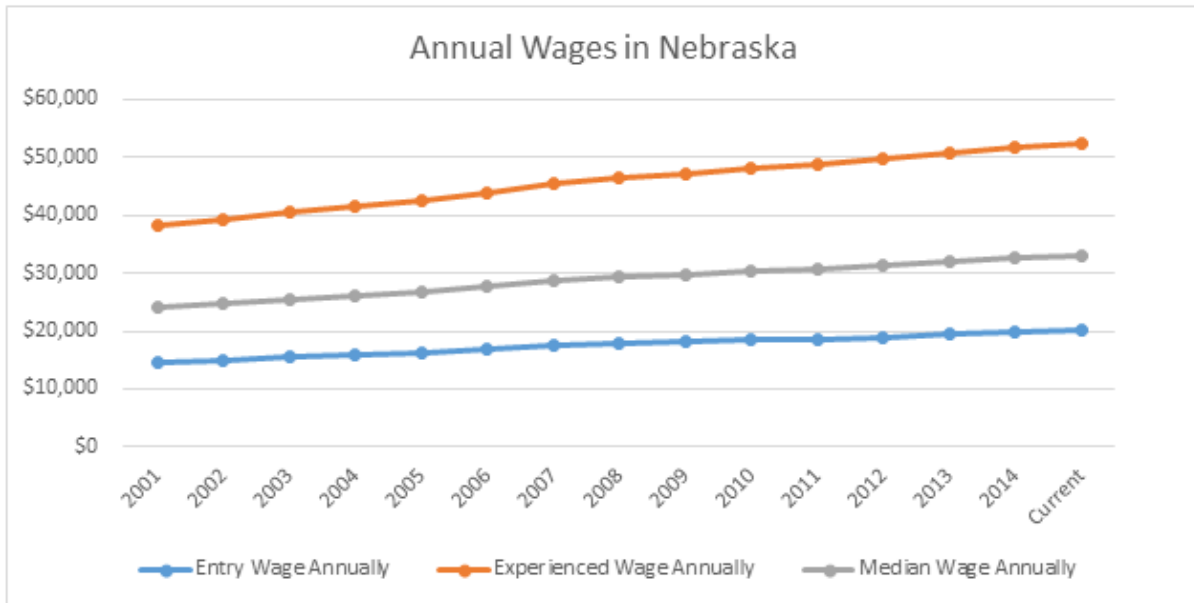
**Table 12: Compensation across All Industries, Nebraska**

Year	Entry Wage Annually	Entry Wage Hourly	Experienced Wage Annually	Experienced Wage Hourly	Median Wage Annually	Median Wage Hourly	% Change Median Wage Hourly
Third Quarter 2015	\$20,175	\$9.70	\$52,680	\$25.35	\$33,180	\$15.95	1.59%
2014	\$19,835	\$9.55	\$51,790	\$24.90	\$32,615	\$15.70	2.28%
2013	\$19,410	\$9.35	\$50,680	\$24.35	\$31,920	\$15.35	1.99%
2012	\$19,020	\$9.15	\$49,660	\$23.85	\$31,275	\$15.05	1.69%
2011	\$18,690	\$9.00	\$48,805	\$23.45	\$30,740	\$14.80	1.72%
2010	\$18,400	\$8.85	\$48,040	\$23.10	\$30,255	\$14.55	1.75%
2009	\$18,090	\$8.70	\$47,230	\$22.70	\$29,745	\$14.30	1.42%
2008	\$17,845	\$8.60	\$46,590	\$22.40	\$29,345	\$14.10	2.55%
2007	\$17,385	\$8.35	\$45,400	\$21.85	\$28,595	\$13.75	3.38%
2006	\$16,830	\$8.10	\$43,950	\$21.15	\$27,680	\$13.30	3.10%
2005	\$16,310	\$7.85	\$42,590	\$20.45	\$26,825	\$12.90	2.38%
2004	\$15,920	\$7.65	\$41,565	\$20.00	\$26,180	\$12.60	2.86%
2003	\$15,510	\$7.45	\$40,500	\$19.45	\$25,510	\$12.25	2.94%
2002	\$15,040	\$7.25	\$39,265	\$18.90	\$24,730	\$11.90	2.59%
2001	\$14,665	\$7.05	\$38,285	\$18.40	\$24,115	\$11.60	-

Source: Nebraska Occupational Employment Statistics Employment and Wage Estimates.

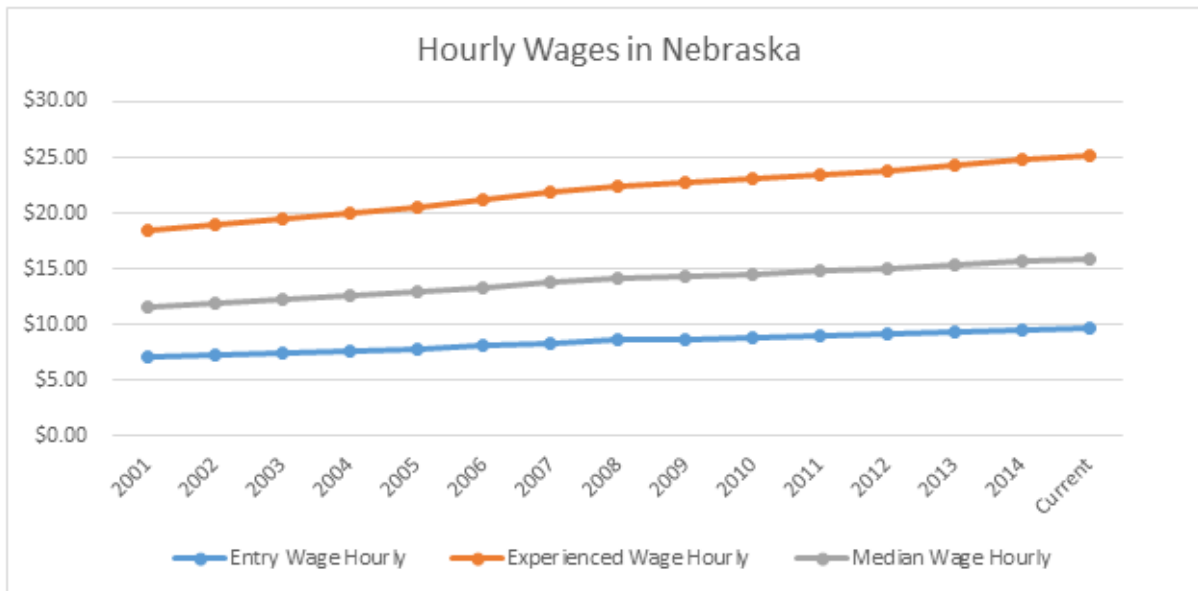
As detailed in Table 12 and depicted in Charts 1 and 2, wages in Nebraska have increased steadily since 2001 when looking at both annual wages (see Chart 1) and hourly wages (see Chart 2). During this timeframe, annual entry wages have increased from \$14,665 in 2001 to \$20,045 currently, an increase of 36.68%. Annual wages for experienced workers have increased from \$38,285 to \$52,340, an increase of 36.71% (*Nebraska Occupational Employment Statistics Employment and Wage Estimates, 2015*). In light of this data, it should be mentioned that the living wage for Nebraska, calculated using MIT's Living Wage calculator, is \$24.13 for a family consisting of two adults (one who is working) and three children (*Massachusetts Institute of Technology, 2015*). This benchmark of economic sustainability aligns with the average wage of \$25.15 being earned by those Nebraska workers with experience. However, the \$24.13 living wage established by MIT is higher than the median wage for all Nebraska workers of \$15.85 and significantly higher than the \$9.65 average wage for entry-level workers within the state. These data further indicate a large percentage of Nebraska families who struggle to earn a living wage or who only earn a living wage through multiple low-paying jobs. Nebraska's wage gap is significantly contributing to an increased number of working poor.

**Chart 1: Annual Wages in Nebraska, Years 2001 - 2015**



Source: Nebraska Occupational Employment Statistics Employment and Wage Estimates, 2015.

**Chart 2: Hourly Wages in Nebraska, Years 2001 - 2015**



Source: Nebraska Occupational Employment Statistics Employment and Wage Estimates, 2015.

## Education and Skill Levels of the Workforce

By 2022, nearly 35% of the state's projected annual openings will require education beyond high school. For the period between 2012 and 2022, Nebraska's occupational employment is projected to increase by 9.54%. All of the educational attainment categories beyond high school are projected to experience a percent change that exceeds the statewide average, with a range from 12.18% for some college, no degree to 15.13% for master's degree. The highest number of annual openings for education levels beyond a high school diploma or equivalent will occur in occupations requiring a bachelor's degree with 5,652 openings followed by postsecondary non-degree award with 3,556 openings (*NEworks, Data Download Center: Projections Data Files, 2015*).

*Table 13: Projected Employment by Education, 2012 - 2022*

Education	2012 Estimated Employment	2022 Projected Employment	Growth Openings	Replacement Openings	Total Openings	Avg Annual Openings	Numeric Change	Percent Change
Doctoral or professional degree	26,019	29,230	3,211	5,184	8,395	840	3,211	12.34%
Master's degree	17,295	19,912	2,617	3,495	6,112	608	2,617	15.13%
Bachelor's degree	168,105	188,940	21,179	35,326	56,505	5,652	20,835	12.39%
Associate's degree	42,962	48,729	5,793	8,537	14,330	1,429	5,767	13.42%
Postsecondary non-degree award	106,029	121,063	15,083	20,497	35,580	3,556	15,034	14.18%
Some college, no degree	16,080	18,039	1,972	3,375	5,347	533	1,959	12.18%
High school diploma or equivalent	404,581	437,732	37,404	86,477	123,881	12,361	33,151	8.19%
Less than high school	290,335	310,013	23,895	88,642	112,537	11,254	19,678	6.78%

*Source: NEworks, Data Download Center: Projections Data Files, 2015*

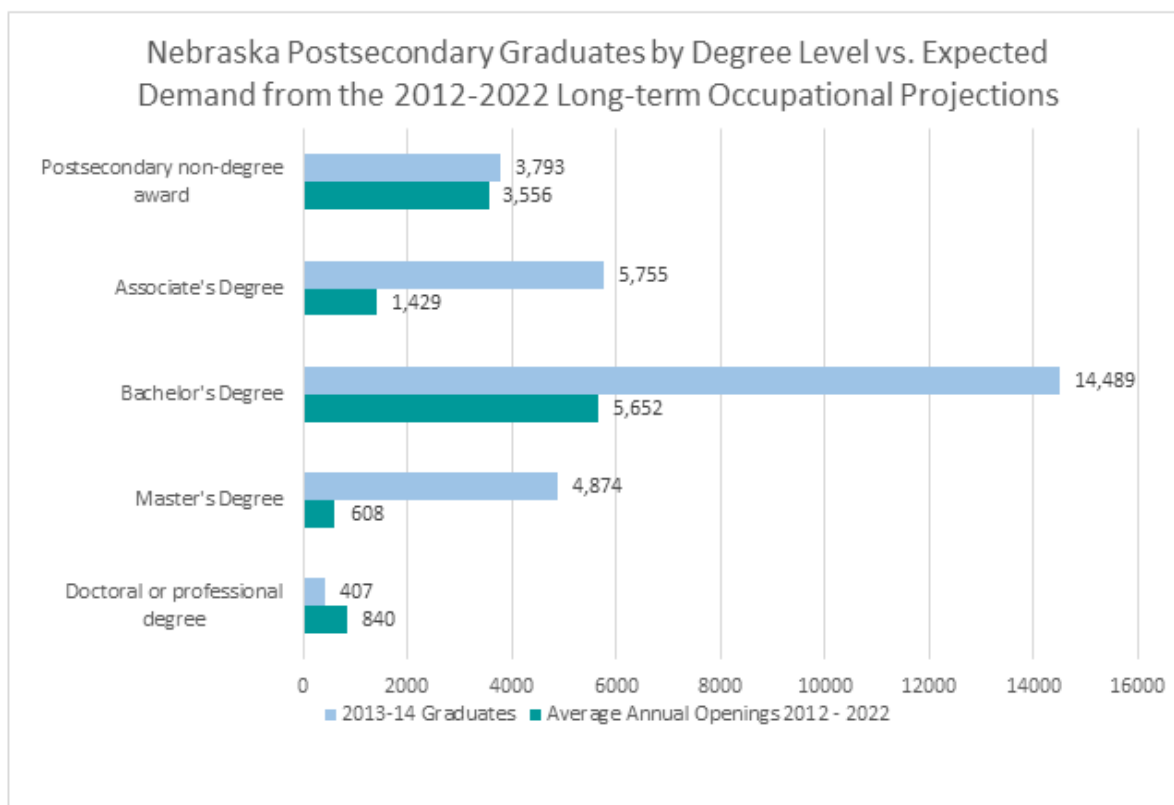
## *Analysis of Education and Skill Levels of the Workforce*

### *Degree Attainment and Employer Vacancies*

When the 2012-2022 occupational projections average annual openings were compared to the number of 2012-2013 graduates reported in the Integrated Postsecondary Educational Data System, the number of graduates completing degrees outpaced expected demand illustrated in Chart 3. Yet, employers may have difficulty recruiting for specific occupations due to a mismatch of degree attainment and employer vacancies. A person with a bachelor's degree in philosophy may not have the educational background required to fill a mechanical engineering position. Additionally, the labor market demand for graduates above the associate degree level is higher nationally and graduates may

leave the state for employment opportunities requiring higher degrees (Integrated Postsecondary Educational Data System, Nebraska institutions.)

**Chart 3: Postsecondary Graduates by Degree vs. Anticipated Occupational Demands**



*Source: Integrated Postsecondary Education Data System 2013-14 Completers file and Nebraska Department of Labor, Office of Labor Market Information 2012-2022 Long Term Occupational Projections.*

### Basic Skills Attainment

Of special concern is the significant segment of Nebraska's population who lacks a basic education. According to 2010-2014 American Community Survey 5-year Estimates, there are 1,392,964 adults (age eighteen and older) in the state of Nebraska. Of this number, 9.8% or 136,510 persons have less than a high school diploma. Education remains a strong indicator of economic prosperity. Within Nebraska, nearly one in every four persons without a high school diploma (24.7%) live in poverty and the average median wage for a person with less than a high school diploma is \$21,898 (U.S. Census Bureau, 2010-2014 American Community Survey 5-Year Estimates) - a figure that lags significantly behind the median wage across all industries within Nebraska \$33,180 using Nebraska Occupational Employment Statistics Employment and Wage Estimates (2015). Nebraska's workforce system will maintain a strong focus on education and training so that workers within the state have the skills and knowledge necessary to earn a living wage.

As detailed in Table 14, there is a particularly urgent need for Adult Basic Education and GED preparation among the state's growing number of Hispanics, as 46.8% lack a high school diploma. The greatest percentages of those without a high school education, among race groups, were Asian (24.9%), American Indian (24.2%), and Black (15.1%). Interestingly, the greatest percentage of those attaining a Bachelor or Graduate or Professional degree was Asian (41.6%) when comparing race groups (2014 American Community Survey 1-Year Estimates). Since individuals without a high school diploma or equivalent are at a distinct disadvantage in Nebraska's labor market, the need for services that focus on staying in school and high school diploma attainment is prevalent in all these subpopulations. Recruitment and enrollment of minority individuals in plan partners' programs is a constant priority and effort across the state.

*Table 14: Educational attainment in Nebraska by Age (Over 25 Years), Race, Ethnicity, and Education Level*

Educational Attainment	Hispanic or Latino Ethnicity	White Race Alone*	Black or African American Race Alone	American Indian and Alaska Native Race Alone	Asian Race Alone	Two or More Races
Less than 9 <sup>th</sup> grade	29.5%	3.6%	4.8%	12.8%	17.9%	4.8%
9 <sup>th</sup> to 12 <sup>th</sup> grade, no diploma	17.2%	4.8%	10.4%	11.4%	7.0%	9.2%
Regular high school diploma	18.6%	24.2%	20.5%	21.5%	12.4%	16.5%
GED or alternative credential	7.0%	3.4%	6.7%	7.2%	1.6%	6.0%
Some college, no degree	13.8%	23.4%	25.4%	23.7%	14.1%	24.3%
Associate's degree	3.5%	10.6%	8.0%	10.7%	5.4%	12.6%
Bachelor's degree	7.7%	20.8%	16.2%	6.6%	20.1%	16.7%
Graduate or professional	2.6%	9.2%	8.0%	6.1%	21.5%	9.9%

*Note: The term Alone in this Table 14 refers to those residents who identify themselves as belonging exclusively to a specific racial group.*

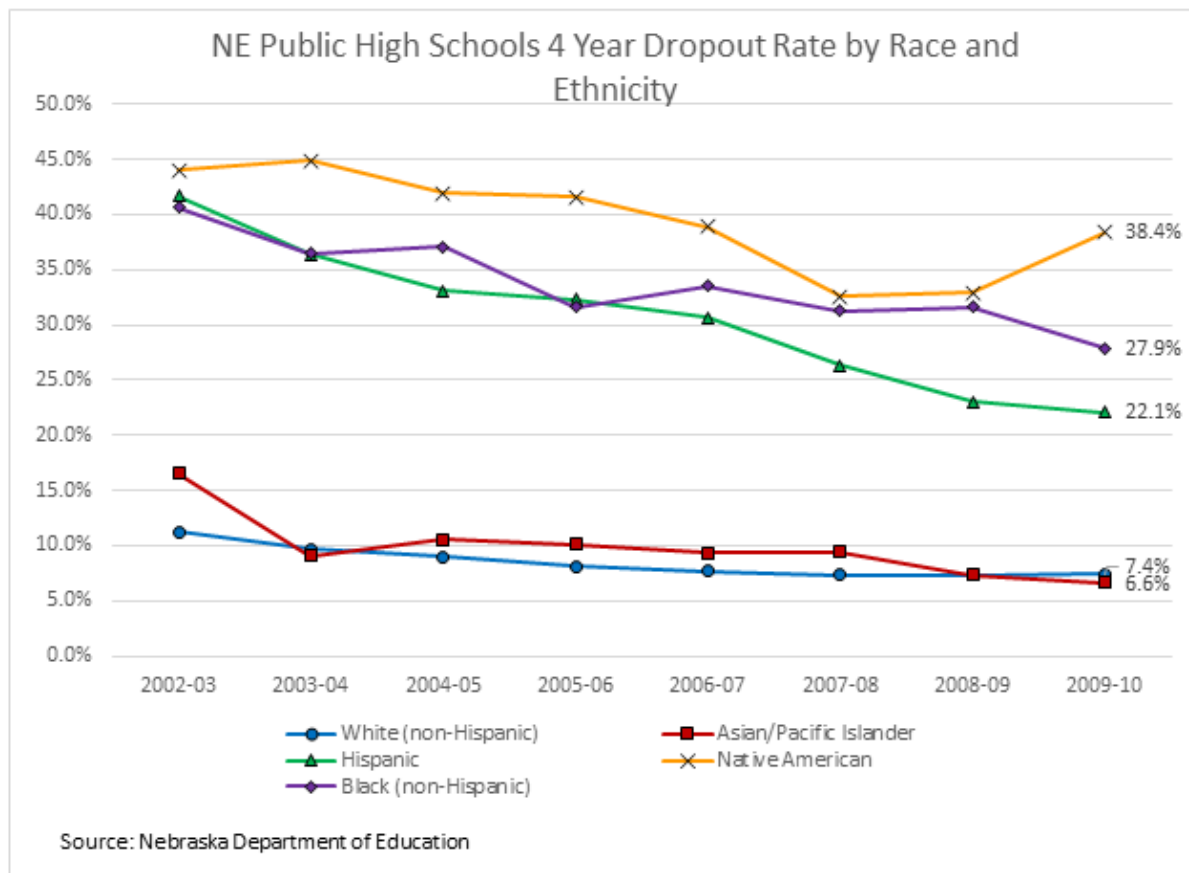
*Source: U.S. Census Bureau, 2014 American Community Survey 1-Year Estimates, Sex by Educational Attainment for the Population 25 and Over.*

### High School Dropouts

Chart 4 includes the dropout rate within Nebraska public high schools measured by the percent of students in a freshman cohort who drop out of high school within four years. As shown, Native American students drop out at a rate of 38.4%, which is the highest dropout rate amongst all groups. Black students drop out at a rate of 27.9% and Hispanic students at a rate of 22.1%. These rates are alarmingly high, especially when compared to the 7.4% and 6.6% rates experienced by white and Asian/pacific islanders. Data show that not only is there a growing demand through 2022 for workers with education beyond high school, but also the strong correlation between educational attainment and earnings. Efforts that target and support groups experiencing high dropout rates are necessary to

prepare these populations for gainful employment and to ensure an educated workforce needed by employers.

**Chart 4: Four Year Dropout Rate by Race and Ethnicity**



According to U.S. Census estimates, in 2014 there were 85,805 or 4.9% of Nebraskans age five and over who speak English less than very well. A majority (89.4%) of Nebraskans age 5 and over speak only English at home, but 10.6% (185,620) of Nebraskans speak a language other than English at home. Of those who do not speak English at home, 68.8% (127,832) Nebraskans age five and over speak Spanish or Spanish Creole at home. The U.S. Census estimates show that 46.4% of Nebraskans (86,127), age 5 and over, who do not speak English at home speak English less than very well. This deficiency in speaking English points to a need for English as a Second Language education. This will enable limited English speakers more opportunities in the workplace (*U.S. Census Bureau, 2014 American Community Survey 1-Year Estimates*).

The U.S. Census estimate of those age 5 and over who do not speak English at home and speak English less than very well increased from 81,310 Nebraskans in 2013 to 86,127 in 2014 (*U.S. Census Bureau, 2014 American Community Survey 1-Year Estimates*). According to 2013 U.S. Census estimates there were seven

languages/language groups that have more than 1,000 speakers in the state who speak English less than very well. The estimated number of people in 2013 that speak another language and speak English less than very well: Spanish or Spanish Creole, 57,286; Vietnamese, 4,627; African languages, 2,657; Chinese, 2,611; Other Asian languages, 2,365; Arabic, 1,767; and French (including Patois, Cajun), 1,438. These seven languages/language groups account for 89.5% of all the state's population who speak English less than very well (*U.S. Census Bureau, 2013 American Community Survey 1-Year Estimates*).

English as a second language (ESL) instruction is offered in Adult Education programs throughout the state. Those served include persons with no literacy skills in their native language to those who possess advanced degrees in their native language; Instruction ranges from survival skills to preparation for the GED test. The average enrollment of ESL learners makes up approximately 40-44% of all adults served in the Adult Education program in Nebraska.

In addition, individuals with limited-English proficiency receive the language assistance necessary to afford them meaningful access to workforce programs, services and information. Many career centers have bilingual staff members and access to language lines to assist limited English speaking customers. Nebraska contracts with LanguageLine Interpretation Service to eliminate language barriers that may prevent non-English speaking populations from applying for assistance and accessing services, as well as conducting career exploration. In addition, many employers have utilized Nebraska's Worker Training Grants to offer English/Spanish training for supervisors and staff in the workplace.

### Skills Gaps

A major concern among employers in the state is the availability of qualified and skilled workers. A 2013 statewide survey conducted by the Nebraska Chamber of Commerce and Industry found that of the 1,200 respondents 52% stated that they have experienced difficulties in hiring qualified employees over the previous 12-month period. These concerns were reinforced throughout a series of three focus groups that took place during 2015 to collect input for the Combined State Plan. Most prevalent among these responses were the need for employees with work readiness skills and a strong willingness among employers to participate more fully in the workforce system.

A 2012 report by the National Skills Coalition found that 58% of the jobs within Nebraska in 2012 were medium-skill jobs and 28% were high-skill jobs (*Middle Skills Jobs State by State, 2012*). Collectively, this represents 86% of Nebraska's workforce.

The National Skills Coalition defines medium-skill jobs as those jobs that require education beyond high school but not a four-year degree (e.g., associate degree, certificate/credential, or on-the-job experience). This includes such jobs as clerical, sales, construction, installation/repair, production and transportation/material moving and other jobs similar to those detailed in Table 5 on page 16 (2012-2022 Occupational Projections

Top 10 Most Annual Openings for Postsecondary Non-Degree Award Education Level with Entry Wages). The 2012 report also found that the demand for medium-skill jobs is expected to remain strong through 2022, when it is anticipated that 51% of all Nebraska jobs will entail occupations requiring medium skill, at a minimum.

The study identified high-skill jobs as those jobs that require a postsecondary degree, to include professional/technical and managerial occupations and typically require a bachelor degree or advanced training. The 2012 National Skills Coalition report also shows that by 2022 one in every five jobs, or 20%, will be in high-skill occupations.

## **2. Workforce Development, Education and Training Activities Analysis**

The Unified or Combined State Plan must include an analysis of the workforce development activities, including education and training in the State, to address the education and skill needs of the workforce, as identified in *Education and Skill Levels of the Workforce* above, and the employment needs of employers, as identified in *Employers' Employment Needs* above. This must include an analysis of –

### **A. *The State's Workforce Development Activities***

Provide an analysis of the State's workforce development activities, including education and training activities of the core programs, Combined State Plan partner programs included in this plan, and required and optional one-stop delivery system partners.\*

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\* Required one-stop partners: In addition to the core programs, the following partner programs are required to provide access through the one-stops: Career and Technical Education (Perkins), Community Services Block Grant, Indian and Native American programs, HUD Employment and Training programs, Job Corps, Local Veterans' Employment Representatives and Disabled Veterans' Outreach Program, National Farmworker Jobs program, Senior Community Service Employment program, Temporary Assistance for Needy Families (TANF) (unless the Governor determines TANF will not be a required partner), Trade Adjustment Assistance programs, Unemployment Compensation programs, and YouthBuild.

## **OVERVIEW OF CURRENT STATE**

The State of Nebraska is proud to offer a business environment that provides jobseekers gainful, meaningful employment within industries that are essential to a thriving Nebraska economy. In this effort, Nebraska's workforce system relies upon the collaborative efforts of its partners, including the American Job Centers, workforce system partner programs, and other public and private agencies situated throughout the state. Collectively, these partners seek to ensure a comprehensive network of interrelated services addressing a wide spectrum of jobseeker and employer needs. Categorically, these entail seven major service areas, including: Assessment, Classroom Training, Work-Based Training and Instruction, Education, Industry Credentialing and Certification, Supportive Services,

Employment Services, and Business Services. These services are itemized in Tables 15.1 and 15.2 and described below.

**Table 15.1 Job Seeker and Employer Services - Core Partners (2016)**

Workforce Development Activities Delivered by Nebraska's Core Programs	Adult, Dislocated Worker, and Youth Programs (WIOA Title I)	Adult Basic Education & Adult Secondary Education (WIOA Title II)	Wagner-Peyser Employment Services (WIOA Title III)	Vocational Rehabilitation (WIOA Title IV)	Commission for the Blind & Visually Impaired (WIOA Title IV)
<b>Assessments</b>					
Career Interest	Yes	Yes	Yes	Yes	Yes
Basic Skills	Yes	Yes	No	Yes	Yes
Community- and Job-Based Evaluations	No	No	No	Yes	Yes
English-as-a-Second Language (ESL)	No	Yes	No	No	No
Functional Skills	No	No	No	Yes	Yes
<b>Classroom Training, Work-Based Training &amp; Instruction</b>					
On-the-Job Training	Yes	No	No	Yes	Yes
Work Experience	Yes	No	No	Yes	Yes
Work-Based Training	Yes	Yes	No	Yes	Yes
Job Readiness Training	Yes	Yes	Yes	Yes	Yes
Incumbent Worker Training	Yes	No	No	Yes	Yes
Disability Skills Training	No	No	No	Yes	Yes
Customized Job Training	Yes	Yes	No	Yes	Yes
<b>Education</b>					
Academic/Foundation Skills	No	Yes	No	Yes	Yes
Preparation for Postsecondary Education	Yes	Yes	No	Yes	Yes
Distance Education	No	Yes	No	No	No
Career Pathways/Work Readiness Skills	Yes	Yes	Yes	Yes	Yes
Computer Literacy	No	Yes	No	No	Yes
English-as-a- Second Language	Yes	Yes	No	Yes	Yes
<b>Industry Credential and Certification</b>					
General Educational Development (GED) Credential	No	Yes	No	No	No
Post-Secondary Credentialing	Yes	Yes	No	Yes	Yes
Licensure	No	No	No	Yes	No
<b>Supportive Services</b>					
Transportation, child care, personal care assistance, relocation assistance, emergency financial assistance (e.g., rent deposits, utilities, care	Yes	No	No	Yes	Yes

Workforce Development Activities Delivered by Nebraska's Core Programs	Adult, Dislocated Worker, and Youth Programs (WIOA Title I)	Adult Basic Education & Adult Secondary Education (WIOA Title II)	Wagner-Peyser Employment Services (WIOA Title III)	Vocational Rehabilitation (WIOA Title IV)	Commission for the Blind & Visually Impaired (WIOA Title IV)
repairs), application fees, benefits planning, etc.					
Employment Services					
Career Planning and Career Counseling	Yes	Yes	Yes	Yes	Yes
Labor Exchange and Placement Services	Yes	No	Yes	Yes	Yes
Job Seeking/Job Readiness Skills	Yes	Yes	Yes	Yes	Yes
Networking/Peer Counseling (Job Clubs)	Yes	No	No	Yes	Yes
Self-Employment	No	No	No	Yes	Yes
Business Services					
Job Fairs/Hiring Events/Networks	No	No	Yes	No	No
Regulatory Compliance (ADA, 503, Federal Contracting)	No	No	Yes	Yes	Yes
Employer Incentives	No	No	Yes	Yes	Yes
Worksite Modification	No	No	No	Yes	Yes

**Table 15.2. Job Seeker and Employer Services - Additional Plan Partners**

Workforce Development Activities Delivered by Nebraska's Core Programs	Jobs for Veterans' State Grants (JVSG)	Senior Community Service Employment Program (SCSEP)	Temporary Assistance for Needy Families (TANF)	Trade Adjustment Assistance (TAA)	Unemployment Insurance (UI)
Assessments					
Career Interest	Yes	Yes	Yes	Yes	Yes
Basic Skills	Yes	No	Yes	Yes	No
Community- and Job-Based Evaluations	Yes	No	No	No	No
English-as-a-Second Language (ESL)	No	No	No	No	No
Functional Skills	Yes	No	No	No	No
Classroom Training, Work-Based Training & Instruction					
On-the-Job Training	No	Yes	Yes	Yes	No
Work Experience	No	Yes	Yes	No	No
Work-Based Training	No	Yes	Yes	No	No
Job Readiness Training	Yes	Yes	Yes	No	No
Incumbent Worker Training	No	No	No	Yes	No
Disability Skills Training	No	No	No	No	No
Customized Job Training	Yes	Yes	Yes	No	No
Education					
Academic/Foundation Skills	No	No	No	No	No
Preparation for Postsecondary Education	No	No	No	Yes	No

Workforce Development Activities Delivered by Nebraska's Core Programs	Jobs for Veterans' State Grants (JVSG)	Senior Community Service Employment Program (SCSEP)	Temporary Assistance for Needy Families (TANF)	Trade Adjustment Assistance (TAA)	Unemployment Insurance (UI)
Distance Education	No	No	No	No	No
Career Pathways/Work Readiness Skills	Yes	Yes	Yes	Yes	Yes
Computer Literacy	Yes	Yes	Yes	Yes	No
English-as-a- Second Language	No	Yes	Yes	Yes	No
Industry Credential and Certification					
General Educational Development (GED) Credential	No	Yes	No	Yes	No
Post-Secondary Credentialing	No	Yes	No	Yes	No
Licensure	No	Yes	No	No	No
Supportive Services					
Transportation, child care, personal care assistance, relocation assistance, emergency financial assistance (e.g., rent deposits, utilities, care repairs), application fees, benefits planning, etc.	No	Yes	Yes	Yes	Yes
Employment Services					
Career Planning and Career Counseling	Yes	Yes	Yes	Yes	No
Labor Exchange and Placement Services	Yes	Yes	Yes	Yes	No
Job Seeking/Job Readiness Skills	Yes	Yes	Yes	Yes	Yes
Networking/Peer Counseling (Job Clubs)	Yes	Yes	Yes	No	No
Self-Employment	No	Yes	No	No	No
Business Services					
Job Fairs/Hiring Events/Networks	Yes	No	Yes	No	No
Regulatory Compliance (ADA, 503, Federal Contracting)	No	No	No	No	No
Employer Incentives	No	Yes	Yes	No	No
Worksite Modification	No	No	No	No	No

## Assessments

1. Assessments are administered by WIOA core partners according to the needs of their clients in order to gauge career interests, measure basic skills, identify specific job competencies, assess English and basic education literacy (*i.e.*, ABE, ESL/GED), evaluate specific functional skills, and determine eligibility for public assistance. These tests collectively are designed to help the partnering programs understand the individualized needs of each worker in order to initiate targeted career interventions and supports. Developing a talent pipeline in high-demand industries is essential to serving the needs of the workforce system's two primary customers, workers and employers. A strong battery of targeted assessments ensures that jobseekers are provided appropriate services as part of an individualized, sustained workforce strategy.

## **Classroom training, work-based training and instruction**

2. Classroom Training, Work-Based Training and Instruction entail both short- and long-term options to ensure jobseekers are equipped with the work readiness skills and technical skills necessary to succeed within the demanding workplaces of the 21<sup>st</sup> Century. This includes occupational skills training, short-term on-the-job training, customized job training, job readiness training, actual work experience, incumbent worker training, and disability skills training. Connecting its clients with an array of dynamic occupation-specific training and instructional options to meet ever-changing industry requirements is an essential component of the state's workforce strategy. These ensure that jobseekers are prepared to meet industry demands and that companies have access to the skilled workforce needed to compete in the global economy.

## **Education**

3. Education is available throughout the workforce system to provide foundational education and subject matter knowledge. This includes academic and foundation skills, corrections education, GED or high school equivalency diploma, postsecondary preparation, career pathways foundations, work readiness skills, basic literacy, computer literacy, and English-as-a-Second Language instruction. The foundational knowledge imparted through workforce system's education services form a basis that is applicable across a range of industries and occupations. The core partners work with K-12, public and private postsecondary institutions and other education and training providers to connect jobseekers with education opportunities aligned to their specific needs.

## **Industry credential and certification**

4. Industry Credential and Certification encompasses the General Educational Development (GED) credential or high school equivalency credential as well as continuing education, occupational licensure, and industry certifications to provide industry-recognized credentials for entry and advancement within specific industries and occupations, particularly those high wage, high skill, high demand industries and occupations that are essential to Nebraska's economy.

## **Supportive services**

5. Supportive Services are designed to address barriers to employment. This includes the provision of such services as childcare, transportation, relocation assistance, clothing, coaching, scribes, insurance coverage, utility and rent deposits, emergency financial assistance and other supports. Cognizant of the imposing barriers to employment facing disadvantaged populations within Nebraska, the workforce system offers a wide network of supports that mitigate these challenges in order to maximize workforce participation rates amongst these populations, which represent a widely untapped talent pool.

## **Employment services**

6. Employment Services include career planning and career counseling, labor exchange and placement services, job seeking support, job readiness training and workshops, networking and peer counseling, as well as assistance for the self-employed. These services are delivered at all stages of the employment process to new workers and the unemployed as well as incumbent workers to connect workers with potential employers and ease the transition into the workplace.

## **Business services**

7. Business Services will address employers' needs through job fairs, hiring events and industry networks, compliance in meeting Americans with Disabilities Act, Section 503 and other workplace requirements, employer incentives, and worksite modifications to accommodate the needs of individuals with special workforce needs. These services are ultimately designed to support business growth and further meet industry workforce needs.

## **ANALYSIS OF CURRENT STATE**

Collectively, the plan partners provide a comprehensive set of 31 distinct workforce system services for job seekers and employers. However, of those 31 services, all are not provided globally, with 16 of the services provided by 6 or more plan partners and 15 are provided by 5 or fewer plan partners.

All plan partners provide career interest assessment services, career pathways and work-readiness training, and job-seeking and job-readiness skills services. They are elements of a common workforce system, which presents an opportunity for plan partners to align those services, minimize or eliminate duplication, and develop efficiencies that will result in a proportionate saving in costs gained by an increased level of effectiveness among plan partners and across the entirety of Nebraska's workforce system.

## **Assessments**

1. Assessments. 10 of 10 plan partners provide some form of employment-related assessment. Overall, the category of assessments represents a strength among plan partners and an opportunity for collaboration among plan partners. Streamlining the provision of assessment services among plan partners would create efficiency and improve the overall effectiveness of assessment services among plan partners and across the entirety of Nebraska's workforce system. The majority of the plan partners provide career-interest and basic-skills assessment. However, 3 or fewer plan partners provide community- and job-based evaluations, functional skills assessments, and ESL assessments, which are services typically provided to two target populations under WIOA: individuals with disabilities and individuals who are English language learners.

- 10 of 10 provide career interest assessments
- 7 of 10 provide basic skills assessments
- 3 of 10 provide community- and job-based evaluations
- 3 of 10 provide functional skills assessments
- 1 of 10 provides ESL assessments

### **Classroom training, work-based training and instructions**

2. Classroom training, work-based training and instruction. 8 of 10 plan partners provide services relating to classroom training, workforce-based training and instruction. This category of services could also a strength among plan partners, with the exception of the provision of disability skills training. In the category, there are important opportunities for plan partners to improve the provision of disability-skills training and further develop the provision of work-based training services.
  - 8 of 10 provide job-readiness training
  - 7 of 10 provide customized job training
  - 6 of 10 provide on-the-job training
  - 6 of 10 provide work-based training
  - 6 of 10 provide incumbent worker training
  - 2 of 10 provide disability skills training

### **Education**

3. Education. 10 of 10 plan partners provide educational services. In this category, plan partners are strongest in the provision of services relating to career pathways and developing work-readiness skills. For the remaining types of services, the plan partners recognize opportunities to improve educational services and further develop efficiencies in and the effectiveness of the workforce system.
  - 10 of 10 provide career pathways/work-readiness skills services
  - 7 of 10 provide ESL services
  - 6 of 10 provide computer literacy services
  - 5 of 10 provide preparation services for postsecondary education
  - 3 of 10 provide academic/foundational skills services
  - 1 of 10 provides distance education services

### **Industry credential and certification**

4. Industry credential and certification. 6 of 10 plan partners provide industry credential and certification services. This category of services is a weakness of Nebraska's workforce system and a tremendous opportunity for growth. Credentialing and certifications are an important focus of WIOA for all target populations. Development of this category of services is essential to the success of Nebraska's workforce system.

- 6 of 10 provide postsecondary credentialing services
- 3 of 10 provide GED credentialing services
- 2 of 10 provide licensure services

### **Supportive services**

5. Supportive services. 7 of 10 plan partners provide some form of supportive services. Supportive services are key to the success of individuals with barriers to employment in their career pathways. Coordination and collaboration among the plan partners would maximize the ability of plan partners to provide supportive services.

### **Employment services**

6. Employment services. 10 of 10 plan partners provide employment services. This category of assessments is another strength among plan partners and, again, an opportunity for collaboration among plan partners. Streamlining the provision of employment services among plan partners would likely mean a proportionate saving in costs gained by an increased level of effectiveness among plan partners and across the entirety of Nebraska's workforce system.
  - 10 of 10 provide job-seeking/job-readiness skills services
  - 9 of 10 provide career planning and career counseling services
  - 8 of 10 provide labor exchange and placement services
  - 6 of 10 provide networking/peer counseling (job clubs) services
  - 3 of 10 provide self-employment services

### **Business services**

7. Business services. 9 of 10 plan partners provide business services for employers. While the majority of plan partners provide business services, this category of services represents a weakness of Nebraska's workforce system due to the limited types of services currently available to employers. Again, as a weakness, this category of services presents great opportunities for growth.
  - 5 of 10 provide employer incentives
  - 3 of 10 provide job fairs/hiring events/networking services
  - 3 of 10 provide regulatory compliance services (ADA, 503, Federal contracting)
  - 2 of 10 provide worksite modification services

## ***B. The Strengths and Weaknesses of Workforce Development Activities***

Provide an analysis of the strengths and weaknesses of the workforce development activities identified in (A) above.

Nebraska and its workforce partners have established and maintained a broad network of services as part of its strategy to create a strong workforce system. Embedded within this system, however, are several strengths and weaknesses identified as follows. These strengths and weaknesses have been accounted for through the vision, goals and specific outcomes guiding Nebraska's Combined State Plan.

Key Strengths include:

- ***NEworks, Nebraska's Management Information System***, equipping the combined plan partners with a powerful technological tool that offers a wealth of workforce data as well as resources for both employers and current/prospective workers. Beyond its present use, this technology can serve to potentially improve coordination of program services, enhance communication between partners, and track relevant participant outcomes.
- ***A comprehensive range of high-quality workforce development services***. From initial assessment to job placement, the combined plan programs offer an array of high-quality, targeted services that are geared toward the needs of the state's employers and those seeking employment.
- ***Cost-efficiency in the delivery of services***. Despite geographic, financial, programmatic and other constraints, the plan partners have cost-efficiently delivered their services to jobseekers and workers throughout the state. The extent to which these entities have continually maximized the quality and reach of their services is a strength that is capitalized upon in the combined plan.
- ***Strong partnerships between plan partners*** as well as public and private partners. The strength of these partnerships is evident in their strong contributions to the design and execution of this plan, as described throughout this document, as well as the strength of the existing collaborations between partners.
- ***A strong technology infrastructure*** that is capable of supporting the business growth and expansion targeted through the combined plan. A 2014 report by the Nebraska Information Technology Commission found that Broadband service, with download speeds of greater than 10Mbps, is available to 99.5% of the state's population (*Broadband in Nebraska, 2014*). Widespread access to broadband given the geographic challenges in an expansive state with numerous rural areas is a tremendous strength that will be leveraged throughout the implementation of the Combined Plan.

Collectively, these strengths form a tremendous foundation upon which Nebraska's state plan is designed and anticipated to flourish.

Key Weaknesses limit the partner programs' ability to serve the needs of its workforce customers. These weaknesses include:

- ***Widespread dispersion of various populations within the state.*** The placement of Nebraskans who face barriers to employment (e.g., low-income individuals; individuals with disabilities; ex-offenders; homeless individuals; youth who have aged out of the foster care system; English Language Learners; individuals with low levels of literacy; single parents; farmworkers; those within two years of exhausting lifetime TANF eligibility; and the long-term unemployed) present unique challenges in communicating and coordinating services to areas where these populations reside. This includes remote rural areas, areas with capacity issues and those affected by other factors that complicate workforce service delivery.
- ***Limited industry sector involvement in the workforce system.*** There is a strong willingness between both industry and the public sector to work collaboratively in promoting workforce development within the state. Yet, more needs to be done in order to formalize and leverage the potential contributions of the industry sector.
- ***Need to increase the collaborative efforts between Workforce agencies and other stakeholder organizations.*** In order to build a system of workforce services the plan partners need to increase their collaborative efforts in a meaningful way, avoid *turfism* and look to a collective design of delivery services.
- ***Need to strengthen communication between workforce partners.*** Despite the availability of high quality programs and a willingness to collaborate, the partner programs sometimes struggle to communicate in a timely fashion in order to coordinate programming and avoid duplication of efforts. This is especially true at the front-line service-delivery level.
- ***Absence of a common intake form and intake procedures.*** The lack of a common intake results in a duplication of efforts and is indicative of the previously mentioned lack of communication that currently exists between programs.
- ***Common terminology for key workforce development terms.*** Another source of weakness that disrupts communication and understanding necessary for an effective, efficient statewide workforce strategy is the lack of common terminology across workforce programs.

### ***C. State Workforce Development Capacity***

Provide an analysis of the capacity of State entities to provide the workforce development activities identified in (A) above.

Each of the partnering workforce entities represented within this plan possess a modernized technological infrastructure, committed staff and a strong willingness to strengthen workforce development within the state. The capacity for increased communication between Nebraska's workforce development programs is extremely strong. Technologically, Nebraska has the tools necessary to foster increased

communication including data sharing and a willingness amongst the programs' staffs to improve in this area of great need.

## **b. State Strategic Vision and Goals**

The Unified or Combined State Plan must include the State's strategic vision and goals for developing its workforce and meeting employer needs in order to support economic growth and economic self-sufficiency. This must include—

### **1. Vision**

Describe the State's strategic vision for its workforce development system.

#### **Vision**

Nebraska's workforce system delivers statewide **coordinated, proactive, responsive and adaptable** services for jobseekers and employers to maximize opportunities for earning, learning, and living.

Primary to this vision are three guiding principles:

#### **Coordinated:**

- The strategies are **coordinated** - with partners working collaboratively, sharing information, and aligning policies across programs to ensure efficiency and enhanced access.
  - Common intake procedures
  - Aligning terminology
  - Integrating technology
  - Targeted outreach
  - Enhancing access to available services
  - Improving data sharing and analysis
  - Sharing knowledge to facilitate referrals
  - Increasing co-enrollment of partner-program participants

#### **Proactive:**

- The strategies are **proactive** - anticipating future problems, needs, and changes.
  - Coordinating policy development
  - Public sector partnerships
  - Developing and implementing sector strategies
  - Promoting and targeting high wage, high skill, and high demand jobs
  - Developing career pathways
  - Aligning education, credentialing, and placement

- Expanding work-based learning opportunities
- Planning for the impacts of disruptive technology and innovation
- Increasing school careers and workforce professionals' knowledge and exposure to the job opportunities in Nebraska

### **Responsive and Adaptable:**

- The strategies are **responsive and adaptable** - continuously improving to meet the changing needs of jobseekers and employers.
  - Coordinating funding streams
  - Assessing systems collaboratively to ensure continuous improvement
  - Coordinating with local and regional areas
  - Targeted distribution of available funding streams
  - Targeted acquisition of new funding streams and other resources
  - Working closely with each WIOA-designated region
  - Promoting career readiness
  - Continuous improvement of workforce development strategies
  - Continued development and dissemination of online resources

Meeting the imposing challenges facing Nebraska's workforce system is essential to ensuring Nebraska jobseekers and employers are provided with an environment that meets their unique workforce needs. Embedded within these challenges, however, are vast opportunities to enhance Nebraska's strong record of accomplishment in providing both businesses and jobseekers alike with an environment that supports business growth and promotes gainful employment for all Nebraska residents.

## 2. Goals

Describe the goals for achieving this vision based on the above analysis of the State's economic conditions, workforce, and workforce development activities. This must include—

- Goals for preparing an educated and skilled workforce, including preparing youth and individuals with barriers of employment\* and other populations.\*\*
- Goals for meeting the skilled workforce needs of employers.

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\* Individuals with barriers to employment include displaced homemakers; low-income individuals; Indians, Alaska Natives, and Native Hawaiians; individuals with disabilities, including youth who are individuals with disabilities; older individuals; ex-offenders; homeless individuals, or homeless children and youths; youth who are in or have aged out of the foster care system; individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers; eligible migrant and seasonal farmworkers (as defined at section 167(i) of WIOA and Training and Employment Guidance Letter No. 35-14); individuals within 2 years of exhausting lifetime eligibility under the Temporary Assistance for Needy Families Program; single parents (including single pregnant women); and long-term unemployed individuals.

\*\* Veterans, unemployed workers, and youth and any other populations identified by the State.

In support of Nebraska's vision for a coordinated, proactive, and responsive and adaptable approach to workforce development, four major goals have been identified to prepare an educated and skilled workforce that meets the needs of employers through 2020. These four goals articulate a coordinated approach and seek to establish an economic climate that serves employers, workers and those communities where these stakeholders operate and work, respectively.

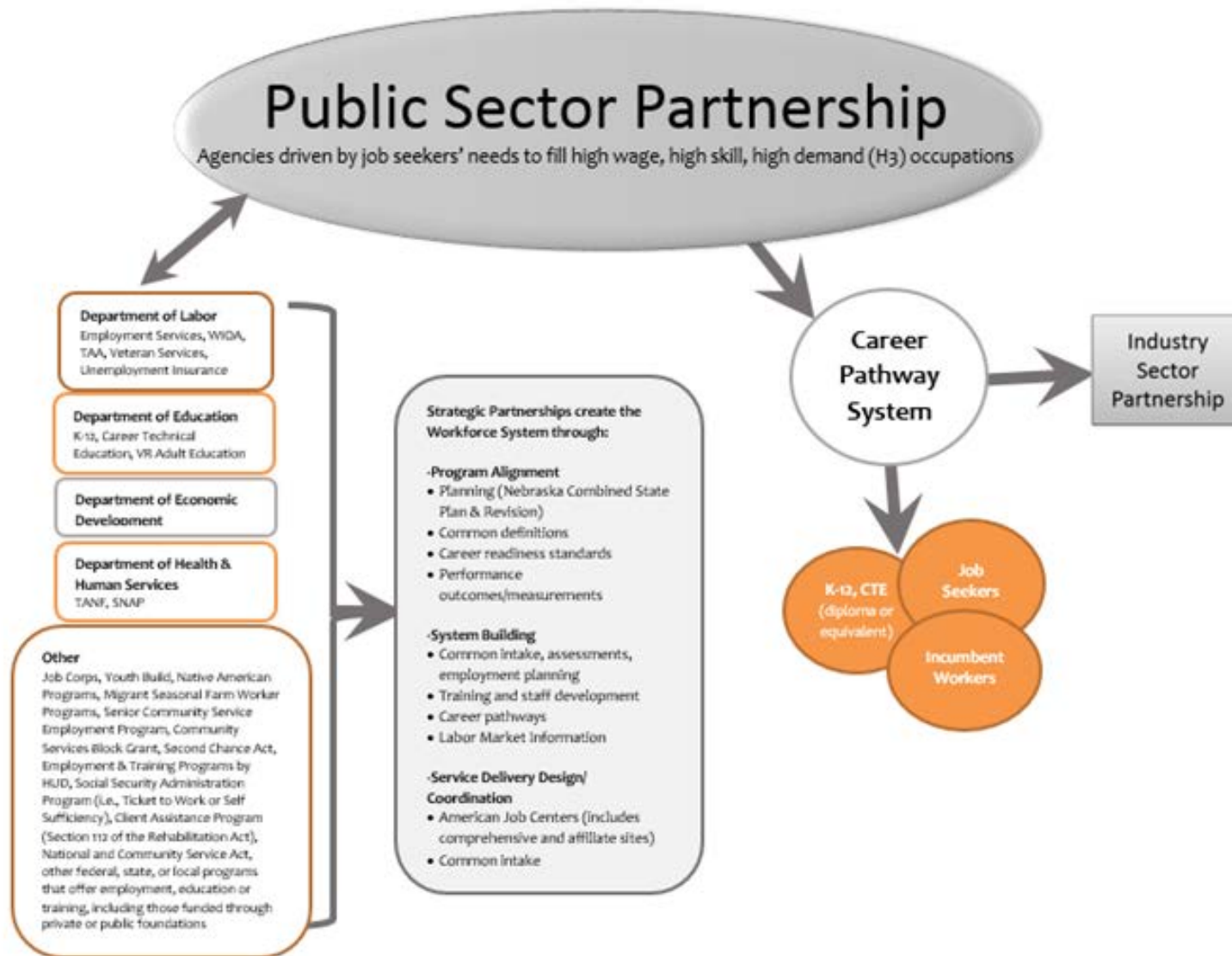
These goals respond to the identified capacity gaps and weaknesses within Nebraska's workforce system as described; build upon the strengths of the partnering programs; meet present and anticipated challenges and labor needs; account for the unique workforce characteristics within Nebraska and its workforce regions, and establish a climate that serves the workforce system key stakeholders. Most notably this includes the preparation of an educated and skilled workforce and meeting the workforce needs of Nebraska's employers.

Goal 1. Nebraska *will* enhance coordination between plan partners and other key stakeholders at all stages of the workforce development spectrum to ensure jobseekers and businesses are provided highly coordinated and seamless services, reducing duplication of effort, better understanding the needs of employers and workers, and maximizing the resources available to the state's workforce partners.

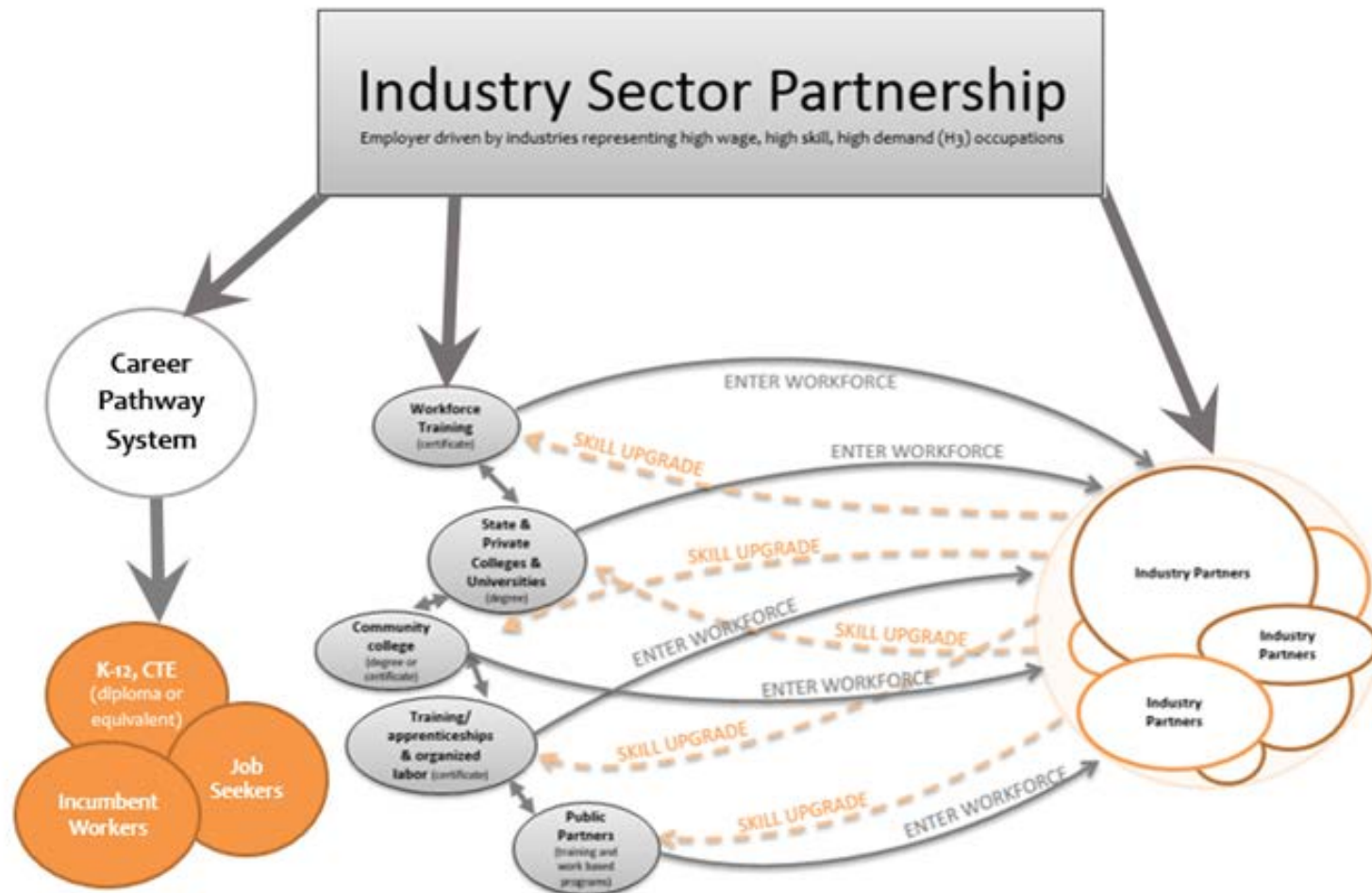
- Goal 2. Nebraska *will* increase workforce participation by expanding access, support and service to assessment, education, training, employment services and other forms of assistance that prepare Veterans, low-income individuals, English Language Learners, single parents, farmworkers, in-school and out-of-school youth, the unemployed and other disadvantaged populations for rewarding careers within the state.
- Goal 3. Nebraska *will* enhance employer engagement between secondary and post-secondary education institutions and training programs to better meet employers' workforce needs through industry-driven strategies. These strategies will incorporate the proactive use of available workforce and industry data to help determine future industry needs, potential workforce disruptions, and to ensure the availability of a skilled workforce to drive growth within the state's high-wage, high-skill and high-demand industries and occupations.
- Goal 4. Nebraska *will* promote self-sufficiency among Nebraska's disadvantaged populations by eliminating barriers to employment and providing coordinated services that lead to family-sustaining employment.

The achievement of Nebraska's vision and goals will be anchored by implementing and bringing together Public Sector and Industry Sector Partnerships. Draft concepts on how these partnerships may work are shown in Illustrations 1 and 2.

## Illustration 1: Public Sector Partnership



## Illustration 2: Industry Sector Partnership



The following sections of the Combined State Plan outline the specific strategies to be implemented in addressing the stated vision and goals and include a plan for assessing progress toward their attainment. Operational plans for each of the plan partners are included to show further alignment with the Combined Plan.

### **3. Performance Goals**

Using the table provided in Appendix 1, include the State's expected levels of performance relating to the performance accountability measures based on primary indicators of performance described in section 116(b)(2)(A) of WIOA. (This Strategic Planning element only applies to core programs.)

The Performance Goals for the 2016 and 2017 program years, as described in section 116(b)(2)(A) of WIOA and detailed in Appendix 1, have been negotiated with the Secretary of Labor in conjunction with the Secretary of Education. A plan for assessing the progress made toward the measures to be established is described in the following section titled Assessment.

### **4. Assessment**

Describe how the State will assess the overall effectiveness of the workforce development system in the State in relation to the strategic vision and goals stated above in sections (b)(1), (2), and (3) and how it will use the results of this assessment and other feedback to make continuous or quality improvements.

Assessment of the partner programs' progress toward these goals will entail the collaborative efforts of the core programs and other plan partners in order to collect and analyze timely data and make, as necessary, strategic modifications in order to maintain progress toward its vision, goals and strategies as described.

In assessing progress, data will be identified, collected in appropriate frequencies, and analyzed by the core programs, combined plan partners, and relevant stakeholders including the Nebraska Workforce Development Board. Data to be collected will include employment rates, median earnings, credential attainment rates, measurable skills gains, H-1B visa application data, and other data to indicate progress and support the management of the workforce system. In reviewing the data, the partners will seek to identify in a prompt fashion any negative trends or gaps in the performance measures in order to initiate the necessary program refinements as part of a continuous improvement approach.

## c. State Strategy

The Unified or Combined State Plan must include the State's strategies to achieve its strategic vision and goals. These strategies must take into account the State's economic, workforce, and workforce development, education and training activities and analysis provided in Section (a) above. Include discussion of specific strategies to address the needs of populations provided in Section (a).

### 1. State Strategies for In-demand Industry Sectors and Occupations and Career Pathways

Describe the strategies the State will implement, including industry or sector partnerships related to in-demand industry sectors and occupations and career pathways, as required by WIOA Sec. 101(d)(3)(B), (D). "Career pathway" is defined at WIOA Sec. 3(7). "In-demand industry sector or occupation" is defined at WIOA Sec. 3(23).

#### STATE STRATEGY

Nebraska's combined plan partners have identified interrelated strategies to achieve its strategic vision and goals. As described in Section II.b.1 of this Combined State Plan, Nebraska's vision is a workforce system that meets the needs of both employers and workers. To support this vision, the plan partners developed a series of strategies to support each of the plan's four goals. The goals and strategies are based on the guiding principles identified in Section II.b.1 above. Strategies specific to industry sector occupations and career pathways are found under Goals 2 and 3.

#### Goal 1

Nebraska *will* enhance coordination between plan partners and other key stakeholders at all stages of the workforce development spectrum to ensure jobseekers and businesses are provided highly coordinated and seamless services, reducing duplication of effort, better understanding the needs of employers and workers, and maximizing the resources available to the state's workforce partners.

Strategy 1. *Development of common intake procedures.* The plan partners will work closely to explore, develop, test and refine common intake procedures that integrate the intake process across plan partner programs. The plan partners will look to leverage common processes and eliminate unnecessary steps or actions. The effort to establish a common intake will increase coordination between the plan partners with the goal of better meeting the workforce needs of common customers. This effort will help to identify what information is currently being collected and what should be shared to improve the delivery of services. Privacy laws will be regularly analyzed and observed throughout this process to ensure the protection of program participants in compliance with Federal laws.

- Strategy 2. *Development and alignment of terminology across programs.* The establishment of common terminology across programs is not only essential to a common intake, but it is also necessary to foster greater coordination among the partner programs at all stages of the service-delivery spectrum.
- Strategy 3. *Coordination of funding streams.* Nebraska's Combined State Plan is designed to serve a broad range of jobseekers and employers. To effectively serve these workforce customers, Nebraska must strategically align and utilize all of its resources in order to effectively reach all customers with appropriate levels of service and support. A significant portion of this strategy will take place throughout the Memorandum of Understanding process.
- Strategy 4. *Technological integration.* The alignment of data systems will be necessary to foster data sharing in order to provide the real-time data necessary to initiate appropriate services, assess service delivery, complete WIOA common reporting requirements, and the subsequent program refinements necessary for continuous project improvement.
- Strategy 5. *Development of policies around common subject matter in order to define protocol and provide guidance across plan partner programs.* Given the enhanced level of coordination to occur, policies will be developed that specify clear courses of actions, set clear expectations, guide decision-making and support outcomes.
- Strategy 6. *Collaborative assessment of systems to ensure continuous improvement.* As part of a coordinated approach to workforce development, the plan partners will meet regularly for planning purposes, information sharing, resource coordination and continuous workforce system improvement. Leveraging what each partner brings to the system will be key in promoting continuous improvement. Using data generated by the plan partners' individual data systems, the partners will assess progress, identify trends and gaps (negative or positive), and determine what, if any, additional strategies are necessary.
- Strategy 7. *Establishment of a Public Sector Partnership* involving each of the plan partners, to support the alignment of workforce policies, systems, and terminology within the state. Functioning as a working committee, the Public Sector Partnership will provide the shared governance, day-to-day coordination and leadership needed to guide enhanced workforce development partnerships among public sector programs. In an effort to have the right people at the table, the partnership will continually reach out to other workforce stakeholders for inclusion.
- Strategy 8. *Coordination with local and regional areas* in order to further strengthen workforce system alignment and coordination across the State. This will include outreach and coordination with the American Job Centers, eligible training providers and local workforce programs to enhance service to employers and jobseekers, especially those who face barriers to employment and individuals with low literacy and individuals with disabilities.

## Goal 2

Nebraska *will* increase workforce participation by expanding access, support and service to assessment, education, training, employment services and other forms of assistance that prepare Veterans, low-income individuals, English Language Learners, single parents, farmworkers, in-school and out-of-school youth, the unemployed and other disadvantaged populations for rewarding careers within the state.

- Strategy 1. *Sector strategies will be developed and implemented.* Nebraska is working to develop a replicable framework for supporting the implementation of industry sector strategies within the state. Strategies will focus on industries that are essential to the economic vitality of the state's communities and regions, support and strengthen businesses within the state, and offer employment opportunities to residents (with priority on Veterans, low-income individuals, English Language Learners, single parents, farmworkers, in-school and out-of-school youth, the unemployed and other disadvantaged populations).
- Strategy 2. *Promotion of "H3" jobs.* Nebraska will leverage its recently redesigned H3 website (H3.ne.gov) to provide information to students, unemployed and underemployed individuals, and new workers on high-wage, high-skill and high-demand (H3) jobs in Nebraska. This will include working closely with each of the plan partners and other potential workforce partners (from the private and public sectors) on the website's resources and utility as part of a local, regional and statewide workforce development strategy.
- Strategy 3. *Targeted distribution of available funding streams.* The state and its workforce systems partners manage several funding streams that are designed to support entry into the workforce through the provision of training, education and other services. Review and alignment of these resources will occur on both an agency and statewide level to identify funding gaps and reallocate resources, if necessary, to better address the needs of low-income individuals; individuals with disabilities; ex-offenders; homeless individuals; youth who have aged out of the foster care system; English Language Learners; individuals with low levels of literacy; single parents; farmworkers; those within two years of exhausting lifetime TANF eligibility; and the long-term unemployed.
- Strategy 4. *Development of Career Pathways.* Nebraska's Career Education Model organizes careers into six career fields covering 16 career clusters. This model, which is driven by Nebraska Department of Education, Career Technical Education (CTE), provides a framework and associated resources for students, educators, parents, adults, employers and workforce development agencies to support career development. Ongoing development and integration of this tool across the plan partners' programs will occur to help ensure Nebraska's future workforce possesses the skills, training and knowledge sought by employers.
- Strategy 5. *Fostered alignment of education, credentialing and placement.* Nebraska's plan to increase workforce participation involves multiple strategies, including sector strategies and career pathways. Alignment of these resources with other resources that support workforce entry will be addressed through active collaboration. This specifically includes new and emerging workforce needs,

such as those presented by rapidly growing industries, regional demand, population dynamics and other factors. Coordination will include ongoing identification of workforce needs and opportunities, alignment of education and training options (and resources that promote their accessibility), and the defining of workforce requirements.

- Strategy 6. *Acquisition of new funding streams and the leveraging of new resources to enhance services available to those seeking first-time employment and reemployment and Nebraska's working poor.* Plan partners will seek grant and other funding opportunities available at the Federal and local areas that address the needs of unemployed and future workers through enhanced training, education and access. This strategy will also entail the development of partnerships with nonprofit and workforce entities throughout the state to share resources and provide support to maximize their efforts.
- Strategy 7. *Working closely with each WIOA-designated region to assess and refine the delivery of services* in order to establish a service delivery model that is responsive to the needs of jobseekers and employers; is accessible given the unique challenges faced by residents within the area; is capable of fully leveraging the resources available at the local, state, and Federal levels; and is coordinating with other public and private workforce entities to maximize impact.

### Goal 3

Nebraska *will* enhance employer engagement between secondary and post-secondary education institutions and training programs to better meet employers' workforce needs through industry-driven strategies. These strategies will incorporate the proactive use of available workforce and industry data to help determine future industry needs, potential workforce disruptions, and to ensure the availability of a skilled workforce to drive growth within the state's high-wage, high-skill and high-demand industries and occupations.

- Strategy 1. *Develop Industry Sector Strategies for employers to collaborate with system partners.* The state needs to ensure that the limited resources available for education, training and career development are closely aligned with the industry sectors that are essential to the state's existing and emerging occupations. Partners in Nebraska's workforce system must enhance their ability to engage meaningfully with employers within the industry sectors by ensuring there are effective forums for employers to collaborate with each other and to work with the workforce system's partners. The state will forge private sector partnerships with employers through state and local human resources associations and industry-specific associations and groups.
- Strategy 2. *Target high skill, high wage, and high demand jobs using labor market intelligence.* Using timely labor market information, employment projections, and information gathered directly from employers to devise strategies that ensure Nebraska businesses have the talent needed to thrive in a global economy. This may include new and customized training options, industry specific assessments, work-based learning opportunities, collaboration with

state and local economic development agencies to implement industry sector strategies, and other initiatives that respond to the needs presented in the data and expressed directly by employers.

- Strategy 3. *Promoting career readiness.* Skills gaps will be identified on an ongoing basis during the execution of this four-year plan using the Nebraska Career Readiness Standards established by the Nebraska Department of Education, with extensive input from businesses and industries. Addressing these skills gaps will entail identification of the specific skill sets required, inventory of available education and training to address the skill gap; promotion of the required skill sets (cross-referenced to the industries and fields where they are desired) through the H3 website and Nebraska's Career Education Model; and, if necessary, rapid development and deployment of training options that address the skills needed.
- Strategy 4. *Continuous improvement in workforce development strategies* in order to better meet the needs of Nebraska businesses. A variety of data, including performance metrics data, H-1B Visa data, and employer surveys will be analyzed to assess the overall effectiveness of Nebraska's workforce system in meeting the workforce needs of Nebraska's employers. This process will be initiated to foster continuous improvement.
- Strategy 5. *Expansion of work-based learning opportunities.* The plan partners will promote apprenticeships, internships and other work-based learning opportunities as an essential component of a comprehensive approach to workforce development in the state. Work-based learning offers potential workers with the opportunity to immerse themselves within a potential career field while also providing invaluable education and training in a particular field.
- Strategy 6. *Targeted outreach to disadvantaged populations* such as low-income individuals; individuals with disabilities; ex-offenders; homeless individuals; youth who have aged out of the foster care system; English Language Learners; basic-skills deficient individuals and individuals with low levels of literacy; single parents; farmworkers; those within two years of exhausting lifetime TANF eligibility; and the long-term unemployed. Strategies will be designed to provide employers with an expanded labor pool of talented workers and to provide appropriate education, training and support to those populations that would most benefit from employment in Nebraska's high wage, high skill, high demand industries.
- Strategy 7. *Plan for the impacts of disruptive technology and innovation.* In an evolving economy driven by innovation and technology, planning for potential workforce changes and disruptions will continue to play a key role in meeting the needs of Nebraska's employers. Education, economic development and the workforce system partners need to proactively promote opportunities and take advantage of these disruptions. The plan partners will strategically utilize available technology, analytics, and labor market information to proactively plan for future workforce, industry, and educational needs within Nebraska.
- Strategy 8. *Increase school careers and workforce professionals' knowledge and exposure to the job opportunities of Nebraska.* Continue to infuse Nebraska's job opportunities in high school and post-secondary career education classrooms

and activities. This will include participation by the plan partners in the reVision planning process sponsored by Career Technical Education, collaborating with local schools and post-secondary education to develop enhanced career awareness specific to Nebraska's employers and job opportunities.

#### Goal 4

Nebraska *will* promote self-sufficiency among Nebraska's disadvantaged populations by eliminating barriers to employment and providing coordinated services that lead to family-sustaining employment.

- Strategy 1. *Enhanced access to available services.* Work collaboratively with American Job Centers and other programs throughout the state to strategically serve the needs of low-income individuals and other populations facing barriers to employment within the state. This strategy will include continued development of online resources and identification and dissemination of best practices.
- Strategy 2. *Targeted acquisition of funding and other resources.* Plan partners will pursue funding opportunities through local, regional and Federal sources in order to expand the workforce resources available to low-income, English Language Learners, individuals with disabilities, migrant farmworkers and other populations experiencing barriers. This will include opportunities that strengthen coordination between the partners. It will also include working closely with individual regions and programs to review and support applications targeting specific geographic regions.
- Strategy 3. *Continued development and dissemination of online resources.* The plan partners will promote online access and the distribution of essential workforce-related information to individuals facing barriers to employment. This will include the development of online information and training of American Job Center staff and other partners within communities throughout Nebraska to utilize the information available online. Access to this information will be a priority. As appropriate, resources will be available in English, Spanish and other languages. Cognizant of the technology barriers facing the disadvantaged populations to be served by this plan, information will also be made available in print format.
- Strategy 4. *Enhanced data sharing and analysis among plan partners.* The plan partners will utilize a variety of data to understand more clearly the specific challenges facing low-income individuals and other disadvantaged populations within Nebraska's workforce system. This data will be reviewed regularly in order to develop interventions of appropriate nature and scope, to assess these interventions for effectiveness in supporting the targeted populations, and to implement a continuous improvement approach.
- Strategy 5. *Promote knowledge transfers across partner programs to help facilitate referrals.* This will include training of plan partner staff on services across programs administered by workforce system partners. Further supporting this strategy will be the development of cross-training materials that can be used

by plan partners during orientation of new hires and the development of a protocol for referrals between plan partners.

## **Sector-Specific Strategies and Career Pathways**

Two major initiatives to occur over the course of this four-year plan that promote and provide the mechanism to achieve several of the goals are Sector-Specific Partnerships and Career Pathways.

Sector-Specific Partnerships and the strategies outlined above are designed to respond to the needs of employers within in-demand industry sectors, establish a pipeline of skilled workers for targeted industries, increase employment opportunities for unemployed and underemployed workers, and to establish a data-driven approach to addressing talent shortages. Nebraska will establish two sector partnership initiatives: Industry Sector Partnerships and Public Sector Partnerships.

Industry Sector Partnerships will be a partnership of employers within our industry sector that work closely with government, education, economic development, labor, and community organizations to focus on the workforce and other competitiveness needs of their industry. Nebraska's Industry Sector Partnerships will be industry driven at the regional level, creating highly customized responses to a target industry's needs, resulting in highly accurate responses. The Industry Partnership acts as a coordinating body across multiple education, workforce development, economic development and other programs.

Public Sector Partnerships will be established at the state, regional and local levels. The purpose of a Public sector Partnership is to elevate the level of coordination and create a framework by which programs are delivered in a systematic environment verses a series of silo environments. Public Sector strategies entail (1) Program Alignment; (2) System Building; and (3) Service Delivery Design/Coordination.

1. *Program Alignment* will include developing common goals and terminology necessary to guide the development of Nebraska's Sector Strategy state model. This will include strategic workforce planning, the alignment of terminology and associated definitions used between workforce development programs toward a common understanding, the establishment of career readiness standards, and the identification of performance outcomes and measurements.
2. *System Building* will develop and continually refine resources and tools that can be utilized by regions as they implement the Sector Strategy model. This includes the development of common intake forms and assessments, stakeholder training and staff development, gathering and review of labor market information, and the identification of career pathways.
3. *Service Delivery Design/Coordination* will involve collaborative work with Nebraska's job centers in order to consistently administer the common intake form and begin the talent pipeline process by identifying students, underemployed

workers, unemployed workers and incumbent workers with the potential to enter the identified career-cluster talent pipeline.

These two sector partnership strategies have been identified by the partner programs as a promising strategy to further promoting economic and workforce development in the state. To this end, representatives from each of the programs and other stakeholder groups have attended training in sector strategy development and execution and are committed to continue developing strategies that meet the specific needs of employers and potential workers in Nebraska's in-demand industries.

Another promising strategy to support Nebraska's vision for workforce development is the ongoing development of career pathways. In 2008, the Nebraska Department of Education/Career Technical Education adopted and began implementing the National Career Pathway Model developed by the Office of Vocational and Adult Education as shown in Illustration 3. The Nebraska Career Education Model organizes Nebraska careers into six career fields including

1. Business, Marketing & Management;
2. Agriculture, Food, and Natural Resources;
3. Communication and Information Systems;
4. Human Services and Education;
5. Health Sciences and
6. Skilled and Technical Sciences.

The six career fields entail a multitude of professions and jobs.

**Illustration 3: Career Pathways System**



To support this career education model, Nebraska has established Career Readiness Standards, which describe varieties of expertise that educators at all levels, should seek to develop in their students. The Nebraska Career Readiness Standards were derived from extensive input from business and industry representatives expressing the most critical skills needed for employees to be successful on the job. Career Readiness Standards are often referred to as work readiness skills or soft skills. These standards rest on important practices and proficiencies with long-standing importance in career education. The standards and related practices are not limited to formal career technical education programs nor to the middle school or high school level. Rather, these standards and practices should be reinforced repeatedly, with increasing complexity and relevance by students and jobseekers as they progress through their career pathway. The standards themselves do not dictate curriculum, pedagogy or delivery of content, and schools, colleges, and service providers implement the teaching and assessing of these standards in many different ways.

The Career Pathway Model has been adopted by schools and school districts throughout the state to facilitate career exploration and planning as well as to guide the alignment of curriculum and education offerings. The former Nebraska Workforce Investment Board adopted the Career Pathway Model in 2008 to align work readiness services and career exploration with Nebraska's one-stop delivery system. The plan partners will work collaboratively to promote the adoption of this model and the Career Readiness Standards within education programs, update industry and skills requirements, and continuously assess the impact of the Career Pathway Model.

## **2. State Strategies to Align Core Programs**

Describe the strategies the State will use to align the core programs, any Combined State Plan partner programs included in this Plan, required and optional one-stop partner programs, and any other resources available to the State to achieve fully integrated customer services consistent with the strategic vision and goals described above. Also describe strategies to strengthen workforce development activities in regard to weaknesses identified in section II(a)(2).

### **Program Alignment**

Of the 28 strategies identified in Section II.c.1, nine strategies relate to alignment of the core programs, plan partner programs (including TANF, TAA, JVSG, UI, and SCSEP), required and optional one-stop partner programs, and other workforce system partners to achieve a fully integrated approach to workforce development within Nebraska. In collaboration with the System Alignment Subcommittee of the Nebraska Workforce Development Board, designated workforce system partners are responsible for coordinating implementation of the program alignment strategies listed below in Table A.

Implementation of the program alignment strategies will occur at the state level for core and other plan partners and the local level among required and optional one-stop partner programs and other workforce system partners. Implementation at the local level will be facilitated through the regional planning process.

**Table A: Strategies for Program Alignment**

Strategy No.	Description	Workforce System Partner Coordinating Activities
Goal 1 - Strategy 1	<b>Development of common intake procedures.</b> The plan partners will work closely to explore, develop, test and refine common intake procedures that integrate the intake process across plan partner programs. The plan partners will look to leverage common processes and eliminate unnecessary steps or actions. The effort to establish a common intake will increase coordination between the plan partners with the goal of better meeting the workforce needs of common customers. This effort will help to identify what information is currently being collected and what should be shared to improve the delivery of services. Privacy laws will be regularly analyzed and observed throughout this process to ensure the protection of program participants in compliance with Federal laws.	Nebraska Department of Labor, Office of Employment & Training
Goal 1 - Strategy 2	<b>Development and alignment of terminology across programs.</b> The establishment of common terminology across programs is not only essential to a common intake, but it is also necessary to foster greater coordination among the partner programs at all stages of the service-delivery spectrum.	Nebraska Department of Education, Adult Education
Goal 1 - Strategy 3	Coordination of funding streams. Nebraska's Combined State Plan is designed to serve a broad range of jobseekers and employers. To effectively serve these workforce customers, Nebraska must strategically align and utilize all of its resources in order to effectively reach all customers with appropriate levels of service and support. A significant portion of this strategy will take place throughout the Memorandum of Understanding process.	Nebraska Workforce Development Board, Nebraska Partner Council, Local Area Boards
Goal 1 - Strategy 4	<b>Technological integration.</b> The alignment of data systems will be necessary to foster data sharing in order to provide the real-time data necessary to initiate appropriate services, assess service delivery, complete WIOA common reporting requirements, and the subsequent program refinements necessary for continuous project improvement.	Nebraska Department of Labor, Office of Employment & Training
Goal 1 - Strategy 7	<b>Establishment of a Public Sector Partnership.</b> Involving each of the plan partners, to support the alignment of workforce policies, systems, and terminology within the state. Functioning as a working committee, the Public Sector Partnership will provide the shared governance, day-to-day coordination and leadership needed to guide enhanced workforce development partnerships among public sector programs. In an effort to have the right people at the	Nebraska Workforce Development Board, Nebraska Partner Council

Strategy No.	Description	Workforce System Partner Coordinating Activities
	table, the partnership will continually reach out to other workforce stakeholders for inclusion.	
Goal 1 - Strategy 8	<b>Coordination with local and regional areas in order to further strengthen workforce system alignment and coordination across the State.</b> In order to further strengthen workforce system alignment and coordination across the State. This will include outreach and coordination with the American Job Centers, eligible training providers and local workforce programs to enhance service to employers and jobseekers, especially those who face barriers to employment and individuals with low literacy and individuals with disabilities.	Nebraska Workforce Development Board, Nebraska Partner Council
Goal 2 - Strategy 3	<b>Targeted distribution of available funding streams.</b> The state and its workforce systems partners manage several funding streams that are designed to support entry into the workforce through the provision of training, education and other services. Review and alignment of these resources will occur on both an agency and statewide level to identify funding gaps and reallocate resources, if necessary, to better address the needs of low-income individuals; individuals with disabilities; ex-offenders; homeless individuals; youth who have aged out of the foster care system; English Language Learners; individuals with low levels of literacy; single parents; farmworkers; those within two years of exhausting lifetime TANF eligibility; and the long-term unemployed.	Nebraska Workforce Development Board, Nebraska Partner Council, Local Area Boards
Goal 2 - Strategy 5	<b>Fostered alignment of education, credentialing and placement. Nebraska's plan to increase workforce participation involves multiple strategies, including sector strategies and career pathways.</b> Alignment of these resources with other resources that support workforce entry will be addressed through active collaboration. This specifically includes new and emerging workforce needs, such as those presented by rapidly growing industries, regional demand, population dynamics and other factors. Coordination will include ongoing identification of workforce needs and opportunities, alignment of education and training options (and resources that promote their accessibility), and the defining of workforce requirements.	Nebraska Department of Education, Career Education
Goal 3 - Strategy 1	<b>Develop Industry Sector Strategies for employers to collaborate with system partners.</b> The state needs to ensure that the limited resources available for education, training and career development are closely aligned with the industry sectors that are essential to the state's existing and emerging occupations. Partners in	Nebraska Departments of Education and Labor

Strategy No.	Description	Workforce System Partner Coordinating Activities
	Nebraska's workforce system must enhance their ability to engage meaningfully with employers within the industry sectors by ensuring there are effective forums for employers to collaborate with each other and to work with the workforce system's partners. The state will forge private sector partnerships with employers through state and local human resources associations and industry-specific associations and groups.	

## **Strengthening Workforce Development Activities**

Implementation by plan partners (including TANF, TAA, JVSG, UI, and SCSEP) of the program alignment strategies described above will strengthen workforce development activities across Nebraska in relation to the key weaknesses identified in Section II.a.2.B (and listed below):

### Widespread dispersion of various populations within the state

Implementation of strategies for technological integration (Goal 1 - Strategy 4) and coordination with local and regional areas (Goal 1 - Strategy 8) will strengthen communication among workforce system partners and enhance the provision of services to target populations, including those in remote rural areas experiencing capacity issues.

### Limited industry sector involvement in the workforce system

Implementation of sector strategies (Goal 2 - Strategy 1 and Goal 3 - Strategy 1) will be facilitated through funding provided under Nebraska's Sector Partnership Program Act (LB1110) which focuses on developing a replicable framework for aligning employment programs, resources, and planning efforts regionally around industry sectors that drive regional employment to connect services and training directly to jobs.

### Increasing collaborative efforts

With regard to the need to increase the collaborative efforts between workforce agencies and other stakeholder organizations and strengthen communication between workforce partners, implementation of strategies for increasing collaboration among Nebraska's workforce system partners (Goal 1 - Strategy 3, 5, 8) will maximize the resources available to the state's workforce system partners and other stakeholder organizations.

### Common intake form, procedures, and terminology

With regard to the absence of a common intake form and intake procedures and common terminology for key workforce development terms, implementation of strategies focusing on development of common intake procedures and common terminology across workforce system programs (Goal 1 - Strategy 1, 2) will address the absence of a common intake form and procedures as well as common terminology and will strength communication among workforce system partners.

### III. Operational Planning Elements

The Unified or Combined State Plan must include an Operational Planning Elements section that support the State's strategy and the system-wide vision described in Section II(c) above. Unless otherwise noted, all Operational Planning Elements apply to Combined State Plan partner programs included in the plan as well as to core programs. This section must include—

#### a. State Strategy Implementation

The Unified or Combined State Plan must include—

##### 1. State Board Functions

Describe how the State board will implement its functions under section 101(d) of WIOA (i.e. provide a description of Board operational structures and decision making processes to ensure such functions are carried out).

##### **Board Functions**

The Nebraska Workforce Development Board under Section 101(d) of WIOA is responsible for maintaining a dynamic, demand-driven workforce system focusing on high wage, high skill, high demand industries within a regional development context. This includes the integration of services to employers and job seekers by a network of public and private partners. The Board also works to meet the changing long and short term needs of businesses and individuals with a coordinated, efficient, and less bureaucratic delivery system, and to provide all Nebraska residents with the knowledge, skills and resources for learning, earning and living in the state.

Specific functions performed by the Board under 101(d) of WIOA include:

- Development and implementation of State Plan
- Providing recommendations to help align the workforce system in the state
- Increasing activity in developing career pathways
- Unifying workforce investment activities with education and supportive services in the development of career pathways
- Improving outreach and access to programs
- Developing strategies for meeting the needs of employers and jobseekers through sector partnerships (with an emphasis on in-demand industries and occupations)
- Developing and implementing the one-stop system, including continuous improvement of the one-stop system
- Providing assistance to local boards, one-stop operators and their partners
- Assisting with planning, including training and supportive services to workers, jobseekers, and employers
- Identifying regions in consultation with the local boards and CEOs, and provides consultation to the Governor in the designation of local areas

- Assisting the Governor in the development and updating of comprehensive state performance accountability measures, including state-adjusted levels of performance, to assess the effectiveness of the four WIOA core programs under 101(d)(4)
- Developing policies to coordinate services
- Developing criteria and procedures for local board to use in assessing core programs
- Developing guidance to local boards on infrastructure costs and defining what one-stop partners must do to contribute to the services delivered through the one-stop system
- Defining the role and contributions of one-stop partners, including equitable and efficient cost allocation
- Developing strategies to improve technology for digital literacy, accelerating learning, accessibility, and professional development
- Reviewing the Combined State Plan at the end of the first 2-year period of any 4-year plan to submit modifications relating to labor market information, economic conditions, or other factors affecting the plan
- Helping in designing the evaluations of State Programs under section 116(e)

Implementation of the Board's functions is achieved through the Board's structure of standing committees and subcommittees. This structure includes the Executive Committee (standing committee) and the Strategic Direction Committee and the System Alignment Committee (both subcommittees). Each member of the Board participates in at least one committee or subcommittee as described below.

### **Executive Committee**

The Executive Committee has the authority to act on behalf of the Board on issues that require action between scheduled Board meetings. The Strategic Direction Subcommittee and the System Alignment Subcommittee provide functional oversight of planning in relation to the Board functions listed below and provide recommendations to the Board on implementation of its functions.

As permitted under the bylaws of the Board, the Governor designates the members of the Executive Committee of the Board. Section 5.3, Appointment of Members, of the bylaws requires that the membership of the Executive Committee include:

- Chair of the Board
- Vice Chair of the Board
- Chair of each subcommittee of the Board (2)
- Representative of the labor category of Board membership
- Representative of the youth category of Board membership
- Commissioner of the Nebraska Department of Labor
- Commissioner of the Nebraska Department of Education
- Three representatives from the general membership of the Board

## **Strategic Direction Committee**

The Strategic Direction Committee is charged with:

- Identifying regions in consultation with the local boards and CEOs, and provides consultation to the Governor in the designation of local areas
- Increasing activity in developing career pathways
- Unifying workforce investment activities with education and supportive services in the development of career pathways
- Developing strategies for meeting the needs of employers and jobseekers through sector partnerships (with an emphasis on in-demand industries and occupations)

## **System Alignment Committee**

The System Alignment Committee is charged with:

- Developing and implementing the Combined State Plan
- Providing recommendations to help align the workforce system in the state
- Improving outreach and access to programs
- Developing and implementing the one-stop system, including continuous improvement of the one-stop system
- Providing assistance to local boards, one-stop operators and their partners
- Assisting with planning, including training and supportive services to workers, jobseekers, and employers
- Assisting the Governor in the development and updating of comprehensive state performance accountability measures, including state-adjusted levels of performance, to assess the effectiveness of the four WIOA core programs under 101(d)(4)
- Developing policies to coordinate services
- Developing criteria and procedures for local board to use in assessing core programs
- Developing guidance to local boards on infrastructure costs and defining what one-stop partners must do to contribute to the services delivered through the one-stop system
- Defining the role and contributions of one-stop partners, including equitable and efficient cost allocation
- Developing strategies to improve technology for digital literacy, accelerating learning, accessibility, and professional development
- Reviewing the Combined State Plan at the end of the first 2-year period of any 4-year plan to submit modifications relating to labor market information, economic conditions, or other factors affecting the plan
- Helping in designing the evaluations of State Programs under section 116(e)

## 2. Implementation of State Strategy

Describe how the lead State agency with responsibility for the administration of each core program or a Combined Plan partner program included in this plan will implement the State's Strategies identified in Section II(c) above. This must include a description of—

### A. *Core Program Activities to Implement the State's Strategy*

Describe the activities the entities carrying out the respective core programs will fund to implement the State's strategies. Also describe how such activities will be aligned across the core programs and Combined State Plan partner programs included in this plan and among the entities administering the programs, including using co-enrollment and other strategies.

Through a three-part planning session held in the spring of 2016, the Combined State Plan Partners which include WIOA, Wagner Peyser, Adult Education and Family Literacy, Vocational Rehabilitation, Nebraska Commission for the Blind and Visually Impaired, Trade, TANF, UI, SCSEP, and JVSG, identified and committed to key goals and strategies that will strengthen the alignment of resources across Nebraska's workforce system. The goals and supporting strategies are listed below and include a description of the specific activities to be conducted by the partners to execute the activities.

#### Goal 1. Enhanced Coordination

1. Development of common intake procedures.
2. Development and alignment of terminology across programs.
3. Coordination of funding streams.
4. Technological integration.
5. Development of policies around common subject matter in order to define protocol and provide guidance across partner programs
6. Collaborative assessment of systems to ensure continuous improvement.
7. Establishment of a Public Sector Partnership.
8. Coordination with local and regional areas.

The core programs with their additional plan partners will: provide leadership for the plan through the establishment of a Public Sector Partnership and through membership on the Nebraska Workforce Development Board; provide leadership and coordination for the development of a common intake system to streamline service delivery across the workforce system; leverage agency personnel and other resources to ensure appropriate support and oversight; implement evaluation and continuous improvement efforts; analyze current funding streams to inform potential reallocation for more targeted distribution; support efforts to integrate technological systems; and develop policies and procedures around common subject matter.

## Goal 2. Increased Workforce Participation

1. Sector Strategies will be developed and implemented.
2. Promotion of H3 jobs.
3. Targeted distribution of available funding streams.
4. Development of Career Pathways.
5. Fostered alignment of education, credentialing and placement.
6. Acquisition of new funding streams and the leveraging of new resources to enhance services available to those seeking first-time employment, reemployment, and Nebraska's working poor.
7. Working closely with each WIOA-designated region to assess and refine the delivery of services.

Increasing workforce participation will require the participation of each of the partner programs. This will entail the development of strategies that create new job opportunities and strategies that support the entry and retention of individuals in the workplace, including those workers who face barriers to employment. Initially, assessments will be administered by the respective programs to identify individual needs, which will then trigger the prescription of services and supports to address the identified need(s). The provision of these services will be strengthened because of the increased coordination targeted through Goal 1, and more specifically through the common intake process, which will streamline the initiation of services across the programs. These services entail a continuum of supports from education and training to workforce modifications.

Career Pathways will help prepare individuals with the requisite training and knowledge for a variety of career fields, to ease the transition to the workplace. Sector strategies will involve strategic partnership targeting key industries and occupations in a local, regional or state context. Sector strategies will support business growth but also foster new employment opportunities.

Enhanced data sharing will provide regional partners (including the American Job Centers, educational institutions, and training providers) with useful data to guide the strategic development of services and educational/training options. The state will work with these entities to not only use the data in a strategic manner but also to share in the exchange of data to inform the allocation of resources within the state and the development of new statewide workforce initiatives.

Within this process, the programs will continually collect and analyze program data. The assessment of data will serve to identify areas of strength and weakness. The information produced from regular analysis will help to initiate programmatic improvements and foster continuous improvement in serving those outside of the workforce.

Goal 3. Enhanced employer engagement between secondary and post-secondary education and/or training programs to meet employers' workforce needs.

1. Data-driven decision making that targets high wage, high skill, high demand jobs.
2. Promoting career readiness.
3. Continuous improvement in workforce development strategies.
4. Expansion of work-based learning opportunities.
5. Targeted outreach to disadvantaged workers.
6. Develop forums for employers to collaborate with system partners.

Each of the combined plan programs will be critical partners in the effort to strengthen the alignment between education and training available in the state and the needs of employers. The strength of this alignment will rest primarily on the collection, sharing and analysis of relevant data that confirm current and emerging high wage, high skill, high demand occupations and the associated skills sets needed for these jobs. High wage, high skill, high demand jobs are essential factors in Nebraska's workforce development effort as they not only provide strong employment opportunities to a potentially large number of Nebraskans, but they also promote economic activity necessary to a thriving economy. The partners will work closely to identify high wage, high skill, high demand jobs and work their various agency channels (including partners, electronic and print materials, etc.) to promote these career fields and coordinate services that help transition potential workers into these fields through education and training, employer services, accommodations and workforce modifications for those with disabilities, and/or support services to workers facing barriers.

Assessment of these strategies and approaches will be ongoing using data generated through Labor Market Information, employer surveys, employment projections and unemployment wage data.

Goal 4. Promote self-sufficiency among low-income and other disadvantaged populations.

1. Enhanced access to available services.
2. Targeted acquisition of funding and other resources.
3. Continued development and dissemination of online resources.
4. Enhanced data sharing and analysis amongst the plan partners.
5. Promote knowledge transfers across partner programs to help facilitate referrals.

Low-income and other disadvantaged populations represent a tremendous untapped resource in terms of workforce talent, and strategies will be coordinated through each of the combined plan programs to connect these populations with gainful employment. Specifically, this will include strategies that target low-income individuals; individuals with disabilities; ex-offenders; homeless individuals; youth who have aged out of the foster care system; English Language Learners; individuals with low levels of literacy; single parents; farmworkers; those within two years of exhausting lifetime TANF eligibility; the long-term unemployed and other disadvantaged populations. Several of the strategies to

be implemented include co-enrollment, leveraging resources such as supportive services, joint case management and common intake. These strategies will expand support for target populations in order to cultivate the skilled workforce sought by employers and to serve employment needs of Nebraska's disadvantaged workers.

Enhanced access will occur through the reallocation of resources based upon data analysis and/or the increased efficiencies to be realized because of the plan's implementation. Additional resources will also be leveraged, as appropriate, from local, state and federal sources to expand and extend workforce services for low-income and disadvantaged populations. NEworks and the Nebraska Career Connections sites will be updated regularly with current information and resources to eliminate barriers to training, education and employment.

Unemployment wage data will be reviewed regularly by the partners to determine the extent of need within the state and its communities. Ongoing assessment of the individual services will also be conducted regularly to continually assess and refine the delivery of services to low-income and other disadvantaged populations of workers.

## ***B. Alignment with Activities outside the Plan***

Describe how the activities identified in (A) will be aligned with programs and activities provided by required one-stop partners and other optional one-stop partners and activities provided under employment, training (including Registered Apprenticeships), education (including career and technical education), human services and other programs not covered by the plan, as appropriate, assuring coordination of, and avoiding duplication among these activities.

Nebraska has implemented a public sector strategy at the state leadership level called the Nebraska Partner Council which is largely responsible for the execution of the goals and strategies listed above in the Core Program Activities to Implement the State's Strategy Section III.a.2.A. Currently, the Nebraska Partner Council is comprised of representatives from the Combined State Plan Partners: Adult and Basic Education, Career and Technical Education, Job Corps, Unemployment Insurance, Vocational Rehabilitation, Senior Community Services Employment Program, Migrant and Seasonal Farm Workers, Housing and Urban Development, Wagner-Peyser, Trade Adjustment Assistance, Native Americans, Veterans, Workforce Innovation and Opportunity Act, Temporary Assistance for Needy Families; plus representatives from the following "outside" plan partners: Department of Economic Development, Career Technical Education, SNAP, and the community colleges.

The Nebraska Partner Council meets regularly to plan, assess progress, and coordinate the activities and strategies described in the State Strategy Section II.c.2. Additionally, to ensure Registered Apprenticeship (RA) is part of Nebraska's program alignment efforts, by Quarter 1 of 2017, a RA representative will be added to the Partner Council along with a representative from the Department of Corrections. The Partner Council will work toward replicating this public sector strategy in the regional planning areas across the state.

### ***C. Coordination, Alignment and Provision of Services to Individuals***

Describe how the entities carrying out the respective core programs, Combined State Plan partner programs included in this plan, and required and optional one-stop partner programs will coordinate activities and resources to provide comprehensive, high-quality, customer-centered services, including supportive services to individuals including those populations identified in section II(a)(1)(B). The activities described shall conform to the statutory requirements of each program.

All of the Combined Plan Partners (including TANF and SCSEP) participated in a three-part planning session held in February and March 2016. As a result of these planning sessions, the Combined Plan Partners established and committed to four goals for Nebraska's Workforce System. The first goal has eight strategies that address the coordination, alignment and provisions of services to individuals.

*Goal No. 1; Nebraska will enhance coordination between plan partners and other key stakeholders at all stages of the workforce development spectrum to ensure jobseekers and businesses are provided highly coordinated seamless services, reducing duplication of effort, better understanding the needs of employers and workers, and maximizing the resources available to the state's workforce partners.*

To provide comprehensive, high-quality, customer-centered services, the Combined Plan Partners and One Stop Partners will implement the following eight strategies:

- Strategy 1. Development of common intake procedures
- Strategy 2. Development and alignment of terminology across programs
- Strategy 3. Coordination of funding streams
- Strategy 4. Technological integration and alignment of data systems
- Strategy 5. Development of policies around common subject matter in order to define protocol and provide guidance across plan partner programs
- Strategy 6. Collaborative assessment of systems to ensure continuous improvement
- Strategy 7. Establishment of Public Sector Partnership (i.e. Nebraska Partner Council)
- Strategy 8. Coordination with local and regional areas in order to further strengthen workforce system alignment and coordination across the State

Additionally, the WIOA Core Partners are hosting three regional planning sessions (one in each local area) from October 2016 through January 2017. These planning sessions will include regional and local representatives of the Combined State Plan Partners as well as the One Stop partner programs. The goal of these planning sessions will be to identify regional strategies and action steps that ensure the individual services provided through Nebraska's Workforce System are comprehensive, high quality, customer-centered services. The planning sessions will design strategies and action steps around: common intake and shared communication system, integration of program services, co-enrollment and improved service delivery to participants.

Nebraska's Workforce System is comprised of comprehensive, satellite, and affiliate AJCs. VR staff are located in 12 offices across the state; 10 of the 12 offices are located within one of the WIOA Planning Regions. In many locations staff are co-located with the AJCs or maintain an office at the AJC on a regularly scheduled basis. As appropriate, individuals are co-enrolled and staff coordinate services, including funding and training, at the local office level. With the passage of WIOA, the local Nebraska Adult Education programs have had increased communication and collaboration with the Core WIOA partners and more is required, now that other plan partners have been added to the list of WIOA programs in the state. The partners of the Combined State Plan are now an essential part of Adult Education's professional development activities. Adult Education anticipates having joint workshops among partners as we implement and grow our WIOA workforce system. WIOA staff trainings for local and regional partner staffs during the 2016-2017 program year will be a plus for increased knowledge and understanding of entities that are part of WIOA. Unity and understanding of all partner contributions is necessary to fulfill the WIOA mission. Adult Education programs are in discussions with the AJCs in their local and regional program areas, to determine how to best join forces for aligned and improved service to those persons seeking employment and/or have barriers to employment and educational services.

#### ***D. Coordination, Alignment and Provision of Services to Employers***

Describe how the entities carrying out the respective core programs, any Combined State Plan partner program included in this plan, required and optional one-stop partner programs will coordinate activities and resources to provide comprehensive, high-quality services to employers to meet their current and projected workforce needs. The activities described shall conform to the statutory requirements of each program.

Through a Regional Planning process scheduled from October 2016 through January 2017, the Combined State Plan Partners along with the One Stop partner programs will identify strategies and action steps to; 1) identify needed employer services, 2) align employer services across programs to create a comprehensive delivery design and 3) identify strategies for coordination that result in high quality employer services across programs. Through the Regional Planning process each regional area will be asked to establish goals, responsibilities, and the communication process by which partners across agencies will design and deliver employer services. Currently, Nebraska has two local areas implementing a Business Services Representative (BSR) team concept. The BSR teams are made up of multiple agency representatives who work collaboratively to address employers' workforce needs. Current strategies include; talent recruitment across programs, packaging of hiring incentives, and offering placement and follow up services. The BSR team concept will be built upon and expanded over the next two year Plan period.

Nearly all the Combined State Plan Partners and optional and required One Stop partner programs have an employer or placement component. The Regional Plan Instructions issued by the State will require a detailed description of the following; 1) How will employer services be aligned and coordinated across programs, 2) Identification of employer

services to be coordinated, and 3) Planned action steps for implementation along with a timeline. Likewise, any State Policy issued regarding services to employers will reinforce the need for coordination and alignment across the Combined State Partners and the optional and required One Stop partner programs.

Additionally, state leadership will continue to create and promote tools that assist program staff in providing quality services to employers. These tools include but are not limited to; **NEworks** a web-based tool that has state, local, and national job market trend data, education and training programs, human resources information, equal employment opportunity information and a host of other resources; **Nebraska Career Connections** a web-based tool that allows employers to build an online business profile; offer extended learning opportunities such as internships, job shadows, and facility tours; post job openings; align with career clusters, pathways, and occupations available in the company, and send messages about the company and affiliated opportunities to registered students and adults.

As Nebraska implements employer driven industry sector strategies, the Combined Plan Partners and One Stop partner programs will participate in the industry sector strategy work providing resources and solutions to address the workforce needs of employers.

### ***E. Partner Engagement with Educational Institutions***

Describe how the State's Strategies will engage the State's community colleges and area career and technical education schools, as partners in the workforce development system to create a job-driven education and training system. WIOA Sec. 102(b)(2)(B)(iv).

Nebraska is served by six community colleges serving the central, mid-plains, northeast, southeast, western and metropolitan regions of the state. These institutions are tremendous partners in the workforce development efforts occurring within their respective regions. They provide high-quality and affordable education and training programs; articulate programming with 4-year colleges; maintain strong relationships with local business to align curriculum to industry standards; coordinate bridge and other programs to increase access; design educational experiences for students; leverage resources; and place students in gainful employment.

Community colleges will continue to be a strong workforce partner throughout the execution of this plan. In addition to those contributions previously cited, the community colleges will be a primary provider of education and training for the sector strategies. In addition, as Nebraska's current data integration and enhancement efforts produce more useful data, Nebraska will work with its community colleges to share data that informs the development of new courses, curricular modifications and recruitment efforts.

## ***F. Partner Engagement with Other Education and Training Providers.***

Describe how the State's Strategies will engage the State's other education and training providers, including providers on the state's eligible training provider list, as partners in the workforce development system to create a job-driven education and training system.

The State's education and training providers will be engaged in Nebraska's workforce system through the Industry Sector Strategy under Goal 3 - Strategy 1. The Industry Sector Strategy includes all education and training partners that have coursework, skill enhancement, and/or credentialing resources available for in-demand occupations. This includes state and community colleges, university system, technical schools (public and private), and Registered Apprenticeship providers. All of Nebraska's education and training providers, including those on the eligible training provider list, play a key role in designing education and training solutions to meet industry demands. On a statewide and regional basis, these providers will be at the table to provide education and training resources.

## ***G. Leveraging Resources to Increase Educational Access***

Describe how the State's strategies will enable the State to leverage other Federal, State, and local investments that have enhanced access to workforce development programs at the above institutions, described in section (E).

Nebraska has identified the following strategies in Section II.c.1 to increase the leveraging of workforce resources that will provide more educational access: Goal 1 - Strategy 3, Goal 2 - Strategies 3 and 6, and Goal 4 - Strategy 2. These strategies increase educational access by better coordination of existing funding streams, acquisition and leveraging of new funding sources (federal, state, regional, local) and identification of specific resources that promote H3 (high wage, high skill, high demand) training and employment opportunities to target populations.

Nebraska has several programs that are leveraging investments (in addition to WIOA funding) that directly increase educational access, examples are:

- conNEct - a federal Ready-to-Work H1B grant that provides IT training for the long-term unemployed and Veteran populations. conNEct has coordinated with JVSG, VR, WIOA/DW, TANF, and Wagner-Peyser to increase IT education and training opportunities as well as leveraging resources.
- Job Driven National Emergency Grant - a federal Dislocated Worker Grant that provides work-based learning in manufacturing and transportation, distribution, logistic (TDL) occupations. The job Driver grant has coordinated with JVSG, VR, WIOA, and Wagner-Peyser through co-enrollment and the leveraging of resources. Access to education and training programs has increased for dislocated workers.

- Apprenticeship USA - a recently received federal grant that will increase educational access with the development of Registered Apprenticeship programs in Nebraska. Plans are to leverage WIOA Title 1, VR, H1B grant and DWG funds.

## *H. Improving Access to Postsecondary Credentials*

Describe how the State's strategies will improve access to activities leading to recognized postsecondary credentials, including Registered Apprenticeship certificates. This includes credentials that are industry-recognized certificates, licenses or certifications, and that are portable and stackable.

Fundamental to Nebraska's workforce system is the focus on H3 (high wage, high skill, high demand) occupations. The need for a recognized postsecondary credential to enter these occupations is nearly inevitable. Nebraska has outlined several strategies that will lead to improved access to postsecondary credentials: promotion of H3 jobs, development of career pathways that clearly identify the needed postsecondary credentials, aligning education and credentialing with occupational requirements, expand work-based learning opportunities, including Registered Apprenticeship, and enhanced access to available services across the combined plan partners. As Nebraska develops a system approach to providing services, individuals will have greater access to recognized postsecondary credentials because the combined plan partners and one-stop partners will be aligning resources that result in the attainment of a postsecondary credential. Nebraska will continue to promote and expand collaborative efforts like reVISION, a local-level planning process involving employers, educators, and workforce system partners who identify the needed postsecondary credentials and skill levels for current and future H3 occupations.

## *I. Coordinating with Economic Development Strategies.*

Describe how the activities identified in (A) will be coordinated with economic development entities, strategies and activities in the State.

The programs will work closely with the Nebraska Department of Economic Development, local chambers of commerce, and other economic development agencies to coordinate services and support economic development efforts. This will include the provision of unemployment wage data, student and skills data and other data sets to determine the availability of skilled workers, which is essential data in recruiting potential businesses and developing local economic development strategies. The effort to coordinate with economic development strategies will continue to entail education and training, using Nebraska's career pathways model. Additionally, as sector strategies are developed at the local area, coordination of these strategies with local economic development will be sought to foster an economic ecosystem around key industries.

## **b. State Operating Systems and Policies**

The Unified or Combined State Plan must include a description of the State operating systems and policies that will support the implementation of the State strategy described in Section II Strategic Elements. This includes—

### **1. State operating systems supporting implementation of the State’s strategies.**

This must include a description of—

#### **A. *Coordinated implementation of State strategies***

State operating systems that support coordinated implementation of State strategies (e.g., labor market information systems, data systems, communication systems, case-management systems, job banks, etc.).

The following sections outline Nebraska current operating systems, which will be available to support Nebraska’s combined plan for workforce development. As shown, Nebraska has a solid infrastructure that is adequate to support the various reforms described herein and foster the strengthened coordination to occur between the partner programs. Additional systems and system modifications will occur as needed to address challenges and further the work of the partners.

#### **NEworks**

In 2010, Nebraska modernized its technology from four separate legacy systems that previously managed information and reported data to a single integrated system that supports Wagner-Peyser, Workforce Innovation and Opportunity Act, Trade Assistance Act, Jobs for Veterans Act, and Labor Market Information. NEworks’ web-based technology is an integrated system that provides direct services virtually to job seekers and employers; electronic case management for workforce staff; federal, state, and local reports; staff and community resources; social media capabilities to communicate with job seekers, program participants, and professionals, and the posting of Labor Market Workforce Information for the public. NEworks is used by all program and administrative staff and provides a common registration for all program applicants, electronic case management of participants, communication capabilities with the job seeker and employer customers, and direct access to Labor Market Information. NEworks includes a self-service web-based labor exchange system available to job seekers and employers alike. NEworks is available 24 hours a day, seven days a week and allows for access and use without having the need to interface with Career Center staff. The utilization of NEworks by all partners included in this plan supports the Governor’s vision to utilize technology to deliver services as well as to communicate, collaborate, and streamline services across program lines.

## **QE2**

QE2 is a web-based case management and fiscal reporting system. The application was written in Ruby on Rails, an open source object oriented web framework, with a MySQL backend. End-user authentication utilizes the Nebraska Directory Services (NDS) framework. Development, hosting, and support are provided by Nebraska VR application developers and network administrators.

## **eForce**

eForce allows fully accessible client data tracking, entering and reporting.

## **National Reporting System**

The National Reporting System (NRS) is an updated accountability system for the federally funded, State-administered adult education program. The Workforce Investment Act of 1998 (WIA) required a computerized student data system. The purpose of the NRS is to have an accountability system for adult education programs by identifying measures for national reporting and their definitions, establishing methodologies for data collection, developing standards for reporting to the U.S. Department of Education, and developing training materials and activities on NRS requirements and procedures. Nebraska's Adult Education data system, the Adult Information Management System (AIMS), is utilized to report required information and data required by the NRS. AIMS was created by the Nebraska Department of Education and is routinely updated to comply with the United States Department of Education guidance and reporting. In addition, enhancements are made to assist local programs in utilizing the data for local program evaluation, improvement, and management. Uses of NRS data at the federal level include meeting agency accountability requirements (GPRA) and demonstrating program effectiveness to Congress. Uses of NRS data at the state level include meeting state and federal reporting requirements for funding, one factor in determining local funding, and understanding local programs and identify technical assistance (TA) needs. Uses of NRS data at the local level include program improvement efforts and program management (i.e. understanding students and classes).

## **Labor Market Information System**

Nebraska's Labor Market Information System is integrated into the NEworks site and includes a robust menu for gathering and analyzing labor market and economic information. The site hosts a variety of tools for job seekers, employers, economic development professionals, and the public. While the web is used to deliver the majority of data and labor market information, NDOL's Labor Market Information staff provide on-site workshops, training, conferences and presentations across the state on LMI. Nebraska's Core Products and Services Workforce Information Grant staff assist State and Local Workforce Development Board members in reviewing projections to ensure understanding of the data. This training provides information on trends, needs and issues on a local, regional and statewide basis. In addition, there is a regional analyst position

that meets statewide with One-stop management and staffs about their LMI needs, and hosts training on how to use LMI in their local areas. This analyst meets with local Chambers of Commerce, economic development committees, and businesses to determine the needs of local businesses, and assist them in understanding the availability and use of labor market information.

### **H3**

H3 (High Wage, High Skill, High Demand) website utilizes real time job posting and job seeker information from NEworks as well as statistical projections to educate end users on labor market trends. This website was built to be user friendly for educators, workforce professionals, economic developers, parents, students, job seekers, and other interested parties. H3 data is useful to economic developers and community leaders who wish to fill in-demand occupations as well as educators, students and their parents, and job seekers who are planning career paths. The Nebraska Departments of Labor, Economic Development, and Education collaborated to provide information on Nebraska's high wage, high skill and high demand occupations. The H3 website was the result of a collaborative effort between the prior WIA 5-Year State Plan, 60 NDOL employment and training programs, Career Technical Education and the Department of Economic Development.

### **Eligible Training Provider List**

Nebraska will provide a comprehensive listing of training providers, training programs, and demographic information. Through our NEworks technology, users can access information on education and training providers by city, course of study or by occupational title. Providers also use TrainingLink to submit their Eligible Training Provider applications. Customers are able to access the statewide list of eligible training providers and their performance information. The eligible training provider list will contain at least the following information:

- a description of each program, including the resulting postsecondary credential(s);
- program performance information, including rates of unsubsidized employment during the second (2nd) and fourth (4th) quarters after program exit, median quarterly earnings during the second (2nd) quarter after program exit, and credentials attainment;
- a description of provider partnerships with businesses relating to the program;
- other information NDOL may require in order to demonstrate high quality training services;
- how the program aligns with in-demand industry sectors and occupations; and
- program-specific performance and cost information, including tuition and fees.

## Electronic Case File System

Nebraska implements electronic case files for all partner programs included in this Plan. This is our continual effort to promote efficiency, achieve quality case files, increase consistent file documentation, and achieve complete program verification and accuracy in federal reporting. The core partners transitioned to electronic case files to document all new program enrollments. NEworks uses an electronic document imaging and storage system called Enterprise Content Management (ECM). To capitalize on the increased efficiency of data storage and retrieval, NDOL revised the documentation process for determining eligibility and the maintenance of pertinent records. For new enrollments, NDOL is no longer dependent on hard copy documentation and uses electronic verification of eligibility requirements. The ECM system includes both internal and external access allowing all servicing partners the means to provide services efficiently for their clients. The NEworks electronic application is now the application of record. The goal of the ECM project is to: reduce staff time accessing hard copy documentation; increase the consistency of file documentation; provide easily accessible single point access for file review; and ensure complete verification for program eligibility. Other benefits include one source of data for case management; easing storage requirements; federal reporting accuracy; timeliness of input; comprehensive view of participant's record; and data validation. The electronic information referenced will be made available to any USDOL or state auditor, or monitor who needs access in order to carry out their official duties.

### ***B. Data-collection and reporting processes***

Data-collection and reporting processes used for all programs and activities, including those present in one-stop centers\*.

Nebraska through its combined plan partners will utilize various methods (that are appropriate given the nature, scope and potential utility of the data being collected) to manage the information being collected and reported on through Nebraska's workforce system. Primary amongst these approaches will be facilitation of data sharing amongst the plan partners to support the timely analysis necessary to understand the extent of need for workforce development within the state, the impact of the various services being provided, and ongoing program modifications as part of a streamlined and efficient workforce delivery system. In developing and refining data sharing procedures and systems, policies and data sharing agreements will be initiated to ensure the integrity of the data as well as the confidentiality of participants. Nebraska plans to apply for the recently released grant solicitation for Reemployment and System Integration Dislocated Worker Grants to align technology solutions and support connectivity across programs and services with all combined plan partners' legacy systems including:

- NEworks is NDOL's case management system which supports delivery of: Wagner-Peyser, WIOA Title 1, Trade Assistance Act, Jobs for Veterans Act, UI Reemployment Services and Labor Market Information. NEworks is web-based and provides self-service functionality for job seekers, employers, analysts, and training providers; staff provided services and case management; federal, state, and local reports; assessment tools; and many other career and training resources.
- QE2 is a web-based case management and fiscal reporting system. The application was written in Ruby on Rails, an open source object oriented web framework, with a MySQL backend. End-user authentication utilizes the Nebraska Directory Services (NDS) framework. Development, hosting, and support are provided by Nebraska VR application developers and network administrators.
- eForce allows fully accessible client data tracking, entering and reporting.
- The National Reporting System (NRS) is an updated accountability system for the federally funded, State-administered adult education program. Nebraska's Adult Education data system, the Adult Information Management System (AIMS), is utilized to report required information and data required by the NRS. AIMS was created by the Nebraska Department of Education and is routinely updated to comply with the United States Department of Education guidance and reporting. Uses of NRS data at the federal level include meeting agency accountability requirements (GPRA) and demonstrating program effectiveness to Congress. Uses of NRS data at the state level include meeting state and federal reporting requirements for funding, one factor in determining local funding, and understanding local programs and identify technical assistance (TA) needs. Uses of NRS data at the local level include program improvement efforts and program management (i.e. understanding students and classes).

\* For the PY 2016 state plan, descriptions of data collection and reporting processes need only include currently known indicators.

## 2. State policies that will support the implementation of the State's strategies

The State policies that will support the implementation of the State's strategies (e.g., co-enrollment policies and universal intake processes where appropriate). In addition, describe the State's process for developing guidelines for State-administered one-stop partner programs' contributions to a one-stop delivery system, including benchmarks, and its guidance to assist local boards, chief elected officials, and local one-stop partners in determining equitable and stable methods of funding infrastructure in accordance with sec. 121(h)(1)(B). Beginning with the state plan modification in 2018 and for subsequent state plans and state plan modifications, the State must also include such guidelines.

The State of Nebraska has established policies and procedures to govern the various aspects of workforce development within the state. A brief description for each of these policies is provided below. The full policies appear in section VI.a.2.A of this Combined State Plan. Revision of existing policies and development of additional policies necessary to support enhanced coordination will occur as needed.

## **Accessibility**

This policy ensures equal access to the programs, services and facilities of each American Job Center system location regardless of race, color, national origin, sex, age, disability, religion, political affiliation or belief, participant status, and against certain non-citizens.

## **Allocation Planning**

This policy establishes the formulas for allocation of WIOA funding to local area and describes the methods by which the NDOL will distribute funds to each local area, recapture funds when necessary, and utilize funding to support administrative and statewide funding to support WIOA-related activities.

## **Administrative Cost Limitations**

This policy provides guidance regarding how administrative funding can be utilized for local workforce area expenditures. Allowable activities and caps associated with the use of administrative funds are outlined.

## **Audits and Audit Resolution**

This policy provides guidance related to audit requirements under WIOA, the Uniform Guidance (2 CFR Part 200), and previous OMB circulars. Provides clarifying definitions so that each local area, grant recipient, subrecipient, one-stop provider, or service provider understand their required roles within the auditing process.

## **Career Planning**

This policy provides information and expected standards to Career Planners relating to the services and resources available for WIOA participants. Guidance is included relating to referrals, assessments, registration, enrollment, eligibility, participation, individual service strategy, supportive services, training decisions, exits, follow-up, and documentation.

## **Cash Management**

This policy ensures local areas properly utilize cash on hand, cash advances, reimbursement methods, working capital, cash depositories, interest, and payments.

## **Co-Enrollment**

This policy provides guidance for coordinating activities between multiple programs and encourages the use of seeking opportunities for co-enrollment that benefit program participants.

## **Conflict of Interest**

This policy outlines circumstances that may present a conflict of interest for a state board or local board member, or the entity or class of officials that the member represents, and identifies procedures to resolve such conflicts.

## **Correction of Record**

This policy outlines timelines, processes, and requirements for corrections of record requests. Information relating to the appropriateness of record corrections is addressed.

## **Criteria for Local Workforce Development Boards**

This policy establishes membership, composition, and other criteria for the operation of the local workforce development boards.

## **Data Validation**

This policy helps ensure to the maximum extent feasible the accuracy of the data entered into the required management information systems. Emphasizes the importance of complete information for program monitoring and improving program results.

## **Designation as a Local Area**

This policy provides guidance and requirements relating to the local area designations under WIOA and a mechanism for local areas to make a formal request for initial designation under WIOA.

## **Designation of Regions**

This policy provides background information relating to the process, activities, and research that have been conducted in an effort to identify WIOA required regions and planning regions in Nebraska.

## **Electronic Case Files**

This policy establishes requirements regarding electronic file storage and documentation imaging standards in the administration of WIOA, Wagner-Peyser, Trade Adjustment Assistance and related assistance programs, National Dislocated Worker Grants, and Work Opportunity Tax Credit under the State's integrated Management Information System, NEworks and Enterprise Content Management system.

## **Eligibility for Adult Programs**

This policy presents eligibility criteria for the adult programs as defined under the provisions of the WIOA.

## **Eligibility for Dislocated Worker Programs**

This policy presents eligibility criteria for the dislocated worker programs as defined under the provisions of the WIOA.

## **Eligibility for Youth Programs**

This policy presents eligibility criteria for the youth programs as defined under the provisions of the WIOA.

## **Eligible Training Provider**

This policy prescribes eligibility criteria and general conditions that training providers must meet in order to become a training provider that is eligible to receive youth, adult, and dislocated worker funds through Individual Training Accounts under WIOA.

## **Equal Opportunity and Nondiscrimination**

This policy ensures nondiscrimination and equal opportunity, as well as nonparticipation in sectarian activities. Prohibits discrimination on the basis of race, color, national origin, sex, age, disability, religion, political affiliation or belief, participant status, against certain noncitizens, sex-based stereotypes (including stereotypes about how persons of a particular sex are expected to look, speak, or act).

## **Family Educational Rights and Privacy Act (FERPA)**

This policy provides guidance relating to compliance with FERPA, which protects the privacy of student education records, yet allows schools to disclose those records, with consent, to the specific parties under certain conditions.

## **Financial Request and Reporting System**

This policy explains financial reporting requirements, outlines procedures for financial reporting for local boards, and explains the process for appealing imposed sanctions and requesting administrative hearings.

## **Grievances or Complaints of a Nondiscriminatory Manner**

This policy establishes procedures for properly handling grievances or complaints alleging violations of the requirements of Title I and requires local areas to establish their own written procedures for complaints, such procedure shall include an opportunity for a hearing and be completed within 60 days after the filing of the grievance or complaint.

## **Hatch Act**

This policy provides guidance relating to specific political activity restrictions on some individuals paid with federal funds.

## **Incumbent Worker Training Program**

This policy ensures local areas establish policies relating to potential incumbent worker training programs authorized under WIOA. Outlines the requirements to establish such programs, the spending caps in place, and provides a sliding scale for employers (based on number of employees) to determine the required employer cost share of such programs.

## **In-Demand Industries and Occupations**

This policy provides guidance to local areas relating to WIOA provisions addressing the term in-demand, and defines in-demand as it relates to industries and occupations.

## **Individual Training Accounts**

This policy concerns ITAs established on behalf of participants to be used for the payment of training expenses to eligible training providers using funds from WIOA.

## **Local Area Plan Modifications and Revisions**

This policy relates to modified local plans which will serve as a transitional plan during the first two program year of WIOA implementation

## **Monitoring**

This policy establishes the state's process for monitoring program and fiscal performance at the state and local area levels on a yearly basis to ensure proper systems are in place, being followed, and meet the requirements of the law.

## **Memorandums of Understanding and Allocation of Infrastructure and Shared Costs**

This preliminary policy provides general guidance to the local workforce development boards for developing and entering into a memorandums of understanding with required one-stop partners, including TANF, Adult Education, Vocational Rehabilitation. The policy also identifies allocation of infrastructure and shared costs.

In developing infrastructure and shared costs guidelines for state-administered one-stop partner programs' contributions, the state will work closely with the three local areas to determine allowable and appropriate costs. This will include the establishment of appropriate benchmarks and guidance to assist local efforts around the equitable

distribution of funds. A copy of these guidelines will be furnished within the 2018 modification of the state plan.

### **On-The-Job Training**

This policy establishes minimum requirements for on-the-job training contracts to ensure participants are provided a structured training opportunity in which to gain the knowledge and competencies necessary to be successful in the occupation for which they receive training and requires training services are provided in a manner that maximizes consumer choice in the selection of an eligible provider of such services.

### **Out-of-School Youth Spending**

This policy addresses the WIOA requirement of at least 75% of youth funds (except for local area expenditures for administrative purposes) must be used to provide activities to out-of-school youth.

### **Pell Grants and Other Financial Aid**

This policy enhances collaboration between the workforce development system and financial aid offices will ultimately benefit eligible individuals and their dependents through increased financial aid and improved access to education and training opportunities and provides guidance relating to the coordination of WIOA funding with Pell Grant and other available resources.

### **Procurement Standards**

This policy provides guidance relating to general procurement administration, changes to service provider contracts under WIOA, developing contracts or agreements, conflict of interest, competition, confidentiality and non-disclosure, copyrights, construction, awarding review, bonding, monitoring of local procurement practices, pay-for-performance contracts, designation and certification of one-stop operators, and youth program competitive selection requirements.

### **Property Management**

This policy provides guidance regarding the use, management, and disposal of equipment acquired under a federal grant in accordance with State and Federal laws and procedures.

### **Rapid Response**

This policy establishes strategies and activities necessary to (i) plan for and quickly respond to announcements of business closures and layoffs and mass job dislocation resulting from natural or other disasters; (ii) deliver services that enable dislocated

workers to transition to new employment as quickly as possible; and (iii) address the needs of businesses in transition to prevent or minimize the duration of unemployment.

### **Record Retention**

This policy establishes protocols to keep and maintain records that are sufficient to prepare required reports, meet program record-keeping requirements, and to have the ability to trace funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully.

### **Request for Local Board Certification**

This policy establishes standards for local boards to submit a request to the Governor to certify one local board for each local area in the state, once every two years.

### **Roles and Responsibilities of Chief Elected Officials**

This policy provides guidance relating to the roles of CEOs within each local area. Identifies the requirement of a CEO agreement, and identifies duties relating to board appointments, grant recipient duties and liabilities, submission of the local plan, coordination of designating and certifying one-stop operators, Memoranda of Understanding, oversight of the one-stop delivery system, and budgeting.

### **Salary and Bonus Limitations**

This policy outlines federal salary and bonus limitations applicable to WIOA funding.

### **Supportive Services**

This policy provides supportive service program guidelines to local areas for WIOA eligible participants.

### **Trade Adjustment Assistance Program under Trade Act of 2002**

This policy provides guidance and establishes criteria for administering benefits and services under the act.

### **Trade Adjustment Assistance Program under Trade Act of 2011**

This policy provides guidance and establishes criteria for administering benefits and services under the act.

## **Trade Adjustment Assistance under the Trade and Globalization Adjustment Assistance Act of 2009**

This policy provides guidance and establishes criteria for administering benefits and services under the act.

### **Work Experiences for Youth, Adults, and Dislocated Workers**

This policy explains the requirements of the Youth, Adult and Dislocated Worker programs to provide work experiences for eligible individuals under WIOA; highlights the 20% work experience spending requirement for youth under WIOA; and provides information about the qualification of providers and describes some of the restrictions on work experiences.

### **Youth Program Design**

This policy defines criteria for the design, elements, and parameters of youth programs.

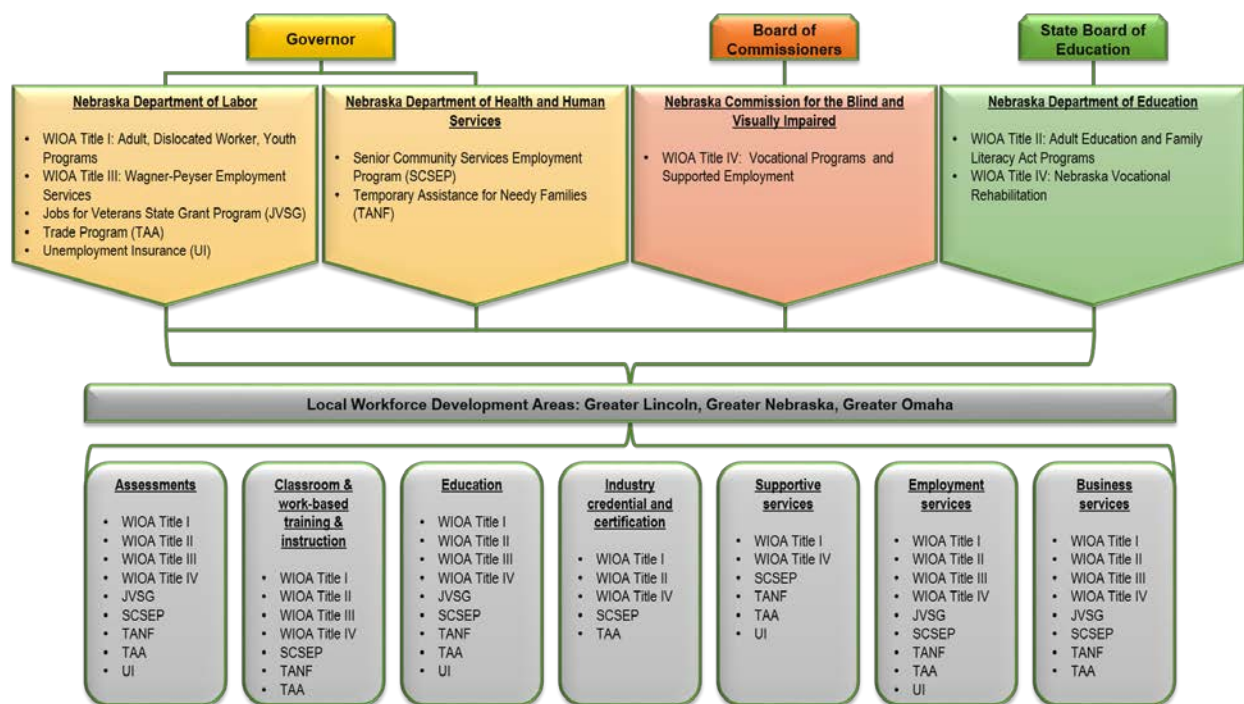
### 3. State Program and State Board Overview

#### A. State Agency Organization

Describe the organization and delivery systems at the State and local levels for the programs covered in the plan, including the organizational structure. Include an organizational chart.

The organization and delivery systems at the state and local levels for plan partner programs is shown in Illustration 4 and described below.

*Illustration 4. State Agency Organization*



Plan partner programs are organized under three (3) leadership structures for the following plan partner agencies:

- The Governor provides leadership for and oversight of the Nebraska Departments of Labor and Health and Human Services;
- The Board of Commissioners provides leadership for and oversight of the Nebraska Commission for the Blind and Visually Impaired; and
- The State Board of Education provides leadership for and oversight of the Nebraska Department of Education.

Under the Nebraska Department of Labor are the following plan partner programs:

- WIOA Title I: Adult, Dislocated Worker, Youth Programs
- WIOA Title III: Wagner-Peyser Employment Services
- Jobs for Veterans State Grant Program (JVSG)
- Trade Program (TAA)
- Unemployment Insurance (UI)

Under the Nebraska Department of Health and Human Services are the following plan partner programs:

- Senior Community Services Employment Program (SCSEP)
- Temporary Assistance for Needy Families (TANF)

Under the Nebraska Commission for the Blind and Visually Impaired are the following programs:

- WIOA Title IV: Vocational Programs and Supported Employment

Under the Nebraska Department of Education are the following plan partner programs:

- WIOA Title II: Adult Education and Family Literacy Act Programs
- WIOA Title IV: Nebraska Vocational Rehabilitation

Delivery of plan partner program services is provided by the three (3) Nebraska local workforce development areas:

- Greater Lincoln Workforce Development Area;
- Greater Nebraska Workforce Development Area; and
- Greater Omaha Workforce Development Area.

Services delivered include:

- Assessments, provided by the following plan partner programs:
  - WIOA Title I
  - WIOA Title II
  - WIOA Title III
  - WIOA Title IV
  - JVSG
  - SCSEP
  - TANF
  - TAA
  - UI

- Classroom and work-based training and instructions, provided by the following plan partner programs:
  - WIOA Title II
  - WIOA Title III
  - WIOA Title IV
  - SCSEP
  - TANF
  - TAA
  
- Education, provided by the following plan partner programs:
  - WIOA Title I
  - WIOA Title II
  - WIOA Title III
  - WIOA Title IV
  - JVSG
  - SCSEP
  - TANF
  - TAA
  - UI
  
- Industry credential and certification, provided by the following plan partner programs:
  - WIOA Title I
  - WIOA Title II
  - WIOA Title IV
  - SCSEP
  - TAA
  
- Supportive services, provided by the following plan partner programs:
  - WIOA Title I
  - WIOA Title IV
  - SCSEP
  - TANF
  - TAA
  - UI
  
- Employment services, provided by the following plan partner programs:
  - WIOA Title I
  - WIOA Title II
  - WIOA Title III
  - WIOA Title IV
  - JVSG
  - SCSEP
  - TANF
  - TAA
  - UI

- Business services, provided by the following plan partner programs:
  - WIOA Title I
  - WIOA Title II
  - WIOA Title III
  - WIOA Title IV
  - JVSG
  - SCSEP
  - TANF
  - TAA

## B. State Board

Provide a description of the State Board, including—

The Nebraska Workforce Development Board (NWDB) is currently comprised of 55 members who reside throughout the state and represent business, labor, community-based organizations, education, higher education, human services, economic development, government and other essential stakeholder groups. A majority of the Nebraska Workforce Development Board members represents business and industry. The voting membership of the NWDB is composed of 18 business representatives and 16 partner and government representatives. The board rethinks and restructures the way workforce development services are planned and delivered so they meet the needs of both the employer and job seeker customer.

The NWDB focuses on strategic planning, policy development and oversight of the local Workforce Investment systems. The NDOL Office of Employment and Training serves as staff support to the NWDB and its committees. The NWDB is well equipped to develop the Governor's vision for a Workforce System. Led by a business majority reflecting the varied business opportunities within the state, the NWDB has immediate access to the information required to make the workforce responsive to the changing needs of business. Board membership has an appropriate distribution of members from metro and non-metro areas of the state. It has the diverse partner expertise necessary to insure the inclusion of all segments of the population. In addition, the board has the policymakers needed to achieve those changes in a timely, meaningful manner.

### 1. Membership roster

Provide a membership roster for the State Board, including members' organizational affiliations.

The Nebraska Workforce Development Board membership roster and member-organization affiliations are detailed in Table 15.3.

*Table 15.3. Nebraska Workforce Development Board membership and member-organization affiliations*

Governor - WIOA Sec. 101(b)(1)(A)	Organization	Affiliation	Location	% of membership
Governor Pete Ricketts	State of Nebraska	Governor	Lincoln	exempt from count
State Senator - WIOA Sec. 101(b)(1)(B) (see NOTE below this table)	Organization	Affiliation	Location	% of membership
Senator Heath Mello	Nebraska State Legislature	Legislative	Lincoln	exempt from count
Business - WIOA Sec. 101(b)(1)(C)(i)	Company	Affiliation	Location	52% of membership

Tammie Beck	Cabela's	Business	Kearney	
Brian Deakin	BD Medical	Business	Holdrege	
Michael Geary	Kiewit Corporation	Business	Omaha	
James (Jim) Hanson	InTouch Communications	Business	Omaha	
Mark Moravec (Chair)	Chief Industries, Inc.	Business	Grand Island	
Don Nordell	Black Hills Energy	Business	Lincoln	
Terri Ridder	Franciscan Care Services, Inc.	Business	West Point	
Bradley (Brad) Schroeder (Vice-Chair)	Blue Cross Blue Shield of Nebraska	Business	Omaha	
Jennifer Sedlacek	Union Pacific Railroad	Business	Omaha	
Becky Stitt	Western Sugar Cooperative	Business	Scottsbluff	
Carol Swigart	Hillaero Modification Center	Business	Lincoln	
Lisa Wilson	Case New Holland Industrial	Business	Grand Island	
Representatives of the Workforce within in State - WIOA Sec. 101(b)(1)(C)(ii)	Organization	Affiliation	Location	22% of membership
Bradley (Brad) Bird	Steamfitters and Plumbers Local 464	Labor Organization	Omaha	
Jason Feldhaus	Nebraska Child and Families Foundation	Community-based Organization	Lincoln	
Allan Hale	National Electrical Contractors Assoc.	Labor Organization	Omaha	
Susan (Sue) Martin	Nebraska State AFL-CIO	Labor Organization	Omaha	
Michelle Olson	CHP International Inc./Job Corps	Organization serving Youth	Omaha	
The balance - WIOA Sec. 101(b)(1)(C)(iii)	Organization	Affiliation	Location	26% of membership
John Albin	Nebraska Department of Labor	Government: State Official	Lincoln	
Matthew (Matt) Blomstedt	Nebraska Department of Education	Government: State Official	Lincoln	
John Fagot*	Mayor of Lexington	Government: CEO	VACANT	
Courtney Phillips	Nebraska Department of Health and Human Services	Government: State Official	Lincoln	

Vern Powers	Mayor of Hastings	Government: CEO	Hastings	
Courtney Dentlinger	Nebraska Department of Economic Development	Government: State Official	Lincoln	
Total Membership				100%

*\* Recently resigned: Governor's office is in the process of a new appointment.*

*NOTE: Nebraska's state legislature is a unicameral having only one (1) chamber. For that reason, the Nebraska Workforce Development Board includes only one (1) legislative representative.*

## 2. Board Activities

Provide a description of the activities that will assist State Board members and staff in carrying out State Board functions effectively.

All newly appointed members are given an orientation that includes the responsibilities of being a Nebraska Workforce Development Board (NWDB) member, an overview of all board functions, an explanation of WIOA, and the strategies that the state is currently implementing to achieve determined workforce goals. Additionally, all NWDB members have access to the Nebraska Department of Labor website which includes policy, employment data and program statistics, labor market information publications, statutes and regulations, and other workforce- and labor-related information. The NWDB receives support from the Nebraska Department of Labor's Office of Employment and Training with regard to planning and coordination and state plan, policy, and annual report development to assist them in executing their NWDB responsibilities. The NWDB also utilizes an executive committee and two subcommittees to drive and focus member efforts and enable board members to achieve objectives within specific timeframes. The composition of the NWDB is designed to enable input from industry, government, and nonprofit leaders to determine the best policies to implement WIOA effectively in Nebraska.

## 4. **Assessment and Evaluation of Programs and One-Stop Program Partners**

### A. *Assessment of Core Programs*

Describe how the core programs will be assessed each year based on State performance accountability measures described in section 116(b) of WIOA. This State assessment must include the quality, effectiveness, and improvement of programs broken down by local area or provider. Such state assessments should take into account local and regional planning goals.

Assessment of the core programs will be ongoing throughout the implementation of Nebraska's plan in order to meet the minimum performance reporting requirements as described in WIOA Sec. 116(B). This will entail the collection of key data in order to assess the performance measures established for each program (e.g., employment rate, median earnings, credential rate, measurable skills gains, placement rates, etc.). As described, Nebraska maintains several powerful data reporting systems to assist in the

collection and aggregation of these data, specifically NEworks and Nebraska State Longitudinal Data Tracking system.

The aforementioned data will be used to develop annual reports, determine the percent of the negotiated plan achieved, and to compare Nebraska's performance against other states. Assessment will include the goals established by local and regional areas in order to coordinate efforts and outcomes. In keeping also with the reporting requirements, Nebraska the data will be available both in summary and aggregate form to allow for reporting based on the demographic characteristics, population barriers and services provided.

### ***B. Assessment of One-Stop Partner Programs***

Describe how other one-stop delivery system partner program services and Combined State Plan partner programs included in the plan will be assessed each year. Such state assessments should take into account local and regional planning goals.

The Workforce System and the One Stop Partner programs will be assessed each year. The System Alignment Committee of the Nebraska Workforce Development Board will take the lead in determining the criteria to assess the workforce system and at a minimum, the core partner program services. The criteria will focus on how well each is meeting the needs of employers and job seekers. Once the initial criteria has been established, the System Alignment Committee will engage the local Workforce Development Boards and the One Stop partners including State agencies, on the criteria, collection, and review/assessment of the data. Criteria for assessment will include but is not limited to; local and regional planning goals, federal performance goals, customer satisfaction feedback (employer and job seeker), and process efficiencies realized.

### ***C. Previous Assessment Results***

Beginning with the state plan modification in 2018 and for subsequent state plans and state plan modifications, provide the results of an assessment of the effectiveness of the core programs and other one-stop partner programs and Combined State Plan partner programs included in the Unified or Combined State plan during the preceding 2-year period (i.e. the 2-year period of the plan modification cycle). Describe how the State is adapting its strategies based on these assessments.

Assessment of the effectiveness of the core programs, combined plan partners and other one-stop partner programs has not been previously conducted. Performance measure for the core partners will be established (as described in Section 116 of the WIOA) working with the Secretary of Labor in conjunction with the Secretary of Education. This combined plan outlines specific strategies that will be used to assess the effectiveness of these programs and provide the data necessary to track progress toward the negotiated performance goals. The results of these assessments will be provided beginning with the 2018 state plan modification.

## ***D. Evaluation***

Describe how the state will conduct evaluations and research projects on activities under WIOA core programs; how such projects will be coordinated with, and designed in conjunction with, State and local boards and with State agencies responsible for the administration of all respective core programs; and, further, how the projects will be coordinated with the evaluations provided for by the Secretary of Labor and the Secretary of Education under WIOA.

Evaluations and/or research projects conducted on WIOA core programs (WIOA Title 1, Wagner-Peyser, Adult Education, and Vocational Rehabilitation) will be done through a third party evaluator. The Core Partners will solicit ideas from both the State and local Workforce Development Boards on subject matter to be evaluated and the criteria by which to conduct the evaluation. The evaluation's design/format, timeline, and end product will be the responsibility of the Core Partners and shared with the State and local Workforce Development Boards. Evaluation results will be posted on each of the Core Partner's website for public access. The Core Partners are currently planning an evaluation of the "workforce system". Criteria and the emphasis of this evaluation is yet to be determined. State and local Workforce Development Boards will be given the opportunity to contribute ideas on design and methods prior to the start of the evaluation. This evaluation is scheduled for the fall of 2017.

As Nebraska plans its evaluation and/or research projects it will review current and recent evaluations conducted by the Department of Labor and/or the Department of Education to align and not duplicate evaluative efforts. Additionally, the Secretaries of Labor and Education will be notified of the evaluation or research project proposed by Nebraska. The State will cooperate to the extent practical with evaluations or research projects conducted by the Secretaries of Labor and Education. At a minimum the cooperation will include; timely provision of 1) data in accordance with appropriate privacy protections, 2) responses to surveys, 3) site visits, and 4) data and survey responses from local subgrantees and State and Local Workforce Development Boards and assuring both allow timely site visits.

## 5. Distribution of Funds for Core Programs

Describe the methods and factors the State will use in distributing funds under the core programs in accordance with the provisions authorizing such distributions.

### A. *For Title I programs*

For Title I programs, provide a description of the written policies that establish the State's methods and factors used to distribute funds to local areas for—

#### 1. Youth activities in accordance with WIOA Sec. 128(b)(2) or (b)(3)

Distribution Timing Funds for Youth activities for the entire program year are available on or after April 1. For the period between April 1, 2015, and June 30, 2015, WIOA funds are to be used only to serve WIOA youth participants, while Workforce Investment Act (WIA) funds may be used during this period to serve youth participants eligible under WIA. On July 1, 2015, all WIA youth participants who are still enrolled in the WIA Youth program must be considered eligible for the WIOA Youth program, even if the participant would not otherwise be eligible for WIOA.

Availability of Funds For the state, funds are available for expenditure during the program year of allotment and the two succeeding program years. For local areas, funds are available for the program year of allocation plus one succeeding program year.

Methods and Factors of Distribution Nebraska will use the standard allocation formulas (below) for distributing the Youth funds portion to the local areas. The 30 percent discretionary method will not be a part of the process.

In allocating the Youth funds to local areas, a state may allocate:

- 33 1/3% of the funds on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each designated area, compared to the total number of unemployed individuals in all such areas of substantial unemployment in the state;
- 33 1/3% of the funds on the basis of the relative excess number (note definition above) of unemployed individuals in each designated area, compared to the total excess number of unemployed individuals in all designated areas; and
- 33 1/3% of the funds on the basis of the relative number of disadvantaged (Youth or Adults), compared to the total number of disadvantaged (Youth or Adults) in the state.

Minimum Percentage. As stated in NDOL's Policy on Allocation Planning (see Section VI.a.2.A. of this Combined State Plan), local areas shall not receive an allocation percentage for Youth activities for a fiscal year that is less than 90 percent of the average allocation percentage of the local area for the two preceding fiscal years. Amounts necessary for increasing such allocations to local areas to comply with the preceding

sentence shall be obtained by ratably reducing the allocations made to other local areas. Further, in order to avoid shifts in funding levels to the local areas, NDOL shall implement the minimum percentage provision provided by the Secretary of the U.S. Department of Labor for adult, dislocated worker, and youth funds.

## 2. Adult and training activities in accordance with WIOA Sec. 133(b)(2) or (b)(3)

Distribution Timing The Adult funds are allotted on both a Program Year (PY) and Fiscal Year (FY) basis.

- Base Funds (PY): The first allotment becomes available for obligation on July 1; this portion is commonly referred to as “base” funds.
- Advance Funds (FY): The second allotment becomes available for obligation on October 1; this portion is commonly referred to as “advance” funds.

Availability of Funds For the state, funds are available for expenditure during the program year of allotment and the two succeeding program years. For local areas, funds are available for the program year of allocation plus one succeeding program year.

Methods and Factors of Distribution Nebraska will use the standard allocation formulas (below) for distributing the Adult funds portion to the local areas. The 30 percent discretionary method will not be a part of the process.

In allocating the Adult funds to local areas, a state may allocate:

- 33 1/3% of the funds on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each designated area, compared to the total number of unemployed individuals in all such areas of substantial unemployment in the state;
- 33 1/3% of the funds on the basis of the relative excess number (note definition above) of unemployed individuals in each designated area, compared to the total excess number of unemployed individuals in all designated areas; and
- 33 1/3% of the funds on the basis of the relative number of disadvantaged (Youth or Adults), compared to the total number of disadvantaged (Youth or Adults) in the state.

Minimum Percentage. As stated in NDOL’s Policy on Allocation Planning (see Section VI.a.2.A. of this Combined State Plan), local areas shall not receive an allocation percentage for Adult activities for a fiscal year that is less than 90 percent of the average allocation percentage of the local area for the two preceding fiscal years. Amounts necessary for increasing such allocations to local areas to comply with the preceding sentence shall be obtained by ratably reducing the allocations made to other local areas. Further, in order to avoid shifts in funding levels to the local areas, NDOL shall implement the minimum percentage provision provided by the Secretary of the U.S. Department of Labor for adult, dislocated worker, and youth funds.

3. Dislocated worker employment and training activities in accordance with WIOA Sec. 133(b)(2) and based on data and weights assigned.

Distribution Timing The Dislocated Worker funds are allotted on both a Program Year (PY) and Fiscal Year (FY) basis.

- Base Funds (PY): The first allotment becomes available for obligation on July 1; this portion is commonly referred to as “base” funds.
- Advance Funds (FY): The second allotment becomes available for obligation on October 1; this portion is commonly referred to as “advance” funds.

Availability of Funds For the state, funds are available for expenditure during the program year of allotment and the two succeeding program years. For local areas, funds are available for the program year of allocation plus one succeeding program year.

Methods and Factors of Distribution Pursuant to 133(b)(2)(B) of WIOA, the following formula for Dislocated Worker Funds will be instituted beginning with the allocations under Program Year 2015 (July 1, 2015 to June 30, 2016). Allocated Factors and their current weights include UI (15%), Excess UI (15%), Long Term (20%), Dislocated Workers (20%), Declining Industries (5%), Farmer/Rancher Hardship (5%), Enrollments in DW programs (20%).

Minimum Percentage. As stated in NDOL’s Policy on Allocation Planning (see Section VI.a.2.A. of this Combined State Plan), local areas shall not receive an allocation percentage for Dislocated Worker activities for fiscal year 2016 or a subsequent fiscal year that is less than 90 percent of the average allocation percentage of the local area for the two preceding fiscal years. Amounts necessary for increasing such allocations to local areas to comply with the preceding sentence shall be obtained by ratably reducing the allocations made to other local areas. Further, in order to avoid shifts in funding levels to the local areas, NDOL shall implement the minimum percentage provision provided by the Secretary of the U.S. Department of Labor for adult, dislocated worker, and youth funds.

***B. For Title II:***

1. Multi-year grants or contracts

Describe how the eligible agency will award multi-year grants or contracts on a competitive basis to eligible providers in the State, including how eligible agencies will establish that eligible providers are organizations of demonstrated effectiveness.

Nebraska will distribute multi-year grants (three years) to eligible agencies in order for the entire state to be served within a community or geographic area. Community and area literacy needs will be taken into consideration, as evidenced by census data, surveyed needs of groups in need of Adult Education (AE) services, and other methods of determining need that are used by WIOA core and plan partners. A three-year funding

formula will be initiated for the 2017-2018 program year, beginning July 1, 2017. Items such as the literacy rate of area to served, the core indicators that are indicated in Title II of WIOA, community/area need, special populations to be served, collaborative efforts with WIOA and other partners, required benchmarks, past performance, etc. will be used to create the formula. Notice of available funding will be made through the state's major newspapers, the Nebraska Department of Education's web site, Nebraska's WIOA partners, and other means of notification that are identified or suggested.

Through initial communication, the state AE office will consult with a potential applicant to ensure that the prospective applicant is indeed an eligible provider, as defined in Section 203(5) of WIOA. The term "eligible provider" means an organization that has demonstrated effectiveness in providing adult education and literacy activities that may include:

- (1) a local educational agency;
- (2) a community-based organization or faith-based organization;
- (3) a volunteer literacy organization;
- (4) an institution of higher education;
- (5) a public or private nonprofit agency;
- (6) a library;
- (7) a public housing authority;
- (8) a nonprofit institution that is not identified above, and has the ability to provide adult education and literacy activities to eligible individuals;
- (9) a consortium or coalition of the agencies, organizations, institutions, libraries, or authorities listed above; and
- (10) a partnership between an employer and an entity listed above.

The local application process will include information required/needed by Nebraska Adult Education and the items enumerated in Section 232 (Local Application) of WIOA, which states that each eligible provider desiring a grant or contract from an eligible agency shall submit an application to the eligible agency containing such information, as enumerated in Section 232 of WIOA, and assurances as the eligible agency may require, including:

- (1) a description of how funds awarded under this title will be spent consistent with the requirements of this title;
- (2) a description of any cooperative arrangements the eligible provider has with other agencies, institutions, or organizations for the delivery of adult education and literacy activities;
- (3) a description of how the eligible provider will provide services in alignment with the local plan under section 108, including how such provider will promote concurrent enrollment in programs and activities under Title I, as appropriate;
- (4) a description of how the eligible provider will meet the State adjusted levels of performance described in section 116(b)(3), including how such provider will collect data to report on such performance indicators;
- (5) a description of how the eligible provider will fulfill one-stop partner responsibilities as described in section 121(b)(1)(A), as appropriate;

- (6) a description of how the eligible provider will provide services in a manner that meets the needs of eligible individuals; and
- (7) information that addresses the considerations described under section 231(e), as applicable.

Applicants will be required to provide data that will validate their present and past capacity to serve the population(s) served in Adult Education for the particular AE grant for which application is being made. The Nebraska AE student information data system (AIMS) will provide required data for the application of those applicants who are current or recent providers of Adult Education. New organizations will be provided with questions pertaining to their past and present effectiveness in service to eligible Adult Education populations; this requested information will be equivalent/comparable to the data requested of current providers.

## 2. Ensure direct and equitable access

Describe how the eligible agency will ensure direct and equitable access to all eligible providers to apply and compete for funds and how the eligible agency will ensure that it is using the same grant or contract announcement and application procedure for all eligible providers.

Title II of WIOA, Section 231(c) requires that each eligible agency receiving funds under this title shall ensure that all eligible providers have direct and equitable access to apply for grants or contracts under this section; and the same grant or contract announcement process and application process is used for all eligible providers in the State or outlying area: The Nebraska Department of Education ensures that all eligible providers have direct and equitable access to apply for grants under the Adult Education and Family Literacy Act (Title II) of the Workforce Investment and Opportunity Act.

The same grant announcement and application process is used for all eligible providers in the state. All applicants follow a detailed request for proposal, and each proposal is evaluated by a team of evaluators and state Adult Education staff. The considerations for funding will follow Section 231(e) of WIOA; other considerations identified in the local plan under section 108 (Local plan not available until early 2017) as determined by the regional Workforce Boards; and other considerations as determined by Nebraska Adult Education in accomplishing the intent of WIOA.

Applicants must guarantee that persons served in the Adult Education program grant(s) are eligible to receive services under Title II of WIOA and the applicant will comply with all the federal and state requirements of the Nebraska Adult Education program. Multi-year grants will be awarded to eligible agencies on a competitive basis. In those programs that provide family literacy services, AE funds can be used only for those activities specifically offered for the adult parent(s) who are eligible for Adult Education services.

Other sources of funding will be required to fund activities involving children. (Pertains to Special Rule directly below.) Special Rule Each eligible agency awarding a grant or contract under this section shall not use any funds made available under this title for adult

education and literacy activities for the purpose of supporting or providing programs, services, or activities for individuals who are under the age of 16 and are enrolled or required to be enrolled in secondary school under State law, except that such agency may use such funds for such purpose if such programs, services, or activities are related to family literacy activities. In providing family literacy activities under this title, an eligible provider shall attempt to coordinate with programs and services that are not assisted under this title prior to using funds for adult education and literacy activities under this title for activities other than activities for eligible individuals.

### ***C. Title IV Vocational Rehabilitation***

In the case of a State that, under section 101(a)(2)(A)(i) of the Rehabilitation Act designates a State agency to administer the part of the Vocational Rehabilitation (VR) services portion of the Unified or Combined State Plan under which VR services are provided for individuals who are blind, describe the process and the factors used by the State to determine the distribution of funds among the two VR agencies in the State.

As per longstanding agreement, the federal allotment of total dollars to Nebraska is divided as follows: 15.5% to the Nebraska Commission for the Blind and Visually Impaired and 84.5% to Nebraska VR.

## **6. Program Data**

### ***A. Data Alignment and Integration***

Describe the plans of the lead State agencies with responsibility for the administration of the core programs, along with the State Board, to align and integrate available workforce and education data systems for the core programs, unemployment insurance programs, and education through postsecondary education, and to the extent possible, the Combined State Plan partner programs included in this plan. The description of the State's plan for integrating data systems should include the State's goals for achieving integration and any progress to date.

#### **1. Interoperability of Management Information Systems for Core Programs**

Describe the State's plans to make the management information systems for the core programs interoperable to maximize the efficient exchange of common data elements to support assessment and evaluation.

Enhanced coordination between the partner programs is one of the primary goals of Nebraska's combined state plan, and the attainment of this goal will strongly hinge on the ability of these programs to share a wide swath of workforce-related data in real time. As is the case in many states, the exchange of data in real time is a daunting challenge for workforce development programs given their unique data systems, common intake procedures, security concerns, and privacy laws.

As documented in the goals section of this plan, each of the plan partners is strongly committed to developing the technical reforms (i.e., procedures, policies, systems and safeguards) necessary to meet WIOA data alignment requirements and to support coordinated and streamlined service delivery, ongoing assessment of services, and continuous improvement. For that reason, a data integration task force, later explained in the section below, will be established. A main focus of this entity initially will include the interoperability of the stakeholders' technology and data systems.

## **2. Integrated Data Systems**

Describe the State's plans to integrate data systems to facilitate streamlined intake and service delivery to track participation across all programs included in this plan.

A data integration task force will be established to explore further the feasibility of aligning the data systems from technical, programmatic and legal perspectives. The task force will include representatives from each of the plan partners including those with the requisite technical expertise necessary to understand the architectural potential and adaptability of the agencies' present data systems.

## **3. Alignment of technology and data systems**

Explain how the State board will assist the governor in aligning technology and data systems across required one-stop partner programs (including design and implementation of common intake, data collection, etc.) and how such alignment will improve service delivery to individuals, including unemployed individuals.

In building the vision of Nebraska's Workforce System of delivering coordinated, proactive, responsive, and adaptable services to jobseekers and employers to maximize opportunities for earning, learning, and living, the System Alignment Committee of the Nebraska Workforce Development Board has among its primary responsibilities the elements of continuous improvement, performance, best practices, policy alignment, and technology solutions. The System Alignment Committee, whose membership includes One-Stop Partner agency decision makers, will review plans, trouble shoot issues and make recommendations to the Governor. A primary focus in building future capacity is to make informed fact-based decisions to implement strategies that create efficiencies and positively impact performance outcomes which supports the Governor's vision of leveraging technology to communicate, collaborate, and streamline services across program lines.

Beyond the development of a common intake which is scheduled to deploy by July 1, 2017, the Committee will help to identify and evaluate technology solutions to coordinate and streamline workforce services across programs, agencies, and partners. This will not only involve the system modifications necessary to support the secure exchange of data but also working with partnering programs to ensure any alignment supports the State's overall goal of strengthened coordination amongst the programs.

#### 4. Reporting

Describe the State's plans to develop and produce the reports required under section 116, performance accountability system. (WIOA Sec. 116(d)(2)).

Primary amongst the system's desired features is the ability to generate the data required for reports in meeting WIOA Sec. 1116(b) and to support continuous monitoring of the programs. This will include the ability to produce data on each of the WIOA performance measures and to aggregate this data according to client characteristics, services rendered and other identifiers.

In 2015, Nebraska was awarded its second Workforce Data Quality Initiative Grant through US Department of Labor. The grant seeks to establish a warehouse of workforce data to include NDOL employment and training records, all community college, all state college and one university campus, Adult Basic Education, Carl Perkins and Vocational Rehabilitation records to begin building the database. The data warehouse initiative is designed to produce the information NDOL and its partners need to monitor performance and initiate any programmatic improvements based on the data. To extend the potential impact of this initiative, additional training providers, Registered Apprenticeship and Temporary Assistance to Needy Families (TANF) will also be invited to participate in the data warehouse initiative.

*Planning Note: States should be aware that Section 116(i)(1) requires the core programs, local boards, and chief elected officials to establish and operate a fiscal and management accountability information system based on guidelines established by the Secretaries of Labor and Education. Separately, the Departments of Labor and Education anticipate working with States to inform future guidance and possible information collection(s) on these accountability systems. States should begin laying the groundwork for these fiscal and management accountability requirements, recognizing that adjustments to meet the elements above may provide opportunity or have impact on such a fiscal and management accountability system.*

#### **B. Assessment of Participants' Post-Program Success**

Describe how lead State agencies will use the workforce development system to assess the progress of participants who are exiting from core programs in entering, persisting in, and completing postsecondary education, or entering or remaining in employment. States may choose to set additional indicators of performance.

As detailed in the Performance Goals Matrix in Appendix 1, specific benchmarks will be established by each of the programs (negotiated with the Secretary of Labor in conjunction with the Secretary of Education) to track participants' post-exit outcomes using such indicators as employment, median earnings, credential attainment, measurable skills gains, and other workforce indicators assessed at various intervals post-program exit. In addition to these data, Nebraska will also utilize Nebraska's State Longitudinal Data System (SLDS) and its data warehouse (being developed through its

Workforce Data Quality Grant Initiative) to collect relevant data and use the data to determine post-program education and employment outcomes for participants.

Nebraska's SLDS provides the data necessary to improve the quality of Nebraska's workforce. Data elements from each programs' management information system for federal reporting is included in the NELDS. These include WIOA Title I, Wagner-Peyser, TAA, TRA, UI benefit claims and demographic data, UI Tax data, FEDES data, WRIS and WRIS2 data, CTE postsecondary, Adult Basic Education, Department of Motor Vehicles (DMV), data for WIOA eligible training provider consumer reports, Vocational Rehabilitation, Registered Apprenticeship and TANF. The NELDS will allow for maintenance of the data over time while keeping within FERPA and WRIS, WRIS2 guidelines and Employment Security laws.

Nebraska's Longitudinal Data System links directly to the Nebraska Department of Education's Student and Staff Record System using the participant's social security number or unique student identification number. This unique identifier provides for the collection of a variety of data such as test scores, teachers, graduation rates and transcripts - all cross-referenced to postsecondary and workforce outcomes. From the specific matching wage records to the programs listed above, program managers and policy makers can determine: whether individuals are employed, what their earnings and industry employment are if they are employed, whether they have been or become unemployed, whether they collect unemployment insurance benefits, what workforce and training services they may have received and what the workforce outcomes are upon completing training services. The data provided here will help assess the effectiveness of Nebraska education and workforce system and help identify factors that bring people to need these services.

### *C. Use of Unemployment Insurance (UI) Wage Record Data*

Explain how the State will meet the requirements to utilize quarterly UI wage records for performance accountability, evaluations, and as a source for workforce and labor market information, consistent with Federal and State law. (This Operational Planning element applies to core programs.)

NEworks, Nebraska's Management Information System, meets WIOA Title I regulatory and reporting requirements for tracking participants and possesses the functionality to integrate both state and Wage Record Interchange System (WRIS) unemployment insurance data into participant records to allow for federal reporting from a statewide and regional perspective. The partner programs will use the Unemployment Insurance Wage Records generated by NEworks for assessing workforce performance measures as part of an overall strategy to workforce outcomes and refine processes throughout Nebraska's workforce delivery system.

It is also noteworthy that Nebraska is currently one of 39 states, the District of Columbia, and the Commonwealth of Puerto Rico participating in the Wage Record Interchange System 2 (WRIS2). WRIS 2 is designed to extend the WRIS data sharing model to

required American Job Center partner programs that do not fall under the jurisdiction of the Department of Labor, and it also extends the data sharing model to programs defined by the Act as "additional" partners (i.e., those entities who are not mandatory partners in the American Job Center delivery system but are appropriate given the services provided through their agencies. WRIS 2 is specifically designed to help facilitate the generation of Aggregate Statistical Reports and subsequent analysis in satisfaction of Federal and state reporting and performance requirements. WRIS 2 ensures the availability of data for research and evaluation of workforce programs without compromising personal identifiable information.

#### ***D. Privacy Safeguards***

Describe the privacy safeguards incorporated in the State's workforce development system, including safeguards required by section 444 of the General Education Provisions Act (20 U.S.C. 1232g) and other applicable Federal laws.

In implementing its combined state plan for workforce development, the State of Nebraska is committed to ensuring the privacy of all its workforce participants. To this end, each of the combined plan partners recognize that any information shared between the parties is subject to the Family Educational Rights and Privacy Act of 1974 (FERPA) [20 USC 1232(g)], and 34 CFR, Part 99, the Health Insurance Portability and Accountability Act (HIPAA) and others. Given the enhanced data sharing to occur, each of the plan partners will work with its legal counsel to review any interagency agreement that involves the sharing of data and all current and future data sharing MOUs will include language to ensure that privacy safeguards are clearly established and understood by each of the programs; the parties also agree to use available data security protocols and assurances to protect the privacy of data shared, manipulated, and extracted from the other. The staff of each combined plan partner will sign "Confidentiality Statements" to reinforce the purpose and proper use of allowed shared information.

WIOA authorizes the collection of eligibility, enrollment and participant completion data; only the minimum number of data elements will be maintained and shared between plan partners to meet WIOA reporting requirements. Any information released or shared will be in aggregate form which will not reveal individual names, employer identities, or SSNs. Shared wage and education data will be used for WIOA program administration to include federal/state reporting and statistical research. All necessary steps will be taken to protect shared information from unauthorized disclosure and any individually identifiable information will be destroyed when no longer needed for the purposes of reporting WIOA performance requirements.

## 7. Priority of Service for Veterans

Describe how the State will implement and monitor the priority of service provisions for Veterans in accordance with the requirements of the Jobs for Veterans Act, codified at section 4215 of 38 U.S.C., which applies to all employment and training programs funded in whole or in part by the Department of Labor. States should also describe the referral process for Veterans determined to have a significant barrier to employment to receive services from the Jobs for Veterans State Grants (JVSG) program's Disabled Veterans' Outreach Program (DVOP) specialist.

Nebraska is proud to offer Priority of Service to Veterans and eligible persons. Federal law and regulations require all workforce programs funded by the Department of Labor provide priority of service and that requirement is emphasized and embedded in all NDOL eligibility policies.

NDOL has required that local plans clearly identify priority of service provision. Local and regional planning instructions for Program Year 2017 will require the local areas to identify: 1) Process for determining priority of service and 2) Method for monitoring priority of service. NDOL will provide technical assistance to the local areas for the implementation of the provision and a quarterly review will be conducted to insure priority of service to Veterans; any issues discovered in the review will be provided to the local area, board chair and CEO. Additionally, the State will add the provision to the WIOA program monitoring and priority of service reports will be used by the State and local areas to monitor program delivery.

Provision of priority of service begins when Veterans or eligible persons are identified upon intake at AJCs and through registration on NEworks. The priority of service provision follows the Veteran or eligible person throughout their experience in receiving workforce system services (i.e. WIOA, Trade, Wagner Peyser) ensuring the priority of service is applied as different services or programs are accessed. During the initial intake process, staff ask the individual if they are a Veteran to confirm their self-identified status; once Veteran status is declared, additional questions are asked to determine if the Veteran or eligible person has a Significant Barrier to Employment (SBE) as defined by JVSG. If the individual is determined to have an SBE, they are referred to a DVOP staff for individualized career services. DVOPs serve as case managers for Veterans with serious disadvantages for the job market and for Veterans enrolled in federally-funded training programs, such as the Department of Veterans Affairs' Vocational Rehabilitation program.

Nebraska's AJCs have integrated the JVSG program into their local service delivery system. At least one fully qualified DVOP and/or LVER staff member is located in each region of the state along with at least one Employment Service staff member trained and certified in the Veterans programs by the National Veterans Training Institute (NVTI).

If the Veteran or eligible person is determined to not have an SBE, they receive priority of services from Employment Services staff; Veteran and/or eligible person status is communicated to referral partners in order to continue the provision of priority of service with other programs. The guidelines for the integration, provision, priority, training,

placement, and coordination of staff-assisted career services as well as referral to other partner training programs for the Veteran population is provided through the State Veterans' Plan and local Career Center Memorandums of Understanding (MOU) and Business Plans.

## **8. One-Stop Delivery System Accessibility for Individuals with Disabilities**

Describe how the one-stop delivery system (including one-stop center operators and the one-stop delivery system partners), will comply with section 188 of WIOA (if applicable) and applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) with regard to the physical and programmatic accessibility of facilities, programs, services, technology, and materials for individuals with disabilities. This also must include a description of compliance through providing staff training and support for addressing the needs of individuals with disabilities. Describe the State's one-stop center certification policy, particularly the accessibility criteria.

Nebraska maintains an Accessibility policy that stresses physical and programmatic accessibility, including the use of accessible technology to increase individuals with disabilities' access to high quality workforce services. Title I of WIOA assigns responsibilities at the local, State and Federal levels to ensure the creation and maintenance of an American Job Center (AJC) system that enhances the range and quality of workforce development services that are accessible to individuals seeking assistance. It prohibits discrimination on the basis of race, color, national origin, sex, age, disability, religion, political affiliation or belief, participant status, and against certain non-citizens. Although gender identity is not an explicitly protected basis under the applicable federal laws, discrimination based upon gender identity, gender expression, and sex stereotyping has been interpreted to be a form of prohibited sex discrimination, including under laws that apply to federally financially assisted employment, training, and education programs and activities.

As set forth in the regulations (29 CFR Part 38) implementing Section 188 of WIOA, there is an obligation to assure fair and equitable access to all services, programs and facilities for members of both sexes, various racial and ethnic groups, individuals in differing age groups, and individuals with disabilities. Any entity that receives financial assistance under Title I of WIOA is a recipient obligated to ensure nondiscrimination and equal opportunity. This includes State and Local Workforce Development Boards, AJC operators, service providers, vendors, and subrecipients, as well as other types of individuals and entities. This policy is directed toward ensuring that the programs, services and facilities of each AJC delivery system are accessible to all, including individuals with disabilities.

To ensure that individuals are not subjected to discrimination on the basis of disability, NDOL conducts regular oversight of programs and services. Local boards must assess, on an annual basis, the physical and programmatic accessibility of all AJCs in the local area, in accordance with Sec. 188 of WIOA, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990.<sup>14</sup>

## 9. One-Stop Delivery System Accessibility for English Language Learners

Describe how the one-stop delivery system (including one-stop center operators and the one-stop delivery system partners) will ensure that each one-stop center is able to meet the needs of English language learners, such as through established procedures, staff training, resources, and other materials.

Nebraska has established a Limited English Proficiency Plan, found in Appendix 2D, which ensures that individuals with limited English proficiency are able to access programs and services provided by the American Job Centers and One-Stop Partners on an equitable basis. This plan also addresses the entities that receive Federal financial assistance under Title I of WIOA and programs and activities that are part of Nebraska's one-stop delivery system. Key features of this plan that support access for individuals with limited English proficiency include:

- Establishment of an LEP (limited English proficiency) planning committee to provide guidance and leadership around the equitable provision of services to individuals with limited English proficiency;
- Thorough assessment of the language needs of the populations served by attempting to identify LEP individuals. In order to identify language needs, the LEP committee has reviewed available language data from the U.S. Census American Community Survey and from self-identifying information from NEworks registrants.
- Availability of specific resources at each American Job Center or NDOL local office to include bilingual staff, LanguageLine or International Communications translation services, referral to ESL resources and the availability of materials in Spanish.
- Training on serving individuals with LEP needs is conducted by the Office of Employment and Training. The OET's LEP Coordinator, in conjunction with the agency monitor and the Equal Opportunity Officer or designee coordinates, schedules and implements statewide training. LEP training is conducted every two years, with the training materials and topics being coordinated with the EO Officer or designee. Additional training sessions are conducted via LiveMeeting alerting staff to any major changes necessitating alterations to the LEP plan that would directly influence daily activities. Likewise, training materials and tools are shared with staff through meetings and emails as the OET or the LEP committee becomes aware of them.
- The NDOL public website provides information for workers and employers. This includes information about job searching, training, the Workforce Innovation and Opportunity Act, and many additional programs and services. The NDOL site is accessible at [dol.nebraska.gov](http://dol.nebraska.gov). The site features the option of selecting language translation services provided via Google Language Tools. The translation through Google utilizes an automated/computerized translation, which serves as an approximation for the site's original content. NDOL has provided a Translation Disclaimer Statement indicating potential issues with the automated translation process. Available languages listed on the NDOL site include: Spanish, Chinese, French, German, Italian, Korean, Russian, Polish, Arabic, Portuguese, Japanese,

and Norwegian. The NDOL website provides information on how to contact local field staff for additional assistance.

In addition, English-as-a-Second language instruction is available throughout the state to provide populations with low levels of English literacy with the instruction they need to improve fluency. Referral to providers of ESL education and the provision of transportation and other forms of assistance necessary to access these courses will continue to occur through American Job Centers.

## IV. Coordination with State Plan Programs

Describe the methods used for joint planning and coordination among the core programs, and with the required one-stop partner programs and other programs and activities included in the Unified or Combined State Plan.

Nebraska will be developing a Public Sector Partnership to guide the implementation of the Combined State Plan. The Public Sector Partnership will include the participation of each of the plan partners who will meet regularly to oversee the implementation of the combined plan, assess progress, leverage and align resources, collectively foster improvements in the workforce system, and provide public sector leadership. Functioning as a working committee, the Public Sector Partnership will provide the shared governance, day-to-day coordination and leadership needed to guide enhanced workforce development partnerships among public sector programs.

## V. Common Assurances (for all core programs)

The Unified or Combined State Plan must include assurances that—

1. The State has established a policy identifying circumstances that may present a conflict of interest for a State Board or local board member, or the entity or class of officials that the member represents, and procedures to resolve such conflicts; **Yes**
2. The State has established a policy to provide to the public (including individuals with disabilities) access to meetings of State Boards and local boards, and information regarding activities of State boards and local boards, such as data on board membership and minutes; **Yes**
3. The lead State agencies with optimal policy-making authority and responsibility for the administration of core programs reviewed and commented on the appropriate operational planning elements of the Unified or Combined State Plan, and approved the elements as serving the needs of the populations served by such programs; **Yes**
4. (a) The State obtained input into the development of the Unified or Combined State Plan and provided an opportunity for comment on the plan by representatives of local boards and chief elected officials, businesses, labor organizations, institutions of higher education, the entities responsible for planning or administering the core programs, required one-stop partners and the other Combined Plan programs (if included in the State Plan), other primary stakeholders, including other organizations that provide services to individuals with barriers to employment, and the general public, and that the Unified or Combined State Plan is available and accessible to the general public; (b) The State provided an opportunity for review and comment on the plan by the State Board, including State agency official(s) for the Unemployment Insurance Agency if such official(s) is a member of the State Board; **Yes**
5. The State has established, in accordance with WIOA Sec. 116(i), fiscal control and fund accounting procedures that may be necessary to ensure the proper disbursement of, and accounting for, funds paid to the State through allotments made for the core programs to carry out workforce development activities; **Yes**
6. The State has taken appropriate action to secure compliance with uniform administrative requirements in this Act, including that the State will annually monitor local areas to ensure compliance and otherwise take appropriate action to secure compliance with the uniform administrative requirements under WIOA Sec. 184(a)(3); **Yes**
7. The State has taken the appropriate action to be in compliance with WIOA Sec. 188, Nondiscrimination, as applicable; **Yes**
8. The Federal funds received to carry out a core program will not be expended for any purpose other than for activities authorized with respect to such funds under that core program; **Yes**
9. The State will pay an appropriate share (as defined by the State board) of the costs of carrying out section 116, from funds made available through each of the core programs; **Yes**

10. The State has a One-Stop certification policy that ensures the physical and programmatic accessibility of all One-Stop centers with the Americans with Disabilities Act of 1990 (ADA); **Yes**
11. Service providers have a referral process in place for directing Veterans with Significant Barriers to Employment (SBE) to DVOP services, when appropriate; and **Yes**
12. Priority of service for Veterans and eligible spouses is provided in accordance with 38 USC 4215 in all workforce preparation, development or delivery of programs or services funded directly, in whole or in part, by the Department of Labor. **Yes**

## **VI. Program-Specific Requirements for Core Programs**

The State must address all program-specific requirements in this section for the WIOA core programs regardless of whether the State submits either a Unified or Combined State Plan.

## **Program-Specific Requirements for Adult, Dislocated Worker, and Youth Activities under Title I-B**

The Unified or Combined State Plan must include the following with respect to activities carried out under subtitle B--

### **1. General Requirements**

#### ***1. Regions and Local Workforce Development Areas***

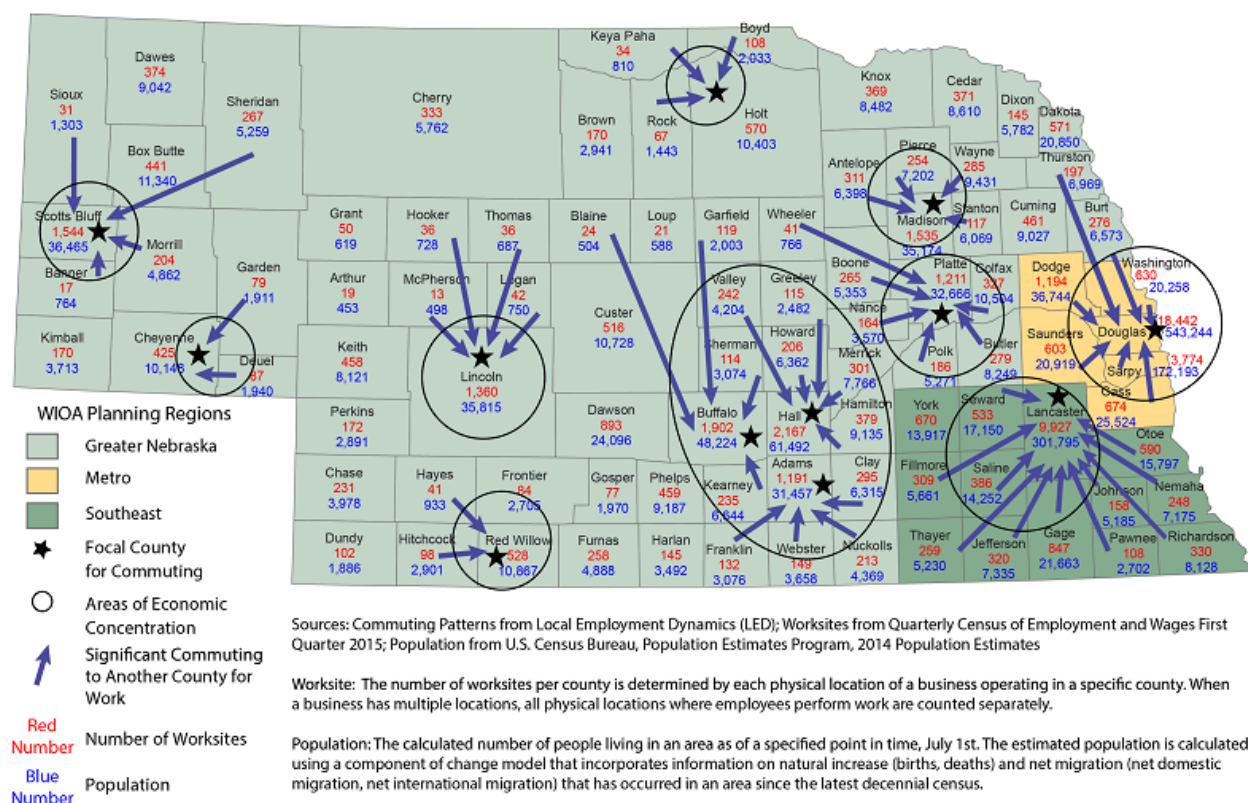
##### **A. Designated Regions and Local Workforce Development Areas**

Identify the regions and the local workforce development areas designated in the State.

Nebraska's intrastate regional structure includes three (3) regions as shown in Map 3 and outlined below:

1. Metro Region - covers Cass, Dodge, Douglas, Sarpy, Saunders, and Washington Counties, with Douglas County being the target area of economic concentration. Preliminary contact has been made with the state of Iowa to explore the possibility of a future expansion of the Metro Region to include Iowa counties that are economically tied to the Metro Region;
2. Southeast Region - covers Fillmore, Gage, Jefferson, Johnson, Lancaster, Nemaha, Otoe, Pawnee, Richardson, Saline, Seward, Thayer, and York Counties, with Lancaster County being the target area of economic concentration; and
3. Greater Nebraska Region - covers the remaining 74 counties in Nebraska.

### Map 3. WIOA Planning Regions



Nebraska's Governor has designated three (3) local areas:

1. Greater Omaha Local Workforce Development Area, serving Douglas, Sarpy, and Washington counties;
2. Greater Lincoln Local Workforce Development Area, serving Lancaster and Saunders counties; and
3. Greater Nebraska Local Workforce Development Area, serving the remaining 88 Nebraska counties.

Nebraska's local area structure has not changed from that under WIA, pursuant to WIOA Sec. 106(b)(2) and NDOL's Designation of Local Areas policy. The Greater Nebraska Local Area requested the same county make up as designated under WIA.

## **B. Designation Process for Regions and Local Workforce Development Areas**

Describe the process used for designating local areas, including procedures for determining whether the local area met the criteria for “performed successfully” and “sustained fiscal integrity” in accordance with 106(b)(2) and (3) of WIOA. Describe the process used for identifying regions and planning regions under section 106(a) of WIOA. This must include a description of how the State consulted with the local boards and chief elected officials in identifying the regions.

### **Local area designation process**

Nebraska’s local workforce development area designation process has been performed in accordance with NDOL’s Designation of Local Areas policy, which is consistent with WIOA Sec. 106(b). The policy establishes requirements, criteria, and procedures for local area designation, including initial and subsequent designation.

For any local area designated under subsequent designation, the Governor:

- must review a local area during each four-year state planning cycle to determine whether the local area continues to meet the requirements for subsequent designation prior to the submission of the Combined State Plan for Nebraska’s Workforce System;
- may review a local area at any time to determine whether the local area continues to meet the requirements for subsequent designation; and
- may assume the chief elected official and local board to have requested continued designation unless notified otherwise in writing.

### ***Criteria for determination of Performed Successfully and Sustained Fiscal Integrity***

Under NDOL’s Designation of Local Areas policy, the procedures for determining whether a local area met the criteria for performed successfully and sustained fiscal integrity are consistent with WIOA Sec. 106(b)(2) and (3). Criteria for determining successful performance is based on the local area having met or exceeded all performance levels negotiated pursuant to WIA Section 136(c) for the two program years prior to enactment of WIOA. Successful performance is also based on the local area having had no failures of any individual performance measure for two consecutive program years prior to the enactment of WIOA.

The performance standards of met, exceeded, and failure are consistent with the definition at the time performance levels were negotiated and are based on the following criteria:

- Met means the local area met performance levels when the actual performance achieved against an individual performance measure falls within the eighty (80) percent to one hundred (100) percent range of the negotiated level of performance.

- Exceeded means the local area exceeded performance levels when the actual performance achieved against an individual performance measure is in excess of one hundred (100) percent of the negotiated level of performance.
- Failure means the local area failed to meet performance measures when the actual performance achieved against an individual performance measure is less than eighty (80) percent of the negotiated level of performance.

Criteria for determining sustained fiscal integrity is based on the lack of a formal determination by the United States Secretary of Labor that the local area misexpended funds due to willful disregard of the requirements of WIOA Title I-B (or WIA Title I, as applicable), gross negligence, or failure to comply with accepted standards of administration for the two-year period preceding the determination.

### *Designation Procedures*

The procedure established for any entity seeking designation as a local area, whether an initial designation or otherwise, is as follows:

- the chief elected official and local board complete and submit a Request for Local Area Designation form, which is included as an attachment to NDOL's Designation of Local Areas policy;
- the Governor reviews the request to ensure the local area meets the requirements and criteria established under NDOL's Designation of Local Areas policy and under WIOA Sec. 106(b)(1)(B);
- the Governor forwards the request to Nebraska Workforce Development Board and chief elected officials and local boards in Nebraska for review and comment and makes the request available to the public for comment through Nebraska's public comment process; and
- upon receipt of a recommendation from Nebraska Workforce Development Board and following consideration of comments from chief elected officials and local boards in Nebraska and the public, the Governor approves or denies the request and notifies Nebraska Workforce Development Board, chief elected officials and local boards in Nebraska, and all other entities seeking designation as a local area.

### Regional Designation Process and Regions

Nebraska's regional designation process was performed in accordance with NDOL's Designation of Regions policy, which is consistent with the applicable requirements of WIOA Sections 102 and 106 and 20 CFR § 679.210.

At the request of the Governor, NDOL evaluated labor market structure and distribution, designated economic development areas, distribution of educational and training resources, location of population centers, and workforce commuting patterns. The outcome of NDOL's evaluation revealed a substantive relationship between concentrations of economic activity and statewide workforce commuting patterns. Maps

were generated by NDOL's Office of Labor Market Information illustrating this relationship.

Following this evaluation, NDOL consulted with Nebraska Workforce Development Board in October 2015, chief elected officials and local area boards in July and August 2015, and Nebraska's WIOA core partners in July and August 2015 on the designation of regions and provided a summary of its evaluation, for review and comment.

NDOL also held focus groups during the months of July and August 2015, where John Albin, Commissioner, Nebraska Department of Labor and Joan Modrell, Director, Office of Employment and Training, Nebraska Department of Labor met with over 250 workforce system representatives from across Nebraska. The focus groups were held at three Nebraska locations: July 29<sup>th</sup> in Lincoln, August 13<sup>th</sup> in Grand Island, and August 20<sup>th</sup> in Omaha. The purpose of the meetings was to gather ideas and feedback through focus group discussions on the role of WIOA in Nebraska's workforce system. The focus group discussions were co-sponsored by Nebraska's WIOA core program partners, the Nebraska Department of Labor, Nebraska Department of Education (Vocational Rehabilitation and Adult Education Programs), and Nebraska Commission for the Blind and Visually Impaired. Focus group topics included establishment of regions to promote regional alignment with the labor market and economic development activities and preserve locally driven workforce system through:

- identification of key elements of an economic region;
- examination of the usefulness of defining economic regions based on commuting patterns; and
- establishing factors the Governor should consider when designating economic regions under WIOA.

Subsequent to the consultations and focus groups, the Nebraska Workforce Development Board, chief elected officials, and local boards recommended establishing regions based on the relationship between areas of economic concentration and workforce commuting patterns. In January 2016, based on these recommendations, the Governor designated an intrastate regional structure that includes three (3) regions based on economic concentrations and workforce commuting patterns and three (3) planning regions based on regional economic interdependence and notified all chief elected officials and local boards of the designations.

### **C. Appeals Process relating to Designated Local Workforce Development Areas**

Provide the appeals process referred to in section 106(b)(5) of WIOA relating to designation of local areas.

Chief elected officials and local boards or any other entity seeking designation as a local area may appeal a denied request for local area designation. The appeal must be submitted to the Nebraska Department of Labor through the appeal process described below. If a timely decision on the appeal is not rendered or if the appeal does not result

in the entity's designation as a local area, the appealing entity may request review by the Secretary of Labor. The Secretary of Labor may require that the appealing entity be designated as a local area if the Secretary determines that the entity was not afforded procedural rights under Nebraska's appeal process or if the entity meets the initial designation requirements established under WIOA Sec. 106(b)(2).

Appeals brought pursuant to WIOA Sec. 106(b)(5) will be conducted in accordance with the Nebraska Administrative Procedures Act (Neb. Rev. § 84-917). Nebraska's Commissioner of Labor may conduct hearings on behalf of the Governor and make findings and recommendations to the Governor on the merits of the appeal. In the case of an appeal by an entity not granted designation as a local area, the Nebraska Workforce Development Board would review the findings and recommendations of the Commissioner and advise the Governor as to whether the appeal should be granted or denied.

#### **D. Appeals Process relating to Infrastructure Funding**

Provide the appeals process referred to in section 121(h)(2)(E) of WIOA relating to determinations for infrastructure funding.

Appeals relating to determinations for infrastructure funding are accepted from One-Stop partners challenging the partner's portion of funds to be provided for One-Stop infrastructure costs. The appeal process is as follows:

1. Appeals must be made in writing and directed to Joan Modrell, Director of the Office of Employment and Training, Nebraska Department of Labor, 550 South 16th Street, Lincoln, NE 68508. The appeal should:
  - a. reference the portion of funds determined by Nebraska;
  - b. include specific issues to be addressed; and
  - c. provide a point of contact and mailing address to which a response can be sent.
2. In order to be considered a valid appeal, an appeal must be received within ten (10) business days of the date the One-Stop partner receives notice of the determination of the portion of funds.
3. A response will be made in writing to the point of contact named in the appeal by the One-Stop partner, generally within ten (10) business days of receipt of the appeal by Nebraska's Director of the Office of Employment and Training.
4. If the response from the Director of the Office of Employment and Training has not satisfied the appeal of the One-Stop partner, the partner may request a meeting with the Nebraska's Commissioner of Labor. The request must be made in writing and directed to: John Albin, Commissioner of Labor, Nebraska Department of Labor, PO Box 94600, Lincoln, NE 68509-4600. The request should:
  - a. reference the portion of funds determined by Nebraska;
  - b. include specific issues to be addressed; and
  - c. provide a point of contact and mailing address to which a response can be sent.

5. To be considered a valid request, it must be received within ten (10) business days of the determination by the Director of the Office of Employment and Training.
6. A meeting will be scheduled with the One-Stop partner, the Director of the Office of Employment and Training, and the Commissioner of Labor to permit the partner to present its issues.
7. A written response of the final decision of the Commissioner of Labor will be sent to the One-Stop partner, generally within ten (10) business days, unless additional time is necessary to examine fully the issues presented.
8. If desired, a One-Stop partner may opt to skip Steps 1 and 2 and begin with Step 3, appealing simultaneously to the Director of the Office of Employment and Training and the Commissioner of Labor.

## 2. *Statewide Activities*

### A. State Policies and Guidance

Provide State policies or guidance for the statewide workforce development system and for use of State funds for workforce investment activities.

NOTE: This policies in this Section A represent the policies in effect on October 1, 2016. To review Nebraska's current WIOA Title IB policies, please visit:

<http://dol.nebraska.gov/EmploymentAndTraining/WIOA/Policies?sideMenu=JobSeekerResources>.

## Interim Policy on Accessibility

### *Reference*

Workforce Innovation and Opportunity Act (WIOA), Section 188; WIOA Notice of Proposed Rulemaking, 20 CFR § 679.370; 28 CFR 35 Subpart E - Communications, 28 CFR § 35.160(b)(2); 29 CFR Part 38; 31 CFR Part 60-3; TEGL 37-14; TEN 1-15; Continuous Improvement Policy; Equal Opportunity and Nondiscrimination Policy; Americans with Disabilities Act of 1990; Rehabilitation Act of 1973, as amended, Section 504; and the Strategic Five-Year State Workforce Investment Plan.

### *Background*

The Workforce Innovation and Opportunity Act (WIOA) stresses physical and programmatic accessibility, including the use of accessible technology to increase individuals with disabilities' access to high quality workforce services. Title I of WIOA assigns responsibilities at the local, State and Federal levels to ensure the creation and maintenance of an American Job Center (AJC) system that enhances the range and quality of workforce development services that are accessible to individuals seeking assistance. It prohibits discrimination on the basis of race, color, national origin, sex, age, disability, religion, political affiliation or belief, participant status, and against certain non-citizens. Although gender identity is not an explicitly protected basis under the applicable federal laws, discrimination based upon gender identity, gender expression, and sex stereotyping has been interpreted to be a form of prohibited sex discrimination, including under laws that apply to federally financially assisted employment, training, and education programs and activities.[1]

As set forth in the regulations (29 CFR Part 38) implementing Section 188 of WIOA, there is an obligation to assure fair and equitable access to all services, programs and facilities for members of both sexes, various racial and ethnic groups, individuals in differing age groups, and individuals with disabilities. Any entity that receives financial assistance under Title I of WIOA is a recipient obligated to ensure nondiscrimination and equal opportunity. This includes State and Local Workforce Development Boards, AJC operators, service providers, vendors, and subrecipients, as well as other types of individuals and entities. This policy is directed toward ensuring that the programs, services and facilities of each AJC delivery system are accessible to all, including individuals with disabilities.

### *Action*

After a 10-day review period, this Policy will be considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox, [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

Local areas are required to have a policy on accessibility addressing the provisions identified in this policy as well as ensure their local WIOA Plan addresses the requirements set forth in this policy.

### *Policy*

No individual is to be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any program or activity, funded in whole or in part under WIOA, because of race, color, religion, sex (except as otherwise permitted under Title IX of the Education Amendments of 1972), national origin, age, disability, or political affiliation or belief.<sup>[2]</sup>

### Prohibition of Discrimination on the Basis of Disability

A recipient is obligated to provide physical and programmatic accessibility and reasonable accommodation/modification in regard to the WIOA program, as required by section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended, and Section 188 of WIOA.

The ADA defines a “disability” with respect to an individual to mean a physical or mental impairment that substantially limits one or more of the major life activities of such individual, a record of such an impairment, or being regarded as having such an impairment.

### WIOA Program Accessibility

When providing aid, benefits, or services under a WIOA Title I financially assisted program or activity, a recipient must not directly or through contractual, licensing, or other arrangements, on the ground of disability:

1. Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefits, services, or training;
2. Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefits, services, or training that is not equal to that afforded others;
3. Provide a qualified individual with a disability with an aid, benefit, service or training that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;
4. Provide different, segregated, or separate aid, benefits, services, or training to individuals with disabilities, or to any class of individuals with disabilities, unless such action is necessary to provide qualified individuals with disabilities with aid, benefits, services or training that are as effective as those provided to others;
5. Deny a qualified individual with a disability the opportunity to participate as a member of planning or advisory boards; or

6. Otherwise limit a qualified individual with a disability in enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, service or training.<sup>[3]</sup>

Separate or different programs or services for individuals with disabilities are not prohibited under the ADA; however, individuals with disabilities cannot be forced to participate in these programs instead of WIOA Title I financially assisted programs or activities.<sup>[4]</sup>

### Auxiliary Aids, Services and Assistive Technology

To afford individuals with disabilities an equal opportunity to participate in and enjoy the benefits of the WIOA Title I program or activity, a recipient must furnish appropriate auxiliary aids or services where necessary. In determining what type of auxiliary aid or service is appropriate and necessary, such recipient must give primary consideration to the requests of the individual with a disability.<sup>[5]</sup> Primary consideration means honoring the choice unless the agency can demonstrate that another equally effective means of communication is available, or that using the means chosen would result in a fundamental alteration in the service, program, activity, or undue financial and administrative burdens.<sup>[6]</sup>

A list of auxiliary aids and services can be found in 29 CFR § 38.4, and includes:

- Qualified interpreters, note takers, transcription services, written materials, telephone handset amplifiers, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDDs/TTYs), videotext displays, or other effective means of making aurally delivered materials available to individuals with hearing impairments;
- Qualified readers, taped texts, audio recordings, braille materials, large print materials, or other effective means of making visually delivered materials available to individuals with visual impairments;
- Acquisition or modification of equipment or devices; and
- Other similar services and actions.

A recipient must not place a surcharge on a particular individual with a disability, or any group of individuals with disabilities, to cover the costs of measures associated with providing auxiliary aids, services, or assistive technology, that are required to provide that individual or group with the nondiscriminatory treatment required by WIOA Title I.<sup>[7]</sup>

This obligation does not require a recipient to provide personal devices, such as wheelchairs; prescribed devices, such as prescription eyeglasses or hearing aids; or readers for personal use or study.<sup>[8]</sup>

If an individual with disabilities elects not to participate in an available separate or different program or service, and instead chooses to participate in available WIOA Title I financially

assisted programs and activities, the obligations regarding auxiliary aids, services, and assistive technology still apply.

### Facility Accessibility

In order to be ready and welcoming when persons with disabilities seek services, advance preparatory actions must be taken. Specific information on ADA accessibility guidelines for buildings and facilities is provided by the United States Access Board at [www.access-board.gov](http://www.access-board.gov). Some areas to particularly note include:

- signage
- accessible counters
- automatic and power-assisted doors
- accessible restrooms
- accessible workstations
- obstacle free entrance
- space in waiting room for people using wheelchairs
- 32-inch clear opening on door
- 36-inch clear path of travel

The above is only a sampling of considerations. Accessibility is an on-going process. However, all of the ADA technical requirements must be applied during the design, construction, and alteration of buildings and facilities.

The definition of “facility” under the ADA includes “all or any portion of buildings, structures, sites, complexes, equipment, rolling stock or other conveyances, roads, walks, passageways, parking lots, or other real or personal property, including the site where the building, property, structure, or equipment is located.”[9]

### Reasonable Accommodations

With regard to aid, benefits, services, training, and employment, a recipient must provide reasonable accommodation to qualified individuals with disabilities who are applicants, registrants, eligible applicants/registrants, participants, employees, or applicants for employment, unless providing the accommodation would cause undue hardship. Definitions of the terms “reasonable accommodation” and “undue hardship” are specified in 29 CFR § 38.4.

### Employment Related Placements

Recipients must not, directly or through any contractor, use testing procedures that have an adverse impact on disabled employment applicants or subject qualified individuals with disabilities to discrimination on the ground of such disability.[10]

Recipients, or any contractor including on the job training contractors, shall not discriminate against an individual with a disability if the person is otherwise qualified for

the job. Compliance with the Uniform Guidelines of Employee Selection Procedures, 31 CFR§ 60-3, is required.[11]

### Recommended Steps

1. Designate an Access Coordinator (someone well versed in ADA requirements).
2. Consult with disability community and with people who are trained in access and ADA compliance. Include a cross section of customers and board members with disabilities in visits to your Career Centers. Ask them to make suggestions for improvements.
3. Use Self-Evaluation Checklists and Available Resources. In 2003, the Civil Rights Center (CRC), the Employment and Training Administration (ETA), and the Office of Disability Employment Policy (ODEP) released the *WIA Section 188 Disability Checklist* ("Checklist"). The Checklist was designed to help ensure meaningful participation by individuals with disabilities in the one-stop system. CRC, ETA and ODEP now are issuing *Promising Practices in Achieving Universal Access and Equal Opportunity: A Section 188 Disability Reference Guide* (Reference Guide) to provide updated information and technical assistance to the one-stop system in meeting their nondiscrimination and universal access obligations for individuals with disabilities. The Reference Guide can be found at the CRC website at [www.dol.gov](http://www.dol.gov). The Reference Guide provides promising practices that correlate with the nondiscrimination and universal access requirements of Sec. 188[12] of WIOA and its implementing regulations for individuals with disabilities. While this document is focused on the One Stop system, anyone working to ensure universal access and equal opportunity for individuals with disabilities in the workforce development system may use it as a resource document, including governors, state administrators, state workforce agencies, equal opportunity officers, and state and local workforce development agencies. The Reference Guide does not create new legal requirements or change current legal requirements. Rather, it contains examples of policies, procedures and other steps that AJCs may implement to increase equal opportunity and universal access to programs and services under WIA/WIOA for individuals with disabilities. These promising practices are not necessarily mandatory in every case under Section 188 or the regulations. Moreover, descriptions of approaches in this document should not be construed to preclude states and WIA/WIOA Title I grant recipients from devising alternative approaches to meeting and even exceeding their legal obligations. Finally, adoption of the promising practices in the Reference Guide will not guarantee compliance. CRC, ETA, and ODEP will continue to issue technical guidance to help one-stop centers comply with their obligations under Section 188.[13] Additional checklists for physical, program, employment and communication access include:

- Customer Service/Accommodation Practices, accessible at [www.doleta.gov](http://www.doleta.gov); and
- Software Accessibility, accessible at [www.doleta.gov](http://www.doleta.gov)

These checklists enable each local workforce development area to conduct self-evaluations of the accessibility of its AJC system and to plan to meet the accessibility needs of individuals with disabilities seeking to use programs, services, and facilities. The checklists are essentially a management tool to assess what has already been done to provide access for individuals with disabilities and to plan what needs to be done in the future. The self-evaluation captures both the strengths and weaknesses, and allows local workforce development areas to develop concrete plans, based on real data, to increase the level of accessibility in their programs, services and facilities. Additional Resources include the Job Accommodation Network (JAN) — an ODEP funded service that provides free, expert and confidential guidance on workplace accommodations, including those for individuals who have communication challenges. JAN offers many accommodation ideas for many individuals, including:

- Individuals who are deaf or hard of hearing;
- Individuals with vision impairments; and
- Individuals with speech-language impairments.

JAN also offers information about available products and services for people with communication challenges

4. Develop an Access Plan. The plan shall be based on your findings and include:

- The barriers and solutions
- Establish a priority for each item
- Project the costs associated with each item
- Identify funding sources
- Target completion
- Identify who will do what

5. Provide training to American Job Center staff and contractors. Effective training ensures that employees and contractors are knowledgeable and aware of policies and procedures relating to persons with disabilities and are trained to comfortably work with all people. It is critical that there is not a gap between written policies/procedures and the actual practice of front-line employees interacting with persons with disabilities. There are several training and reference tools available on the Internet that were developed under WIA but are still helpful resources, including:

- “Access for All: A Resource Manual for Meeting the Needs of One-Stop Customers with Disabilities” - Institute for Community Inclusion (Children’s

Hospital Boston and the University of Massachusetts Boston) -at [www.communityinclusion.org](http://www.communityinclusion.org).

- “At Your Service - Welcoming Customers with Disabilities” - Southeast ADA Center in coordination with ADA National Network on the Americans with Disabilities Act - at [www.WIAwebcourse.org](http://www.WIAwebcourse.org).

6. Conduct regular oversight and monitoring. To ensure that individuals are not subjected to discrimination on the basis of disability, conduct regular oversight of programs and services. Local boards must assess, on an annual basis, the physical and programmatic accessibility of all AJCs in the local area, in accordance with Sec. 188 of WIOA, if applicable, and applicable provisions of the Americans with Disabilities Act of 1990.[14]

### *Disclaimer*

This policy is based on NDOL’s reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

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[1] TEGL 37-14

[2] WIOA Sec. 188(a)(2)

[3] 29 CFR § 38.7(a)

[4] 29 CFR § 38.7(c)

[5] 29 CFR § 38.9(b)

[6] 28 CFR 35 Subpart E - Communications, 28 CFR Part 35.160(b)(2)

[7] 29 CFR § 38.7(k)

[8] 29 CFR § 38.7(m)

[9] ADA Sec. 25-104(5)(iii)

[10] 29 CFR § 38.7(e)

[11] 29 CFR § 38.10(b)

[12] While the Reference Guide provides citations to the current regulations issued pursuant to Section 188 of WIA, USDOL anticipates that the promising practices contained in the Reference Guide will remain relevant and useful for the One-Stop system under the forthcoming WIOA regulations.

[13] TEN 1-15

[14] 20 CFR § 679.370

## Interim Policy on Administrative Cost Limitations

### *Reference*

Workforce Innovation and Opportunity Act (WIOA), Sections 3 and 128(b)(4), Uniform Requirements, Cost Principles, and Audit Requirements for Federal Awards Final Rule; WIOA Notice of Proposed Rulemaking, WIOA Notice of Proposed Rulemaking, 20 CFR §§ 683.205, 683.215; TEGL 12-14.

### *Background*

WIOA and 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Final Rule (Uniform Guidance) provide administrative cost limitations that apply to local area Workforce Innovation and Opportunity Act (WIOA) expenditures.

### *Action*

After a 10-day review period, this Policy will be considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox: [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

Local areas need to establish a policy on administrative cost limitations addressing the provisions identified in this policy as well as ensure their local WIOA Plan addresses the requirements set forth in this policy.

### *Policy*

#### Administrative Cost Limitations under WIOA

Of the amount allocated to a local area under Sections 128(b) [Youth Activities] or 133(b) [Adult and Dislocated Worker Employment and Training Activities] for a fiscal year not more than 10 percent of the amount may be used by the local board for the administrative costs of carrying out youth workforce development activities or adult and dislocated worker employment and training activities.[1]

The administrative allocation may be used by the local area for the administrative cost of carrying out youth workforce development activities or adult and dislocated worker employment and training activities, regardless of whether the funds were allocated under 128(b) or 133(b),[2] and do not need to be allocated back to the individual funding streams.

The costs of administration, or “administrative costs,” are expenditures incurred by state and local boards, regions, direct grant recipients (including state grant recipients under Subtitle B of Title I of WIOA [Workforce Investment Activities and Providers], and recipients of awards under Subtitle C [Job Corps] and Subtitle D [National Programs]), as

well as local grant recipients and subrecipients, local fiscal agents and One-Stop operators that are associated with specific functions identified in 20 CFR § 215(b) (immediately below) and which are not related to the direct provision of workforce development services, including services to participants and employers. These costs can be both personnel and non-personnel, and both direct and indirect.[3]

The cost of administration are the costs associated with the following functions:

- Performing the following overall general administrative functions and coordination of those functions under Title I of WIOA:
  - Accounting, budgeting, financial and cash management functions;
  - Procurement and purchasing functions;
  - Property management functions;
  - Personnel management functions;
  - Payroll functions;
  - Coordinating the resolution of findings arising from audits, reviews, investigations, and incident reports;
  - Audit functions;
  - General legal services functions; and
  - Fiscal agent responsibilities;
- Performing oversight and monitoring responsibilities related to WIOA administrative functions;
- Costs of goods and services required for administrative functions of the program, including goods and services such as rental or purchase of equipment, utilities, office supplies, postage, and rental and maintenance of office space;
- Travel costs incurred for official business in carrying out administrative activities or the overall management of the WIOA system; and
- Costs of information systems related to administrative functions (for example, personnel, procurement, purchasing, property management, accounting and payroll systems) including the purchase, systems development and operating costs of such systems.[4]

#### Activities that can be Administrative, Programmatic, or Both

Awards to subrecipients or contractors that are solely for the performance of administrative functions are classified as administrative costs.[5]

Personnel and related non-personnel costs of staff that perform both administrative functions specified in 20 CFR § 683.215(b) (the bulleted list above) and programmatic services or activities must be allocated as administrative or program costs to the benefitting cost objectives/categories based on documented distributions of actual time worked or other equitable cost allocation methods.[6]

Specific costs charged to an overhead or indirect cost pool that can be identified directly as a program cost are to be charged as a program cost. Documentation of such charges

must be maintained.[7] These charges are most commonly found on invoices and accounts payable documents.

Except for awards to recipients or contractors that are solely for the performance of administrative functions, all costs incurred for functions and activities of subrecipients (other than a subrecipient appointed pursuant to 107(d)(12)(B)(i)(II)) and contractors are program costs.[8]

Continuous improvement activities are charged to the administration or program category based on the purpose or nature of the activity to be improved.[9]

Costs of the following information systems including the purchase, systems development, and operational cost (e.g. data entry) are charged to the program category:

- Tracking and monitoring of participant and performance information;
- Employment statistics information, including job listing information, job skills information, and demand occupation information;
- Performance and program cost information on eligible providers of training services, youth activities, and appropriate education activities;
- Local area performance information; and
- Information relating to supportive services and unemployment insurance claims for program participants.[10]

### Streamlining

Where possible, entities identified in 20 CFR § 683.215(a) must make efforts to streamline the services described in 20 CFR § 683.215(b) in order to reduce administrative costs by minimizing duplication and effectively using information technology to improve services.[11]

### Direct & Indirect Costs under the Uniform Guidance

Identification with the federal award rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect (F&A) costs of federal awards. Typical costs charged directly to a federal award are the compensation of employees who work on that award, their related fringe benefit costs, the costs of materials and other items of expense incurred for the federal award. If directly related to a specific award, certain costs that otherwise would be treated as indirect costs may also include extraordinary utility consumption, the cost of materials supplied from stock or services rendered by specialized facilities or other institutional service operations.[12] Administrative costs are allowable when they are included in the approved budget or have prior approval by the federal awarding agency.

There is no universal rule for classifying certain costs as either direct or indirect (F&A) under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the federal award or another final cost objective.

Therefore, it is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a direct or an indirect (F&A) cost in order to avoid possible double-charging of federal awards.[13] Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect (F&A) costs.[14]

All non-federal entities, pass through entities, and subrecipients must have a federally approved indirect cost rate (either negotiated or de minimis) in writing. Requirements for development and submission of indirect (F&A) cost rate proposals and cost allocation plans are contained in Appendices III-VII and IX of the Uniform Guidance. In addition to these procedures outlined in the appendices, any non-federal entity that has never received a negotiated indirect cost rate, except for those non-federal entities described in Appendix VII (States and Local Government and Indian Tribe Indirect Cost Proposals), paragraph D.1.b, may elect to charge a de minimis rate of 10 percent of modified total direct costs (MTDC) which may be used indefinitely. As described in §200.403 Factors affecting allowability of costs, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology must be used consistently for all federal awards until such time as a non-federal entity chooses to negotiate for a rate, which the non-federal entity may apply to do at any time.[15]

Any non-federal entity that has a current federally negotiated indirect cost rate may apply for a one-time extension of the rates in that agreement for a period of up to four years. This extension will be subject to the review and approval of the cognizant agency for indirect costs. (The cognizant agency for WIOA is USDOL.) If an extension is granted the non-federal entity may not request a rate review until the extension period ends. At the end of the 4-year extension, the non-federal entity must re-apply to negotiate a rate. Subsequent one-time extensions (up to four years) are permitted if a renegotiation is completed between each extension request.[16]

#### Administrative Costs may be Associated with Direct Costs

Direct costs are those costs that can be specifically identified to a federal award, project, or activity; or that can be directly assigned to such activities relatively easily with a high degree of accuracy.[17] Examples of direct costs include direct labor and related fringe benefit cost, direct material, supplies, consultants, sub-awards, and travel.[18]

The salaries of administrative and clerical staff should normally be treated as indirect (facilities & administrative (F&A)) costs. Direct charging of these costs may be appropriate only if all of the following conditions are met:

- Administrative or clerical services are integral to a project or activity;
- Individuals involved can be specifically identified with the project or activity;
- Such costs are explicitly included in the budget or have the prior written approval of the federal awarding agency; and
- The costs are not also recovered as indirect costs.[19]

### Administrative Costs may be Associated with Indirect Costs

The Uniform Guidance provides that indirect (F&A) costs means those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect (F&A) costs. Indirect (F&A) cost pools must be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.[20]

Indirect costs are costs not directly identified with a single final cost objective (grant), but instead relate to two or more final cost objectives/grants.[21] Such costs cannot be economically traced to each grant so they must be placed in a cost pool to be allocated on a causal-beneficial basis to the final cost objective or grant.

### Indirect (F&A) Costs for Major Institutes of Higher Education and Major Nonprofit Organizations

“Major IHE” means an institution where the total direct cost of work exceeds \$10 million in a fiscal year.[22] Major IHEs are required to use the Standard Format for Submission as noted in Appendix III to Part 200 - Indirect F&A Costs Identification and Assignment, and Rate Determinations for IHEs paragraph C. 12. Major nonprofit organizations are those which receive more than \$10 million dollars in direct federal funding.[23]

Appendix III to the Uniform Guidance provides criteria for identifying and computing indirect (or indirect (F&A)) rates at IHEs (institutions). Indirect (F&A) costs are those that are incurred for common or joint objectives and therefore cannot be identified readily and specifically with a particular sponsored project, an instructional activity, or any other institutional activity.

Appendix IV of the Uniform Guidance provides information on indirect (F&A) costs identification and assignment, and rate determination for nonprofit organizations. Because of the diverse characteristics and accounting practices of nonprofit organizations, it is not possible to specify the types of cost which may be classified as indirect (F&A) cost in all situations. However, typical examples may include the costs of general administration and general expenses, such as the salaries and expenses of executive officers, personnel administration, and accounting.[24]

### Facilities and Administration Classification

For major IHEs and major nonprofit organizations, indirect (F&A) costs must be classified within two broad categories: “Facilities” and “Administration.”

“Facilities” is defined as depreciation on buildings, equipment and capital improvement, interest on debt associated with certain buildings, equipment and capital improvements, and operations and maintenance expenses.[25]

“Administration” is defined as general administration and general expenses such as the director’s office, accounting, personnel and all other types of expenditures not listed specifically under one of the subcategories of “Facilities.”[26]

For nonprofit organizations, library expenses are included in the “Administration” category; for IHEs, they are included in the “Facilities” category.[27]

#### One-Stop Administrative Cost Limits

In a One-Stop environment, administrative costs borne by other sources of funds, such as the Wagner-Peyser Act, are not included in the administrative cost limit calculation. Each program’s administrative activities are chargeable to its own grant and subject to its administrative cost limitations.[28]

The costs of negotiating a memorandum of understanding or infrastructure agreement under Title I of WIOA are excluded from administrative cost limitations.[29]

#### *Disclaimer*

This interim policy is based on NDOL’s reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

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- [1] WIOA Sec. 128(b)(4)(A)
  - [2] WIOA Sec. 128(b)(4)(B)
  - [3] WIOA Sec. 3(1), 20 CFR §683.215(a)
  - [4] 20 CFR § 683.215(b)
  - [5] 20 CFR § 683.215(c)(1)
  - [6] 20 CFR § 683.215(c)(2)
  - [7] 20 CFR § 683.215(c)(3)
  - [8] 20 CFR § 683.215(c)(4)
  - [9] 20 CFR § 683.215(c)(5)
  - [10] 20 CFR § 683.215(c)(6)
  - [11] 20 CFR § 683.215(d)
  - [12] 2 CFR § 200.413(b)
  - [13] 2 CFR § 200.412
  - [14] 2 CFR § 200.413(a)
  - [15] 2 CFR § 200.414(f)
  - [16] 2 CFR § 200.414(g)
  - [17] Ibid.
  - [18] 2 CFR § 200.413(b), Appendix IV B.3.b(4)
  - [19] 2 CFR § 200.413(c)

- [20] 2 CFR § 200.56
- [21] 2 CFR Part 200, Appendix IV A.1
- [22] 2 CFR §200.414(a), Appendix III to 2 CFR Part 200 paragraph C.12 and Section D
- [23] Ibid.
- [24] 2 CFR § 200.414(b)
- [25] 2 CFR § 200.414(a)
- [26] Ibid.
- [27] Ibid.
- [28] 20 CFR § 683.205(a)(4)
- [29] 20 CFR § 683.205(a)(5)

## Interim Policy on Allocation Planning, Change 1

### *Reference*

Workforce Innovation and Opportunity Act of 2014 (WIOA) Sections 102, 127, 128, 133, 189; WIOA Notice of Proposed Rulemaking (NPRM) 20 CFR §§ 675.300, 683.110, 683.135, 683.140; TEGL 13-12; TEGL 23-14; TEGL 29-14, Change 1; TEGL 38-14

### *Background*

This policy determines the WIOA allocation method for the WIOA Combined State Plan (State Plan). WIOA Sec. 102(b)(2)(C)(iv) requires the State Plan to address the methods and factors NDOL will use in distributing funds to the core programs, in accordance with the provisions authorizing such distributions.[1]

### *Changes from Interim Policy*

Deletion of the section titled “Rapid Response Funds” and Attachment A titled “Request for Rapid Response Funds, Application for Director Dislocated Worker Participant Services.” The content of the deleted section and Attachment A have been incorporated into the Nebraska Department of Labor (NDOL) policy on Rapid Response. The Rapid Response Policy is available on NDOL’s website at [dol.nebraska.gov](http://dol.nebraska.gov).

### *Action*

After a 10-day review period, this policy will be considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox: [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

### *Policy*

#### Definitions

##### *Area of Substantial Unemployment<sup>[2]</sup>*

“Area of Substantial Unemployment” (ASU) any area that is of sufficient size and scope to sustain a program of workforce development activities carried out under WIOA Title I-B [Workforce Investment Activities and Providers] and that has an average rate of unemployment of at least 6.5 percent for the latest July 1 - June 30 program year, as determined by the U.S. Secretary of Labor. Determinations of areas of substantial unemployment shall be made once each fiscal year. An ASU is a contiguous area with a current population of at least 10,000 and an average unemployment rate of at least 6.5 percent for the 12-month reference period.[3]

### *Authorized Amount*

“Authorized Amount” means the amount allotted to each local area for their purposes, of providing both program and administrative services.[4]

### *Excess Number*

When used in relation to the excess number of unemployed individuals within the state, “excess number” means the higher of the number that represents the number of unemployed individuals in excess of 4.5% of the civilian labor force in (i) the state or in areas of substantial unemployment in the state.[5]

### *Minimum Percentage*

#### *For Adult and Youth Activities*

The local area shall not receive an allocation percentage for a fiscal year that is less than 90 percent of the average allocation percentage of the local area for the two preceding fiscal years. Amounts necessary for increasing such allocations to local areas to comply with the preceding sentence shall be obtained by ratably reducing the allocations made to other local areas.[6]

#### *For Dislocated Worker Employment and Training Activities*

The local area shall not receive an allocation percentage for fiscal year 2016 or a subsequent fiscal year that is less than 90 percent of the average allocation percentage of the local area for the two preceding fiscal years. Amounts necessary for increasing such allocations to local areas to comply with the preceding sentence shall be obtained by ratably reducing the allocations to be made to other local areas.[7]

In order to avoid shifts in funding levels to the local areas, NDOL shall implement the minimum percentage provision provided by the Secretary of the U.S. Department of Labor for adult, dislocated worker, and youth funds.

### *Notices of Obligation (NOOs)*

The U.S. Department of Labor’s Employment and Training Administration’s Grant Officer notifies NDOL of the amount of funds that shall be obligated and allocated through NOOs. Obligations and costs may not exceed the amount obligated by the NOO unless otherwise modified by the grantor.

### *Notices of Obligational Authority*

NDOL, as the pass-through entity, provides funding authority to each subrecipient through Notices of Obligational Authority (NOAs). NOAs inform subrecipients of the Federal award

information including amount of funds, Catalog of Federal Domestic Assistance (CFDA) number, award name, and award year.

### *Obligations*

When used in connection with a non-Federal entity's utilization of funds under a federal award, obligations means orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or future period. Obligations must be reported on the required U.S. Department of Labor form, such as the ETA-9130 form.[8] For purposes of reallocation, the following will also be treated as obligations:

- Amounts allocated by NDOL to the local areas under WIOA Sec. 128(b) and 133(b) [Within State Allocations]; and
- Inter-agency transfers and other actions treated by NDOL as encumbrances against amounts reserved by NDOL under WIOA Sections 128(a) and 133(a) for statewide workforce development activities.[9]

### *Unobligated Balance*

"Unobligated balance" means the amount of funds under a federal award that the non-Federal entity has not obligated. The amount is computed by subtracting the cumulative amount of the non-Federal entity's unliquidated obligations and expenditures of funds under the Federal award from the cumulative amount of the funds that the Federal awarding agency or pass-through entity authorized the non-Federal entity to obligate.[10]

### Distribution Timing

Funds for youth activities for the entire program year are available on or after April 1.[11] For the period between April 1, 2015, and June 30, 2015, WIOA funds are to be used only to serve WIOA youth participants, while Workforce Investment Act (WIA) funds may be used during this period to serve youth participants eligible under WIA. On July 1, 2015, all WIA youth participants who are still enrolled in the WIA youth program must be considered eligible for the WIOA youth program, even if the participant would not otherwise be eligible for WIOA.[12] Adult and dislocated worker funds are allotted on both a program year (PY) and fiscal year (FY) basis:

- Base Funds (PY): The first allotment becomes available for obligation on July 1 and is commonly referred to as "base funds".
- Advance Funds (FY): The second allotment becomes available for obligation on October 1 and is commonly referred to as "advance funds".

## Availability of Funds

For the state, funds are available for expenditure during the PY of allotment and the two succeeding PYs. For local areas, funds are available for the PY of allocation plus one succeeding program year.[13]

## Methods and Factors of Distribution

### *Adult and Youth Funds*

NDOL uses the standard allocation formulas (below) for distributing the adult and youth funds portion to the local areas. The 30 percent discretionary method will not be a part of the process. In allocating the adult and youth funds to local areas, NDOL may allocate:

- 33 1/3 % of the funds on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each designated area, compared to the total number of unemployed individuals in all such areas of substantial unemployment in the state;
- 33 1/3 % of the funds on the basis of the relative excess number of unemployed individuals in each designated area compared to the total excess number of unemployed individuals in all designated areas; and
- 33 1/3 % of the funds on the basis of the relative number of disadvantaged youth or adults, compared to the total number of disadvantaged youth or adults in the state. [14]

### *Dislocated Worker Funds*

Pursuant to WIOA Sec. 133(b)(2)(B), the following formula for Dislocated Worker Funds will be instituted beginning with the allocations under PY 2015 (July 1, 2015 through June 30, 2016).

Allocated Factor	Current Weight
UI	15%
Excess UI	15%
Long Term	20%
Dislocated Workers	20%
Declining Industries	5%
Farmer/Rancher Hardship	5%
Enrollments in DW programs	20%
Total	100%

### Authorized Amount Notifications

NDOL's Grant Accountant III will prepare and review all authorized amount notifications to the local areas dependent on plan review. NDOL's Director of Financial Services will sign and send out the notifications. The timing of the notification for the base grant is governed by WIOA Sec. 182(e) which requires that the funds are made available to the local area no later than 30 days after the funds are made available to NDOL or 7 days after the date the local plan is approved, whichever is later. The timing of the advance notification is 30 days after the funds are made available to NDOL unless there is a required local area plan modification.[15]

### Recapture of Funds after the Period of Performance

The statutory availability for expenditure of WIOA Title I grants will be established as the period of performance for such grants unless otherwise provided in the grant agreement or cooperative agreement. All funds should be fully expended by the expiration of the period of performance or they risk losing their availability. Unless otherwise authorized in a grant or cooperative agreement or subsequent modification, recipients should expend funds with the shortest period of availability first.[16]

Funds allocated by a state to a local area under WIOA Sections 128(b) and 133(b) [Within State Allocations] for any PY are available for expenditure during that PY and the succeeding PY.[17] However, funds used to carry out pay-for-performance contract strategies will remain available until expended.[18] Funds which are not expended by a local area in this 2-year period must be returned to NDOL. Funds so returned are available for expenditure by state and local recipients and subrecipients only during the third PY of availability in accordance with WIOA Sections 128(c) and 132(c). These funds are only available for statewide projects or for distribution to local areas which had fully expended their allocation of funds for the same PY within the 2-year period.[19]

### Reallocation

NDOL, after consultation with the state workforce development board, may reallocate youth, adult, and dislocated worker funds among local areas within the state in accordance with WIOA Sections 128(c) and 133(c).[20] If NDOL chooses to reallocate funds, the following provisions apply:

- For the youth, adult and dislocated worker programs, the amount to be recaptured from each local area for purposes of reallocation, if any, must be based on the amount by which the prior year's unobligated balance of allocated funds exceeds 20 percent of that year's allocation for the program, less any amount reserved (up to 10 percent) for administrative costs. Unobligated balances must be determined based on allocations adjusted for any allowable transfer between funding streams. The amount to be recaptured, if any, must be separately determined for each funding stream.[21]

- To be eligible to receive youth, adult or dislocated worker funds under the reallocation procedures, a local area must have obligated at least 80 percent of the prior PY's allocation, less any amount reserved (up to 10 percent) for administrative costs, for youth, adult, or dislocated worker activities, as separately determined. A local area's eligibility to receive a reallocation must be separately determined for each funding stream.[22]

### Reallotment

The Secretary of the U.S. Department of Labor determines, during the second quarter of each PY, whether a state has obligated its required level of at least 80 percent of the funds allotted under WIOA Sections 127 and 132 for programs servicing youth, adults, and dislocated workers for the prior PY. The amount to be recaptured from each state for reallotment, of any, is based on state obligations of the funds allotted to each state under WIOA Sections 127 and 132, less any amount reserved (up to 5 percent at the state level) for the costs of administration. Any recapture amount is separately determined for each funding stream.[23]

In the event Nebraska is required to make funds available for reallotment by the Secretary, the funds will be reallotted as follows:

- The amount available for recapture shall be equal to the amount by which the unobligated balance of the state allotment, at the end of the PY prior to the PY for which the determination under this paragraph is made, exceeds 20 percent of such allotment for the prior PY.[24]

WIOA Sec. 132(c) requires that NDOL prescribe equitable procedures for making funds available from the state and local areas in the event the state is required to make funds available for reallotment.[25]

### Transfer between Adult and Dislocated Worker Funding Streams at the Local Level

If authorized by NDOL, the local board may transfer up to and including 100 percent of the funds allocated to adult and dislocated worker employment and training between adult employment and training activities and dislocated worker employment and training activities.[26] WIOA does not provide for transfers of funds for the youth program.[27]

### Transition of Workforce Investment Act (WIA) and Wagner-Peyser Funds to WIOA[28]

#### *Expiration of PY Funds*

PY 2012 funds expire on June 30, 2015, and are not subject to WIOA provisions. The expiration dates of the PY 2013 and PY 2014 funds will not change. PY 2013 and PY 2014 funds will expire on June 30, 2016, and June 30, 2017, respectively.

### *Obligated PY Funds*

For PY 2013 and 2014 funds that are already obligated as of June 30, 2015, grantees may liquidate those obligations in compliance with WIA and Wagner-Peyser requirements as they are before WIOA is enacted. The reporting of obligations must be consistent with TEGL 13-12, *ETA-9130 Quarterly U.S. Department of Labor (DOL) Employment and Training Administration Financial Reports Instructions*. Grantees must maintain documentation for those funds regarding compliance with WIA for audit, monitoring, and oversight purposes.

### *PY 2015 Funds*

All PY 2015 funds will be awarded under the authority of and subject to the requirements of WIOA. While PY 2015 WIOA youth activities funds are available beginning in April 2015, the early release of these funds are for states and INA grantees to use these resources to begin preparation for WIOA youth implementation on July 1, 2015. WIOA youth money available in April can be for direct services to WIA participants as well as transition planning to implement the WIOA youth program starting on July 1, 2015. WIOA youth provisions are effective beginning July 1, 2015, and include the transition parameters discussed in TEGL 23-14, *Workforce Innovation and Opportunity Act (WIOA) Youth Program Transition*, and any subsequently issued applicable guidance.

### *Unobligated PY Funds*

PY 2013 and PY 2014 state and local formula funds that have not been obligated by grantees in PY 2013 and PY 2014 (i.e. “carry-in” funds) will become subject to WIOA, effective July 1, 2015. This means that the funds will assume the requirements of those portions of WIOA that are effective July 1, 2015. Likewise, NFJP and INA grantees may carry unobligated PY 2013 and 2014 funds into PY 2015, and these funds will become WIOA funds, effective July 1, 2015.

As of July 1, 2015, the unobligated PY 2013 and PY 2014 WIA and Wagner-Peyser funds carried into PY 2015 must only support allowable WIOA activities and conform to WIOA requirements effective July 1, 2015, with the exception of funds used to pay for WIA services for WIA participants who are transitioning to WIOA, as outlined in section 5 of TEGL 38-14 [Transition of Employment Service (ES) Participants under WIOA], and any other requirements issued by DOL via Training and Employment Guidance Letter that are necessary to facilitate transition from WIA to WIOA. The period of performance for these funds remains intact (i.e. the expiration of PY 2013 funds remains June 30, 2016, for state and local formula funds and NFJP, and September 30, 2015, for the INA program).

### *Disclaimer*

This Policy is based on NDOL's reading of the statute along with the NPRM released by U.S. Department of Labor. This Policy is be subject to change as additional Federal regulations and TEGLs are released. This Policy is not intended to be permanent and should be viewed as a placeholder until final Federal regulations are released in early 2016.

## **Preliminary Policy on Audits and Audit Review**

### *Reference*

Workforce Innovation and Opportunity Act, Section 184; Workforce Innovation and Opportunity Act - Notice of Proposed Rulemaking, 20 CFR 667.200, 667.500, 667.510; 29 CFR 97.26 and 29 CFR 95.26; Single Audit Act Amendments of 1996; OMB Circular A-133; Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Final Rule; Standards for Internal Control in the Federal Government (Green Book); Federal Register/Vol. 68, No. 124/Friday, June 27, 2003, P. 38401-38402.

### *Background*

All entities that received funds issued on or after December 26, 2014, are bound by the audit requirements of 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Final Rule (Uniform Guidance).

All governmental and non-profit organizations that received funds issued prior to December 26, 2014, and which will have funding actions, allotments, or incremental funding actions taking place after December 26, 2014, are bound by the audit requirements of the Uniform Guidance for the new funds only.[1]

All governmental and non-profit organizations that received funds issued prior to December 26, 2014, and which will not have additional funding actions taking place after December 26, 2014, may continue to follow the terms and conditions as outlined in their award documents, including the audit requirements of OMB Circular A-133 (A-133).[2]

### *Action*

This policy takes effect immediately.

### *Policy*

To ensure that all Federal funds are expended in accordance with applicable laws and regulations, audit standards have been established.

### Definitions

“Non-Federal entity” means a State, local government, Indian tribe, institution of higher education, or non-profit organization that carries out a federal award as a recipient or subrecipient.[3] The City of Omaha, City of Lincoln, State of Nebraska, Heartland Workforce Solutions (HWS), and Goodwill Industries, as subrecipients of WIOA funds, are considered “non-Federal entities.”

“Pass-through entity” means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a federal program.[4] If the non-Federal entity for the local

area provides a subaward to a subrecipient to carry out part of a federal program, the subrecipient is considered a “pass-through entity.” The State of Nebraska, City of Omaha, and HWS are pass-through entities.

“Subrecipient” means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a federal program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.[5] HWS, as a non-Federal entity that receives a subaward from the City of Omaha, is a subrecipient. Goodwill Industries, as a non-Federal entity that receives a subaward from HWS, is also a subrecipient.

“Subaward” means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.[6]

“Contractor” means an entity that receives a legal instrument (i.e., contract) by which a non-Federal entity purchases property or services needed to carry out the project or program under a federal award. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a federal award or subaward.[7]

#### Subrecipient/Contractor Determination

The non-Federal entity may concurrently receive federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with federal awarding agencies and pass-through entities. Payments received for goods or services provided as a contractor are not federal awards.[8] Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.[9]

Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:	Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the federal funds:
Determines who is eligible to receive what federal assistance	Provides the goods and services within normal business operations
Has its performance measured in relation to whether objectives of a federal program were met	Provides similar goods or services to many different purchasers
Has responsibility for programmatic decision making	Normally operates in a competitive environment

Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:	Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the federal funds:
Is responsible for adherence to applicable federal program requirements specified in the federal award	Provides goods or services that are ancillary to the operation of the federal program
In accordance with its agreement, uses the federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.[10]	Is not subject to compliance requirements of the federal program as a result of the agreement, though similar requirements may apply for other reasons.[11]

In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.[12]

## General

### *Threshold and Time Frame*

Each non-Federal entity that received a grant prior to December 26, 2014 and expended a total amount of federal awards equal to or in excess \$500,000 in any fiscal year shall have either a single audit or a program-specific audit made for such fiscal year in accordance with this policy unless they qualify for the limited exceptions under the Single Audit Act Amendments.[13] The exceptions included under OMB Circular A-133 are:

- A state or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits biennially. Audits conducted biennially shall cover both years within the biennial period; and
- Any non-profit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits biennially. Audits conducted biennially shall cover both years within the biennial period.[14]

Similarly, each non-Federal entity that received a grant on or after December 26, 2014, and expended a total amount of federal awards equal to or in excess of \$750,000 in any fiscal year must have either a single audit or a program-specific audit made for such fiscal year in accordance with this policy unless they qualify for the limited exceptions under the Single Audit Act Amendments.[15] These exceptions include those in A-133, but adds to the first set of exceptions that an Indian tribe that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits biennially.[16]

In most cases, the auditee's compliance responsibility for vendors or contractors is only to ensure that the procurement, receipt, and payment for goods and services comply with laws, regulations, and the provisions of contracts or grant agreements in the case of grants that fall under A-133, or with federal statutes, regulations, and the terms and conditions of federal awards for grants under the Uniform Guidance.[17] State and local governments should use their own procedures to ensure that the contractor has complied with laws and regulations affecting the expenditure of federal funds.

### *Government Auditing Standards (Green Book)*

The audits shall be made by an independent public accountant in accordance with generally accepted government auditing standards (GAGAS) covering financial audits.[18]

### Auditor Selection

In arranging for audit services, the procurement requirements of state policy shall be followed.[19]

In requesting proposals for audit services for grants received before December 26, 2014, the objectives and scope of the audit must be made clear. Factors to be considered in evaluating each proposal for audit services include the responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of external quality control reviews, and price.[20]

In requesting proposals for audit services for grants received on or after December 26, 2014, the objectives and scope of the audit must be made clear, and the non-Federal entity must request a copy of the audit organization's peer review report which the auditor is required to report under GAGAS. Factors to be considered in evaluating each proposal for audit services include the responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of peer and external quality control reviews, and price.[21]

In any case, an auditor who prepares the indirect cost proposal or cost allocation plan may not also be selected to perform the audit when the indirect costs recovered by the auditee during the prior year exceeded \$1 million. This restriction applies to the base year used in the preparation of the indirect cost proposal or cost allocation plan and any subsequent years in which the resulting indirect cost agreement or cost allocation plan is used to recover costs.[22]

Whenever possible, the auditee must make positive efforts to utilize small businesses, minority-owned firms, women's business enterprises, and (for grants that fall under the Uniform Guidance) labor surplus area firms, or the Federal Acquisition Regulation (FAR) (48 CFR), as applicable.[23]

## Auditor Responsibilities

Audits must be conducted in accordance with GAGAS.[24] The auditor shall:

- Determine whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles;[25]
- Determine whether the schedule of expenditures of federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole;[26]
- With respect to internal controls pertaining to the compliance requirements for each major program - obtain an understanding of such internal controls, assess control risk, and perform tests of controls unless the controls are deemed to be ineffective;[27] and
- Determine whether the non-Federal entity has complied with laws, regulations, and the provisions of contracts or grant agreements in the case of grants that fall under A-133, or with federal statutes, regulations, and the terms and conditions of federal awards for grants under the Uniform Guidance, that may have a direct and material effect on each of its major program.[28]

## Pass-Through Entities Responsibilities

In terms of grants received before December 26, 2014, each pass-through entity shall:

- Provide subrecipients with the program names (and any identifying numbers) from which federal assistance is derived, and the federal requirements which govern the use of awards;
- Monitor the subrecipient's use of federal awards through site visits, limited scope audits, or other means;
- Review the audit of a subrecipient as necessary to determine whether prompt and appropriate corrective action has been taken with respect to audit findings pertaining to federal awards provided to the subrecipient; and
- Require each of its subrecipients of federal awards to permit, as a condition of receiving federal awards, the independent auditor of the pass-through entity to have such access to the subrecipient's records and financial statements as may be necessary.[29]

In terms of grants received on or after December 26, 2014, all pass-through entities must:

- Ensure a subaward is clearly identified to the subrecipient and provide the subrecipient with the program names (and any identifying numbers) from which such assistance is derived, and the federal requirements which govern the use of such awards;[30]
- Evaluate each subrecipient's risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring. This evaluation may include the results of previous audits including whether the subrecipient receives a Single

Audit in accordance the audit requirements contained in the Uniform Guidance Subpart F, and the extent to which the same or similar subaward has been audited as a major program;[31]

- Consider imposing specific subaward conditions upon a subrecipient if appropriate;[32]
- Monitor the activities of the subrecipient as necessary to ensure the subaward is used for authorized purposes, and in compliance with federal statutes, regulations, and the terms and conditions of the subaward, and that subaward performance goals are achieved; this monitoring must include:
  - Reviewing financial and performance reports required by the pass-through entity;
  - Following up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the federal award; and
  - Issuing a management decision of the audit findings pertaining to federal awards the pass-through entity makes to subrecipients, and corrective action plan and the issuance of a written decision to the auditee as to what corrective action is necessary.[33]
- Verify that the subrecipient is audited as required by the Uniform Guidance Subpart F when it is expected that the subrecipient's federal awards expended during the respective fiscal year equaled or exceeded the \$750,000 threshold set forth in §200.501 Audit requirements;[34]
- Consider whether the results of the subrecipient's audits indicate conditions that necessitate adjustment to the pass-through entity's own records;[35] and
- Consider taking enforcement action against noncompliant subrecipients.[36]

### Auditor's Report

The auditor's report shall state that the audit was conducted in accordance with A-133 or the Uniform Guidance, whichever is applicable, and include the following:

- An opinion (or disclaimer of opinion) as to whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles and an opinion (or disclaimer of opinion) as to whether the schedule of expenditures of federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole.[37]
- A report on internal control over the financial reporting and compliance with laws, regulations, and the provisions of contracts or grant agreements in the case of grants that fall under A-133, or with federal statutes, regulations, and the terms and conditions of the federal award for grants that fall under the Uniform Guidance, noncompliance with which could have a material effect on financial statements.[38]
- For a grant that falls under the Uniform Guidance, a report on compliance for each major program and report and internal control over compliance.[39]
- For a grant that falls under A-133, a report on compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements.[40]
- A summary of the auditor's results which shall include:[41]

- The type of report the auditor issued on:
    - financial statements of the auditee (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion) for grants under A-133;<sup>[42]</sup> or
    - whether the financial statements audited were prepared in accordance with generally acceptable accounting principles (i.e., unmodified opinion, qualified opinion, adverse opinion, or disclaimer of opinion) for grants under the Uniform Guidance.<sup>[43]</sup>
- Where applicable:
  - A statement that reportable conditions in internal control were disclosed by the audit of the financial statements and whether any such conditions were material weaknesses for grants under A-133;<sup>[44]</sup> or
  - A statement about whether significant deficiencies or material weaknesses in internal control were disclosed by the audit of the financial statements for grants under the Uniform Guidance.<sup>[45]</sup>
- A statement as to whether the audit disclosed any noncompliance which is material to the financial statements of the auditee.<sup>[46]</sup>
- Where applicable:
  - A statement that reportable conditions in internal control were disclosed by the audit and whether any such conditions were material weaknesses for grants under A-133;<sup>[47]</sup> or
  - A statement about whether significant deficiencies or material weaknesses in internal control over major programs were disclosed by the audit for grants under the Uniform Guidance.<sup>[48]</sup>
- The type of report the auditor issued on compliance for major programs (i.e., unmodified opinion, unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion).<sup>[49]</sup>
- A statement as to whether the audit disclosed any audit findings which the auditor is required to report as Audit Findings.<sup>[50]</sup>
- An identification of major programs;<sup>[51]</sup> the Uniform Guidance adds, “by listing each individual major program; however in the case of a cluster of programs only the cluster name as shown on the Schedule of Expenditures of federal awards is required.”<sup>[52]</sup>
- The dollar threshold used to distinguish between Type A and Type B programs.<sup>[53]</sup>
- A statement as to whether the auditee qualified as a low-risk auditee.<sup>[54]</sup>
- Findings relating to the financial statements which are required to be reported in accordance with GAGAS.<sup>[55]</sup>
- Findings and questioned costs for federal awards which shall include audit findings:
  - Audit findings (e.g., internal control findings, compliance findings, questioned costs, or fraud) which relate to the same issue should be presented as a single audit finding.
  - Audit findings which relate to both the financial statements and federal awards should be reported in both sections of the schedule. However, the reporting in one section of the schedule may be in summary form with a reference to a detailed reporting in the other section of the schedule.<sup>[56]</sup>

### Submission of Audit Reports

The audit [which includes funds awarded by the Nebraska Department of Labor] shall be completed and the data collection form and reporting package as identified in OMB Circular A-133 or the Uniform Guidance, shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period (unless a longer period is agreed to in advance by the cognizant or oversight agency for grants under A-133, or unless a different period is specified in a program specific audit guide for grants under the Uniform Guidance). [57] If the due date falls on a Saturday, Sunday, or federal holiday, the reporting package for a grant under the Uniform Guidance is due the next business day.[58]

Submit to the federal clearinghouse designated by OMB and to:

Office of Finance  
Nebraska Department of Labor  
550 South 16<sup>th</sup> Street  
P.O. Box 94600  
Lincoln, NE 68509

The link to the federal clearinghouse currently designated by OMB is <https://harvester.census.gov/facweb/default.aspx/>.

Unless restricted by law or regulation, the auditee shall make copies available for public inspection.[59]

### Retention of Records

Auditees shall keep one copy of the data collection form and one copy of the reporting package on file for three (3) years from the date of submission to the federal clearinghouse. Pass-through entities shall keep subrecipients' submissions on file for three (3) years from date of receipt,[60] and the Uniform Guidance adds that auditees must not impose any other record retention requirements with some exceptions, including in the case any litigation, claim, or audit is started before the expiration of the three-year period.[61]

An auditor must retain audit documentation and reports (referred to as "working papers" by A-133) for a minimum of three (3) years after the date of issuance of the report(s) to the auditee, unless the auditor is notified in writing by the cognizant or oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period. When the auditor is aware that the federal agency, pass-through entity, or auditee is contesting an audit finding, the auditor must contact the contesting parties for guidance prior to destruction of the audit documentation and reports.[62]

Regulations applicable to A-133 provide that records must be retained beyond the prescribed period if any litigation or audit has begun, or if a claim is instituted involving

the grant or agreement covered by the records. In these instances, the records must be retained until resolution of the litigation, audit, or claim or until the end of the regular three-year record retention period, whichever is later.[63]

Audit documentation (or working papers) must be made available upon request to the cognizant or oversight agency for audit or its designee, cognizant agency for indirect cost, a federal agency, or the Government Accountability Office at the completion of the audit, as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of the Uniform Guidance.[64]

### Cost of Audits

#### *Allowable Costs*

##### Under A-133

Unless prohibited by law, the cost of audits are allowable charges to federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with the provisions of applicable OMB cost principles circulars, the FAR (48 CFR parts 30 and 31), or other applicable cost principles or regulations.[65]

##### Under the Uniform Guidance

A reasonably proportionate share of costs of audits required by, and performed in accordance with, the Single Audit Act as amended, as implemented by requirements of the Uniform Guidance, are allowable audit costs.[66]

The costs of a financial statement audit of a non-Federal entity that does not currently have a federal award may be included in the indirect cost pool for a cost allocation plan or indirect costs proposal.[67]

Pass-through entities may charge federal awards for the cost of agreed-upon-procedures engagements to monitor subrecipients who are exempted from the requirements of Single Audit Act and Subpart F of the Uniform Guidance only if the agreed-upon-procedures engagements are:

- Conducted in accordance with GAGAS attestations and standards;
- Paid for and arranged by the pass-through entity; and
- Limited in scope to one or more of the following types of compliance requirements: activities allowed or unallowed, allowable costs/cost principles, eligibility, and reporting.[68]

#### *Unallowable Costs*

A non-Federal entity is prohibited from charging to any federal award more than a reasonably proportionate share of the cost of any such audit. The percentage of the cost of audits charged to federal awards shall generally not exceed the ratio of total federal

awards expended by such non-Federal entity during the applicable fiscal year or years, to such non-Federal entity's total expenditures during such fiscal year or years. However, if there is documentation demonstrating a higher actual cost of auditing the federal awards portion, then a greater percentage may be charged, as appropriate.[69]

### Under A-133

The cost of auditing a non-Federal entity which has federal awards expended of less than \$300,000 (\$500,000 for fiscal years ending after December 31, 2003) per year is unallowable. However, a pass-through entity may charge for the cost of limited scope audits to monitor its subrecipients provided the subrecipient does not have a single audit.[70]

### Under the Uniform Guidance

Any costs when audits required by the Single Audit Act and Subpart F of the Uniform Guidance have not been conducted or have been conducted but not in accordance with the Single Audit Act and Subpart F are not allowable audit costs. Additionally, any costs of auditing a non-Federal entity that is exempted from having an audit conducted under the Single Audit Act and Subpart F because its expenditures under federal awards are less than, \$750,000 for grants awarded (or \$500,000 for grants awarded prior to December 26, 2014) during the non-Federal entity's fiscal year are not allowable audit costs.[71]

### *Disclaimer*

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

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[1] <http://doleta.gov/grants/UniformGuidance.cfm>

[2] *Id.*

[3] 2 CFR § 200.69

[4] 2 CFR § 200.74, A-133 § \_\_\_\_\_.105

[5] 2 CFR § 200.93

[6] 2 CFR § 200.92

[7] 2 CFR § 200.22 and 200.23

[8] 2 CFR § 200.330, 2 CFR § 200.501(f)

[9] 2 CFR § 200.330

[10] Uniform Guidance § 200.330(a)

[11] Uniform Guidance § 200.330(b)

[12] Uniform Guidance § 200.330(c)

- [13] OMB Circular A-133 § \_\_\_\_\_.200(a)
- [14] OMB Circular A-133 § \_\_\_\_\_.220
- [15] OMB Uniform Guidance § 200.501(a)
- [16] OMB Uniform Guidance § 200.504(a)
- [17] OMB Uniform Guidance § 200.501(g)
- [18] Green Book, OMB Circular A-133 § \_\_\_\_\_.500(a), OMB Uniform Guidance § 200.514(a)
- [19] OMB Uniform Guidance § 200.317 and § 200.509(a)
- [20] OMB Circular A-133 § \_\_\_\_\_.305(a)
- [21] OMB Uniform Guidance § 200.509(a)
- [22] OMB Circular A-133 § \_\_\_\_\_.305(b), OMB Uniform Guidance § 200.509(b)
- [23] OMB Circular § \_\_\_\_\_.305(a), OMB Uniform Guidance § 200.321 and § 200.509(a)
- [24] OMB Circular A-133 § \_\_\_\_\_.500(a), OMB Uniform Guidance § 200.514(a)
- [25] OMB Circular A-133 § \_\_\_\_\_.500(b), OMB Uniform Guidance § 200.514(b)
- [26] OMB Circular A-133 § \_\_\_\_\_.500(b), OMB Uniform Guidance § 200.514(b)
- [27] OMB Circular A-133 § \_\_\_\_\_.500(c), OMB Uniform Guidance § 200.514(c)
- [28] OMB Circular A-133 § \_\_\_\_\_.500(d)(1), OMB Uniform Guidance § 200.514(d)(1)
- [29] OMB Circular A-133 § \_\_\_\_\_.400 (d)
- [30] OMB Uniform Guidance § 200.331(a)
- [31] OMB Uniform Guidance § 200.331(b)
- [32] OMB Uniform Guidance § 200.331(c)
- [33] OMB Circular A-133 § \_\_\_\_\_.105, OMB Uniform Guidance § 200.66, 200.331(d), 200.521(c)
- [34] OMB Uniform Guidance § 200.331(f)
- [35] OMB Uniform Guidance § 200.331(g)
- [36] OMB Uniform Guidance § 200.331(f)
- [37] OMB Circular A-133 § \_\_\_\_\_.505(a), OMB Uniform Guidance § 200.515(a)
- [38] OMB Circular A-133, OMB Uniform Guidance § 200.515(b)
- [39] OMB Uniform Guidance § 200.515(c)
- [40] OMB Circular A-133 § \_\_\_\_\_.505(c)
- [41] OMB Uniform Guidance § 200.515(d)
- [42] OMB Circular A-133 § \_\_\_\_\_.505(d)(1)(i)
- [43] OMB Uniform Guidance § 200.515(d)(1)(i)
- [44] OMB Circular A-133 § \_\_\_\_\_.505(d)(1)(1)(ii)
- [45] OMB Uniform Guidance § 200.515(d)(1)(ii)
- [46] OMB Circular A-133 § \_\_\_\_\_.505(d)(1)(iii), OMB Uniform Guidance § 200.515(d)(1)(iii)
- [47] OMB Circular A-133 § \_\_\_\_\_.505(d)(1)(iv)
- [48] OMB Uniform Guidance § 200.515(d)(1)(iv)
- [49] OMB Circular A-133 § \_\_\_\_\_.505(d)(1)(v), OMB Uniform Guidance § 200.515(d)(1)(v)
- [50] OMB Circular A-133 § \_\_\_\_\_.505(d)(1)(vi), OMB Uniform Guidance § 200.515(d)(1)(vi)
- [51] OMB Circular A-133 § \_\_\_\_\_.505(d)(1)(vii)
- [52] OMB Uniform Guidance § 200.515(d)(1)(vii)
- [53] OMB Circular A-133 § \_\_\_\_\_.505(d)(1)(viii), OMB Uniform Guidance § 200.515(d)(1)(viii)
- [54] OMB Circular A-133 § \_\_\_\_\_.505(d)(1)(ix), OMB Uniform Guidance § 200.515(d)(1)(ix)
- [55] OMB Circular A-133 § \_\_\_\_\_.505(d)(2), OMB Uniform Guidance § 200.515(d)(2)

- [56] OMB Circular A-133 § \_\_\_\_\_.505(d)(3), OMB Uniform Guidance § 200.515(d)(3)
- [57] OMB Circular § \_\_\_\_\_.235(c), OMB Uniform Guidance § 200.512(a)(1), 200.507
- [58] OMB Uniform Guidance § 200.512(a)(1)
- [59] OMB Uniform Guidance § 200.515(a)(2)
- [60] OMB Circular A-133 § \_\_\_\_\_.315(b)(g), OMB Uniform Guidance § 200.512(f)
- [61] OMB Uniform Guidance § 200.333
- [62] OMB Circular § \_\_\_\_\_.515(a), OMB Uniform Guidance § 200.517(a)
- [63] 29 CFR 97.42(b)(2) and 29 CFR 95.53(b)(1)
- [64] OMB Circular § \_\_\_\_\_.515(b), OMB Uniform Guidance § 200.517(b)
- [65] OMB Circular § \_\_\_\_\_.230(a)
- [66] OMB Uniform Guidance § 200.425(a)
- [67] OMB Uniform Guidance § 200.425(b)
- [68] OMB Uniform Guidance § 200.425(c)
- [69] 31 USC § 7505
- [70] [70] OMB Circular § \_\_\_\_\_.230(b)
- [71] OMB Uniform Guidance § 200.425(a)(1) and (2)

## Preliminary Policy on Career Planning

### *Reference*

Workforce Innovation and Opportunity Act (WIOA), Section 3, 129, and 134; WIOA Notice of Proposed Rulemaking (WIOA NPRM), 20 CFR §680.110, 680.150, 680.180, 680.210, 680.220, 680.900, 680.910, 681.240, 681.310, 681.450, and 681.570; Workforce Innovation and Opportunity Act Joint Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions; Notice of Proposed Rulemaking, 20 CFR § 678.430; Federal Register/Vol. 65, No. 156/Friday, August 11, 2000; Youth Program Design policy; Attainment of a Degree or Certificate Performance Measure policy; Program Exit policy; Eligibility for Adult Programs policy; Eligibility for Dislocated Workers policy; Eligibility for Youth Programs policy; Equal Opportunity and Nondiscrimination policy; Application Time Limit policy; Local Plan Instructions; TEGL 17-05.

### *Background*

The term “career planner,” used in the Workforce Innovation and Opportunity Act (WIOA), replaces the term “case manager,” used in the Workforce Investment Act of 1998.[1] Career planners assist in determining if the adult or dislocated worker has “the skills and qualifications to successfully participate in the selected program of training services.”[2] In 20 CFR § 680.340(c) of the WIOA NPRM, career planners are identified as having a consultation role in assisting the participant in selecting an eligible training provider. It is presumed that career planning is a service conducted from the time an individual is enrolled through the four quarters of follow-up after program exit. Career planning is a component of individualized career services, and is not a stand-alone activity. Career planning is a continual service provided to adult, dislocated workers and youth to ensure their success in WIOA.

### *Action*

Local areas need to establish a policy on career planning addressing the provisions identified in this policy as well as ensure their local WIOA Plan addresses the requirements set forth in this policy.

### *Policy*

One-Stop operators must create an operations manual that outlines career planning best practices.

WIOA Sec. 3(8) defines career planning as the provision of a client-centered approach in the delivery of services, designed:

- To prepare and coordinate comprehensive employment plans, such as service strategies, for participants to ensure access to necessary workforce investment

- activities and supportive services, using, where feasible, computer-based technologies; and
- To provide job, education, and career counseling during program participation and after job placement.

### Initial Assessment for Eligibility

The initial assessment provides preliminary information about the individual's skill levels (including literacy, numeracy, and English language proficiency), aptitudes, abilities (including skills gaps), and supportive service needs.[3]

As a basic career service for adults and dislocated workers, the initial assessment is intended to be a brief, preliminary information gathering process that, among other things, provides sufficient information about an individual's basic literacy and occupational skill levels to enable the One-Stop operator to make appropriate referrals to services available through the One-Stop operator and partner programs.

WIOA Sec. 3(5) defines basic skills deficient as an individual who:

- Is a youth, that the individual has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test; or
- Is a youth or adult, that the individual is unable to compute or solve problems, read, write, or speak English at a level necessary to function on the job, in the individual's family or in society.

### Objective Assessments for Youth

Local boards must design framework services of local youth programs that provide for an objective assessment of each youth participant that meets the requirements of Section 129(c)(1)(A) of WIOA, and includes a review of the academic and occupational skill levels, as well as the service needs of each youth for the purpose of identifying appropriate services and career pathways for participants and informing the individual service strategy (ISS).[4] A new assessment is not required of the provider carrying out such a program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program.

### Selecting Participants

When choosing who shall participate in the Title I programs, refer to the "Eligibility for Adult Programs" policy, the "Eligibility for Dislocated Workers" policy, and the "Eligibility for Youth Programs" policy. In addition, special care must be exercised to not discriminate on the basis of race, color, national origin, sex, age, disability, religion, political affiliation or belief, participant status, and against certain noncitizens. Refer to the "Equal Opportunity and Nondiscrimination" policy in regard to providing reasonable accommodations to qualified individuals with disabilities who are applicants.

## Information and Referral

Local areas shall ensure that each participant or applicant who meets the minimum income criteria for consideration as an eligible youth be provided:

- Information on the full array of applicable or appropriate services that are available through the local board or other eligible providers or One-Stop partners, including those receiving funds under WIOA Title I, Subtitle B Workforce Investment Activities and Providers; and
- Referral to appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.[5]

To meet the basic skills and training needs of a youth applicant, each eligible provider of a program of youth activities shall ensure that an eligible applicant who does not meet the enrollment requirements of the particular program or who cannot be served shall be referred for further assessment, as necessary, and referred to appropriate programs to meet the basic skills and training needs of the applicant.[6]

## Registration and Participation

Registration is the process for collecting information to support a determination of eligibility. This information may be collected through methods that include electronic data transfer, personal interview, or an individual's application. Participation occurs after the registration process of collecting information to support an eligibility determination and begins when the individual receives a staff-assisted WIOA service, which does not include self-service or informational activities.[7]

- Adults and dislocated workers who receive services funded under Title I other than self-service or informational activities must be registered and must be a participant.[8]
- The WIOA Participation Date is the date following a determination of eligibility to participate in the program when the individual begins receiving a service funded by the program in either a physical location (One-Stop Career Center) or remotely through electronic technologies. The WIOA Participation date is the official point when the participant begins being counted in performance measures.
- In Nebraska, there is a limit of 90 days for validity of an application as it relates to eligibility. If over 90 days elapse between the WIOA Application Date and the WIOA Participation Date, then the application will be closed.

## Enrollment

Enrollment in the WIOA youth program requires the collection of information to support an eligibility determination and participation in any of the fourteen WIOA youth program elements.[9]

- All youth who participate in the youth program must be enrolled in the WIOA program in order to receive any youth services.[10]
- A youth's dropout status is determined at the time of WIOA youth program enrollment. An individual who is out-of-school at the time of registration and subsequently placed in an alternative school, may be considered an out-of-school youth for the purposes of the 75 percent expenditure requirement for out-of-school youth.[11]
- Employment Opportunity data must be collected on every individual who is interested in being considered for WIOA Title I financially assisted aid, benefits, services, or training by a recipient, and who has signified that interest by submitting personal information in response to a request from a grant recipient or designated service provider.[12]

### Eligibility for Training Services

Under Section 134(c)(3)(A) of WIOA training services may be made available to employed and unemployed adults and dislocated workers who:

- A One-Stop operator or One-Stop partner determines, after an interview, evaluation, assessment, and career planning are:
  - Unlikely or unable to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment through career services;
  - In need of training services to obtain or retain employment leading to economic self-sufficiency or wages comparable to or higher than wages from previous employment; and
  - Have the skills and qualifications to participate successfully in training service;[13]
- Have selected a program of training services that is directly linked to the employment opportunities in the local area or the planning region, or in another area to which the individuals are willing to commute or relocate;[14]
- Are unable to obtain grant assistance from other sources to pay the costs of such training, including such sources as State-funded training funds, Trade Adjustment Assistance, and Pell Grants, or require WIOA assistance in addition to other sources of grant assistance, including Pell Grants (provisions relating to fund coordination are found at 20 CFR § 680.230 and Section 134(c)(3)(B) of WIOA); and
- If training services are provided through the adult funding stream, are determined eligible in accordance with the state and local priority system, if any, in effect for adults under Section 134(c)(3)(E) of WIOA and 20 CFR § 680.600.[15]

### Objective Assessment

Local youth programs must provide an objective assessment of the academic levels, skill levels, and service needs of each participant. The assessment shall include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes

(including interests and aptitudes for nontraditional jobs), supportive service needs, and developmental needs of such participant, for the purpose of identifying appropriate services and career pathways for participants.[16]

A new assessment of a participant is not required if the provider carrying out such a program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program.[17]

### Individual Service Strategy Plan

- The individual employment plan (IEP) is an individual career service, under Section 134(c)(2)(A)(xii)(II), that is jointly developed by the participant and career planner when determined appropriate by the One-Stop operator or One-Stop partner. The plan is an ongoing strategy to identify employment goals, achievement objectives, and the appropriate combination of services for the participant to achieve the employment goals.[18]
- If determined appropriate based on the need of the individual participant, the “combination of services” includes supportive services.
- The development of an IEP is only one of the career services that may be provided to adults and dislocated workers determined to be in need of such service; it is not a condition to receive that service.
- Local youth programs must develop Individual Service Strategies (ISS) for each participant that are directly linked to one or more of the indicators of performance described in Section 116(b)(2)(A)(ii) of WIOA, and that shall identify career pathways that include education and employment goals (including, in appropriate circumstances, nontraditional employment), appropriate achievement objectives, and appropriate services for the participant taking into account the objective assessment.[19]
- A new service strategy for a youth participant is not required if the provider carrying out such a program determines it is appropriate to use a recent service strategy developed for the participant.[20]

### Supportive Services

The term “supportive services” means services such as transportation, child care, dependent care, housing, and needs-related payments that are necessary to enable an individual to participate in activities authorized under WIOA Title I. To ensure flexibility, the regulations afford local areas the discretion to provide supportive services as they deem appropriate with limitations only as defined in WIOA. Supportive services may only be provided to adults and dislocated workers who are:

- Participating in career or training services; and
- Unable to obtain supportive services through other programs providing such services.

Supportive services may only be provided when they are necessary to enable individuals to participate in Title I activities. Local boards, in consultation with the One-Stop partners and other community service providers, must develop a policy on supportive services that ensures resource and service coordination. Such policy should address procedures for referral to such services, including how such services will be funded when they are not otherwise available from other sources. Supportive services for youth, as defined in Section 3(59) of WIOA, are services that enable an individual to participate in WIOA activities. These services include, but are not limited to, the following:

- (a) Linkages to community services;
- (b) Assistance with transportation;
- (c) Assistance with child care and dependent care;
- (d) Assistance with housing;
- (e) Needs-related payments;
- (f) Assistance with educational testing;
- (g) Reasonable accommodations for youth with disabilities;
- (h) Referrals to health care; and
- (i) Assistance with uniforms or other appropriate work attire and work-related tools, including such items as eye glasses and protective eye gear.

#### Training Decisions for Adults and Dislocated Workers

After an interview, evaluation, or assessment, and career planning before deciding on training, the career planner must ask these questions:

1. Has the participant met the qualifications to be eligible for training services (i.e., received either an interview, planning or any other method through which the One-Stop operator or partner can obtain information and make an eligibility determination to be determined eligible for training service)?[26]
  - a. There is no federally-required minimum time period for participation in career services before receiving training services.[27]
2. Does the participant have the skills and qualifications to successfully complete the selected training program?
3. Is the program of training services directly linked to the employment opportunities either in the local area or in another area to which the participant is willing to relocate?
4. Is there another funding source willing to pay the costs of the training, including such sources as state-funded training funds, Trade Adjustment Assistance and Federal Pell Grants?
5. If funding is limited in the local area, does the adult participant meet the priority requirements given to recipients of public assistance and other low-income individuals?
6. Selection by the participant of eligible providers is made in consultation with the career planner. [Refer to Eligible Training Provider and Individual Training Account policies.]

## Exits

For purposes of performance calculations, exit is the last date of service after which an individual received services through the adult, dislocated worker, or youth program under WIOA Title I, the Adult Education and Literacy program under WIOA Title II, or the employment services authorized by Wagner Peyser as amended by WIOA Title III, and no future services other than follow-up services are planned.[28] Ninety days of no service does not include self-service or information-only activities or follow-up services.[29]

Everyone who has a WIOA Participation Date in NEworks shall be assigned a WIOA Case Closure when he or she is finished receiving WIOA-funded services and is not scheduled for future services. In NEworks, the WIOA Case Closure interface is only available after each valid activity has an actual end date. The Case Closure is initially subject to change for 90 consecutive calendar days, at which time if no further services have been received, it becomes the official outcome/exit date. Every WIOA participant receiving an exit date shall be counted in WIOA performance with the exception of a participant satisfying one of the following global exclusions, either at the time of exit or during the three-quarter measurement period following the exit quarter: institutionalized; deceased; health/medical; family care; relocated to a mandated program (youth only); reservists called to active duty who choose not to return to WIOA; or invalid or missing social security number. For more detailed information, refer to the “Program Exit” policy.

## Follow-Up/Post Placement Contact

Adult and dislocated workers follow up services, as described in Section 134(c)(2)(A)(xiii) of WIOA and 20 CFR § 678.430(c), must be made available, as appropriate, for a minimum of 12 months following the first day of employment, to registered participants who are placed in unsubsidized employment.[30] 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.[31]

Local programs must make follow-up services available to all youth participants for not less than 12 months after the completion of participation.[32] Follow-up services are critical services provided following a youth’s exit from the program to help ensure the youth is successful in employment and/or post-secondary education and training.[33] A list of potential follow-up services for youth can be found at 20 CFR § 681.580(b). Follow-up services may be provided beyond 12 months at the state or local board’s discretion.[34] However, follow-up services must include more than only a contact attempted or made for securing documentation in order to report a performance outcome.[35]

## Documentation

An individual’s case file must contain a determination of need for training services under 20 CFR § 680.210, as determined through the interview, evaluation, or assessment, and

career planning informed by local labor market information and training provider performance information, or through any other career service received. There is no requirement that career services be provided as a condition to receipt of training services; however, if career services are not provided before training, the local board must document the circumstances that justified its determination to provide training services without first providing the career services described in 20 CFR § 680.220(a).[36] There is no federally-required minimum time period for participation in career services before receiving training services.[37]

- The case management file for enrollments prior to July 1, 2012 may be either hard copy, electronic, or both. All case management/career planning files that would be subject to a Federal or State Monitor review because the application date is on or after July 1, 2012 will be electronic.
- For registered participants, a standardized electronic record that includes appropriate performance information must be maintained at the local level.

### *Disclaimer*

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

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[1] WIOA NPRM Section-by-Section Discussion of Proposal

[2] WIOA Sec. 134(c)(3)(A)(i)(I)(cc)

[3] WIOA Sec. 134(c)(2)(A)(iii)

[4] 20 CFR § 681.420(a)(1)

[5] WIOA Sec. 129(c)(3)(A)

[6] WIOA Sec. 129(c)(3)(B)

[7] 20 CFR § 680.110(a)

[8] 20 CFR § 680.110(b)

[9] 20 CFR § 681.310(b)

[10] 20 CFR § 681.310(a)

[11] 20 CFR § 681.240

[12] 20 CFR § 680.110(c)

[13] 20 CFR § 680.210(a)(1)-(3)

[14] 20 CFR § 680.210(b)

[15] 20 CFR § 680.210(c)

[16] WIOA Sec. 129(c)(1)(A)

[17] Ibid.

[18] 20 CFR § 680.180

[19] WIOA Sec. 129(c)(1)(B)

[20] Ibid.

- [21] 20 CFR § 681.570
- [22] 20 CFR § 680.910(a)
- [23] 20 CFR § 680.910(b)
- [24] 20 CFR § 680.900
- [25] 20 CFR § 680.570
- [26] WIOA Sec. 134(c)(3)(A)(i) and (ii); 20 CFR § 680.220(a)
- [27] 20 CFR § 680.220(b)
- [28] 20 CFR § 677.150(c)(1)(i)(B)
- [29] 20 CFR § 677.150(c)(1)(i)(A)
- [30] 20 CFR § 680.150(c)
- [31] 20 CFR § 678.430
- [32] 20 CFR § 681.460(a)(9)
- [33] 20 CFR § 681.580(a)
- [34] 20 CFR 681.580(c)
- [35] WIOA Sec. 129(c)(2)(I)
- [36] 20 CFR § 680.220(b)
- [37] 20 CFR § 680.220(b)

## **Preliminary Policy on Cash Management**

### *Reference*

Workforce Innovation and Opportunity Act, Sec. 184 and Sec. 195; 31 CFR Part 205; 31 CFR Part 208; 29 CFR 95.22; 29 CFR 97.21; Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Final Rule; and the One-Stop Comprehensive Financial Management Technical Assistance Guide.

### *Background*

Cash management involves minimizing the time between the transfer of federal funds and the payment of bills generated by the grant.

All entities that received funds issued on or after December 26, 2014, are bound by the cash management requirements of 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Final Rule (Uniform Guidance).

All entities that received funds issued prior to December 26, 2014, and which will have funding actions, allotments, or incremental funding actions taking place after December 26, 2014, are bound by the cash management requirements of the Uniform Guidance for the new funds only.[1]

All entities that received funds issued prior to December 26, 2014, and which will not have additional funding actions taking place after December 26, 2014, may continue to follow the terms and conditions as outlined in their award documents, including the cash management requirements of 29 CFR 97.21 (for governmental agencies) and 29 CFR 95.22 (for institutions of higher education (not a part of State government), hospitals and other nonprofit organizations, and commercial entities).[2]

Regardless of when a grant was received, entities that receive federal funds are also subject to the cash management regulations at 31 CFR Part 205 [Rules and Procedures for Efficient Federal-State Fund Transfers] implementing the Cash Management Improvement Act of 1990 (CMIA).

### *Policy*

This policy addresses issues in Nebraska's subgrantee/non-Federal entity payment system. Subgrantees/non-Federal entities must demonstrate that they maintain procedures to support federal cash management requirements.

### Definitions

"Non-Federal entity" means a State, local government, Indian tribe, institution of higher education, or non-profit organization that carries out a federal award as a recipient or

subrecipient.[3] The City of Omaha, City of Lincoln, State of Nebraska, Heartland Workforce Solutions (HWS), and Goodwill Industries, as subrecipients of WIOA funds, are considered “non-Federal entities.”

“Pass-through entity” means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.[4] If the non-Federal entity for the local area provides a subaward to a subrecipient to carry out part of a Federal program, the subrecipient is considered a “pass-through entity.” The State of Nebraska, the City of Omaha, and HWS are pass-through entities.

“Subrecipient” means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a federal program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.[5] HWS, as a non-Federal entity that receives a subaward from the City of Omaha, is a subrecipient. Goodwill Industries, as a non-Federal entity that receives a subaward from HWS, is also a subrecipient.

“Subaward” means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.[6]

“Contractor” means an entity that receives a legal instrument (i.e., contract) by which a non-Federal entity purchases property or services needed to carry out the project or program under a federal award. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a federal award or subaward.[7]

“Subgrantee” is a term that applies to 29 CFR Part 97 (applicable to funds not subject to the Uniform Guidance received by state and local government), and means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided.[8]

#### Subrecipient/Contractor Determination

The subgrantee/non-Federal entity may concurrently receive federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with federal awarding agencies and pass-through entities. Payments received for goods or services provided as a contractor are not federal awards.[9] Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.[10]

Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:	Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:
Determines who is eligible to receive what Federal assistance	Provides the goods and services within normal business operations
Has its performance measured in relation to whether objectives of a Federal program were met	Provides similar goods or services to many different purchasers
Has responsibility for programmatic decision making	Normally operates in a competitive environment
Is responsible for adherence to applicable Federal program requirements specified in the federal award	Provides goods or services that are ancillary to the operation of the Federal program
In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.[11]	Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.[12]

In determining whether an agreement between a pass-through entity and another subgrantee/non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.[13]

### Minimize Cash on Hand

Regardless of when grant funds were issued, subgrantees/non-Federal entities shall disburse repayments to and interest earned on a revolving fund before requesting additional cash payments for the same activity.[14] Subgrantees/non-Federal entities shall disburse program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.[15]

### Cash Advances

#### *Funds Received Before December 26, 2014*

Subgrantees/non-Federal entities shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures that are in accordance with Department of Treasury regulations at 31 CFR Part 205.[16] These procedures identify funding techniques that effectively minimize cash on hand. If this standard is not met, then reimbursement is the preferred method.

Cash advances shall be limited to the minimum amounts needed.[17]

To the maximum extent feasible, subgrantees/non-Federal entities shall be provided advance payments via electronic funds transfer (EFT). This procedure has substantially reduced the time needed to receive cash.

#### *Funds Received on or After December 26, 2014*

For non-Federal entities other than states, payments methods must minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the subgrantee/non-Federal entity whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means. Except as noted elsewhere in the Uniform Guidance, Federal agencies must require recipients to use only Office of Management and Budget (OMB)-approved standard governmentwide information collection requests to request payment.[18] The financial management system of each subgrantee/non-Federal entity must provide written procedures to implement the requirements of § 200.305 of the Uniform Guidance.[19]

The subgrantee/non-Federal entity shall be paid in advance, provided it maintains or demonstrates a willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by the subgrantee/non-Federal entity, and financial management systems that meet the standards for fund control and accountability as established in the Uniform Guidance. Advance payments to a subgrantee/non-Federal entity must be limited to the minimum amounts needed and be timed in accordance with the actual, immediate cash requirements of the subgrantee/non-Federal entity in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the subgrantee/non-Federal entity for direct program or project costs and the proportionate share of any allowable indirect costs. The subgrantee/non-Federal entity must make timely payments to contractors in accordance with the contract provisions.[20]

Whenever possible, advance payments must be consolidated to cover anticipated cash needs for all federal awards made by the federal awarding agency to the recipient.[21]

Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer (EFT) and must comply with applicable guidance in 31 CFR 208 [Management of Federal Agency Disbursements]. To the maximum extent feasible, subgrantees/non-Federal entities shall be provided advance payments via EFT.

Subgrantee/non-Federal entities must be authorized to submit requests for payments and reimbursements at least monthly when EFTs are not used, and as often as they like when EFTs are used, in accordance with the Electronic Fund Transfer Act (15 USC 1693-1693r).[22]

## Reimbursement Method

In all cases, reimbursement is the method of payment to be used when the subgrantee/non-Federal entity is unwilling or unable to comply with the specified cash management practices.[23] Each subgrantee/non-Federal entity shall be paid as promptly as possible after receipt of a proper request for reimbursement.

### *Funds Received on or After December 26, 2014*

Reimbursement is the method of payment to be used when the subgrantee/non-Federal entity is unwilling or unable to comply with the specified cash management practices. Reimbursement is also the preferred method when the awarding agency sets a specific condition per §200.207 Specific conditions of the Uniform Guidance, or when the subgrantee/non-Federal entity requests payment by reimbursement. This method may be used on any federal award for construction, or if the major portion of the construction project is accomplished through private market financing or federal loans, and the federal award constitutes a minor portion of the project. When the reimbursement method is used, the federal awarding agency or pass-through entity must make payment within 30 calendar days after receipt of the billing, unless the federal awarding agency or pass-through entity reasonably believes the request to be improper.[24]

## Working Capital Advance Method

### *Funds Received Before December 26, 2014*

If it is determined that the subgrantee/non-Federal entity lacks sufficient working capital, this method may be used in place of the reimbursement method. It is a method for advancing funds to a subgrantee/non-Federal entity to cover its estimated disbursement needs for an initial period. Thereafter, the awarding agency shall reimburse the subgrantee/non-Federal entity for its actual cash disbursements.[25]

The working capital advance method of payment shall not be used by grantees or subgrantees/non-Federal entities if the reason for using such method is the unwillingness or inability of the grantee to provide timely advances to the subgrantee/non-Federal entity to meet the subgrantee's/non-Federal entity's actual cash disbursements.[26]

### *Funds Received on or After December 26, 2014*

If the subgrantee/non-Federal entity cannot meet the criteria for advance payments and the federal awarding agency or pass-through entity has determined that reimbursement is not feasible because the subgrantee/non-Federal entity lacks sufficient working capital, the federal awarding agency or pass-through entity may provide cash on a working capital advance basis. Under this procedure, the federal awarding agency or pass-through entity must advance cash payments to the subgrantee/non-Federal entity to cover its estimated disbursement needs for an initial period generally geared to the subgrantee's/non-Federal entity's disbursing cycle. Thereafter, the federal awarding agency or pass-through entity

must reimburse the subgrantee/non-Federal entity for its actual cash disbursements. Use of the working capital advance method of payment requires that the pass-through entity provide timely advance payments to any subrecipients in order to meet the subrecipient's actual cash disbursements. The working capital advance method of payment must not be used by the pass-through entity if the reason for using this method is the unwillingness or inability of the pass-through entity to provide timely advance payments to the subrecipient to meet the subrecipient's actual cash disbursements.[27]

### Cash Depositories

#### *Funds Received Before December 26, 2014*

Subgrantees/non-Federal entities are encouraged to use minority-owned banks (a bank which is owned at least 50 percent by minority group members).[28]

A subgrantee/non-Federal entity shall not be required to maintain a separate bank account, but shall separately account for each funding source.[29] Subgrantees/non-Federal entities must deposit federal funds in an institution with federal deposit coverage. Funds shall be held in interest bearing accounts unless the depository requires an average or minimum balance so high that it is not feasible.[30]

#### *Funds Received on or After December 26, 2014*

Standards governing the use of banks and other institutions as depositories of advance payments under federal awards are as follows:

- The federal awarding agency and pass-through entity must not require separate depository accounts for funds provided to a subgrantee/non-Federal entity or establish any eligibility requirements for depositories for funds provided to the subgrantee/non-Federal entity. However, the subgrantee/non-Federal entity must be able to account for the receipt, obligation and expenditure of funds
- Advance payments of Federal funds must be deposited and maintained in insured accounts whenever possible.[31]

### Interest Retention and Remittance

Advance payments of Federal funds must be deposited into interest-bearing accounts, unless:

- the subgrantee/non-Federal entity receives less than \$120,000 in federal awards per year;
- the best reasonably available interest-bearing account would not be expected to earn interest in excess of the amount set forth below that the entity may retain for administrative expenses;
- the depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources; or

- (for funds received on or after December 26, 2014) foreign government or banking system prohibits or precludes interest bearing accounts.[32]

Interest earned on advances of Federal funds is not program income.[33]

#### *Funds Received Before December 26, 2014*

Interest amounts up to \$250 per year may be retained by the recipient for administrative expense. State universities and hospitals shall comply with CMIA, as it pertains to interest. If an entity subject to CMIA uses its own funds to pay pre-award costs for discretionary awards without prior written approval from DOL, it waives its right to recover the interest under CMIA. Interest should be remitted to the HHS Payment Management System through an electronic medium such as the Fedwire Deposit system. Recipients who do not have this capability should use a check.[34]

#### *Funds Received on or After December 26, 2014*

Interest earned amounts up to \$500 per year may be retained by the subgrantee/non-Federal entity for administrative expense. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment. Remittances must include pertinent information of the payee and nature of payment in the memo area (often referred to as “addenda records” by Financial Institutions) as that will assist in the timely posting of interest earned on federal funds. Pertinent details include the Payee Account Number (PAN) if the payment originated from PMS, or agency information if the payment originated from ASAP, NSF or another federal agency payment system.[35] Instructions for submission of remittances through an electronic medium or otherwise, including information on account and routing numbers, are listed in the Uniform Guidance § 200.305(b)(9)(i) through (v).

#### Withholding Payments

#### *Funds Received on or After December 26, 2014*

Unless otherwise required by federal statute, awarding agencies shall not withhold payments for proper charges incurred by subgrantees/non-Federal entities unless the subgrantee/non-Federal entity has failed to comply with grant award conditions or the subgrantee/non-Federal entity is indebted to the United States.[36] Cash withheld for failure to comply with a grant award condition, but without suspension of the grant, shall be released to the subgrantee/non-Federal entity upon subsequent compliance.[37]

#### *Funds Received on or After December 26, 2014*

Unless otherwise required by Federal statutes, payments for allowable costs by non-Federal entities must not be withheld at any time during the period of performance unless

the conditions of §§200.207 Specific conditions, Subpart D—Post Federal Award Requirements of the Uniform Guidance, 200.338 Remedies for Noncompliance, or one or more of the following applies:

- The subgrantee/non-Federal entity has failed to comply with the project objectives, Federal statutes, regulations, or the terms and conditions of the federal award.
- The subgrantee/non-Federal entity is delinquent in a debt to the United States as defined in OMB Guidance A-129, “Policies for Federal Credit Programs and Non-Tax Receivables.” Under such conditions, the federal awarding agency or pass-through entity may, upon reasonable notice, inform the subgrantee/non-Federal entity that payments must not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the federal government is liquidated.
- A payment withheld for failure to comply with federal award conditions, but without suspension of the federal award, must be released to the subgrantee/non-Federal entity upon subsequent compliance. When a federal award is suspended, payment adjustments will be made in accordance with §200.342 Effects of suspension and termination.
- A payment must not be made to a subgrantee/non-Federal entity for amounts that are withheld by the subgrantee/non-Federal entity from payment to contractors to assure satisfactory completion of work. A payment must be made when the subgrantee/non-Federal entity actually disburses the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.[38]

#### Monitoring Local Cash Management Practices

State monitors shall review daily cash balances as part of their regularly scheduled cash management review process. If potential problems are noted, corrective action shall be required.

#### *Disclaimer*

This policy is based on NDOL’s reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

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[1] <http://doleta.gov/grants/UniformGuidance.cfm>

[2] Ibid.

[3] 2 CFR § 200.69

[4] 2 CFR § 200.74, A-133 § \_\_\_\_\_.105

[5] 2 CFR § 200.93

- [6] 2 CFR § 200.92
- [7] 2 CFR § 200.22 and 200.23
- [8] 29 CFR § 97.3
- [9] 2 CFR § 200.330, 2 CFR § 200.501(f)
- [10] 2 CFR § 200.330
- [11] 2 CFR § 200.330(a)
- [12] 2 CFR § 200.330(b)
- [13] 2 CFR § 200.330(c)
- [14] 29 CFR § 97.21(f)
- [15] 2 CFR § 200.305(b)(5), 29 CFR § 95.22(g), 29 CFR § 97.21(f)(2)
- [16] 29 CFR § 95.22(b), 29 CFR § 97.21(c)
- [17] 29 CFR § 95.22(b)
- [18] 2 CFR § 200.305(b)
- [19] 2 CFR § 200.302
- [20] 2 CFR § 200.305(b)(1)
- [21] 2 CFR § 200.305(b)(2)(i)
- [22] 2 CFR § 200.305(b)(2)(ii)
- [23] 2 CFR § 200.305(b)(3) 29 CFR § 95.22(e), 29 CFR § 97.21(d)
- [24] 2 CFR § 200.305(b)(3)
- [25] 29 CFR § 95.22(f), 29 CFR § 97.21(e)
- [26] Ibid.
- [27] 2 CFR § 200.305(b)(4)
- [28] 29 CFR § 95.22(j), 29 CFR § 97.21(h)
- [29] 29 CFR § 95.22(i)(1),
- [30] 29 CFR § 95.22(k)
- [31] 2 CFR § 200.305(b)(7)
- [32] 2 CFR § 200.305(b)(8), 29 CFR § 95.22(k)
- [33] 2 CFR § 200.80
- [34] 29 CFR § 95.22(k)
- [35] 2 CFR § 200.305(b)(9)
- [36] 29 CFR § 95.22(h), 29 CFR § 97.21(g)(1)
- [37] 29 CFR § 97.21(g)(2)
- [38] 2 CFR § 200.305(b)(6)

## **Preliminary Policy on Co-Enrollment**

### *Reference*

Workforce Innovation and Opportunity Act (WIOA) Sections 3, 108, 129, 134, 188, and 189. Preliminary Policies on Eligibility for Youth Programs, Eligibility for Adult Programs, and Eligibility for Dislocated Worker Programs.

### *Background*

Under WIOA, the ages for eligibility for youth and adult workforce development activities overlap. Eligible youth ages range from 14 to 21 if in-school youth and from 16 to 24 for out-of-school youth. Eligible adult ages are 18 and older. The eligibility requirements for Dislocated Worker programs do not contain any age limitations. Thus, individuals may qualify for both Adult/Dislocated Worker and Youth programs under WIOA. The purpose of this policy is to clarify the method of co-enrollment and explain the funding process for an individual involved in both programs.

### *Action*

This policy is effective immediately.

### *Policy*

#### Eligibility

Eligible individuals ages 18 to 24 [at registration] may participate in both Adult/Dislocated Worker and Youth programs concurrently. Such individuals must meet the eligibility criteria applicable to the services received. For example, an individual may qualify to receive both youth services and adult career services, but fail to meet the eligibility requirements for receipt of adult training services. Local areas may determine the appropriate level and balance of services under the Youth, Adult, Dislocated Worker programs, or through other services.

For additional information on eligibility requirements, refer to the following policies:

- Eligibility for Youth Programs
- Eligibility for Adult Programs
- Eligibility for Dislocated Worker Programs

#### Funding

Local program operators must identify and track the funding streams which pay the costs of the services provided to individuals who are participating in the Youth and Adult/Dislocated Worker programs concurrently. This is necessary to ensure that program funds are spent on services allowed under the specific provisions. For example, funds for

Adult programs must only be spent on services allowed by WIOA Sec. 134 and not on services only allowed by section 129 for Youth programs, such as dropout recovery services.[1] Furthermore, tracking the funds will allow the local areas to determine whether they satisfy the spending requirements mandated by WIOA.[2]

### Nonduplication

When a participant is enrolled in multiple programs, local boards must ensure that services are not duplicated for an individual. Local areas must include in their local plans a description of how the local board will coordinate education and workforce development activities carried out in the local area with relevant secondary and postsecondary education programs and activities to coordinate strategies, enhance services, and avoid duplication of services.[3]

### Nondiscrimination

WIOA Sec. 188 provides that no individual may be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex, national origin, age, disability, or political affiliation or belief.[4]

Participation in programs and activities must also be available to citizens of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States. Individuals with employment authorization may access any WIOA services for which they otherwise would qualify.[5]

### Verification of Lawful Presence

Each agency responsible for determining eligibility for WIOA benefits in Nebraska is required to:

1. Have each applicant for WIOA services attest that he or she is a U.S. citizen or a qualified alien. This must be done using the format prescribed by the Nebraska Department of Administrative Services (DAS).
  - a. If in the above Step 1, the applicant indicates he or she is an alien, then complete Step 2 as follows:
2. Verify his or her lawful presence in the United States using the SAVE (Systematic Alien Verification for Entitlements) Program operated by the U.S. Department of Homeland Security.

### Enforcement of Military Selective Service Act

Local programs shall ensure that each individual participating in any program established under Title I of WIOA or receiving any assistance or benefit under such title, has not

violated Section 3 of the Military Selective Services Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section.[6]

### *Disclaimer*

This policy is based on NDOL's initial reading of the statute without any interpretive guidance from USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released that are contrary to or otherwise different from NDOL's interpretation of WIOA. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations and guidelines are established.

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[1] WIOA Sec. 129(c)(2)(B)

[2] For example, the requirement that 75% of youth funds are spent on out-of-school youth.

[3] WIOA Sec. 108(b)(10)

[4] WIOA Sec. 188(a)(2)

[5] WIOA Sec. 188(a)(5)

[6] WIOA Sec. 189(h)

## Interim Policy on Conflict of Interest

### *Reference*

Workforce Innovation and Opportunity Act (WIOA) Sec. 101, 102, and 107; Workforce Innovation and Opportunity Act - Notice of Proposed Rulemaking, 20 CFR §§ 679.430, 683.200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Final Rule (Uniform Guidance), 2 CFR 200.

### *Background*

The State Plan must establish a policy that identifies the circumstances that may present a conflict of interest for a State board or local board member, or the entity or class of officials that the member represents, and procedures to resolve such conflicts.[1]

This conflict of interest policy ensures that individuals employed by or representatives of organizations entrusted with public funds and their immediate family members will not personally or professionally benefit from the award or expenditure of such funds. This policy provides that each grant recipient and subrecipient must ensure that no individual in a decision-making capacity engages in any activity if a conflict of interest (real, implied, apparent, or potential) is involved. This includes decisions involving the selection, award, or administration of a grant, subgrant or contract supported by WIOA funds.

### *Action*

After a 10-day review period, this policy is considered a final interim policy. Questions and comments should be submitted in writing to the WIOA Policy Mailbox: [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

Local areas need to establish a policy on conflict of interest addressing the provisions identified in this policy as well as ensure their local WIOA Plan addresses the requirements set forth in this policy.

### *Policy*

#### Caseworkers

Career planners and other caseworkers cannot enroll, case manage, or otherwise directly work with family members as participants, applicants, or registrants. When a family member of a career planner or case worker is in need of services, that person must be assigned to someone else in order to avoid a real or apparent conflict of interest.

#### State and Local Boards

A member of the State board, a local board, or a standing committee must neither cast a vote on, nor participate in any decision-making capacity, on the provision of services by

such member (or any organization which that member directly represents), nor on any matter which would provide any direct financial benefit to that member or a member of his or her immediate family. [2] Neither membership on the State board, a local board, or a standing committee, nor the receipt of WIOA funds to provide training and related services, by itself, violates these conflict of interest provisions.[3]

In accordance with § 200.112 of the Uniform Guidance, recipients of federal awards must disclose in writing any potential conflict of interest to the Department of Labor. Subrecipients must disclose in writing any potential conflict of interest to the recipient of grant funds.[4]

### Entities Performing Multiple Functions

Local organizations often function simultaneously in a variety of roles, including local fiscal agent, local board staff, One-Stop operator, and direct provider of career services or training services. Any organization that has been selected or otherwise designated to perform more than one of these functions must develop a written agreement with the local board and chief elected official to clarify how the organization will carry out its responsibilities while demonstrating compliance with WIOA and corresponding regulations, relevant Office of Management and Budget circulars, and Nebraska's conflict of interest policy.[5]

### Procurement

#### *Issues Related to Employees*

Each grant recipient and subrecipient must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the grant recipient and subrecipient may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, grant recipients and subrecipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the grantee or grant recipient and subrecipient.[6]

### *Issues Related to Parent, Affiliate, or Subsidiary Organizations*

If the grant recipient and subrecipient has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the grant recipient and subrecipient must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the grant recipient and subrecipient is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.[7]

### *Issues Related to Board and Council Members*

Every state or local Workforce Development Board member in Nebraska, regardless of occupation, is considered a public official. Consequently, they are subject to the Nebraska Political Accountability and Disclosure Act.[8] Those circumstances that would constitute a conflict of interest for all members of the state and local boards would include hiring of immediate family members, soliciting or accepting something of value, use of a public position for personal gain, use of public resources, and interests in contracts.

### *Issues Related to Grant Recipients and Subrecipients*

In accordance with § 200.112 of the Uniform Guidance, recipients of federal awards must disclose in writing any potential conflict of interest to the Department of Labor. Subrecipients must disclose in writing any potential conflict of interest to the recipient of grant funds.[9]

### Incumbent Worker Training

As stated above, a state board member, a local board member, or a standing committee member must neither cast a vote on, nor participate in any decision-making capacity, on the provision of services by such member (or any organization which that member directly represents), nor on any matter which would provide any direct financial benefit to that member or the member's immediate family.[10] For example, a local board member who is also an employer who wants to use services on a fee-for-service basis would be prohibited from voting to approve the use of local area services, facilities, or equipment for employment and training activities to such board member's incumbent workers.

### *Disclaimer*

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

- [1] WIOA Sec. 102(b)(2)(E)(i)
- [2] WIOA Sec. WIOA Sec. 101(f)(2) and 107(h) and, 20 CFR § 683.200(c)(5)(i)
- [3] 20 CFR § 683.200(c)(5)(ii)
- [4] 20 CFR § 683.200(c)(5)(iii)
- [5] 20 CFR § 679.430
- [6] 2 CFR § 200.318(c)(1)
- [7] 2 CFR § 200.318(c)(2)
- [8] The Nebraska Political Accountability and Disclosure Act (Neb. Rev. Stat. 49-1401 to 49-14141) addresses, among other things, conflicts between the private interests of public officials and his or her duties as such an official.
- [9] 20 CFR § 683.200(c)(5)(iii)
- [10] 20 CFR § 683.200(c)(5)(i)

## **Preliminary Policy on Correction of Records in the State's Integrated MIS, NEworks**

### *Reference*

Workforce Innovation and Opportunity Act (WIOA), Section 116; WIOA Notice of Proposed Rulemaking, 20 CFR § 677.160; Federal Register/Vol. 68, No. 177/Friday, September 12, 2003; Eligibility for Adult Programs Policy; Eligibility for Dislocated Workers Policy; Eligibility for Youth Programs Policy; Equal Opportunity and Nondiscrimination Policy; Application Time Limit Policy; Case Management Policy; Local Plan Instructions Policy; Data Validation Policy; Record Retention Policy; Electronic Case Files Policy; TEGL 14-00, Change 1; TEGL 17-05; and TEGL 17-09.

### *Background*

When the Annual Report is submitted, it must include the name and title of the authorized official of the governor responsible for certifying that the data submitted is complete and accurate. This information then determines whether the state has exceeded WIOA Title I performance levels. This is one of the criteria used to evaluate if a state qualifies for a federal incentive grant award.

States are required to establish basic standard operating procedures for data collection and handling to ensure the quality and integrity of the data over time. This policy is written to ensure that the data submitted in the Annual Report is indeed "complete and accurate." To help ensure the integrity of the data, this policy also identifies the steps to take when it is appropriate and necessary to correct data.

### *Action*

This policy takes effect on July 1, 2015.

### *Policy*

Timeliness and accuracy of information in the state's integrated MIS, NEworks, is paramount to maintaining data integrity which is required for program management, program oversight and federal reporting. Therefore, the following data correction request policy must be followed.

#### Participants and Reportable Individuals

A reportable individual is one who has taken action that demonstrates an 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; and
- Individuals who only receive information on services or activities.[2]

A participant is a reportable individual who has received staff-assisted services after satisfying all applicable programmatic requirements for the provision of services, such as eligibility determination.[3] Individuals who have not completed at least 12 contact hours in the adult Education and Family Literacy Act program, individuals who only use the self-service system, and individuals who only receive information services or activities are not participants.[4] Programs must include participants in their performance calculations.[5]

Self-service or information-only activities are not counted against the 90 days of no service required to meet the definition of exit from a program.[6]

### What Counts and Does Not Count for Performance

The primary indicators of performance as described in Sec. 116(b)(2)(A) of WIOA apply to all individuals served by the adult, dislocated worker and youth programs.[7]

An individual who is given a WIOA Participation Date shall count toward performance (unless they are later excluded). Adults and dislocated workers who only receive self-service and informational activities will not be given a WIOA Participation Date.

Individuals in the following categories, either at the time of exit or during the three-quarter measurement period following the exit quarter, are considered exclusions. These include:

- Participants who are residing in an institution or facility providing 24-hour support, such as a prison or hospital, with expectations to remain in that institution for at least 90 days;
- Participants who die;
- Participants receiving treatment for a health/medical condition that precludes entry into unsubsidized employment or continued participation in WIOA. This code does not include temporary conditions expected to last for less than 90 days;
- Participants providing care for a family member with a health/medical condition that precludes entry into unsubsidized employment or continued participation in WIOA. This code does not include temporary conditions or situations expected to last for less than 90 days;
- Participants (youth only) in the foster care system or another mandated (residential or non-residential) program that has moved from the area as part of such a program;
- Participants who are reservists called to active duty for at least 90 days who choose not to return to WIOA; and
- Participants who do not voluntarily disclose a valid social security number.[8]

### When Data should be Corrected

#### *Errors Identified through WIASRD Edit Checks*

One of the required reports the state must submit electronically each quarter is the WIA Standardized Record Data (WIASRD). Prior to submitting this report, an edit check is

made. Information that shows up as errors in the edit check must be corrected. Often this edit check process catches human errors in inputting the data, i.e., dates that are out of the appropriate timeframes. When the state discovers errors identified by the WIASRD error log, the local area shall be notified. The local area may respond via email to the state request for information without utilizing the Correction of Records process. The local area must respond to the state within two business days of the state's request, due to the immediate nature of the reporting requirements.[9]

### *Errors Identified through Local Area Quality Control*

When the local area discovers inaccurate information during their quality control process, the local area must submit a record correction per the process identified in this policy. Correction of Records Requests are to be submitted upon immediate identification of inaccurate information. Record correction requests will not be processed for participants who have been included in annual reports that have been submitted for federal review.

### When Data Should Not Be Corrected

#### *To Improve Performance*

Local areas monitor performance throughout the year. The "Correction of Records" process must not be used to enhance performance by deleting records of participants who have appropriately received a WIOA Participation Date. [Note: Adults and dislocated workers receiving only self-service or informational activities (as discussed earlier) may be registered in the state's integrated MIS; NEworks. However, if the individual has not been given a WIOA Participation Date, then he or she is properly excluded from the WIOA title IB performance measures.]

#### *To Distort Actual Events*

Until instructed otherwise, suppliers of data used for research studies must meet guidelines published on September 12, 2003 to implement the Federal Policy on Research Misconduct and should be aware of the following definitions:

- "Fabrication" means making up data or results and recording or reporting them;" and
- "Falsification" means manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research record is not accurately represented in the research record."[10]

Record correction requests will not be processed for participants who have been included in annual reports that have been submitted for federal review.

## Processes for Correcting Data

### *Routine Corrections*

Routine corrections are those corrections which involve end user errors such as transposing dates and mistakenly entering numbers incorrectly. Corrections will be made to records impacted during the current quarter or previous reporting quarter within the current program year. Participant data should be entered into NEworks at the time of application, enrollment, and activity creation. NEworks allows for a 30 day period for case managers to create an activity when immediate data entry is not possible. Files must not be held up for later entry into NEworks in a batch fashion. Correction of Records Requests are to be submitted upon immediate identification of inaccurate information.

### *Correcting Records Prior to End of Program Year Cutoff Date*

The state will issue information to the local areas outlining the timeline for end of program year cutoff dates. Case managers are expected to be aware of the status of all participants on their case load. This should eliminate the need for any corrections after the end of program year cutoff date. NEworks is an integrated system, and some changes may affect multiple programs. The WIOA Participation Date, the WIOA Case Closure, and Outcome/Exit can only be deleted at the NEworks Administrator level.

### *Process for Correcting Participant Data Prior to Annual Report Submittal*

When a staff member realizes there has been an error made on the WIOA participant file needing correction by the NEworks Administrator, he or she must complete the Enterprise Content Management/NEworks Record Correction Form which is integrated in the ECM e-form document workflow and include supporting documentation [see NEworks, Electronic Case Management and Enterprise Content Management Policy]. After a complete review of the request and if the Manager agrees and approves the action, then he or she should forward the requesting form to the NEworks Administrator, as indicated on the form instructions.

*Note to Managers:* By submitting the *Correction of Records Request Form*, you are attesting to this action and verifying the truth of the request following careful review of the documentation.

The NEworks Administrator reviews the request, and if it is approved, then the correction is processed. If the correction is not approved, then the NEworks Administrator notifies the Manager/Regional Manager for the local area, providing the reason(s) the state gave for the denial. The local area has the opportunity to Appeal the decision.

### Note the following:

1. A *Record Correction Request Form* is to be submitted upon immediate identification of inaccurate information.

2. A *Record Correction Request Form* may only be submitted for records impacted during the current reporting quarter or previous reporting quarter within the program year. Reporting quarters are:
  - a. first quarter (July - September)
  - b. second quarter (October - December)
  - c. third quarter (January - March)
  - d. fourth quarter (April - June)
3. All Record Correction Requests must reference supporting documentation.

### *Special Circumstances*

If it is necessary to correct records beyond the previous reporting quarter during the current program year, then heavier scrutiny of this correction shall take place. Managers need to investigate why this error was not caught within an acceptable amount of time (i.e., the 30 day backdate period). Managers must submit a separate memo identifying and explaining the circumstances that allowed this information to go so long without correction. The memo must reference the Record Correction Request and identify and explain changes in procedure that shall prevent this error from happening in the future.

### *Correcting Data Already Submitted in the Annual Report*

Record correction requests will not be processed for participants who have been included in annual reports that have been submitted for federal review.

### Appeal Process

The state reserves the right to refuse to change information listed on NEworks. To appeal the denial, the local area must:

- Submit a written request within 30 days of denial notification to the Commissioner of Labor. This written request should clearly outline the reason(s) as to why it is necessary to delete or change the information, documentation clarifying the need for the change, and a listing of reason(s) the state gave for the denial.
- Within 10-days of receiving the written request, a final judgment by the Commissioner of Labor shall be rendered.

### Documentation

#### *Responsibility for Tracking Services*

Each recipient must collect and maintain records to determine whether the recipient has complied or is complying with the nondiscrimination and equal opportunity provisions of the WIOA [or WIA, whichever is appropriate]. Records must be collected and maintained on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment [see Equal Opportunity and Nondiscrimination Policy].

## *Record Keeping*

Documentation for the "correction of records" action shall be maintained by the Manager/Regional Manager giving the initial approval and at the Office of Employment and Training for a minimum of three years following the date on which the annual expenditure report containing the final expenditures charged to such program year's allotment is submitted to the U.S. Department of Labor. However, if any litigation, claim, negotiation, audit or other action involving the records starts before the expiration of the three-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.

## *Disclaimer*

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

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[1] TEGL 14-00, Change 1

[2] 20 CFR § 677.150(b)

[3] 20 CFR § 677.150(a)

[4] 20 CFR § 677.150(a)(2)

[5] 20 CFR § 677.150(a)(3)

[6] 20 CFR § 677.150(c)(1)(i)(A)

[7] WIOA Sec. 116(a)

[8] TEGL 17-05

[9] TEGL 5-09

[10] Federal Register/Vol. 68, No. 177/Friday, September 12, 2003

## Interim Policy on Criteria for Local Workforce Development Boards

### Reference

Workforce Innovation and Opportunity Act, Section 107; WIOA Notice of Proposed Rulemaking, 20 CFR §§ 679.120, 679.300, 679.320, 679.340; Training and Employment Guidance Letter (TEGL) 19-14; TEGL 27-14; TEN 10-15.

### Background

Sec. 107(a) of the Workforce Innovation and Opportunity Act (WIOA) states: “There shall be established in each local area of a State, and certified by the Governor of the State, a local workforce development board, to set policy for the portion of the statewide workforce investment system within the local area...”

### Changes:

1. Definitions section moved to the beginning of the policy.
2. “Optimum policy-making authority,” “demonstrated experience and expertise,” and “workplace learning advisor” defined.
3. Purpose and Vision as stated in the Notice of Proposed Rulemaking.
4. Verification that multiple representation is permissible on local boards.

### Action

After a 10-day review period, this policy will be considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

### Policy

#### Definitions

##### *Chief Elected Official (CEO)*

This term means the chief elected executive officer of a unit of general local government in a local area, and in a case in which a local area includes more than one unit of general local government, the individuals designated under the local area plan or the agreement described in Sec. 107(c)(1)(B).[1]

##### *Unit of General Local Government*

This term means any general purpose political subdivision of a State that has the power to levy taxes and spend funds, as well as general corporate and police powers.[2]

### *Optimum Policy-Making Authority*

An individual with “optimum policy-making authority” means an individual who can reasonably be expected to speak affirmatively on behalf of the entity he/she represents and to commit that entity to a chosen course of action.[3]

### *Demonstrated experience and expertise*

An individual with “demonstrated experience and expertise” means an individual who:

- Is a workplace learning advisor;
- Contributes to the field of workforce development, human resources, training and development, or a core program function; or
- The local board recognizes for valuable contributions in education or workforce development related fields.[4]

### *Workplace Learning Advisor*

The term “workplace learning advisor” means an individual employed by an organization who has the knowledge and skills necessary to advise other employees of that organization about the education, skill development, job training, career counseling services, and credentials, including services provided through the workforce development system, required to progress toward career goals of such employees in order to meet employer requirements related to job openings and career advancements that support economic self-sufficiency.[5]

### Purpose and Vision

The vision of the local board is to serve as a strategic leader and convener of local workforce development stakeholders. The local board partners with employers and the workforce development system to develop policies and investments that support workforce systems strategies that support regional economies, the development of effective approaches including local and regional sector partnerships and career pathways, and high quality, customer centered service delivery and service delivery approaches.[6]

The purpose of the local board is to:

- Provide strategic and operational oversight in collaboration with the required and additional partners and workforce stakeholders to help develop a comprehensive and high-quality workforce development system in the local area and larger planning region;
- Assist in the achievement of the state’s strategic and operational vision and goals as outlined in the Unified State Plan or Combined State Plan; and
- Maximize and continue to improve the quality of services, customer satisfaction, and effectiveness of the services provided.[7]

## Membership of the Local Board

The Governor of the State, in partnership with the State board, shall establish criteria for use by CEOs of the local areas for appointment of members of the local boards in accordance with WIOA requirements for local board composition.[8]

As indicated below, WIOA provides minimum requirements as to what stakeholders are represented on local boards as well as minimum percentages of representation for two stakeholder categories: business and workforce.

### Required Membership Categories and Formula

*Business:* Business owners and other business executives or employers with optimum policymaking or hiring authority who represent businesses with employment opportunities that reflect employment opportunities in the local area.

*Workforce:* Representatives of labor organizations or other representatives of employees, and requiring at least one person from a joint-labor management apprenticeship program or apprenticeship program in the area.

*Education/Training:* A representative of eligible providers administering adult education and literacy activities, and a representative of institutions of higher education providing workforce investment activities.

*Government, Economic, and Community Development:* A representative of economic and community development entities, a representative from the State employment office under the Wagner-Peyser serving the local area, and a representative of vocational programs carried out under Title I of the Rehabilitation Act of 1973.

An individual may be appointed as a representative of more than one entity if the individual meets all the criteria for representation for each entity.[9] Assuming no representation of multiple categories occurs, the minimum size of a Local Workforce Development Board is 19 members as described in the formula below:

Representative Category	Representative Criteria	Total
Business	9 + 1 (to maintain a majority)	10
Workforce	3 (2 labor + 1 apprenticeship)	4
Education and training	2 (1 adult education/literacy + 1 higher education)	2
Economic/community development	1	1
Government representatives	2 (1 Wagner-Peyser + 1 Vocational Rehabilitation)	2
<b>Minimum Board Membership</b>		<b>19</b>

*[See Attachment A for Illustration of the Local Board]*

Members appointed to the local board that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations,

agencies, or entities.[10] A majority of the members of the local board shall be representatives of business in the local area.[11] Business members must represent high quality, work relevant employment opportunities in in-demand industry sectors or occupations in the local area. The local board shall elect a chairperson for the local board from among the representatives of business on the local board.[12]

### Composition of the Local Board

#### *Composition Criteria*

WIOA provides that the members of each local board shall include:

- Representatives of Business
  - A majority (at least 51 percent) of the membership shall be representatives of business in the local area who are owners of businesses, and other business executives or employers with optimum policymaking or hiring authority, who:
    - represent businesses, including small businesses, with employment opportunities that reflect the employment opportunities of the local area. At a minimum, the H3 (high-wage, high skill, high demand) criteria and occupations must be used to define a local area's high quality, in-demand industry sectors and occupations; and
    - are to be appointed from among individuals (plural) nominated by local business organizations and business trade associations;[13]
- Representatives of the Workforce
  - A minimum of 20 percent of the members shall include representatives of the workforce (workers) in the local area who:
    - shall include representatives (two or more) of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor federations, or (for a local area in which no employees are represented by such organizations), other representatives of employees;[14] and
    - shall include a representative (at least one) from a labor organization or a training director, from a joint-labor management apprenticeship program, or if no such program exists in the area, such a representative of an apprenticeship program in the area, if one exists;[15] and
    - may include (optional) representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment needs of individuals with barriers to employment, including organizations that serve Veterans or that provide or support competitive integrated employment for individuals with disabilities; and
    - may include (optional) representatives of organizations that demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including representatives of organizations that serve out-of-school youth.[16]
- Representatives (two or more) of Education and Training
  - Each local board shall include representatives of entities administering education and training activities in the local area who:

- § shall include a representative of eligible providers administering adult education and literacy activities; and
- § shall include a representative of institutions of higher education providing workforce investment activities (including community colleges); and
- § may include (optional) representatives of local education agencies, and of community-based organizations with demonstrated experience and expertise in addressing the education or training needs of individuals with barriers to employment;[17]
- If there are multiple eligible providers serving the local area by administering adult education and literacy services, or multiple institutions of higher education serving the local area by providing workforce development activities, each representative from this category of local board composition shall be appointed from among individuals nominated by local providers representing such providers or institutions, respectively;[18]
- Representatives (three or more) of Government, Economic and Community Development
  - Each board shall include members of governmental and economic and community development entities serving the local area who:
    - shall include a representative of economic and community development entities; and
    - shall include a representative from the State employment office under the Wagner-Peyser Act serving the local area; and
    - shall include a representative of vocational programs carried out under Title I of the Rehabilitation Act of 1973 (other than section 112 or Part C) serving the local area; and
    - may include (optional) representatives of agencies or entities administering programs serving the local area relating to transportation, housing, and public assistance; and
    - may include (optional) representatives of philanthropic organizations serving the local area;[19]
- Other Optional Representatives
  - Each local board may include such other individuals or representatives of entities as the CEO in the local area may determine to be appropriate.[20]

### Appointment and Certification of the Local Board

#### *Appointment of Board Members and Assignment of Responsibilities*

The CEO in a local area is authorized to appoint the members of the local board for such area, in accordance with the State composition criteria established under Sec. 107(b). In a case in which a local area includes more than one unit of general local government, the CEOs of such units may execute an agreement that specifies the respective roles of the individual CEOs in the appointment of the members of the local board from the individuals nominated or recommended to be such members in accordance with the composition criteria established under Sec. 107(b) and in carrying out any responsibilities assigned to such officials.[21] If, after a reasonable effort, the CEOs are unable to reach agreement

as provided above, the Governor may appoint the members of the local board from individuals so nominated or recommended.[22]

### *Certification of the Local Board*

The Governor shall, once every two years, certify one local board for each local area in the State.[23] Such certification shall be based on the composition criteria established under Sec. 107(b) and, for a second or subsequent certification, the extent to which the local board has ensured that workforce investment activities carried out in the local area have enabled the local area to meet the local performance measures and achieve sustained fiscal integrity.[24] [Sustained fiscal integrity means that the Secretary has not made a formal determination, during either of the last two (2) consecutive years preceding the determination of such integrity, that either the grant recipient or the administrative entity of the area misexpended funds under WIOA or, if applicable, WIA, due to willful disregard of requirements, gross negligence, or failure to comply with accepted standards of administration.][25]

Failure of a local board to achieve certification shall result in appointment and certification of another local board for the local area pursuant to the process described in Sec. 107(c)(1) and Sec. 107(c)(2).[26]

### Decertification of the Local Board

Notwithstanding Sec. 107(c)(2), the Governor may decertify a local board at any time after providing notice, and an opportunity for comment for: fraud or abuse; or failure to carry out the functions specified for the local board in any of the paragraphs of Sec. 107(d).[27]

Notwithstanding Sec. 107(c)(2), the Governor may decertify a local board if a local area fails to meet the local performance measures for such local area for two consecutive program years [in accordance with the local accountability measures provided under Sec. 116(c)].[28]

If the Governor decertifies a local board for a local area, the Governor may require that a new local board be appointed and certified for the local area pursuant to a reorganization plan developed by the Governor, in consultation with the CEO in the local area, and in accordance with the criteria established under Sec. 107(b).[29]

### Standing Committees

The local board may designate and direct the activities of standing committees to provide information to assist the local board in carrying out activities under Sec. 107 of WIOA. Such standing committees, if any, shall be chaired by a member of the local board, may include other members of the local board, and shall include other individuals appointed by the local board who are not members of the local board and who the local board determines have appropriate experience and expertise.[30]

At a minimum, the local board may designate the following:

- A standing committee to provide information and assist with operational and other issues relating to the One-Stop delivery system, which may include as members representatives of the One-Stop partners.
- A standing committee to provide information and to assist with planning, operational, and other issues relating to the provision of services to youth, which shall include community-based organizations with a demonstrated record of success in serving eligible youth.
- A standing committee to provide information and to assist with operational and other issues relating to the provision of services to individuals with disabilities, including issues relating to compliance with Sec. 188 of WIOA [Discrimination], if applicable, and applicable provisions of the Americans with Disabilities Act of 1990 regarding providing programmatic and physical access to the services, programs, and activities of the One-Stop delivery system, as well as appropriate training for staff on providing supports for or accommodations to, and finding employment opportunities for, individuals with disabilities.[31]

The local board may designate standing committees in addition to the standing committees specified above.[32] Local boards may designate an entity in existence as of the date of the enactment of WIOA, such as an effective youth council, to serve as a standing committee as long as the entity meets the requirements of Sec. 107(b)(4) of WIOA.[33]

#### Youth Standing Committees

WIOA eliminates the requirement for local boards to establish a youth council.[34] As mentioned above, WIOA permits an existing youth council to be designated as a standing committee if it is fulfilling the requirements of a standing committee, which means that they have members of the local board who have the appropriate experience and expertise in youth educational and workforce development.[35]

USDOL has encouraged local boards to designate high performing youth councils as standing committees, if appropriate. Local boards are responsible for the oversight of youth programs. Under the Workforce Investment Act, youth councils were mandated to fulfill this function for the Board. Local boards now may choose to fulfill the oversight responsibility, or have the discretion to delegate this function to a standing youth committee. If local boards choose not to delegate this function to a standing youth committee, they are responsible for conducting oversight of youth workforce investment activities under Sec. 129(c) of WIOA.[36]

#### *Required Membership of Youth Standing Committees*

If the local board decides to form a youth standing committee, the committee must include a member of the local board, who chairs the committee, members of community-based organizations with a demonstrated record of success in serving eligible youth and other

individuals with appropriate expertise and experience who are not members of the local board.[37]

The committee should reflect the needs of the local area. The committee members appointed for their experience and expertise may bring their expertise to help the committee address the employment, training education, human and supportive service needs of eligible youth including out-of-school youth. Members may represent agencies such as education, training, health, mental health, housing, public assistance, and justice, or be representatives of philanthropic or economic and community development organizations, and employers. The committee may also include parents, participants, and youth.[38]

### *Duties of Youth Standing Committees*

Under the direction of the local board, a youth standing committee may:

- Recommend policy direction to the local board for the design, development, and implementation for programs that benefit all youth;
- Recommend the design of a comprehensive community workforce development system to ensure a full range of services and opportunities for all youth, including disconnected youth;
- Recommend ways to leverage resources and coordinate services among schools, public programs, and community-based organizations serving youth;
- Recommend ways to coordinate youth services and recommend eligible youth service providers;
- Provide on-going leadership and support for continuous quality improvement for local youth programs;
- Assist with planning, operational, and other issues relating to the provision of services to youth; and
- If so delegated by the local board after consultation with the Chief Elected Official, oversee eligible youth providers, as well as other youth program oversight responsibilities.[39]

### Alternative Entities

A local board may consist of an alternative local entity (including a local council, regional workforce development board, or similar entity) that meets the following criteria:

- is established to serve the local area (or the service delivery area that most closely corresponds to the local area);
- was in existence on the day before the date of August 7, 1998 (the day before the enactment of Workforce Investment Act of 1998)[40], pursuant to State law; and
- includes
  - representatives of business in the local area; and
  - representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor

federations; or other representatives of employees in the local area (for a local area in which no employees are represented by such organizations).[41]

## Local Board Responsibilities

### *Local Plan*

The local board shall:

- Develop and submit a local plan to the Governor that meets the requirements in Sec. 108 of WIOA, in partnership with the CEO. If the local area is a part of a planning region that includes other local areas, the local board shall collaborate with the other local boards and CEOs in the preparation of a regional plan as described in Sec. 106(c)(2);[42]
- In order to assist in the development and implementation of the local plan:
  - carry out analyses of economic conditions and workforce development activities (including education and training) in the region, and needed knowledge and skills for the region, and regularly update such information;
  - assist the Governor in developing the statewide workforce and labor market information system, specifically in collection, analysis, and utilization of such information for the region; and
  - conduct other such research, data collection, and analysis related to the workforce needs of the regional economy as the board determines to be necessary to carry out its functions;[43]
- Convene local workforce development system stakeholders to assist in the development of the 4-year local plan and identifying non-Federal expertise and resources to leverage support for workforce development activities. The local board, including standing committees, may engage such stakeholders in carrying out these functions.[44]

### *Partnerships*

The local board shall:

- Lead efforts to engage with a diverse range of employers and with entities in the region involved to:
  - promote business representation (particularly with representatives with optimal policymaking or hiring authority from employers whose employment opportunities reflect existing and emerging employment opportunities in the region) on the local board;
  - develop effective linkages (including the use of intermediaries) with employers in the region to support employer utilization of the local workforce development system and to support the local workforce investment activities;
  - ensure that workforce investment activities meet the needs of employers and support economic growth in the region, by enhancing communication,

- coordination, and collaboration among employers, economic development entities, and service providers; and
  - develop and implement proven or promising strategies for meeting the employment and skill needs of workers and employers (such as the establishment of industry and sector partnership), that provide the skilled workforce needed by employers in the region, and that expand employment and career advancement opportunities for workforce development system participants in in-demand industry sectors or occupations.[45]
- With representatives of secondary and postsecondary programs, lead efforts in the local area to develop and implement career pathways within the local area by aligning the employment, training, education, and supportive services that are needed by adults and youth, particularly individuals with barriers to employment;[46]

### *Workforce system*

The local board shall:

- Lead efforts in the local area to identify and promote proven and promising strategies and initiatives for meeting the needs of employers, and workers and jobseekers (including individuals with barriers to employment) in the local workforce development system, including providing physical and programmatic accessibility in accordance with applicable WIOA non-discrimination requirements and applicable provisions of the Americans with Disabilities Act of 1990 (ADA); and identify and disseminate information on proven and promising practices carried out in other local areas for meeting such needs;[47]
- Develop strategies for using technology to maximize the accessibility and effectiveness of the local workforce development system for employers, and workers and jobseekers by:
  - Facilitating connections among the intake and case management information systems of the one-stop partner programs to support a comprehensive workforce development system in the local area;
  - Facilitating access to services provided through the one-stop delivery system involved, including facilitating access in remote areas;
  - Identifying strategies for better meeting the needs of individuals with barriers to employment, including strategies that augment traditional service delivery, and increase access to services and programs of the one-stop delivery system, such as improving digital literacy skills; and
  - Leveraging resources and capacity within the local workforce development system, including resources and capacity for services for individuals with barriers to employment;[48]

## *Oversight and Performance*

The local board shall:

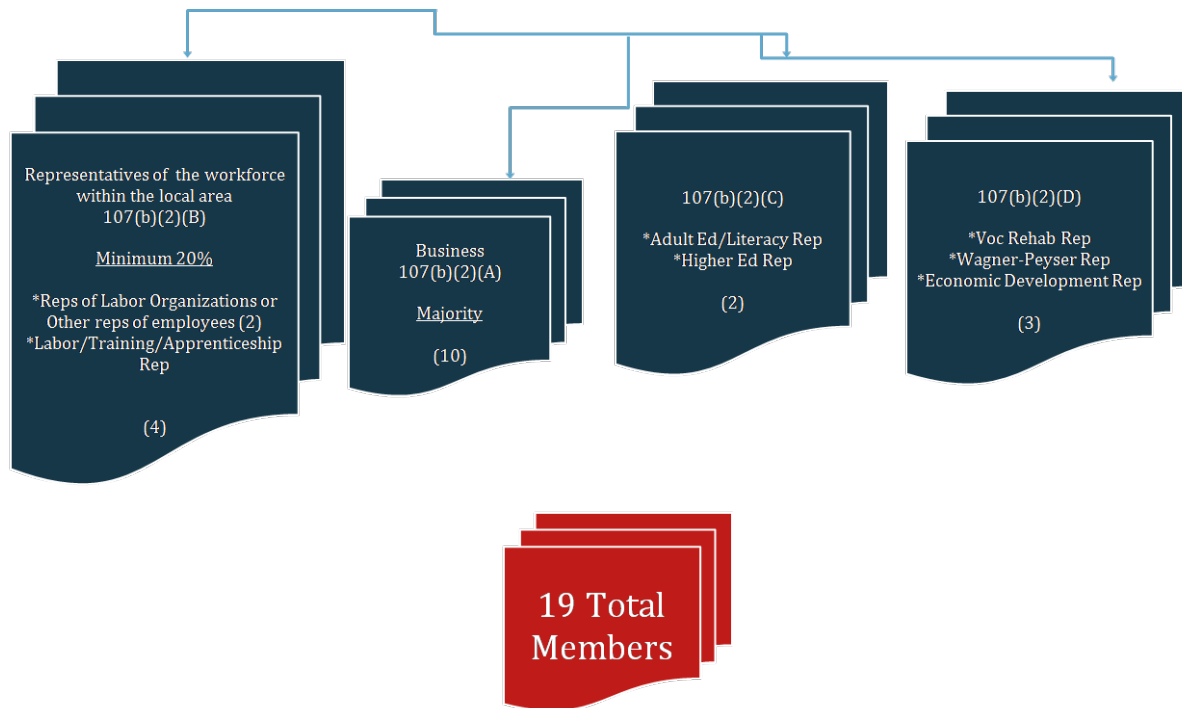
- In partnership with the CEO:
  - Conduct oversight with respect to local programs of youth activities, local employment and training activities, and the one-stop delivery system in the local area;
  - Ensure the appropriate use and management of funds provided under subtitle B for such activities and systems; and
  - For workforce development activities, ensure the appropriate use, management, and investment of funds to maximize performance outcomes under the performance accountability system provided in Sec. 116;[49]
- Negotiate and reach an agreement with the CEO and the Governor on local performance measures;[50]
  - In terms of the selection of operators and providers:
    - With the agreement of the CEO, designate or certify one-stop operators and terminate for cause the eligibility of such operators;
    - Identify eligible providers of youth workforce investment activities in the local area by awarding grants or contracts on a competitive basis (if there is a sufficient number of such providers in the local area), based on recommendations of the youth standing committee if established, and terminate for cause the eligibility of such providers;
    - Identify eligible providers of training services;
    - Identify eligible providers of career services, if the one-stop operator does not provide such services, by awarding contracts; and
    - Work with the State to ensure there are sufficient numbers and types of providers of career services and training services serving the local area and providing the services in a manner that maximizes consumer choice, as well as providing opportunities that lead to competitive integrated employment for individuals with disabilities;[51]
- Coordinate activities with education and training providers, including workforce investment activities, adult education and literacy activities, providers of career and technical education, and local agencies administering plans under title I of the Rehabilitation Act of 1973;[52]
- Develop a budget for the activities of the local board in the local area, consistent with the local plan and duties of the local board, subject to the approval of the CEO;[53] and
- Annually assess the physical and programmatic accessibility, in accordance with applicable WIOA non-discrimination requirements and applicable provisions of the ADA, of all one-stop centers in the local area.[54]

### *Disclaimer*

This interim policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

## Attachment A

### Minimum Number of Local Board Members (assuming no representation of multiple categories)



- [1] WIOA Sec. 3(9)
- [2] WIOA Sec. 3(48)
- [3] 20 CFR § 679.340(a)
- [4] 20 CFR § 679.120(b)
- [5] WIOA Sec. 3(70)
- [6] 20 CFR § 679.300(a)
- [7] 20 CFR § 679.300(b)
- [8] WIOA Sec. 107(b)(1)
- [9] 20 CFR 679.320(h)
- [10] WIOA Sec. 107(b)(5)
- [11] WIOA Sec. 107(b)(2)(A)
- [12] WIOA Sec. 107(b)(3)
- [13] WIOA Sec. 107(b)(2)(A)
- [14] WIOA Sec. 107(b)(2)(B)(i)
- [15] WIOA Sec. 107(b)(2)(B)(ii)
- [16] WIOA Sec. 107(b)(2)(B)(iii) and (iv)
- [17] WIOA Sec. 107(b)(2)(C)

- [18] WIOA Sec. 107(b)(6)
- [19] WIOA Sec. 107(b)(2)(D)
- [20] WIOA Sec. 107(b)(2)(E)
- [21] WIOA Sec. 107(c)(1)(B)(i)
- [22] WIOA Sec. 107(c)(1)(B)(ii)
- [23] WIOA Sec. 107(c)(2)(A)
- [24] WIOA Sec. 107(c)(2)(B)
- [25] WIOA Sec. 106(e)(2)
- [26] WIOA Sec. 107(c)(2)(C)
- [27] WIOA Sec. 107(c)(3)(A)
- [28] WIOA Sec. 107(c)(3)(B)
- [29] WIOA Sec. 107(c)(3)(C)
- [30] WIOA Sec. 107(b)(4)(A)
- [31] WIOA Sec. 107(b)(4)(A)(i)-(iii)
- [32] WIOA Sec. 107(b)(4)(B)
- [33] WIOA Sec. 107(b)(4)(C), 20 CFR § 679.360(c)
- [34] 20 CFR § 681.100
- [35] WIOA Sec. 107(b)(4)(C), 20 CFR § 681.100, WIOA NPRM Section-by-Section Discussion of Proposal
- [36] WIOA NPRM Section-by-Section Discussion of Proposal
- [37] WIOA Sec. 107(b)(4)(A), 20 CFR § 681.110(a)
- [38] WIOA Sec. 129(c)(3)(C), 20 CFR § 681.110(b)
- [39] 20 CFR § 681.120
- [40] TEN 10-15
- [41] WIOA Sec. 107(i); TEN 10-15
- [42] WIOA Sec. 107(d)(1)
- [43] WIOA Sec. 107(d)(2)
- [44] WIOA Sec. 107(d)(3)
- [45] WIOA Sec. 107(d)(4)
- [46] WIOA Sec. 107(d)(5)
- [47] WIOA Sec. 107(d)(6)
- [48] WIOA Sec. 107(d)(7)
- [49] WIOA Sec. 107(d)(8)
- [50] WIOA Sec. 107(d)(9)
- [51] WIOA Sec. 107(d)(10)
- [52] WIOA Sec. 107(d)(11)
- [53] WIOA Sec. 107(d)(12)
- [54] WIOA Sec. 107(d)(13)

## **Preliminary Policy on Data Validation**

### *Reference*

The Workforce Investment Act of 1998 (WIA); the Workforce Innovation and Opportunity Act (WIOA); Federal Register/Vol. 65, No. 156/Friday, August 11, 2000; TEGL 3-03; TEGL 9-07; TEGL 06-14, Attachment A; WIA/WIOA Data Reporting and Validation System User Handbook; and Employment and Training Administration (ETA) Presentation.

### *Background*

In 2001, the President announced a Management Agenda to improve the management and performance of the federal government. It emphasized the importance of complete information for program monitoring and improving program results. This expectation concurs with wording in Sec. 185(c)(2) of the Workforce Innovation and Opportunity Act (WIOA): "Each State, each local board, and each recipient (other than a subrecipient, subgrantee, or contractor of a recipient) receiving funds under this title...shall prescribe and maintain comparable management information systems, in accordance with guidelines that shall be prescribed by the Secretary, designed to facilitate the uniform compilation, cross tabulation, and analysis of programmatic, participant, and financial data, on statewide, local area, and other appropriate bases, necessary for reporting, monitoring, and evaluating purposes, including data necessary to comply with section 188."

Performance audits conducted by the U.S. Department of Labor's Office of Inspector General found that the accuracy of reported performance outcomes could not be assured due to insufficient local, state, and federal oversight. To address these concerns, and to ensure the accuracy of data collected and reported on the workforce development system, the Employment and Training Administration (ETA) expanded its efforts to conduct data validation. During PY 2003 Nebraska implemented data validation for the WIA/WIOA Title IB programs.

A revised list reflecting the source documentation requirements for WIA/WIOA data element validation can be found in TEGL-6-14 Attachment A. These requirements will apply until DOL issues further guidance.

### *Action*

This policy takes effect July 1, 2015.

### *Policy*

States must ensure to the maximum extent feasible the accuracy of the data entered by the State Workforce Agency (SWA) into Department-required management information systems. Each SWA must establish and maintain a data validation system pursuant to

Department instructions. The system must review every local employment office at least once every four years. The system must include validation of time distribution reports and the review of data gathering procedures.[1]

The data validation initiative covers both the accuracy of aggregate reports submitted to ETA on program activity and performance outcomes and the accuracy of individual data elements. For PY 2014, Nebraska must submit the Quarter 4 WIA/WIOA Standardized Record Data (WIASRD) files by September 15, 2015, and a validated WIA/WIOA Annual Report by close of business (COB), October 1, 2015. Report validation must be completed prior to submitting the annual report tables, and data element validation using a file of exiters and participants reported in the annual report must be submitted by February 1, 2016.

### Report Validation

This process evaluates the validity of aggregate reports submitted to ETA by checking the accuracy of the reporting software used to calculate the reports. Report validation is accomplished by processing an entire file of participant records into validation counts and comparing the validation counts to those reported by the State or grantee.[2]

ETA has developed standardized software that can be used to validate the accuracy of aggregate reports generated by State or grantee software. The ETA software will produce an error rate for each reported count. The standardized software can also be used to generate aggregate information to be submitted to ETA prior to submitting the annual report.

### Data Element Validation Process

This process assesses the accuracy of participant data records. Data element validation is performed by reviewing samples of participant records against source documentation to ensure compliance with federal definitions.

Not all data elements are subject to validation. Data elements are selected for validation based on three factors:

- Feasibility – ETA can validate data elements only when it is practical and efficient to locate and examine supporting evidence within the state records. Therefore, such items as race, ethnicity, and gender will not be validated because these data elements are self-reported by participants, and it is not efficient to locate the participant to document these characteristics. It is also not practical to validate for data entry errors.
- Risk – The process for validating data elements is based partly on the likelihood that the data element may be inaccurate. Data elements involving human judgment are more prone to error than data elements that do not involve human judgment. For example, determination of employment based on supplemental sources is more likely to be in error than determination of employment from wage records.

- Importance – Data elements are selected for validation based primarily on their importance to the integrity of the ETA 9091 report (Annual Report).

The ETA standardized software generates a sample of the participant records and data elements the State or grantee will validate. Data element validation samples are selected from a sample of offices within the State, rather than from every office.

Two sampling techniques are used:

1. Clustering – The software selects the sample of exiters from a relatively small number of locations within the State where source documentation is stored. This approach reduces the burden that on-site validation imposes on the State by limiting the number of locations to visit.
2. Stratification – Cases that have a higher potential for error that will affect performance (positive employment or education outcomes) and more data elements to be validated are sampled in greater proportion than cases with a reduced chance of error (negative employment or education outcomes) and fewer elements to validate.

Once the State has validated the sampled records, the software weights the results of the validation to correct for over- and under-sampling resulting from the clustering and stratification.

The data element validation tasks include:

1. Assemble worksheets and either arrange visits to Career Center offices or review the electronic file housed in NEworks or ECM – If appropriate, state staff should conduct the validation onsite except for data stored at the state level, i.e., wage record information. States have the flexibility to determine the most efficient source to use to validate the information when more than one source is specified. State staff shall notify local staff well in advance of when the onsite validation, if any, will occur to ensure local staff is available to assist in the validation. State staff shall also inform local staff which records will be sampled, no more than one to two days in advance of the onsite review. This will make the review more efficient, while minimizing the possibility for changes to the case files.
2. Assemble supporting documentation and complete worksheets – See the following for a list that identifies acceptable sources of information to meet documentation requirements: <http://wdr.doleta.gov/directives/attach/TEGL/TEGL-6-14-Attachment-A-Acc.pdf>
3. Examine summary and analytical reports – The software calculates the error rate for each element and produces separate summary and analytical reports for each group.

To ensure integrity and authority of the data validation process, Nebraska conducts the data validation process through the Nebraska Department of Labor's Office of Legal Counsel. The state monitor who is assigned to this office is responsible for conducting

the review of participant records, and the submittal of the annual data validation report to ETA. Participant records will be reviewed in both paper and electronic format.

### Accuracy Standards

According to TEGL 9-07, ETA considers that a WIA/WIOA State grantee fails to report year-end results when the grantee fails to submit an accurate WIA/WIOA annual report as determined by applying a two percent error threshold to program outcomes, including numerators and denominators, summarized in the Report Validation Summary. This standard will apply until DOL issues further guidance.

States and grantees will be held accountable for meeting acceptable levels and will be required to address any issues concerning data accuracy. States and grantees that fail to meet accuracy standards will receive technical assistance from ETA and will develop and implement a corrective action plan. Data that do not meet accuracy standards will not be acceptable for measuring performance, and may keep the State or grantee from being eligible for incentives that are awarded based on performance data.

Upon completion of data validation in Nebraska, the results will be shared with the local areas. In incidents where acceptable levels are not met, technical assistance may be provided. Depending on the degree of deficiency, the State may require a corrective action plan from the local area.

### Data Elements and Source Documentation

The elements required for data element validation focus on eligibility, performance, and services. See TEGL 6-14 Attachment A for a list providing federal guidance regarding what types of source documentation are acceptable to validate key data elements related to WIA/WIOA program eligibility, services and outcomes.

Only one of the documents listed for each element is required for validation. However, if multiple sources are collected for the same data element and the sources conflict, the most reliable source should be used to determine if the element passes or fails. For example, for School Status at Participation copies of records from an educational institution are a more reliable source than participant self-attestation. Special attention must be paid to the following general definitions for certain types of source documentation:

- **Cross-Match:** A cross-match requires validators to find detailed supporting evidence for the data element. An indicator or presence of an SSN in a non-WIA database is not sufficient evidence. For example, Temporary Assistance to Needy Families (TANF) participation can be determined by a cross-match with Nebraska's public assistance database, NFOCUS. It is not sufficient to find that the sampled SSN is present in the public assistance database; validators must also find supporting information, such as, dates of participation and services rendered.

- **State MIS:** Unless otherwise noted, State MIS refers to specific, detailed information that is stored in the State's information system that supports an element. An indicator, such as a checkmark on a computer screen, is not acceptable source documentation in and of itself. For example, State MIS is an acceptable source documentation for date of first training service. To be an acceptable source to validate the date of first training service, in addition to the date of first training, the State MIS should have information about the type of training and the organization that provided the training. This detailed information makes valid source documentation and makes it unnecessary for such states to validate this data element in local offices.
- **Self-Attestation:** Self-attestation occurs when a participant states his or her status for a particular data element, such as pregnant or parenting youth, and then signs and dates a form acknowledging this status. The key elements for self-attestation are:
  - the participant identifying his or her status for permitted elements and
  - signing and dating a form attesting to this self-identification.

The form and signature can be on paper or in the State MIS with an online signature.

- **Case Notes:** Case notes refer to either paper or electronic statements by the case manager that identifies, at a minimum, the following:
  - a participant's status for a specific data element,
  - the date on which the information was obtained, and
  - the case manager who obtained the information.

The WIA/WIOA Data Reporting and Validation System User Handbook provides the validation rules that apply to each data element, i.e., match or support. To match, the data on the worksheet must be the same as the data in the source documentation. For example, if the worksheet says a participant's date of birth is July 1, 1975, then the source documentation must also have July 1, 1975 as the birth date. To support the data on the worksheet, the source documentation must provide evidence that the data on the worksheet is correct. This instruction is used when information must be interpreted or processed before it can be used to assess the accuracy of the data on the participant's records. For example, source documentation is used to support youth who need additional assistance because validators must interpret policy and determine if the documentation supports that policy.

### Record Retention

The record retention requirement that will apply to records of all validation activities, including files, worksheets, reports, and source documentation, is three years after completion. The state shall be responsible for keeping completed worksheets, summary reports and analytical reports. Local offices/Workforce Investment Boards shall retain the validated files and original supporting documentation for monitoring purposes.

### *Disclaimer*

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

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[1] 20 CFR § 658.601(a)(7)(iv)

[2] TEGL 3-03

[3] TEGL 3-03

## Interim Policy on Designation of Local Areas

### Reference

Workforce Innovation and Opportunity Act (WIOA) Sections 102, 106, and 116; WIOA Notice of Proposed Rulemaking, 20 CFR §§ 679.250, 679.260, and 679.510; TEGL 25-13; TEGL 27-14.

### Background

The Workforce Innovation and Opportunity Act (WIOA) mandates that the Nebraska Workforce Development Board (NWDB) assist the Governor in designation of local workforce development areas (local areas).[1]

The Governor will designate local areas:

1. Through consultation with the NWDB; and
2. After consultation with chief elected officials and local boards, and after consideration of comments received through the public comment process.[2]

The period of initial designation of local areas in Nebraska applies to Program Years 2015 and 2016. The period of subsequent designation will take effective on July 1, 2017. A procedure for initial and subsequent designation has been established under this policy.

### Action

After a 10-day review period, this policy will be considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox: [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

The Chief Elected Official and local board must complete and submit a “Request for Initial Local Area Designation” form (Attachment A) by December 31, 2015.

### Policy

#### Definitions

**Chief Elected Official (CEO)** - The term “chief elected official” means: (A) the chief elected executive officer of a unit of general local government in a local area; and (B) in a case in which a local area includes more than one unit of general local government, the individuals designated under the agreement described in 29 U.S. Code § 2832 (c)(1)(B).[3]

**Labor Market Area** - The term “labor market area” means an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of

residence. Such an area will be identified in accordance with criteria used by the Bureau of Labor Statistics of the Department of Labor in defining such areas or similar criteria established by the Governor.[4]

*Local Board* - The term “local board” means a local workforce development board established under WIOA Sec. 107, subject to WIOA Sec. 107(c)(4)(B)(i).[5]

*Performed Successfully* - The term “performed successfully”, for the purpose of initial and subsequent local area designation, means that the local area:

- met or exceeded all performance levels the Governor negotiated with local board and CEO under the Workforce Investment Act (WIA) Section 136(c) for the two (2) program years prior to the enactment of WIOA; and[6]
- has had no failures of any individual measure for two (2) consecutive program years prior to the enactment of WIOA.[7]

Standards of “met,” “exceeded,” and “failure” must be consistent with how they were defined at the time the performance levels were negotiated and based on the following criteria:

- “met” means the local area having met performance levels when the actual performance achieved against an individual performance measure falls within the eighty (80) percent to one hundred (100) percent range of the negotiated level of performance;
- “exceeded” means the local area exceeded performance levels when the actual performance achieved against an individual performance measure is in excess of one hundred (100) percent of the negotiated level of performance;
- “failure” means the local area failed to meet performance measures when the actual performance achieved against an individual performance measure is less than eighty (80) percent of the negotiated level of performance;[8] and
- a higher standard may not be retroactively applied.[9]

*Sustained Fiscal Integrity* - The term “sustained fiscal integrity” means that the Secretary has not made a formal determination that either the grant recipient or the administrative entity of the area misexpended funds due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration for the two-year period preceding the determination.[10]

### Purpose of a Local Area

The purpose of a local area is to serve as a jurisdiction for the administration of workforce development activities using Adult, Dislocated Worker, and Youth funds allocated by the state and to coordinate efforts related to the other core programs at the local community level.[11] Significantly, local areas are areas within which local boards oversee their functions, including strategic planning, operational alignment and service delivery design,

and a jurisdiction where partners align resources at a sub-state level to design and implement overall service delivery strategies.[12]

#### Requirements for a Local Area Designation

The Governor must designate local workforce development areas in order for Nebraska to receive Adult, Dislocated Worker, and Youth funding under Title I, Subtitle B.[13]

More specifically, the Governor must designate local areas within the state: [14]

1. through consultation with the NWDB;
2. after consultation with CEOs and local boards; and
3. after consideration of comments received through the public comment process. The public comment period must offer adequate time for public comment prior to designation of the local areas and provide an opportunity for representatives of interested business, education, and labor organizations to have input into the development of the formation of the local area.

The Governor will designate local areas based on following criteria: [15]

1. the areas are consistent with labor market and regional development areas in Nebraska; and
2. the areas have the necessary federal and non-federal resources for effective administration of Title I-B activities (and other applicable provisions of WIOA), including whether the areas have appropriate education and training providers, such as institutions of higher education and area career and technical education schools.

#### Requirements for Initial Designation of Local Areas Previously Designated under WIA[16]

A local area previously designated under WIA may request to continue as a local area under WIOA. If the CEO and local board in a local area submit a request for initial designation, the Governor must approve the request if the local area was designated as a local area under WIA and performed successfully and sustained fiscal integrity for two (2) program years prior to enactment of WIOA (July 1, 2012 through June 30, 2014). The period of initial designation applies to Program Years 2015 and 2016.

#### Requirements for Designation of New Local Areas[17]

At any time, the CEO and local board from any unit of general local government or combination of units may submit a request for designation as a local workforce development area. The NWDB must determine if the proposed new local area meets the criteria for local area designation established in this policy. The Governor may approve or deny the request for designation, in accordance with this established policy.

### Subsequent Designation of Local Areas

Following the initial designation period, the CEO and local board may submit a written request for subsequent designation, which the Governor must approve, provided that the local area performed successfully, sustained fiscal integrity, and met regional planning requirements if the local area is included in a planning region during the two (2) year period of initial designation.[18] For any local area designated under subsequent designation, the Governor:

- may review a local area at any time to determine whether the local area continues to meet the requirements for subsequent designation;
- must review a local area during each four-year state planning cycle to determine whether the local area continues to meet the requirements for subsequent designation prior to the submission of the state plan; and
- may assume the CEO and local board to have requested continued designation unless notified otherwise in writing.[19]

### Designation Procedures

The procedure for any entity seeking designation as a WIOA local area, whether an initial designation or otherwise, is as follows:

1. The CEO and local board completes and submits a “Request for Local Area Designation” form (Attachment A) by December 31, 2015.
2. The Governor reviews the request to ensure the local area meets the requirements of WIOA Sections 106(b)(1) (B).
3. The Governor forwards the request to the NWDB and all other CEOs and local boards for review and public comment and makes the request available to the public for comment through the public comment process. NDOL will post each designation request on its website with information about the NWDB meeting where the designation request will be discussed. The NWDB meeting is open to the public, and comments about the designation request will be allowed.
4. Upon receipt of a recommendation of the NWDB and following consideration of comments from CEOs, local boards, and the public, the Governor approves or denies the request and notifies the NWDB, all CEOs, local boards, and all other entities seeking designation as a local area.

### Appeal Process Relating to Designation of Local Areas

CEOs and local boards or any other entity seeking designation as a local area may appeal a denied request for local area designation. The appeal must be submitted to the NWDB under the appeal process described below. If a timely decision on the appeal is not rendered or if the appeal does not result in the entity’s designation as a local area, the appealing entity may request review by the Secretary of Labor. The Secretary of Labor may require that the appealing entity be designated as a local area if the Secretary determines that the entity was not afforded procedural rights under the state’s appeal

process or if the entity meets the initial designation requirements established under WIOA Sec. 106(b)(2). Appeals brought pursuant to WIOA Sec. 106(b)(5) will be conducted in accordance with the Nebraska Administrative Procedures Act (R.R.S. Neb. § 84-917). Nebraska's Commissioner of Labor may conduct hearings on behalf of the Governor and make findings and recommendations to the Governor on the merits of the appeal. In the case of an appeal by an entity not granted designation as a local area, NWDB will review the findings and recommendations of the commissioner and advise the Governor as to whether the appeal should be granted or denied.

### *Disclaimer*

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## Attachment A

### State of Nebraska: Workforce Innovation and Opportunity Act

#### Request for Initial Local Area Designation

This request may be used by any entity requesting designation as a Local Workforce Development Area (Local Area) pursuant to Public Law 113-128, the Workforce Innovation and Opportunity Act (WIOA). This form must be completed and submitted by December 31, 2015. Submit this form to John H. Albin, Commissioner of Labor, Nebraska Department of Labor, P.O. Box 94600, Lincoln, NE 68509-4600; or email to John.Albin@nebraska.gov.

Designation as a Local Area is requested for the following counties (attach a separate sheet if necessary): \_\_\_\_\_.

Specify the name of the Local Area: \_\_\_\_\_.

List the names of the chief elected official (CEO) or chief elected officials board (CEOB) representing the local area (attached a separate sheet if necessary): \_\_\_\_\_.

Provide the name, title, mailing address, phone number, fax number, and email address of the primary contact person regarding this request.

Name:	
Title:	
Mailing Address:	
Phone Number:	
Fax Number:	
Email Address:	

#### Existing Local Workforce Development Areas:

In the tables below, provide the final WIA performance data for each of the last two consecutive years.

Program Year 2012 (July 1, 2012 - June 30, 2013)			
Performance Measure	Goal	Actual	Percent of Goal
Youth Placement in Employment/Education			
Youth Attainment of Degree/Certificate			
Youth Literacy or Numeracy Gains			
Adult Entered Employment Rate			
Adult Employment Retention Rate			

Program Year 2012 (July 1, 2012 - June 30, 2013)			
Adult Average Six-Month Earnings			
Dislocated Worker Entered Employment Rate			
Dislocated Worker Employment Retention Rate			
Dislocated Worker Average Six-Month Earnings			
Program Year 2013 (July 1, 2013 - June 30, 2014)			
Performance Measure	Goal	Actual	Percent of Goal
Youth Placement in Employment/Education			
Youth Attainment of Degree/Certificate			
Youth Literacy or Numeracy Gains			
Adult Entered Employment Rate			
Adult Employment Retention Rate			
Adult Average Six-Month Earnings			
Dislocated Worker Entered Employment Rate			
Dislocated Worker Employment Retention Rate			
Dislocated Worker Average Six-Month Earnings			

For each measure, the US Department of Labor defines performance as follows:

- Exceed = actual performance is greater than 100% of the goal
- Meet = actual performance is 80-100% of the goal
- Did not meet = actual performance is less than 80% of the goal

If any measure was not met in either program year, address the reasons, corrective action measures taken, and current status (attach a separate sheet if necessary):

\_\_\_\_\_.

Address fiscal integrity regarding funds provided under the Workforce Investment Act of 1998 (WIA).

Has the Secretary of Labor made a formal determination, during either of the last two consecutive years, that WIA funds provided to the area were misexpended due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration?

\_\_\_\_\_.

## Assurances

The CEO(s) making this local area designation request assure the following:

- that they have been duly authorized to participate by and on behalf of the governing bodies of the counties specified and documentation of this authorization can be provided;
- that they will comply with the requirements of WIOA, all federal regulations implementing WIOA, and any and all applicable federal, state, or local rules and regulations; and
- that they accept liability for any misuse of grant funds.

I, the undersigned CEO(s) of the requesting local area, do hereby submit this formal designation petition under the conditions delineated herein and with the assurances specified herein.

Chief Elected Official	Local Board Chair
Date	Date

- 
- [1] WIOA Sec. 106(b)(1)(B)  
[2] WIOA Sec. 102(b)(2)(E)(iii)(II) and 106(b)(1)(A)  
[3] 29 U.S. Code § 2801  
[4] WIOA Sec. 3(30)  
[5] WIOA Sec. 3(33)  
[6] 20 CFR § 679.260(a)  
[7] 20 CFR § 679.260(a)  
[8] TEGL 25-13  
[9] 20 CFR § 679.260(a)(1)-(2)  
[10] 20 CFR § 679.260(c)  
[11] TEGL 27-14  
[12] 20 CFR § 679.220(a)  
[13] WIOA Sec. 106(b)(1)(A); TEGL 27-14  
[14] WIOA Sec. 106(b)(1)(B); TEGL 27-14  
[15] WIOA Sec. 106(b)(1)(B)  
[16] TEGL 27-14; 20 CFR § 679.250  
[17] TEGL 27-14  
[18] WIOA Sec. 106(b)(3); 20 CFR § 679.250(c)  
[19] 20 CFR § 679.250(e)

## Interim Policy on Designation of Regions

### *Reference*

Innovation and Opportunity Act (WIOA), Section 106; WIOA Notice of Proposed Rulemaking, 20 CFR §§679.200 and 679.210

### *Background*

In order for Nebraska to receive an allotment under Sec. 127(b) or 132(b) of WIOA, NDOL must identify regions in the state after consultation with local workforce development boards (local boards) and chief elected officials (CEOs) in the local areas, consistent with Sec. 106(b)(1)(B) of WIOA.[1]

Nebraska's regional designation process was performed in accordance with Nebraska's policy on designation of regions. At the request of the Governor, NDOL evaluated labor market structure and distribution, designated economic development areas, distribution of educational and training resources, location of population centers, and workforce commuting patterns. The outcome of NDOL's evaluation revealed a substantive relationship between concentrations of economic activity and statewide workforce commuting patterns. Maps were generated by NDOL's Office of Labor Market Information illustrating this relationship.

Following this evaluation, NDOL consulted with local boards and CEOs on potential regional designations and provided a summary of its evaluation, including maps, for review and comment. Subsequent to the consultation, local area boards and CEOs recommended establishing workforce development regions based on the relationship between areas of economic concentration and workforce commuting patterns.

In December 2015, based on the recommendation of local area boards and CEOs, the Governor will designate an intrastate regional structure based on economic concentrations and workforce commuting patterns and notify all local areas and CEOs of the designations. Announcement of these regions is forthcoming.

### *Action*

After a 10-day review period, this policy will be considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox: [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

### *Policy*

#### Purpose of a Region

20 CFR § 679.200 describes the purpose of requiring states to identify regions is to align workforce development resources to regional economies to ensure coordinated and

efficient services to both job seekers and employers. WIOA requires states to establish regions in order to ensure that training and employment services support economic growth and related employment opportunities and are meeting the skill competency requirements of the regions. The development of comprehensive regional partnerships facilitates alignment of workforce development activities with regional economic development activities, and better supports the execution and implementation of sector strategies and career pathways. Regional cooperation may also lower costs and increase the effectiveness of service delivery to businesses that span more than one local workforce development area within a region and to job seekers through coordination of shared services, process, and operations.[2]

### Identifying Regions

The Governor will identify regions after consultation with the local boards and CEOs in the local areas identifying which regions are:

1. comprised of 1 local area;
2. comprised of 2 or more local areas; and
3. interstate areas contained within 2 or more states, and consist of labor market areas, economic development areas, or other appropriate contiguous subareas of those states.[3]

The Governor will assign local areas to a region prior to submission of the state combined plan and develop a policy and process for identifying regions.[4] This policy will include:

1. consultation with the local boards and chief local elected officials in the local areas; and
2. consideration of the extent to which the local areas in a proposed region:
  - a. share a single labor market;
  - b. share a common economic development area; and
  - c. possess the Federal and non-Federal resources, including appropriate education and training institutions, to administer activities under WIOA Subtitle B. [5]
3. In addition to the considerations described immediately above, other factors the Governor may also consider include:
  - a. population centers,
  - b. commuting patterns,
  - c. land ownership,
  - d. industrial composition,
  - e. location quotients,
  - f. labor force conditions,
  - g. geographic boundaries, and
  - h. additional factors as determined by the Secretary of the U.S. Department of Labor.[6]

As mentioned above, announcement of these regions is forthcoming.

## Planning Regions

A planning region is created when two or more local areas share a region.[7] Local boards and CEOs in planning regions must engage in regional planning that results in:

1. preparation of a regional plan;
2. establishment of regional service strategies, including using cooperative service delivery agreements;
3. development and implementation of sector initiatives for in-demand industry sectors or occupation for the region;
4. collection and analysis of regional labor market data (together with NDOL);
5. establishment of administrative cost arrangements, including pooling funds for administrative costs for the regions;
6. coordination of transportation and other supportive services for the region;
7. coordination of services with regional economic development services and providers; and
8. establishment of an agreement on how the planning region will collectively negotiate and reach agreement with the Governor on local levels of performance for, and report on, performance accountability measures for local areas or the planning region.[8]

## Regional Plans

Local boards and CEOs within a planning area must prepare, submit, and obtain approval of a single regional plan, including a description of the activities described immediately above. The regional plan must also incorporate local plans for each of the local areas in the planning region. Technical assistance and labor market data will be provided by NDOL upon request by the local areas to assist regional planning and subsequent service delivery efforts.[9]

## *Disclaimer*

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[1] WIOA Sec. 106(a)(1)

[2] 20 CFR § 679.200

[3] WIOA Sec. 106(a)(1), 106(a)(2), 106(b)(1)(B)

[4] 20 CFR § 679.210(a)

[5] 20 CFR § 679.210(b)

[6] 20 CFR § 679.210(c)

[7] WIOA Sec. 106(a)(2)(B) and (C)

[8] WIOA Sec. 106(c)(1)

[9] WIOA Sec. 106(c)(2)

## Preliminary Policy on Electronic Case Files

### *Reference*

Workforce Innovation and Opportunity Act, Sec. 185; Data Validation policy; Government Paperwork Elimination Act of 2000 (GPEA, Pub. L. 105-277); and TEGL 17-05.

### *Background*

Section 185 of Workforce Innovation and Opportunity Act (WIOA) requires recipients of Title I to keep records that are sufficient to permit the preparation of reports required by Title I and to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully.[1] This policy applies to electronic file storage and documentation imaging standards in the administration of the following federal programs: Workforce Innovation and Opportunity Act (WIOA), Wagner-Peyser (WP), Trade Adjustment Assistance (TAA) and related assistance programs, National Emergency Grant (NEG), and Work Opportunity Tax Credit (WOTC), under the Nebraska's state integrated Management Information System (MIS), NEworks and Enterprise Content Management (ECM) system.

As a form of process improvement, the Nebraska Department of Labor (NDOL) and numerous other state agencies have transitioned to a paperless environment utilizing an electronic document imaging and storage system called Enterprise Content Management (ECM). To capitalize on the increased efficiency of data storage and retrieval, NDOL revised the documentation process for determining eligibility and the maintenance of pertinent records. NDOL no longer depends on hard copy documentation, and requires electronic verification of eligibility requirements. The system includes both internal and external access allowing all servicing partners the means to efficiently provide services for their clients. The NEworks electronic application shall be the application of record.

#### Electronic Content Management:

- reduces staff time accessing hard copy documentation
- increases the consistency of file documentation
- provides easily accessible single point access for file review
- ensures complete verification for program eligibility

Other benefits include: one source of data for case management; easing storage requirements; federal reporting accuracy; timeliness of input; comprehensive view of participant's record; and data validation. The electronic information referenced will be made available to any USDOL or State auditor, or monitor who needs access in order to carry out their official duties. This policy provides clarification on the implementation and validation of this process.

## *Action*

This policy takes effect July 1, 2015.

## *Policy*

The state has established a standard for an electronic file (e-file) which includes a paperless registration, eligibility determination, and program enrollment. The e-file will be established through the state integrated Management Information System (MIS), NEworks, and Enterprise Content Management (ECM) system. All WIOA program enrollments and associated documentation are required to be completed in an e-file format. The results are a real time environment for storing and viewing applicant verification and eligibility determination documents. Authorized personnel are required to scan, import, and save all verification documents at the time they are being reviewed during the application process and prior to selecting the verification type on the application in NEworks per distinct program requirements. Hard copy files will not be considered during a state monitoring review or for data validation. Any needed exceptions to this rule should be made in writing to the NDOL Office of Employment and Training, Attn: Director.

### Definition of an E-File

E-file for purposes of this policy, and all programs related to this policy, will refer to a program applicant's file comprehensively stored in an electronic format. The program application, related activities, case notes and all other relevant individual/entity information are captured and stored solely in NEworks, the state integrated MIS, while all documentation and eligibility verifications specific to each applicant are scanned and stored in the Enterprise Content Management (ECM) system. In the rare situation where a case note is of a highly confidential nature, this case note may be scanned and stored in the ECM system. Scanned case notes in the ECM system should be an anomaly. For all WIOA program participants, hard copy documents or hard copy files of any kind will not be considered during a state monitoring review or for data validation. The contents of a participant e-file shall be determined based on the requirements of each distinct program. Accepted methods for producing an e-file consist of:

- Scanning and importing a document into ECM
- E-forms developed in accordance to their individual workflows
- Extracting images from other state agency e-file programs

### Roles & Responsibilities

All verification documents must be scanned, imported, reviewed, and saved by the Program Staff personnel, at the time the verification is conducted.

## Communication Workflow

Each region, or local area, is assigned a Regional Expert who has been fully trained in the ECM process. Any system and scanning inquiries should first be communicated to the Regional Expert. If the Regional Expert is unable to resolve an issue, it will be the responsibility of the Case Manager to then present that issue to the ECM/NEworks Program Coordinator. A list of Regional Experts and Program Coordinators is located on the Staff Online Resource page of NEworks. To update this information, please contact the NEworks System Administrator.

## ECM Practices

- **ECM Access.** ECM access for all NDOL users shall be requested via the NDOL Access Request Process (ARP). If approved, confirmation will be provided to the requesting manager. ECM access for all non NDOL users, such as local area WIA providers, shall submit a NEworks/ECM Access Request form to NDOL's Office of Employment and Training (OET). The access form may be found on the NEworks Staff Online Resource Page. Additionally, non-NDOL users are required to register on the Nebraska Enterprise Self Registration portal. If approved, confirmation will be provided to the requesting manager. Login information is not to be shared with any other personnel in accordance with the Confidentiality Policy.
- **Scanned Image Legibility.** Any and all pertinent documentation that is scanned is required to be legible in view and printed form. Illegible images must be removed and the document must be rescanned until a legible image has been captured.
- **Deleting Images.** Under no circumstances will personnel be allowed to delete an image that has already been saved to an applicant's electronic file. The process of deleting an image that has already been saved to an applicant's electronic file can only be performed by the System Administrator. Requests to delete images may be submitted, via the ECM/NEworks Record Correction Form which is integrated in the ECM e-form document workflow, if the following scenarios exist:
  - an image has been saved to an incorrect program applicant's file, or
  - an image has been saved under an incorrect document type.
- **E-Form Process.** A variety of electronic forms will be used in accordance with the Enterprise Content Management system. E-forms allow users to complete forms electronically and provide an electronic signature to confirm receipt and review of the information captured in the form by qualified staff or management personnel. Each e-form will need to follow its designated workflow process to ensure all required electronic signatures have been obtained as well as the form passing through each stage of the process as outlined. Any misrepresentation of the electronic signature process, by program staff or management, could result in disciplinary action up to and including termination. All federally funded programs under this policy will establish a workflow for each e-form relevant to their specific programs.

### Electronic Signature

An electronic signature is a method of signing an electronic document that identifies and authenticates a particular person as the source of the message and indicates such person's approval of the information contained in the electronic message. Electronic signatures will be generated via signature pads with scanned copies being accepted in limited situations, such as remote or video case management. The electronic signature may be embedded in the content of the record, or it may be stored separately. If an electronic signature technology separates the signature from the rest of the record, it must be associated in some way and captured in the recordkeeping system to preserve the complete content of the record. Where a signature is required and an e-form is not available, the form must be printed and manually signed accordingly. The form is then to be scanned into the participant's electronic file in ECM.

### Program Monitoring

Use of Enterprise Content Management in accordance with this policy provides for all monitoring to be performed remotely and upon request. Information is readily available due to the real time entry of all documentation making applicant files current and up to date at all times during the process. State monitors, auditors, and Federal review officials will request access to the ECM system via the NEworks/ECM - Access Request Form, and submitted to OET. If approved, confirmation will be provided to the requestor along with necessary links and initial login credentials. Access will be provided on a permanent or temporary basis depending on business need.

### Record Retention

The required length of retention for all contents of an e-file shall be determined per the guidelines for each distinct federally funded program, and specified in the program's individual business rules and procedures.

### Confidentiality

All authorized personnel will be assigned a unique and personal username and temporary password to login to the Enterprise Content Management system. Each personnel member will then create his/her own unique and personal password in accordance with the password criteria provided upon initial login. For confidentiality purposes, this unique and personal login information shall not be shared with any other person, nor will any other person be allowed to perform any actions using this login other than the person to whom the login is assigned. Failure to comply with the Confidentiality Policy could result in disciplinary action up to and including termination. In addition, some personnel will assign an electronic signature to various documents for approval. Any misrepresentation of this electronic signature could also result in disciplinary action up to and including termination.

### *Disclaimer*

This interim policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

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[1] WIOA Sec. 185(a)(1)

## Interim Policy on Eligibility for Adult Programs

### *Reference*

Workforce Innovation and Opportunity Act Sections 3, 129, 134, 188, and 189. Workforce Innovation and Opportunity Act - Notice of Proposed Rulemaking, 20 CFR §§ 680.110, 680.140, 680.210, 680.220, 680.650, 681.430, 681.440, 683.230; Neb. Rev. Stat. § 4-108; 38 U.S.C. §§ 101, 4215.

### *Background*

Eligibility criteria for the adult programs are defined under the provisions of the Workforce Innovation and Opportunity Act.

### *Action*

After a 10-day review period, this policy will be considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox: [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

Local areas need to establish a policy on eligibility for adult programs addressing the provisions identified in this policy as well as ensure their local WIOA Plan addresses the requirements set forth in this policy.

### *Policy*

Section 3(2) of WIOA defines an “adult” as an individual who is age 18 or older.

### Required Employment and Training Activities

WIOA divides required employment and training activities provided by One-Stop operators and One-Stop partners into two categories: career services and training services. The eligibility requirements for services in these categories are different.

### Required Career Services

Section 134(c)(2)(A) of WIOA requires that local areas provide services that include, at a minimum:

1. Determinations of whether the individuals are eligible to receive assistance;
2. Outreach, intake (which may include worker profiling), and orientation to the information and other services available through the One-Stop delivery system;
3. Initial assessment of skill levels (including literacy, numeracy, and English language proficiency), aptitudes, abilities (including skills gaps), and supportive service needs;
4. Labor exchange services, including—

- a. Job search and placement assistance and, in appropriate cases, career counseling, including—
    - i. Provision of information on in-demand industry sectors and occupations; and
    - ii. Provision of information on nontraditional employment; and
  - b. Appropriate recruitment and other business services on behalf of employers, including small employers, in the local area, which services may include services described in this subsection, such as providing information and referral to specialized business services not traditionally offered through the One-Stop delivery system;
5. Provision of referrals to and coordination of activities with other programs and services, including programs and services within the One-Stop delivery system and, in appropriate cases, other workforce development programs;
6. 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—
  - a. Job vacancy listings in such labor market areas;
  - b. Information on job skills necessary to obtain the jobs described in (a); and
  - c. Information relating to local occupations in demand and the earnings, skill requirements, and opportunities for advancement for such occupations;
7. Provision of performance information and program cost information on eligible providers of training services as described in Section 122, provided by program, and eligible providers of youth workforce development activities described in Section 123, providers of adult education described in Title II, providers of career and technical education activities at the postsecondary level, and career and technical education activities available to school dropouts, under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et. Seq.), and providers of vocational rehabilitation services described in Title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);
8. Provision of information, in formats that are usable by and understandable to One-Stop customers, regarding how the local area is performing on the local performance accountability measures and any additional performance information with respect to the One-Stop delivery system in the local area;
9. Provision of information, in formats that are usable by and understandable to One-Stop center customers, relating to the availability of supportive services or assistance, including:
  - a. Childcare, child support, medical or child health assistance under Title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.);
  - b. Benefits under the supplemental nutrition assistance program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);
  - c. Assistance through the earned income tax credit under Section 32 of the Internal Revenue Code of 1986
  - d. Assistance under a State program for temporary assistance for needy families funded under part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

- e. Other supportive services and transportation provided through funds made available under such part, available in the local area;
- 10. Referral to the services or assistance described in item 9 as appropriate;
- 11. Provision of information and assistance regarding filing claims for unemployment compensation;
- 12. Assistance in establishing eligibility for programs of financial aid assistance for training and education programs that are not funded under WIOA;
- 13. Services, if determined to be appropriate in order for an individual to obtain or retain employment, that consist of—
  - a. Comprehensive and specialized assessments of the skill levels and service needs, which may include:
    - i. Diagnostic testing and use of other assessment tools; and
    - ii. In-depth interview 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 the employment goals;
  - c. Group counseling;
  - d. individual counseling;
  - e. Career planning;
  - f. Short-term prevocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct;
  - g. Internships and work experiences that are linked to careers;
  - h. Workforce preparation activities;
  - i. financial literacy services
  - j. Out-of-area job search assistance and relocation assistance; or
  - k. English language acquisition and integrated education and training programs; and
- 14. Follow-up services, including counseling regarding the workplace, for participants in workforce development activities who are placed in unsubsidized employment, for not less than 12 months after the first day of employment, as appropriate.[1]

### Eligibility for Career Services

#### *Priority*

Generally, there are no special eligibility requirements for participation by adults in career services under Section 134(c)(2) of WIOA. However, if the career services provided include services under Section 134(c)(2)(A)(xii) of WIOA (number 13 on the previous list), priority must be given to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient. The local board and the Governor will direct the One-Stop operators in the local area with regard to making determinations related to such priority.<sup>1</sup>

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<sup>1</sup> WIOA Sec. 134(c)(3)(E)

- Low Income Individual –Section 3(36) of WIOA defines a "low income individual" as one 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 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
    - Seventy 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 payments are made; or
  - Is an individual with a disability whose income meets the income requirement of (2), but who is a member of a family whose income does not meet this requirement.
- Basic Skills Deficient –Section 3(5) of WIOA defines "basic skills deficient" as an individual:
  - Who is a youth (18-24), that the individual has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test; or
  - Who is a youth or adult that the individual is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual's family, or in society.

### Required Training Services

As defined by Section 134(c)(3)(D) of WIOA, training services may include:

1. Occupational skills training, including training for nontraditional employment;
2. On-the-job training;
3. Incumbent worker training;
4. Programs that combine workplace training with related instruction, which may include cooperative education programs;
5. Training programs operated by the private sector;
6. Skill upgrading and retraining;
7. Entrepreneurial training;

8. Transitional jobs;
9. Job readiness training provided in combination with the other services in this list;
10. Adult education and literacy activities, including activities of English language acquisition and integrated education and training programs, provided concurrently or in combination with any of the other services in this list; and
11. Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

### *Linkage to Occupations in Demand*

Training services provided must be directly linked to an in-demand industry sector or occupation in the local area or the planning region, or in another area to which an adult receiving such services is willing to relocate, except that a local board may approve training services for occupations determined by the local board to be in sectors of the economy that have a high potential for sustained demand or growth in the local area.[3]

### *Eligibility for Training Services*

Funds for adult training services under Section 134(c)(3) of WIOA must be used to provide training to adults who:

1. After an interview, evaluation, or assessment, and career planning, have been determined by a One-Stop operator or One-Stop partner, as appropriate, to
  - a. Be unlikely or unable to obtain or retain employment, that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment, through the career services;
  - b. Be in need of training services to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment; and
  - c. Have the skills and qualifications to successfully participate in the selected program of training services;
  - d. Use of Previous Assessment - A One-Stop operator or One-Stop partner is not required to conduct a new interview, evaluation, or assessment of a participant if it determines that it is appropriate to use a recent interview, evaluation, or assessment of the participant conducted pursuant to another education or training program.[4]
2. Select programs of training services that are directly linked to the employment opportunities in the local area or the planning region, or in another area to which the adults or dislocated workers are willing to commute or relocate; and
3. Are unable to obtain other grant assistance for such training, including such sources as State-funded training funds, Trade Adjustment Assistance, and Federal Pell Grants, or require WIOA assistance in addition to other sources of grant assistance, including Federal Pell Grants.[5] For further information, see the "Individual Training Accounts" policy.
4. Require assistance - When making the determination about whether an individual requires assistance, a One-Stop operator may take into consideration the full cost

of participating in training services, including the costs of dependent care and transportation, and other appropriate costs.[6]

The case file must contain a determination of need for training services under 20 CFR § 680.210 as determined through the interview, evaluation, or assessment, and career planning informed by local market information and training provider performance information, or through any other career service received. There is no requirement that career services be provided as a condition to receipt of training services; however, if career services are not provided before training, the local board must document the circumstances that justified its determination to provide training without first providing the services described in 20 CFR § 680.220.[7] There is no Federally-required minimum time period for participation in career services before receiving training services.[8]

### *Priority*

For the receipt of training services, local areas must give priority to recipients of public assistance, other low-income individuals, and individuals who are basic skills deficient.

*Public assistance* -Section 3(50) of WIOA defines public assistance as Federal, state, or local government cash payments for which eligibility is determined by a needs or income test.

### Permissible Employment and Training Activities

In addition to the required career and training activities, local areas may provide:

1. Customized screening and referral of qualified participants in training services to employers;
2. Customized employment-related services to employers, employer associations, or other such organizations on a fee-for-service basis;
3. Implementation of a pay-for-performance contract strategy for training services, for which the local board may reserve and use not more than 10 percent of the total adult or dislocated worker funds allocated to the local area;
4. Customer support to enable individuals with barriers to employment (including individuals with disabilities) and Veterans, to navigate among multiple services and activities for such populations;
5. Technical assistance for One-Stop operators, One-Stop partners, and eligible providers of training services, regarding the provision of services to individuals with disabilities in local areas, including the development and training of staff, the provision of outreach, intake, assessments, and service delivery, the coordination of services across providers and programs, and the development of performance accountability measures;
6. Employment and training activities provided in coordination with—
  - a. Child support enforcement activities of the State and local agencies carrying out part D of Title IV of the Social Security Act (42 U.S.C. 651 et seq.);

- b. Child support services, and assistance, provided by State and local agencies carrying out part D of Title IV of the Social Security Act (42 U.S.C. 651 et seq.);
  - c. Cooperative extension programs carried out by the Department of Agriculture; and
  - d. Activities to facilitate remote access to services provided through a One-Stop delivery system, including facilitating access through the use of technology;
- 7. Activities—
  - a. To improve coordination between workforce development activities and economic development activities carried out within the local area involved, and to promote entrepreneurial skills training and microenterprise services;
  - b. To improve services and linkages between the local workforce development system (including the local One-Stop delivery system) and employers, including small employers, in the local area, through services described in this Section; and
  - c. To strengthen linkages between the One-Stop delivery system and unemployment insurance programs;
- 8. Training programs for displaced homemakers and for individuals training for nontraditional occupations, in conjunction with programs operated in the local area;
- 9. Activities to provide business services and strategies that meet the workforce development needs of area employers, as determined by the local board, consistent with the local plan, which services—
  - a. May be provided through effective business intermediaries working in conjunction with the local board, 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 local board; and
  - b. May include—
    - i. Developing and implementing industry sector strategies (including strategies involving industry partnerships, regional skills alliances, industry skill panels, and sectoral skills partnerships);
    - ii. Developing and delivering innovative workforce development services and strategies for area employers, which may include career pathways, skills upgrading, skill standard development and certification for recognized postsecondary credential or other employer use, apprenticeship, and other effective initiatives for meeting the workforce development needs of area employers and workers;
    - iii. Assistance to area employers in managing reductions in force in coordination with rapid response activities and with strategies for the aversion of layoffs, which strategies may include early identification of firms at risk of layoffs, use of feasibility studies to assess the needs of and options for at-risk firms, and the delivery of employment and training activities to address risk factors; and

- iv. The marketing of business services offered under this Title, to appropriate area employers, including small and mid-sized employers;
- 10. Activities to adjust the economic self-sufficiency standards[9] for local factors, or activities to adopt, calculate, or commission for approval, economic self-sufficiency standards for the local areas that specify the income needs of families, by family size, the number and ages of children in the family, and substate geographical considerations;
- 11. Improved coordination between employment and training activities and programs carried out in the local area for individuals with disabilities, including programs carried out by State agencies relating to intellectual disabilities and developmental disabilities, activities carried out by Statewide Independent Living Councils established under Section 705 of the Rehabilitation Act of 1973 (29 U.S.C. 796d), programs funded under part B of chapter 1 of Title VII of such Act (29 U.S.C. 796e et seq.), and activities carried out by centers for independent living, as defined in Section 702 of such Act (29 U.S.C. 796a); and
- 12. Implementation of promising services to workers and businesses, which may include support for education, training, skill upgrading, and statewide networking for employees to become workplace learning advisors and maintain proficiency in carrying out the activities associated with such advising.[10]

#### Rule of Construction

Nothing in this policy or in WIOA should be construed to mean an individual is required to receive career services prior to receiving training services.[11]

#### Work Support Activities for Low-Wage Workers

Funds for adults may be used to provide work support activities designed to assist low-wage workers in retaining and enhancing employment. The One-Stop partners of the system shall coordinate the appropriate programs and resources of the partners with the activities and resources provided under Section 134(d)(1)(B) of WIOA [Work Support Activities for Low-Wage Workers].

These activities may include the provision of activities in a manner that enhances the opportunities of such worker to participate in the activities, such as the provision of activities described in this Section during nontraditional hours and the provision of onsite child care while such activities are being provided.[12] Work support activities may also include any activities available under the WIOA adult program in coordination with activities and resources available through partner programs.[13]

## Supportive Services

Funds for adults may be used to provide supportive services to adults who:

1. Are participating in programs with career or training activities; and
2. Are unable to obtain such supportive services through other programs providing such services.[14]

*Supportive Services Definition* -Section 3(59) of WIOA defines supportive services as services such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to enable an individual to participate in activities authorized by WIOA.

See the Supportive Services policy for additional information.

## Needs-Related Payments

Funds for adults may be used to provide needs-related payments to adults who are unemployed and do not qualify for (or have ceased to qualify for) unemployment compensation for the purpose of enabling such individuals to participate in programs of training services.[15]

## Priority for Veterans

Covered persons receive priority of service in all Department of Labor-funded training programs under 38 U.S.C. 4215 and described in 20 CFR 1010.[16] A Veteran must still meet each program's eligibility criteria to receive services under the respective employment and training program.[17]

The term "covered person" as defined in Section 2(a) of the Jobs for Veterans Act [38 U.S.C. 4215(a)] means a Veteran or eligible spouse.[18]

"*Veteran*" means a person who served at least one day in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable, as specified in 38 U.S.C. 101(2). Active service includes full-time Federal service in the National Guard or a Reserve component.[19] Active service does not include full-time duty performed strictly for training purposes unless the individual was disabled or died from an disease or injury incurred or aggravated in the line of duty.[20]

"*Eligible Spouse*" means the spouse of any of the following:

1. Any Veteran who died of a service-connected disability;
2. Any member of the Armed Forces serving on active duty who, at the time of application for the priority, is listed in one or more of the following categories and has been so listed for a total of more than 90 days: (I) missing in action, (II)

- captured in the line of duty by a hostile force, or (III) forcibly detained or interned in the line of duty by a foreign government or power;
3. Any Veteran who has a total disability resulting from a service-connected disability, as evaluated by the Department of Veterans Affairs; or
  4. Any Veteran who died while a disability, as indicated in paragraph 3 (above), was in existence.<sup>[21]</sup>

The term “*priority of service*” means, with respect to any qualified job training program, that a covered person shall be given priority over a non-covered person for the receipt of employment, training, and placement services provided under that program, notwithstanding any other provision of the law.<sup>[22]</sup>

For income-based eligibility determinations, amounts paid while on active duty or paid by the Department of Veterans Affairs for vocational rehabilitation, disability payments, or related VA-funded programs are not to be considered as income in accordance with 38 U.S.C. 4213 and 20 CFR § 683.230.<sup>[23]</sup> This applies when determining if a person is a “low-income individual” for eligibility purposes (for example, in WIOA youth programs). It also applies when income is used as a factor when the local area provides priority of service for “low income individuals” with Title I WIOA funds.<sup>[24]</sup>

### Registration

Registration is the process for collecting information for supporting a determination of eligibility. This information may be collected through methods that include electronic data transfer, personal interview, or an individual’s application.

- Adults who receive services funded under Title I other than self-service or informational activities must be registered and determined eligible and must be a participant.<sup>[25]</sup>
- Employment Opportunity data must be collected on every individual who is interested in being considered for WIOA Title I financially assisted aid, benefits, services, or training by a recipient, and who has signified that interest by submitting personal information in response to a request from the grant recipient or designated service provider.<sup>[26]</sup>

### Concurrent Enrollment

Under Section 3 of WIOA, eligible adults are defined as individuals age 18 or older.<sup>[27]</sup> WIOA defines eligible youth as 14 through 21 years of age, if in-school youth,<sup>[28]</sup> and 16 through 24, if out-of-school youth.<sup>[29]</sup> Thus, individuals between the ages of 18 through 24 [at registration] may be eligible for both adult and youth programs.

- Eligible individuals who are 18 through 24 years old [at registration] may participate in adult and youth programs concurrently. Such individuals must be eligible under the youth and adult/dislocated worker eligibility criteria applicable to the services received. Local program operators should determine the appropriate level and

balance of services under the youth and adult programs. This determination should be driven by program design and services provided.[30]

- Local program operators must identify and track the funding streams which pay the costs of services provided to individuals who are participating in youth and adult/dislocated worker programs concurrently, and ensure that services are not duplicated.[31]

A local program should determine the appropriate program for the participant based on the service needs of the participant and if the participant is career-ready based on an objective assessment of their occupational skills, prior work experience, employability, and participants needs as required in Section 129(c)(1)(A) of WIOA.[32]

#### Application Time Limit

NEworks is used by all of the American Job Centers in Nebraska to collect data items of several of the One-Stop partners. The WIOA Application Date is the date when the WIOA Application is created. When entering it on NEworks, it cannot be a date in the future. The WIOA Participation Date is the date following a determination of eligibility (when necessary) to participate in the program when the individual begins receiving a service funded by the program in either a physical location (American Job Center) or remotely through electronic technologies. It counts as the official point when the participant begins counting in performance measures. Under this policy, if over 90 days elapse between the WIOA Application Date and the WIOA Participation Date, then the application will be closed. Even with the ninety day limit, there are several items on NEworks that must be verified and updated (when appropriate) at the date of WIOA participation including: Education Level; School Status, Employment Status, Enrolled in Education at Participation, Unemployment Compensation, and Age at Participation. A youth's dropout status must be verified at the time of WIOA youth program enrollment.[33]

#### Nondiscrimination

Section 188 of WIOA provides that no individual may be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex, national origin, age, disability, or political affiliation or belief.[34]

Participation in programs and activities must also be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States. Individuals with employment authorization may access any WIOA services for which they otherwise would qualify.[35]

### Verification of Lawful Presence

Each agency responsible for determining eligibility for WIOA benefits in Nebraska is required to:

1. Have each applicant for WIOA services attest that he or she is a U.S. citizen or a qualified alien. This must be done using the format prescribed by the Nebraska Department of Administrative Services (DAS).[36]
  - a. If in the above Step 1, the applicant indicates he or she is an alien, then complete Step 2 as follows:
2. Verify his or her lawful presence in the United States using the SAVE (Systematic Alien Verification for Entitlements) Program operated by the U.S. Department of Homeland Security.

### Enforcement of Military Selective Service Act

Local programs shall ensure that each individual participating in any program established under Title I of WIOA or receiving any assistance or benefit under such Title, has not violated Section 3 of the Military Selective Services Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such Section.[37]

### *Disclaimer*

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

## Appendix A

### Nebraska's Census Tracts Meeting "High Poverty" Definition

(30% or more of Household at or below the Poverty Line)

#### Greater Lincoln

Census Tract	Estimated Number	Estimated Number below Poverty	Poverty Percent
Census Tract 6, Lancaster County, Nebraska	101	92	0.910891
Census Tract 17, Lancaster County, Nebraska	2846	1217	0.427618
Census Tract 20.02, Lancaster County, Nebraska	1528	618	0.40445
Census Tract 20.01, Lancaster County, Nebraska	1468	569	0.387602
Census Tract 2.02, Lancaster County, Nebraska	1669	623	0.373277
Census Tract 7, Lancaster County, Nebraska	1087	405	0.372585
Census Tract 4, Lancaster County, Nebraska	1951	723	0.370579
Census Tract 5, Lancaster County, Nebraska	630	221	0.350794
Census Tract 19, Lancaster County, Nebraska	381	133	0.349081
Census Tract 31.03, Lancaster County, Nebraska	893	309	0.346025
Census Tract 3, Lancaster County, Nebraska	1504	457	0.303856

#### Greater Nebraska

Census Tract	Estimated Number	Estimated Number below Poverty	Poverty Percent
Census Tract 9696, Buffalo County, Nebraska	1632	567	0.347426
Census Tract 9657, Adams County, Nebraska	558	180	0.322581
Census Tract 101, Dakota County, Nebraska	2235	680	0.304251

#### Greater Omaha

Census Tract	Estimated Number	Estimated Number below Poverty	Poverty Percent
Census Tract 16, Douglas County, Nebraska	148	81	0.547297
Census Tract 7, Douglas County, Nebraska	613	283	0.461664
Census Tract 8, Douglas County, Nebraska	634	287	0.452681
Census Tract 11, Douglas County, Nebraska	1077	477	0.442897
Census Tract 6, Douglas County, Nebraska	468	199	0.425214
Census Tract 60, Douglas County, Nebraska	1402	569	0.405849
Census Tract 40, Douglas County, Nebraska	1480	587	0.396622

Census Tract	Estimated Number	Estimated Number below Poverty	Poverty Percent
Census Tract 59.02, Douglas County, Nebraska	755	296	0.392053
Census Tract 52, Douglas County, Nebraska	530	206	0.388679
Census Tract 29, Douglas County, Nebraska	1472	566	0.384511
Census Tract 51, Douglas County, Nebraska	1008	357	0.354167
Census Tract 61.02, Douglas County, Nebraska	1462	517	0.353625
Census Tract 4, Douglas County, Nebraska	840	295	0.35119
Census Tract 19, Douglas County, Nebraska	792	265	0.334596
Census Tract 12, Douglas County, Nebraska	957	318	0.332288
Census Tract 38, Douglas County, Nebraska	1576	521	0.330584
Census Tract 53, Douglas County, Nebraska	854	279	0.326698
Census Tract 5, Douglas County, Nebraska	575	180	0.313043
Census Tract 39, Douglas County, Nebraska	940	293	0.311702
Census Tract 21, Douglas County, Nebraska	867	267	0.307958
Census Tract 32, Douglas County, Nebraska	921	279	0.302932

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- [1] WIOA Sec. 134(c)(2)
  - [2] WIOA Sec. 134(c)(3)(E)
  - [3] WIOA Sec. 134(c)(3)(G)(iii)
  - [4] WIOA Sec. 134(c)(3)(A)(ii)
  - [5] 20 CFR § 680.210
  - [6] WIOA Sec. 134(c)(3)(B)(i)
  - [7] 20 CFR § 680.220(b)
  - [8] 20 CFR § 680.220(c)
  - [9] See WIOA Sec. (a)(3)(A)(xii)
  - [10] WIOA Sec. 134(d)
  - [11] WIOA Sec. 134(c)(3)(A)(iii)
  - [12] WIOA Sec. 134(d)(1)(B)
  - [13] 20 CFR § 680.140
  - [14] WIOA Sec. 134(d)(2)
  - [15] WIOA Sec. 134(d)(3)(A)
  - [16] 20 CFR § 680.650
  - [17] 20 CFR § 680.650
  - [18] 38 U.S.C. § 4215(a)(1)
  - [19] 38 U.S.C. §§ 101(21), (24)
  - [20] 38 U.S.C. § 101(24)
  - [21] 38 U.S.C. § 4215(a)(1)(B)
  - [22] 38 U.S.C. § 4215(a)(3)
  - [23] 20 CFR § 680.650
  - [24] 20 CFR § 683.230
  - [25] 20 CFR § 680.110(b)

- [26] 20 CFR § 680.110(c)
- [27] WIOA Sec. 3(2)
- [28] WIOA Sec. 129(a)(1)(C)
- [29] WIOA Sec. 129(a)(1)(B)
- [30] 20 CFR § 681.430(a)
- [31] 20 CFR § 681.430(b)
- [32] 20 CFR § 681.440
- [33] 20 CFR § 681.240
- [34] WIOA Sec. 188(a)(2)
- [35] WIOA Sec. 188(a)(5)
- [36] Neb. Rev. Stat. § 4-108
- [37] WIOA Sec. 189(h)

## Interim Policy on Eligibility for Dislocated Workers

### *Reference*

Workforce Innovation and Opportunity Act (WIOA) Sections 3, 134, and 189; WIOA Notice of Proposed Rulemaking, 20 CFR §§ 680.110, 680.120, 680.130, 680.210, 680.220, 680.650, 681.430, 681.440, 683.230; Neb. Rev. Stat. § 4-108; 38 U.S.C. §§ 101, 4215.

### *Background*

Eligibility criteria for dislocated workers are defined under the provisions of WIOA.

### *Action*

After a 10-day review period, this policy will be considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox: [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

Local areas need to establish a policy on eligibility for dislocated workers addressing the provisions identified in this policy as well as ensure their local WIOA Plan addresses the requirements set forth in this policy.

### *Policy*

#### Eligibility Criteria

WIOA Sec. 3(15) defines “dislocated worker”, for purposes of qualifying for services under WIOA Sec. 134, as an individual who meets one of the following five parts:

#### *Part I*

1. Has been terminated or laid off, or who has received a notice of termination or layoff, from employment;
  - a. is eligible for or has exhausted entitlement to unemployment compensation; or
  - b. has been employed for a duration sufficient to demonstrate, to the appropriate entity at a One-Stop center referred to in Section 121(e), attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; and
2. is unlikely to return to a previous industry or occupation (see “Unlikely to Return” subheading below);[1]

## *Part II*

1. Has been terminated or laid off, or has received a notice of termination or layoff from employment as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise;
2. is employed at a facility at which the employer has made a general announcement that such facility will close within 180 days; or
3. for purposes of eligibility to receive services other than training services described in Section 134(c)(3), career services described in Section 134(c)(2)(A)(xii), or supportive services, is employed at a facility at which the employer has made a general announcement that such facility will close;[2]

## *Part III*

1. Was self-employed (including employment as a farmer, a rancher, or a fisherman) but is unemployed as a result of general economic conditions in the community in which the individual resides, or because of natural disasters; [3]

## *Part IV*

1. Is a displaced homemaker;[4]  
Displaced Homemaker - WIOA Sec. 3(16) defines “displaced homemaker” as an individual who has been providing unpaid services to family members in the home and who:
  - a. Is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment; and either
    - i. Has been dependent on the income of another family member but is no longer supported by that income; or
    - ii. Is the dependent spouse of a member of the Armed Forces on active duty[5] and whose family income is significantly reduced because of
      - (1) A deployment;[6]
      - (2) A call or order to active duty pursuant to a provision of law referred to in Section 101(a)(13)(B) of Title 10, United States Code;
      - (3) A permanent change of station; or
      - (4) The service-connected[7] death or disability of the member.[8]

## *Part V*

1. Is the spouse of a member of the Armed Forces on active duty[9] and who has experienced a loss of employment as a direct result of relocation to accommodate a permanent change in duty station of such member; or
2. Is the spouse of a member of the Armed Forces on active duty and is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.[10]
3. In order to receive services as a dislocated worker, the individual must be 18 years of age or older.[11]

In determining eligibility, the governor and local boards may establish policies and procedures for One-Stop operators to use in determining an individual's eligibility as a dislocated worker, consistent with the definition at Section 3(15) of WIOA. These policies and procedures may address such conditions as:

1. What constitutes a “general announcement” of plant closing under Section 3(15)(B)(ii) or (iii) of WIOA; and
2. What constitutes “unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters” for determining the eligibility of self-employed individuals, including family members and farm workers or ranch hands, under Section 3(15)(C) of WIOA.[12]

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

1. Individual worked in a declining industry or occupation, as documented on state or locally developed labor market statistic lists of such industries or occupations. State labor market data lists are available from the Nebraska Department of Labor's Labor Market Information Division. Local lists must be developed by an appropriate entity, such as the local workforce development board, economic development agency, a qualified consultant/educational entity, or other valid public use quality source of labor market information.
2. Individual worked in an industry or occupation for which there are limited job orders in NEworks at the time of eligibility determination, as documented by the assigned Career Planner.
3. Individual is insufficiently educated and/or does not have the necessary skills for reentry into the former industry or occupation, as documented through an in-take orientation process or assessment of the client's educational achievement levels, testing, or other suitable means.
4. Individual has had a lack of job offers as documented by the assigned Career Planner, rejection letters from employers in the area, or other documentation of unsuccessful efforts to obtain employment in the prior industry or occupation.
5. Individual cannot return to their previous industry or occupation because they have physical or other limitations, which would prevent reentry into the former industry or occupation, as documented by a physician or other applicable professional (e.g., psychiatrist, psychiatric social worker, chiropractor, etc.). In circumstances where support documentation is not available, an applicant self-attestation may be utilized to demonstrate unlikely to return.

6. Individuals that may have worked seasonally can be considered unlikely to work[13] in a previous industry or occupation as a temporary or seasonal worker, for a variety of reasons such as:
  - a. Change in family situation that requires higher income;
  - b. Disability that precludes returning to the same industry or occupation;
  - c. Natural disaster that results in lost wages;
  - d. Loss of agricultural land;
  - e. Mechanization; or
  - f. Any significant variance to normal seasonal employment patterns resulting in uncertain return-to-work dates.
7. Individuals laid off on a temporary basis with a specific return date and/or determined by Unemployment Insurance to be attached to an employer do not meet the criteria of unlikely to return work in a previous industry or occupation.

### Required Employment and Training Activities

WIOA divides required employment and training activities provided by One-Stop operators and One-Stop partners into two categories: career services and training services. The eligibility requirements for services in these categories are different.

### Required Career Services

1. Section 134(c)(2)(A) of WIOA requires that local areas provide services that include, at a minimum:
  - a. Determinations of whether the individuals are eligible to receive assistance;
2. Outreach, intake (which may include worker profiling), and orientation to the information and other services available through the One-Stop delivery system;
3. Initial assessment of skill levels (including literacy, numeracy, and English language proficiency), aptitudes, abilities (including skills gaps), and supportive service needs;
4. Labor exchange services, including—
  - a. Job search and placement assistance and, in appropriate cases, career counseling, including—
    - i. Provision of information on in-demand industry sectors and occupations; and
    - ii. Provision of information on nontraditional employment and
  - b. Appropriate recruitment and other business services on behalf of employers, including small employers, in the local area, which services may include services described in this subsection, such as providing information and referral to specialized business services not traditionally offered through the One-Stop delivery system;
5. Provision of referrals to and coordination of activities with other programs and services, including programs and services within the One-Stop delivery system and, in appropriate cases, other workforce development programs;

6. 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—
  - a. Job vacancy listings in such labor market areas;
  - b. Information on job skills necessary to obtain the jobs described in (a); and
  - c. Information relating to local occupations in demand and the earnings, skill requirements, and opportunities for advancement for such occupations;
7. Provision of performance information and program cost information on eligible providers of training services as described in Section 122 of WIOA, provided by program, and eligible providers of youth workforce development activities described in Section 123 of WIOA, providers of adult education described in Title II, providers of career and technical education activities at the postsecondary level, and career and technical education activities available to school dropouts, under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et. Seq.), and providers of vocational rehabilitation services described in Title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);
8. Provision of information, in formats that are usable by and understandable to One-Stop customers, regarding how the local area is performing on the local performance accountability measures and any additional performance information with respect to the One-Stop delivery system in the local area;
9. Provision of information, in formats that are usable by and understandable to One-Stop center customers, relating to the availability of supportive services or assistance, including:
  - a. Childcare, child support, medical or child health assistance under Title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.);
  - b. Benefits under the Supplemental Nutrition Assistance Program established under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.);
  - c. Assistance through the earned income tax credit under Section 32 of the Internal Revenue Code of 1986
  - d. Assistance under a state program for Temporary Assistance for Needy Families funded under part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.); and
  - e. Other supportive services and transportation provided through funds made available under such part, available in the local area;
10. Referral to the services or assistance described in item 9 as appropriate;
11. Provision of information and assistance regarding filing claims for unemployment compensation;
12. Assistance in establishing eligibility for programs of financial aid assistance for training and education programs that are not funded under WIOA;
13. Services, if determined to be appropriate in order for an individual to obtain or retain employment, that consist of—
  - a. Comprehensive and specialized assessments of the skill levels and service needs, which may include:

- i. Diagnostic testing and use of other assessment tools; and
    - ii. In-depth interview 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 the employment goals;
  - c. Group counseling;
  - d. Individual counseling;
  - e. Career planning
  - f. Short-term prevocational services, including development of learning skills, communication skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct;
  - g. Internships and work experiences that are linked to careers;
  - h. Workforce preparation activities;
  - i. Financial literacy services
  - j. Out-of-area job search assistance and relocation assistance; or
  - k. English language acquisition and integrated education and training programs; and
14. Follow-up services, including counseling regarding the workplace, for participants in workforce development activities who are placed in unsubsidized employment, for not less than 12 months after the first day of employment, as appropriate.[14]

### *Eligibility for Career Services*

There are no special eligibility requirements for participation by dislocated workers in career services under Section 134(c)(2) of WIOA. Unlike individuals in the adult program, there is no priority of service to low income individuals.[15]

### Required Training Services

As defined by Section 134(c)(3)(D) of WIOA, training services may include:

1. Occupational skills training, including training for nontraditional employment;
2. On-the-job training;
3. Incumbent worker training;
4. Programs that combine workplace training with related instruction , which may include cooperative education programs;
5. Training programs operated by the private sector;
6. Skill upgrading and retraining;
7. Entrepreneurial training;
8. Transitional jobs;
9. Job readiness training provided in combination with the other services in this list;
10. Adult education and literacy activities, including activities of English language acquisition and integrated education and training programs, provided concurrently or in combination with any of the other services in this list; and

11. Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

#### *Linkage to Occupations in Demand*

Training services provided must be directly linked to an in-demand industry sector or occupation in the local area or the planning region, or in another area to which a dislocated worker receiving such services is willing to relocate, except that a local board may approve training services for occupations determined by the local board to be in sectors of the economy that have a high potential for sustained demand or growth in the local area.[16]

#### *Eligibility for Training Services*

1. Under Section 134(c)(3)(A) of WIOA, training services may be made available through dislocated worker funds to employed and unemployed dislocated workers who:
  - a. After an interview, evaluation, or assessment, and career planning, have been determined by a One-Stop operator or One-Stop partner, as appropriate, to
  - b. Be unlikely or unable to obtain or retain employment, that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment, through the career services;
  - c. Be in need of training services to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment; and
  - d. Have the skills and qualifications to successfully participate in the selected program of training services;
  - e. Use of Previous Assessment - A One-Stop operator or One-Stop partner is not required to conduct a new interview, evaluation, or assessment of a participant if it determines that it is appropriate to use a recent interview, evaluation, or assessment of the participant conducted pursuant to another education or training program.[17]
2. Select programs of training services that are directly linked to the employment opportunities in the local area or the planning region, or in another area to which the adults or dislocated workers are willing to commute or relocate; and
3. Are unable to obtain other grant assistance for such training, including such sources as state-funded training funds, Trade Adjustment Assistance, and Federal Pell Grants, or require WIOA assistance in addition to other sources of grant assistance, including Federal Pell Grants.[18] For further information, see the "Individual Training Accounts" policy.
4. Require assistance - When making the determination about whether an individual requires assistance, a One-Stop operator may take into consideration the full cost of participating in training services, including the costs of dependent care and transportation, and other appropriate costs.[19]

The case file must contain a determination of need for training services under 20 CFR § 680.210 as determined through the interview, evaluation, or assessment, and career planning informed by local market information and training provider performance information, or through any other career service received. There is no requirement that career services be provided as a condition to receipt of training services; however, if career services are not provided before training, the local board must document the circumstances that justified its determination to provide training without first providing the services described in 20 CFR § 680.220.[20] There is no Federally-required minimum time period for participation in career services before receiving training services.[21]

### Permissible Employment and Training Activities

In addition to the required career and training activities, local areas may provide:

1. Customized screening and referral of qualified participants in training services to employers;
2. Customized employment-related services to employers, employer associations, or other such organizations on a fee-for-service basis;
3. Implementation of a pay-for-performance contract strategy for training services, for which the local board may reserve and use not more than 10 percent of the total adult or dislocated worker funds allocated to the local area;
4. Customer support to enable individuals with barriers to employment (including individuals with disabilities) and Veterans, to navigate among multiple services and activities for such populations;
5. Technical assistance for One-Stop operators, One-Stop partners, and eligible providers of training services, regarding the provision of services to individuals with disabilities in local areas, including the development and training of staff, the provision of outreach, intake, assessments, and service delivery, the coordination of services across providers and programs, and the development of performance accountability measures;
6. Employment and training activities provided in coordination with—
  - a. Child support enforcement activities of the state and local agencies carrying out part D of Title IV of the Social Security Act (42 U.S.C. 651 et seq.);
  - b. Child support services, and assistance, provided by state and local agencies carrying out part D of Title IV of the Social Security Act (42 U.S.C. 651 et seq.);

### Rule of Construction

Nothing in this policy or in WIOA should be construed to mean an individual is required to receive career services prior to receiving training services.[24]

### Work Support Activities for Low-Wage Workers

Funds for dislocated workers may be used to provide work support activities designed to assist low-wage workers in retaining and enhancing employment. The One-Stop partners

of the system shall coordinate the appropriate programs and resources of the partners with the activities and resources provided under Section 134(d)(1)(B) of WIOA [Work Support Activities for Low-Wage Workers].

These activities may include the provision of activities in a manner that enhances the opportunities of such worker to participate in the activities, such as the provision of activities described in this section during nontraditional hours and the provision of onsite child care while such activities are being provided.[25] Work support activities may also include any activities available under the WIOA dislocated worker program in coordination with activities and resources available through partner programs.[26]

### Supportive Services

Funds for dislocated workers may be used to provide supportive services to dislocated workers who:

1. Are participating in programs with career or training activities; and
2. Are unable to obtain such supportive services through other programs providing such services.[27]

*Supportive Services Definition* - Section 3(59) of WIOA defines supportive services as services such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to enable an individual to participate in activities authorized by WIOA.

See the Supportive Services policy for additional information.

### Needs-Related Payments

Funds for dislocated workers may be used to provide needs-related payments to dislocated workers who are unemployed and do not qualify for (or have ceased to qualify for) unemployment compensation for the purpose of enabling such individuals to participate in programs of training services.[28]

#### *Eligibility Requirement for Needs-Related Payments*

A dislocated worker who has ceased to qualify for unemployment compensation may be eligible to receive needs-related payments only if such worker was enrolled in the training services

By the end of the 13<sup>th</sup> week after the most recent layoff that resulted in a determination of the worker's eligibility for employment and training activities for dislocated workers; or

If later, by the end of the 8<sup>th</sup> week after the worker is informed that a short-term layoff will exceed 6 months.[29]

See the Supportive Services policy for additional information.

### Priority for Veterans

Covered persons receive priority of service in all Department of Labor-funded training programs under 38 U.S.C. § 4215 and described in 20 § CFR 1010.[30] A Veteran must still meet each program's eligibility criteria to receive services under the respective employment and training program.[31]

The term "covered person" as defined in section 2(a) of the Jobs for Veterans Act [38 U.S.C. 4215(a)] means a Veteran or eligible spouse.[32]

"Veteran" means a person who served at least one day in the active military, naval, or air service, and who was discharged or released under conditions other than dishonorable, as specified in 38 U.S.C. § 101(2). Active service includes full-time Federal service in the National Guard or a Reserve component.[33] Active service does not include full-time duty performed strictly for training purposes unless the individual was disabled or died from a disease or injury incurred or aggravated in the line of duty.[34]

"Eligible Spouse" means the spouse of any of the following:

1. Any Veteran who died of a service-connected disability;
2. Any member of the Armed Forces serving on active duty who, at the time of application for the priority, is listed in one or more of the following categories and has been so listed for a total of more than 90 days: (I) missing in action, (II) captured in the line of duty by a hostile force, or (III) forcibly detained or interned in the line of duty by a foreign government or power;
3. Any Veteran who has a total disability resulting from a service-connected disability, as evaluated by the Department of Veterans Affairs; or
4. Any Veteran who died while a disability, as indicated in paragraph 3 (above), was in existence.[35]

The term "priority of service" means, with respect to any qualified job training program, that a covered person shall be given priority over a non-covered person for the receipt of employment, training, and placement services provided under that program, notwithstanding any other provision of the law.[36]

For income-based eligibility determinations, amounts paid while on active duty or paid by the Department of Veterans Affairs for vocational rehabilitation, disability payments, or related VA-funded programs are not to be considered as income in accordance with 38 U.S.C. § 4213 and 20 CFR § 683.230.[37] This applies when determining if a person is a "low-income individual" for eligibility purposes (for example, in WIOA youth programs). It

also applies when income is used as a factor when the local area provides priority of service for “low income individuals” with Title I WIOA funds.[38]

### Registration

Registration is the process for collecting information for supporting a determination of eligibility. This information may be collected through methods that include electronic data transfer, personal interview, or an individual’s application.

- Dislocated workers who receive services funded under WIOA Title I other than self-service or informational activities must be registered and determined eligible and must be a participant.[39]
- Equal Employment Opportunity data must be collected on every individual who is interested in being considered for WIOA Title I financially assisted aid, benefits, services, or training by a recipient, and who has signified that interest by submitting personal information in response to a request from the grant recipient or designated service provider.[40]

### Concurrent Enrollment

Under Section 3 of WIOA, eligible adults are defined as individuals age 18 or older.[41] WIOA defines eligible youth as 14 through 21 years of age, if in-school youth,[42] and 16 through 24, if out-of-school youth.[43] Thus, individuals between the ages of 18 through 24 [at registration] may be eligible for both adult and youth programs.

- Eligible individuals who are 18 through 24 years old [at registration] may participate in adult and youth programs concurrently. Such individuals must be eligible under the youth and adult/dislocated worker eligibility criteria applicable to the services received. Local program operators should determine the appropriate level and balance of services under the youth and adult programs. This determination should be driven by program design and services provided.[44]
- Local program operators must identify and track the funding streams which pay the costs of services provided to individuals who are participating in youth and adult/dislocated worker programs concurrently, and ensure that services are not duplicated.[45]

A local program should determine the appropriate program for the participant based on the service needs of the participant and if the participant is career-ready based on an objective assessment of their occupational skills, prior work experience, employability, and participants needs as required in Section 129(c)(1)(A) of WIOA.[46]

### Application Time Limit

NEworks is used by all of the American Job Centers in Nebraska to collect data items of several of the One-Stop partners. The WIOA Application Date is the date when the WIOA Application is created. When entering it on NEworks, it cannot be a date in the future. The

WIOA Participation Date is the date following a determination of eligibility (when necessary) to participate in the program when the individual begins receiving a service funded by the program in either a physical location (American Job Center) or remotely through electronic technologies. It counts as the official point when the participant begins counting in performance measures. Under this policy, if over 90 days elapse between the WIOA Application Date and the WIOA Participation Date, then the application will be closed. Even with the ninety-day limit, there are several items on NEworks that must be verified and updated (when appropriate) at the date of WIOA participation including: Education Level; School Status, Employment Status, Enrolled in Education at Participation, Unemployment Compensation, and Age at Participation. A youth's dropout status must be verified at the time of WIOA youth program enrollment.[47]

### Nondiscrimination

Section 188 of WIOA provides that no individual may be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex, national origin, age, disability, or political affiliation or belief.[48]

Participation in programs and activities must also be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States. Individuals with employment authorization may access any WIOA services for which they otherwise would qualify.[49]

### Verification of Lawful Presence

Each agency responsible for determining eligibility for WIOA benefits in Nebraska is required to:

1. Have each applicant for WIOA services attest that he or she is a U.S. citizen or a qualified alien. This must be done using the format prescribed by the Nebraska Department of Administrative Services (DAS).[50]
  - a. If in the above Step 1, the applicant indicates he or she is an alien, then complete Step 2 as follows:
2. Verify his or her lawful presence in the United States using the SAVE (Systematic Alien Verification for Entitlements) Program operated by the U.S. Department of Homeland Security.

### Enforcement of Military Selective Service Act

Local programs shall ensure that each individual participating in any program established under Title I of WIOA or receiving any assistance or benefit under such Title, has not violated Section 3 of the Military Selective Services Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section.[51]

## Disclaimer

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

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[1] WIOA Sec. 3(15)(A)

[2] WIOA Sec. 3(15)(B)

[3] WIOA Sec. 3(15)(C)

[4] WIOA Sec. 3(15)(D)

[5] As defined in 10 U.S.C. 101(d)(1)

[6] As defined in 10 U.S.C. 991(b)

[7] As defined by 38 U.S.C. 101(16)

[8] WIOA Sec. 3(16)

[9] As defined by 10 U.S.C. § 101(d)(1)

[10] WIOA Sec. 3(15)(E)

[11] 20 CFR § 680.120

[12] 20 CFR § 680.130

[13] In making the determination if an applicant is unlikely to return to a previous industry or occupation, it is important to recognize that data may be collected looking at either the industry in which the individual previously worked, or the specific occupation. For example, if an individual previously worked as a welder, supporting documentation could be gathered looking at the occupation (welding) or the industry (manufacturing). Using data collected from either occupation or industry is sufficient, documentation of both is not required. All data collected should be reflective of the industry or occupation in the area the applicant resides or previously worked.

[14] WIOA Sec. 134(c)(2)

[15] 20 CFR § 680.610

[16] WIOA Sec. 134(c)(3)(G)(iii)

[17] WIOA Sec. 134(c)(3)(A)(ii)

[18] 20 CFR § 680.210

[19] WIOA Sec. 134(c)(3)(B)(i)

[20] 20 CFR § 680.220(b)

[21] 20 CFR § 680.220(c)

[22] Referred to in WIOA Sec. 134(a)(3)(A)(xii)

[23] WIOA Sec. 134(d)

[24] WIOA Sec. 134(c)(3)(A)(iii)

[25] WIOA Sec. 134(d)(1)(B)

[26] 20 CFR § 680.140

[27] WIOA Sec. 134(d)(2)

[28] WIOA Sec. 134(d)(3)(A)

[29] WIOA Sec. 134(d)(3)(B)

- [30] 20 CFR § 680.650
- [31] 20 CFR § 680.650
- [32] 38 U.S.C. § 4215(a)(1)
- [33] 38 U.S.C. §§ 101(21), (24)
- [34] 38 U.S.C. § 101(24)
- [35] 38 U.S.C. § 4215(a)(1)(B)
- [36] 38 U.S.C. § 4215(a)(3)
- [37] 20 CFR § 680.650
- [38] 20 CFR § 683.230
- [39] 20 CFR § 680.110(b)
- [40] 20 CFR § 680.110(c)
- [41] WIOA Sec. 3(2)
- [42] WIOA Sec. 129(a)(1)(C)
- [43] WIOA Sec. 129(a)(1)(B)
- [44] 20 CFR § 681.430(a)
- [45] 20 CFR § 681.430(b)
- [46] 20 CFR § 681.440
- [47] 20 CFR § 681.240
- [48] WIOA Sec. 188(a)(2)
- [49] WIOA Sec. 188(a)(5)
- [50] Neb. Rev. Stat. § 4-108
- [51] WIOA Sec. 189(h)

## Interim Policy on Eligibility for Youth Programs

### *Reference*

Workforce Innovation and Opportunity Act (WIOA) Sections 3, 129, and 188; TEGL 23-14.

### *Background*

Eligibility for youth programs is defined under the provisions of the Workforce Innovation and Opportunity Act (WIOA) rules and regulations.

### *Action*

After a 10-day review period, this policy will be considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox: [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

Local areas need to establish a policy on eligibility for youth programs addressing the provisions identified in this policy as well as ensure their local WIOA Plan addresses the requirements set forth in this policy.

### *Policy*

All youth who participate in the youth program must be registered, which requires the collection of information to support a determination of eligibility. Individuals between the ages of 14 and 21 at registration who meet specific criteria are considered in-school youth. Individuals between the ages of 16 and 24 at registration who meet specific criteria are considered out-of-school youth. Equal opportunity data must be collected on individuals during the registration process.

### Eligibility Criteria

Individuals who apply to participate in the youth program under WIOA shall meet the following criteria as described in WIOA Sections 3(18) and 129(a): [1]

#### *In-school Youth*

1. To qualify as an In-School Youth, the individual must be:
  - a. Attending school (as defined by State law);
    - i. Attending School - Neb. Rev. Stat. §§ 79-201 and 79-202 explain mandatory school attendance for individuals between 6 and 16 years of age.[2] Nebraska state law does not include post-secondary education in the definition of “attending school.”
    - ii. Neb. Rev. Stat. § 79-201 requires:
    - iii. Enrollment in an approved school;

- (1) Approved school includes public, private, denominational, or parochial schools that meet the requirements for legal operation under Chapter 79.
    - (2) Approved school also includes schools under Neb. Rev. Stat. § 79-1601 that elect not to meet the approval or accreditation requirements, which includes home school.
  - iv. Regular attendance each day the school is open unless
    - (1) Excused by school authorities;
    - (2) Illness makes attendance impossible; or
    - (3) Severe weather makes attendance impossible.
  - v. Providers of Adult Education under Title II of WIOA, YouthBuild programs, and Job Corps programs are not considered to be schools.[3]
- b. Not younger than 14 or older than 21 at the time of enrollment. Because age eligibility is based on age at enrollment, participants may continue to receive services beyond the age of 21 once they are enrolled in the program;[4]
  - i. Age Limits - Public schools are required to provide free instruction to any person between the ages of 5 and 21 who has not completed high school, or received a diploma of high school equivalency.[5] There is no age limitation for other types of schools, including those that elect not to meet the approval or accreditation requirements.
- c. A low-income individual; and
  - i. Low Income Individual - WIOA Sec. 3(36) defines a "low income individual" as one who:
    - (1) 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 established under Title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or State or local income-based public assistance;
    - (2) Is in a family with total family income that does not exceed the higher of:
      - (a) The poverty line, for an equivalent period; or
      - (b) Seventy percent of the lower living standard income level, for an equivalent period.
    - (3) 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)));

- (4) 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.);
- (5) Is a foster child on behalf of whom state or local government payments are made; or
- (6) Is an individual with a disability whose income meets the income requirement of (2), but who is a member of a family whose income does not meet this requirement.
- (7) Youth living in a high poverty area.
  - (a) High Poverty Area - Nebraska has defined “high poverty area” as census tracts where 30% or more of the households are below the poverty level, as determined by the most recent United States Census Bureau’s American Community Survey.[6] Attachment A provides a current list of Nebraska’s census tracts meeting this definition.[7]
  - (b) The U.S. Census Bureau provides an individual address search tool to find the census tract number that corresponds with an address. This tool is available on [factfinder.census.gov](http://factfinder.census.gov). Note: Census tracts may change with each ten year census. The most recent census tracts were designated in 2010.
- d. One or more of the following:
  - i. Basic skills deficient.
    - (1) Basic Skills Deficient - WIOA Sec. 3(5) defines “basic skills deficient” as an individual:
      - (a) Who is a youth, that the individual has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test; or
      - (b) Who is a youth or adult, that the individual is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual’s family, or in society.
  - ii. An English language learner.
  - iii. An offender.
  - iv. A homeless individual (as defined in Section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6))), a homeless child or youth (as defined in Section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2))), a runaway, in foster care or has aged out of the foster care system, otherwise eligible for assistance under Section 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement.
  - v. Pregnant or parenting.
  - vi. A youth who is an individual with a disability.
  - vii. An individual who requires additional assistance to complete an educational program or to secure or hold employment.[8]

- (1) Requires Additional Assistance to Complete an Educational Program or to Secure and Hold Employment - Definitions and eligibility documentation requirements regarding the "requires additional assistance to complete an educational program or to secure and hold employment" criterion shall be established at the local level. The policy must be included in the local plan.[9]
- e. All in-school youth must be low income to meet the eligibility criteria, except those that fall under the low-income exception.[10]

### *Out-of-School Youth*

- 1. To qualify as an Out-of-School Youth, the individual must be:[11]
  - a. Not attending any school (as defined by state law[12]);[13]
  - b. Is no younger than 16 or older than 24; AND
  - c. One or more of the following:
    - i. A school dropout.
      - (1) School Dropout - WIOA Sec. 3(54) defines "school dropout" as an individual who is
      - (2) No longer attending any school; and
      - (3) Who has not received a secondary school diploma or its recognized equivalent.
      - (4) Dropout status must be verified at enrollment.
    - ii. A youth who is within the age of compulsory school attendance, but has not attended school for at least the most recent complete school year calendar quarter.
    - iii. A recipient of a secondary school diploma or its recognized equivalent who is a low-income individual and is
      - (1) Basic skills deficient; or
      - (a) Basic Skills Deficient - WIOA Sec. 3(5) defines "basic skills deficient" as an individual:
        - 1. Who is a youth, that the individual has English reading, writing, or computing skills at or below the 8th grade level on a generally accepted standardized test; or
        - 2. Who is a youth or adult that the individual is unable to compute
        - 3. or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual's family, or in society.
      - (2) An English language learner.
    - iv. An individual who is subject to the juvenile or adult justice system.
    - v. A homeless individual (as defined in Section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6))), a homeless child or youth (as defined in Section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2))), a runaway, in foster care or has aged out of the foster care system, otherwise

eligible for assistance under Section 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement.

- vi. An individual who is pregnant or parenting.
- vii. A youth who is an individual with a disability.
- viii. A low-income individual who requires additional assistance to enter or complete an education program or to secure or hold employment.

(1) Requires Additional Assistance to Complete an Educational Program or to Secure and Hold Employment - Definitions and eligibility documentation requirements regarding the "requires additional assistance to complete an educational program or to secure and hold employment" criterion shall be established at the local level. The policy must be included in the local plan.

An individual who is out-of-school at the time of enrollment and subsequently placed in an alternative school or any school, is an out-of-school youth for purposes of the 75 percent expenditure requirement.[14]

#### Youth Who Are Not Low-Income Individuals

WIOA allows a low-income exception where 5 percent of all WIOA youth participants may be participants who ordinarily would be required to be low-income for eligibility purposes and who meet all other eligibility criteria for WIOA youth except the low-income criteria. A program must calculate the five percent based on the percent of all youth served by the program in the local area's WIOA youth program in a given year.[15]

#### Enrollment

Enrollment is the process for collecting information for supporting a determination of eligibility. In order to participate in youth programs, participants must enroll in one of the 14 WIOA youth program elements.[16]

#### Concurrent Enrollment

Under Section 3 of WIOA, eligible adults are defined as individuals age 18 or older.[17] WIOA defines eligible youth as 14 through 21 years of age, if in-school youth,[18] and 16 through 24, if out-of-school youth.[19] Thus, individuals between the ages of 18 through 24 [at registration] may be eligible for both adult and youth programs.

- Eligible individuals who are 18 through 24 years old [at registration] may participate in adult and youth programs concurrently. Such individuals must be eligible under the youth and adult/dislocated worker eligibility criteria applicable to the services received. Local program operators should determine the appropriate level and balance of services under the youth and adult programs. This determination should be driven by program design and services provided.[20]
- Local program operators must identify and track the funding streams which pay the costs of services provided to individuals who are participating in youth and

adult/dislocated worker programs concurrently, and ensure that services are not duplicated.[21]

A local program should determine the appropriate program for the participant based on the service needs of the participant and if the participant is career-ready based on an objective assessment of their occupational skills, prior work experience, employability, and participants needs as required in WIOA Sec. 129(c)(1)(A).[22]

#### Application Time Limit

NEworks is used by all of the American Job Centers in Nebraska to collect data items of several of the One-Stop partners. The WIOA Application Date is the date when the WIOA Application is created. When entering it on NEworks, it cannot be a date in the future. The WIOA Participation Date is the date following a determination of eligibility (when necessary) to participate in the program when the individual begins receiving a service funded by the program in either a physical location (American Job Center) or remotely through electronic technologies. It counts as the official point when the participant begins counting in performance measures. Under this policy, if over 90 days elapse between the WIOA Application Date and the WIOA Participation Date, then the application will be closed. Even with the ninety day limit, there are several items on NEworks that must be verified and updated (when appropriate) at the date of WIOA participation including: Education Level; School Status, Employment Status, Enrolled in Education at Participation, Unemployment Compensation, and Age at Participation. A youth's dropout status must be verified at the time of WIOA youth program enrollment.[23]

#### Former WIA Participants

On July 1, 2015, all WIA youth participants who are still enrolled in the WIA youth program *must* be grandfathered into the WIOA youth program, even if the participant would not otherwise be eligible for WIOA. Local youth programs are not required to complete an eligibility re-determination if the participant has been determined eligible and enrolled under WIA. Furthermore, these participants must be allowed to complete the WIA services specified in their individual service strategy.[24]

#### Nondiscrimination

WIOA Sec. 188 provides that no individual may be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex, national origin, age, disability, or political affiliation or belief.

Participation in programs and activities must also be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States. Individuals with employment authorization may access any WIOA services for which they otherwise would qualify.

### Verification of Lawful Presence

Each agency responsible for determining eligibility for WIOA benefits in Nebraska is required to

1. Have each applicant for WIOA services attest that he or she is a U.S. citizen or a qualified alien. This must be done using the format prescribed by the Nebraska Department of Administrative Services (DAS).
  - a. If in the above Step 1, the applicant indicates he or she is an alien, then complete Step 2 as follows:
2. Verify his or her lawful presence in the United States using the SAVE (Systematic Alien Verification for Entitlements) Program operated by the U.S. Department of Homeland Security.

### Enforcement of Military Selective Service Act

Local programs shall ensure that each individual participating in any program established under Title I of WIOA or receiving any assistance or benefit under such Title, has not violated Section 3 of the Military Selective Services Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such [Section.\[25\]](#)

### *Disclaimer*

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

## Appendix A

### Nebraska's Census Tracts Meeting "High Poverty" Definition (30% or more of Household at or below the Poverty Line)

#### Greater Lincoln

Census Tract	Estimated Number	Estimated Number below Poverty	Poverty Percent
Census Tract 6, Lancaster County, Nebraska	3	92	0.910891
Census Tract 17, Lancaster County, Nebraska	2846	1217	0.427618
Census Tract 20.02, Lancaster County, Nebraska	1528	618	0.40445
Census Tract 20.01, Lancaster County, Nebraska	1468	569	0.387602
Census Tract 2.02, Lancaster County, Nebraska	1669	623	0.373277
Census Tract 7, Lancaster County, Nebraska	1087	405	0.372585
Census Tract 4, Lancaster County, Nebraska	1951	723	0.370579
Census Tract 5, Lancaster County, Nebraska	630	221	0.350794
Census Tract 19, Lancaster County, Nebraska	381	133	0.349081
Census Tract 31.03, Lancaster County, Nebraska	893	309	0.346025
Census Tract 3, Lancaster County, Nebraska	1504	457	0.303856

#### Greater Nebraska

Census Tract	Estimated Number	Estimated Number below Poverty	Poverty Percent
Census Tract 9696, Buffalo County, Nebraska	1632	567	0.347426
Census Tract 9657, Adams County, Nebraska	558	180	0.322581
Census Tract 3, Dakota County, Nebraska	2235	680	0.304251

#### Greater Omaha

Census Tract	Estimated Number	Estimated Number below Poverty	Poverty Percent
Census Tract 16, Douglas County, Nebraska	148	81	0.547297
Census Tract 7, Douglas County, Nebraska	613	283	0.461664
Census Tract 8, Douglas County, Nebraska	634	287	0.452681
Census Tract 11, Douglas County, Nebraska	1077	477	0.442897
Census Tract 6, Douglas County, Nebraska	468	199	0.425214
Census Tract 60, Douglas County, Nebraska	1402	569	0.405849
Census Tract 40, Douglas County, Nebraska	1480	587	0.396622
Census Tract 59.02, Douglas County, Nebraska	755	296	0.392053

Census Tract	Estimated Number	Estimated Number below Poverty	Poverty Percent
Census Tract 52, Douglas County, Nebraska	530	206	0.388679
Census Tract 29, Douglas County, Nebraska	1472	566	0.384511
Census Tract 51, Douglas County, Nebraska	1008	357	0.354167
Census Tract 61.02, Douglas County, Nebraska	1462	517	0.353625
Census Tract 4, Douglas County, Nebraska	840	295	0.35119
Census Tract 19, Douglas County, Nebraska	792	265	0.334596
Census Tract 12, Douglas County, Nebraska	957	318	0.332288
Census Tract 38, Douglas County, Nebraska	1576	521	0.330584
Census Tract 53, Douglas County, Nebraska	854	279	0.326698
Census Tract 5, Douglas County, Nebraska	575	180	0.313043
Census Tract 39, Douglas County, Nebraska	940	293	0.311702
Census Tract 21, Douglas County, Nebraska	867	267	0.307958
Census Tract 32, Douglas County, Nebraska	921	279	0.302932

[1] WIOA Sec. 3(18)

[2] A person who has legal or actual charge or control of a child who is at least 16 years of age but less than 18 years of age may withdraw such child from school before graduation and be exempt from the mandatory attendance requirements of Neb. Rev. Stat. § 79-201. Otherwise, the mandatory school attendance age is until the child reaches 18 years of age.

[3] 20 CFR § 681.230

[4] 20 CFR § 681.220

[5] Neb. Const. art. VII, sec. 1; 92 Neb. Admin. Code §19-003

[6] 20 CFR § 681.260

[7] Taken from the 2013 American Community Survey, Table number B17017

[8] WIOA Sections 3(27) and 129(a)(1)(C); 20 CFR § 681.220

[9] 20 CFR § 681.300

[10] 20 CFR § 681.250

[11] WIOA Sections 3(46) and 129(a)(1)(B)

[12] For the purposes of defining what institutions meet the definition of a “school,” please see Chapter 85 of the Nebraska Revised Statutes. Chapter 85 recognizes community colleges and other institutions of higher education, both public and private. As officially recognized educational institutions, these entities will be considered “schools” for the purposes of the Out-of-School youth requirements.

[13] Neb. Rev. Stat. § 79-201

[14] 20 CFR § 681.240

[15] 20 CFR § 681.250

[16] 20 CFR § 681.310(a) and (b), WIOA NPRM Section-by-Section Discussion of Proposal

[17] WIOA Sec. 3(2)

- [18] WIOA Sec. 129(a)(1)(C)
- [19] WIOA Sec. 129(a)(1)(B)
- [20] 20 CFR § 681.430(a)
- [21] 20 CFR § 681.430(b)
- [22] 20 CFR § 681.440
- [23] 20 CFR § 681.240
- [24] TEGL 23-14
- [25] WIOA Sec. 189(h)

## Interim Policy on Eligible Training Provider Initial and Continued Eligibility, Change 3

### Reference

Workforce Innovation and Opportunity Act of 2014 (WIOA) Sections 107, 116, 122, and 188; Workforce Investment Act of 1998 (WIA); WIOA Final Rule 20 CFR §§ 680.430 through 680.530 and 683.630; WIOA Joint Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions, Final Rule 20 CFR § 677.175; TEGL 41-14; TEGL 41-14, Change 1; Neb. Rev. Stat. § 84-917

### Changes

This Change 3 establishes and implements the following material changes to the Nebraska Department of Labor (NDOL) Interim Policy on Eligible Training Provider Initial and Continued Eligibility, Change 2:

- *Table 1. Provider Eligibility* has been revised:
  - local workforce development boards are no longer eligible to serve as eligible training providers;
  - providers of adult education and activities are potentially eligible if they provide training services in conjunction with certain work-based training services; and
  - rows 8 and 9, which were previously located in *Table 2. Program Eligibility*, have been added; and
- *Table 2. Program Eligibility* has been revised:
  - language has been added to row 1 to clarify what types of programs are eligible for consideration; and
- The following sections have been revised:
  - Registered Apprenticeship Programs - a description of the process for including Registered Apprenticeship Programs on the eligible training provider list has been added;
  - Exempted Providers and Programs - language relating to local workforce development boards deleted;
  - WIOA Participant Enrollment - clarifying language added;
  - ETPs and Youth - clarifying language added;
  - Procedures - clarifying language added;
  - Denial or Termination of Eligibility - language relating to sponsors of Registered Apprenticeship programs have been added; and
  - Appeal Process for Denial or Termination of Eligibility - references to sponsors of Registered Apprenticeship programs have been added; and
- The *Waiver of Training Prohibition* section has been deleted - local workforce development boards are no longer eligible to serve as eligible training providers.

## *Background[1]*

Under WIOA, states must, in partnership with local workforce development boards (local boards), identify training providers who are eligible to receive funds to train adults, dislocated workers, and out-of-school youth ages 16 through 24, including those with disabilities and barriers to employment. Each state must maintain a list of eligible training providers (ETPs) and programs of study (programs). The list must be easily understood and available to state workforce development boards, local boards, WIOA participants, and the public and must include performance and cost information to ensure informed consumer choice. The eligible training provider provisions of WIOA must be implemented by July 22, 2015.

## *Action*

This policy will be considered final after a 10-day review period. Questions and comments must be submitted in writing to the WIOA Policy Mailbox at [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

Each local board must:

- establish a policy on eligible training provider initial and continued eligibility that addresses the provisions of this policy; and
- ensure their local area WIOA plans address the requirements of this policy.

## *Policy*

This policy establishes information requirements, eligibility criteria, performance reporting requirements and standards, and the procedures by which an organization may qualify as a training provider who is eligible to receive funds for the provision of training services through individual training accounts (ITAs). For more information on ITAs, refer to NDOL's Policy on Individual Training Accounts.

In addition, this policy describes the roles and responsibilities of NDOL and local boards in managing Nebraska's ETP program.

## Eligibility[2]

NDOL, after consultation with the Nebraska Workforce Development Board, established information requirements, eligibility criteria, performance reporting requirements and standards, and procedures on provider and program eligibility to receive funds for providing training services in local areas through ITAs.

Providers on Nebraska's eligible training provider list (ETPL) are the only entities eligible to receive funding through ITAs.[3]

## Provider Eligibility

A provider must meet the following criteria for inclusion and retention on the ETPL:

**Table 1. Provider Eligibility**

	Criteria	Federal Criteria under WIOA	State Criteria under WIOA	State Criteria under NDOL policy
1	a provider must be one of the following types of entities:			
	▪ postsecondary education institution	yes	no	yes
	▪ other public or private provider of training, including	yes	no	yes
	○ community-based organization	yes	no	yes
	○ joint labor-management organization	yes	no	yes
	○ providers of WIOA adult education and literacy activities as long as the activities are provided in combination with work-based training services	yes	no	yes
	▪ Registered Apprenticeship program	yes	no	yes
2	a provider must be authorized or licensed to provide training services by applicable accrediting or governing authorities	yes	no	yes
3	a provider and its programs must comply with the nondiscrimination requirements of WIOA, which include prohibitions against:			
	▪ discrimination on the basis of age, disability, sex, race, color, national origin, or political affiliation or belief, or student status	yes	no	yes
	▪ discrimination against certain noncitizens	yes	no	yes
	▪ assistance for facilities used for religious instruction or religious worship	yes	no	yes
4	a provider's facilities must be compliant with the requirements of the Americans with Disabilities Act, as amended (ADA)	yes	no	yes
5	a provider must have been in operation at least twelve (12) months at the time of application for eligibility	no	no	yes
6	a provider must provide information on its participation (or non-participation) in the Federal Pell Grant program	no	no	yes
7	a provider must enter into a data-exchange agreement with NDOL in order for NDOL to verify program-performance data as required under WIOA	no	no	yes
8	a provider must provide information on:			
	▪ provider partnerships with businesses relating to the program	yes	no	yes
	▪ how the program relates to high-demand industry sectors and occupations in Nebraska	yes	yes	yes

Criteria	Federal Criteria under WIOA	State Criteria under WIOA	State Criteria under NDOL policy
<ul style="list-style-type: none"> <li>how the program relates to high-wage and high-skill industry sectors and occupations in Nebraska</li> </ul>	no	no	yes
<ul style="list-style-type: none"> <li>whether the program includes an employability-skills course or component<sup>2</sup></li> </ul>	no	no	yes
<ul style="list-style-type: none"> <li>the minimum qualifications of program instructors</li> </ul>	no	no	yes
9 a provider must submit a complete eligible training provider application that includes:			
<ul style="list-style-type: none"> <li>provider demographics</li> </ul>	yes	yes	yes
<ul style="list-style-type: none"> <li>information regarding regulatory compliance</li> </ul>	yes	yes	yes
<ul style="list-style-type: none"> <li>verifiable program-specific information, including but not limited to:               <ul style="list-style-type: none"> <li>a program description</li> <li>the programs minimum enrollment requirements</li> <li>program costs and expenses</li> <li>methods of instruction used during the program</li> <li>program length</li> <li>program schedule</li> </ul> </li> </ul>	yes	yes	yes

A provider that has been debarred by the Federal government will not be added to or permitted to remain on the ETPL.

### *Program Eligibility*

A program must meet the following criteria for inclusion and retention on the ETPL:

**Table 2. Program Eligibility**

Criteria	Federal Criteria under WIOA	State Criteria under WIOA	State Criteria under NDOL policy
1 provide one or more courses or classes, or a structured regimen that provides training services leading to one or more of the following: <sup>3</sup>			
<ul style="list-style-type: none"> <li>an industry-recognized certificate or certification</li> </ul>	yes	yes	yes
<ul style="list-style-type: none"> <li>a certificate of completion of a Registered Apprenticeship</li> </ul>	yes	yes	yes
<ul style="list-style-type: none"> <li>a license recognized by the state or Federal government</li> </ul>	yes	yes	yes

<sup>2</sup> Employability skills, commonly referred to as “soft skills,” are the non-technical skills, knowledge, and abilities necessary to obtain employment and effectively participate in the workplace, including communication, self-management, planning, decision-making and problem-solving skills.

<sup>3</sup> 20 CFR § 680.420(a)-(d)

	Criteria	Federal Criteria under WIOA	State Criteria under WIOA	State Criteria under NDOL policy
	<ul style="list-style-type: none"> <li>▪ an associate or baccalaureate degree</li> <li>▪ a secondary-school diploma or its equivalent earned in conjunction with:               <ul style="list-style-type: none"> <li>○ occupational skills training</li> <li>○ on-the-job training</li> <li>○ incumbent worker training</li> <li>○ workplace training</li> </ul> </li> <li>▪ employment</li> <li>▪ measurable skill gains toward a credential described above in this row 1</li> </ul>	yes yes  yes yes yes yes yes yes	yes yes  yes yes yes yes yes yes	yes yes  yes yes yes yes yes yes
2	<p>a program must meet or exceed the minimum program performance standards established by NDOL, except as stated in the section titled "Exception to Minimum Program Performance Standards" directly below this table:</p> <ul style="list-style-type: none"> <li>• ≥50% of all students who enrolled in the program are in unsubsidized employment during the second (2nd) quarter after exit from the program based on the latest-available verifiable wage data</li> <li>• ≥65% of all students who enrolled in the program are in unsubsidized employment during the fourth (4th) quarter after exit from the program based on the latest-available verifiable wage data</li> <li>• ≥\$7,020 median quarterly earnings, based on the latest-available verifiable wage data, for all students who enrolled in the program and are in unsubsidized employment during the fourth (4th) quarter after exit from the program, regardless of whether the students completed the program</li> </ul>	yes   no  no  no	yes   yes  yes  yes	yes   yes  yes  yes

Programs associated solely with occupations resulting in commission-only earnings or self-employment are not eligible.

Programs leading to advanced degrees are not eligible (masters, etc.).<sup>[6]</sup>

#### *Limited Exceptions to Meeting Minimum Program Performance Standards*

There are two (2) exceptions to the minimum program performance standards requirement:

1. Due to the lack of complete data, the provision of federally required program-performance data will be waived during a provider's first twelve (12) months of eligibility. During this timeframe, NDOL will work with and provide technical

assistance (as described below in the section titled “Technical Assistance”) to the provider to ensure access to program-performance data within twelve (12) months of the provider’s first determination of eligibility.

2. At least five (5) students must be enrolled in a program for the minimum program performance standards to be used in determining eligibility.

The Nebraska Workforce Development Board will review minimum program performance standards for providers and/or programs on a biennial basis.

### *Additional Eligibility Criteria*

NDOL also considers the following criteria when determining eligibility:

*Table 3. Additional Eligibility Criteria*

Criteria	Federal Criteria under WIOA	State Criteria under WIOA	State Criteria under NDOL policy
1 provider and program performance	yes	yes	yes
2 ensuring access to training services throughout Nebraska and through the use of technology	yes	yes	yes
3 information reported to state agencies on Federal and state training programs other than programs authorized by WIOA Title I-B	yes	yes	yes
4 encouraging the use of industry-recognized certificates and credentials	yes	yes	yes
5 the quality of programs and ability of providers to provide programs to individuals who are employed and to individuals with barriers to employment	yes	yes	yes
6 whether providers timely and accurately submit performance reports	yes	yes	yes
7 other factors NDOL may determine are appropriate	yes	yes	yes

### *Registered Apprenticeship Programs[7]*

Registered Apprenticeship programs are automatically qualified for inclusion on the ETPL.[8] On an annual basis, NDOL notifies Nebraska sponsors of Registered Apprenticeship programs by email of their programs’ automatic eligibility for inclusion on the ETPL. If interested, the sponsor must provide the following information to NDOL by email at [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov):

- sponsor’s name, and
- name of the Registered Apprenticeship program.

Once included, a Registered Apprenticeship program will be maintained on the ETPL:[9]

- for as long as the program remains registered with the U.S. Department of Labor Office of Apprenticeship;
- until the program sponsor contacts NDOL by email at [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov) and requests the program be removed from the ETPL; or
- unless the program's eligibility is denied or terminated for the reasons described in the section of this policy titled "Denial or Termination of Eligibility."

### *Exempted Providers and Programs*

Certain training providers and programs are exempted from the requirements of the eligible training provider provisions of WIOA:

- on-the-job training, customized training, incumbent worker training;
- internships, paid or unpaid work experience opportunities; and
- transitional jobs.

For the exempted providers and programs listed above, NDOL reserves the right to:

- establish performance criteria the providers and programs must meet to receive non-ITA funds under the adult or dislocated worker programs pursuant to a contract;[10] and
- require one-stop operators in a local area to collect and disseminate the performance information through the one-stop delivery system.[11]

The exempted providers and programs listed above are not included on the ETPL.[12]

### WIOA Participant Enrollment

A WIOA participant who is enrolled as of April 1, 2016 in a program that was approved under WIA but not approved for continued eligibility prior to July 1, 2016 is allowed to complete the program unless the provider's or program's eligibility has been denied or terminated for the reasons described in the policy section titled "Denial or Termination of Eligibility."

**Use of ITA funds is limited to those providers and programs included on the ETPL. For more information on ITAs, please refer to NDOL's policy on ITAs.**

**Individuals must be determined eligible for training services as adults, dislocated workers, or out-of-school youth ages 16 through 24 prior to the date of enrollment in an ETPL program.**

## ETPs and Youth

ITA funds may be used for the provision of training services for out-of-school youth ages 16 through 24 when appropriate and in accordance with Nebraska's current policy on ITAs.

**Use of ITA funds for training services for in-school youth is not permitted.[13]**

## Procedures

To receive ITA funds for the provision of training services, a provider must establish eligibility as a training provider with NDOL prior to the enrollment of any WIOA participant in the provider's program.

**Use of ITA funds for training services with providers that are not on the ETPL is not permitted. For more information on ITAs, please refer to NDOL's policy on ITAs.**

The application process is the same for all providers, except for WIA-eligible providers seeking to establish continued eligibility, as described in Attachment A.

### *Continued Eligibility for WIA-eligible Providers*

Any provider eligible under WIA as of July 21, 2014 (WIA-eligible Provider) must apply for continued eligibility for each of its WIA-eligible programs in order to continue receiving ITA funds after June 30, 2016 for the provision of training services for those programs. Eligibility is determined on a program-by-program basis. Continued eligibility is limited to a period of two (2) years for each NDOL-approved program commencing on the date of determination of continued eligibility. The provider must renew its continued eligibility for each NDOL-approved program in order to continue receiving ITA funds after the program's two-year period of continued eligibility ends.

Continued eligibility for a provider and each of its NDOL-approved programs during the first year of eligibility is conditional and dependent upon the provider's accurate submission of program-performance data within twelve (12) months of the date of determination of continued eligibility. Over the next twelve (12) months, NDOL will provide technical assistance, as described below, to assist providers in collecting and supplying this required data.

Any WIA-eligible Provider that has not submitted an application and established continued eligibility by April 1, 2016 is subject to initial eligibility procedures described in this policy and Attachment A.

### *Initial Eligibility for New Providers*

Any provider not previously eligible under WIA, as described directly above, must apply for initial eligibility for each program it intends to offer as an NDOL-approved program in

order to receive ITA funds for the provision of training services. Eligibility is determined on a program-by-program basis. Initial eligibility is limited to a period of one (1) year for each NDOL-approved program.[14] The provider must renew its eligibility and establish continued eligibility for each NDOL-approved program in order to continue receiving ITA funds after the program's one-year period of initial eligibility ends. Continued eligibility is limited to a period of two (2) years commencing on the date of determination of continued eligibility.

To be considered for continued eligibility following the one-year period of initial eligibility for a provider and each of its NDOL-approved programs, the provider must submit accurate program-performance data within twelve (12) months of the date of determination of initial eligibility. Over the next twelve (12) months, NDOL will provide technical assistance, as described below, to assist providers in collecting and supplying this required data.

#### *Initial Eligibility for New Programs*

For providers that have established continued eligibility as a provider, subject to the conditions described above, and are applying for eligibility for a new program for which program-performance data is not available, the new program will receive initial approval for a period of one (1) year. At the end of the one-year period, the provider must renew the program's eligibility and establish continued eligibility for that program in order to continue receiving ITA funds.

To be considered for continued eligibility following a new program's one-year period of initial eligibility, the provider must submit accurate program-performance data within twelve (12) months of each new program's date of determination of initial eligibility. Over the next twelve (12) months, NDOL will provide technical assistance, as described below, to assist providers in collecting and supplying this required data.

#### Denial or Termination of Eligibility

NDOL must remove programs from the ETPL that fail to meet the eligibility criteria established in this policy.[15]

NDOL must deny or terminate the eligibility of a provider, program, or Registered Apprenticeship program for a period of not less than two (2) years if:[16][17]

1. a provider or sponsor of the Registered Apprenticeship program, or individual supplying information on behalf of the provider or Registered Apprenticeship program, intentionally supplies inaccurate information; or
2. a provider or sponsor of the Registered Apprenticeship program substantially violates any requirement under WIOA, including 29 CFR part 38 (Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act).

NDOL must deny or terminate the eligibility of a provider that has been debarred by the Federal government.

NDOL may terminate the eligibility of an ETP or program if program-specific performance outcomes for WIOA students fall below the minimum program performance standards outlined in this policy. For programs having four (4) or fewer enrolled students, factors other than the minimum rates of employment as NDOL determines to be appropriate may be considered in NDOL's evaluation of a program's nonperformance.

A local area may, in accordance with the local area's policy on eligible training provider initial and continued eligibility, deny or terminate the eligibility of local providers or programs to receive local-area ITA funds based on program performance.

A provider whose eligibility is terminated for reasons 1, 2, or 3 as described above is liable for repayment of all adult, dislocated worker, and youth funds received during a period of noncompliance.<sup>[18]</sup>

A Registered Apprenticeship Program whose eligibility is terminated for reasons 1 or 2 will be liable to repay all youth, adult, and dislocated worker funds received during the period of noncompliance.<sup>[19]</sup>

The remedies and penalties described above and in WIOA supplement, but do not supplant, other civil and criminal remedies and penalties in other provisions of law.

#### Appeal Process for Denial or Termination of Eligibility

NDOL has established an appeal process for providers and sponsors of Registered Apprenticeship programs who have been denied eligibility or whose eligibility has been terminated. To appeal a denial or termination of eligibility, the provider or sponsor of a Registered Apprenticeship program must submit a written request for a hearing to the NDOL Commissioner of Labor (Commissioner) at the address provided below within thirty (30) calendar days of notification of denial or termination.

Commissioner of Labor  
Nebraska Department of Labor  
PO Box 94600  
Lincoln, NE 68509-4600

Absent extenuating circumstances, the Commissioner will assign a hearing officer and a hearing will take place within ninety (90) calendar days of the Commissioner's receipt of the written request for a hearing. The hearing will include:

- a statement of the reason(s) why the provider's eligibility to provide training services was denied or terminated by NDOL; and
- an appeal by the provider describing why the decision should be reversed or a compromise established. The Commissioner will render a final judgment that will include the length of time, if any, the provider must remain ineligible and conditions under which reestablishment of the provider's eligibility are justified.

A decision issued under the NDOL appeal process may not be appealed to the Secretary of Labor.[20] Pursuant to the Nebraska Administrative Procedure Act,[21] any parties aggrieved by a final decision may file a petition for review in the district court of the county where the action is taken within thirty (30) calendar days after service of the final decision by NDOL and cause summons to be served within thirty (30) calendar days of the filing of the petition.

#### ETP Performance Reporting Requirements and Standards[22]

##### *Frequency of Performance Reporting*

In order for NDOL to measure the effectiveness of programs, NDOL must verify program-specific performance data as follows:

- when reviewing an application for initial eligibility;
- when reviewing an application for continued eligibility; and
- every twenty-four (24) months following a determination of continued eligibility (*i.e.*, when reviewing an application for renewal of continued eligibility).

While WIOA requires ETPs to provide access to program-specific performance data at least once every two (2) years following a determination of continued eligibility, NDOL reserves the right to access program-specific performance data more frequently.

##### *Information Required through Performance Reporting*

NDOL is required to access the following program-performance data all students:

- percentage of students in unsubsidized employment[23] during the second (2nd) and fourth (4th) quarters after exit from the program;
- median quarterly earnings of students in unsubsidized employment during the second (2nd) quarter after exit from the program;
- percentage of students who obtain a recognized postsecondary credential, secondary school diploma, or GED during participation in or within one (1) year after exit from the program, provided that the students are also employed or

enrolled in another education or training program leading to a recognized postsecondary credential within one (1) year from program exit.

The program-specific performance information submitted to NDOL must include the following for all students:

- information about the recognized postsecondary credentials received by students completing the program;
- program cost information, including tuition and fees; and
- information on the program completion rate for students enrolled in the program.

NDOL must establish a procedure by which a provider can demonstrate that providing the required information is unduly burdensome or costly. If NDOL determines a provider has demonstrated such undue burden or extraordinary costs, NDOL:

- must provide access to cost-effective methods for the collection of the data;
- may provide additional resources to assist providers in the collection of the data; or
- may take other steps to assist providers in collecting and supplying required data, such as offering technical assistance.

#### Technical Assistance

As stated above, a determination of continued or initial eligibility is conditional and dependent upon the provider's timely and accurate submission of program-performance data on all students.

Over the next twelve (12) months, NDOL will provide technical assistance to assist providers in collecting and supplying the required program-performance data. Technical assistance is available to each provider during the provider's first 12-month period of eligibility. NDOL will reach out to all approved providers to ensure efforts to secure program-performance data move forward during this first year of eligibility. Additionally, providers may request technical assistance by emailing [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

#### Minimum Program Performance Standards for Continued Eligibility

In the spring of 2017, NDOL will review the progress of those providers who are granted continued eligibility in relation to the providers' submission of accurate and usable program-performance data. The goal is that all providers with continued eligibility have established processes, systems, and submittal procedures for NDOL to evaluate program-performance data beginning no later than July 1, 2017.

Providers may be required to meet or exceed the following minimum program performance standards in order to maintain eligibility:

- ≥50% of all students who enrolled in the program are in unsubsidized employment during the second (2nd) quarter after exit from the program based on the latest-available verifiable wage data;
- ≥65% of all students who enrolled in the program are in unsubsidized employment during the fourth (4th) quarter after exit from the program based on the latest-available verifiable wage data; and
- ≥\$7,020 median quarterly earnings, based on the latest-available verifiable wage data, for all students who enrolled in the program and are in unsubsidized employment during the fourth (4th) quarter after exit from the program, regardless of whether the students obtained a recognized postsecondary credential.

At least five (5) students must be enrolled in a program for the minimum program performance standards to be used in determining continued eligibility.

The Nebraska Workforce Development Board will review minimum program performance standards for providers and/or programs on a biennial basis.

#### Roles and Responsibilities of NDOL and Local Workforce Development Boards[24]

##### *Roles and Responsibilities of NDOL*

The Governor has designated NDOL as the agency responsible for determining the eligibility of training providers. NDOL plays a leadership role in ensuring the success of the Nebraska ETP program in partnership with local boards and the one-stop delivery system and its partners.

Under WIOA, NDOL is responsible for:

- clarifying NDOL's and local boards' roles and responsibilities;
- ensuring the development and maintenance of the ETPL;
- establishing the information requirements, eligibility criteria, procedures, and performance reporting requirements and standards described in this policy;
- providing an opportunity for interested members of the public, including local boards, to make recommendations and submit comments regarding the information requirements, eligibility criteria, procedures, and performance reporting requirements and standards;
- establishing a method for adding Registered Apprenticeship programs to the ETPL described in this policy and consulting with the Nebraska Workforce Development Board when establishing the method;
- verifying the status of Registered Apprenticeship programs at least once every two (2) years;
- ensuring that providers meet the established information requirements, eligibility criteria, procedures, and performance reporting requirements and standards, including verifying the accuracy of the information provided by providers;

- removing programs from the ETPL that do not meet the established information requirements, eligibility criteria, procedures, and performance reporting requirements and standards;
- taking appropriate enforcement actions against providers as described in this policy;
- establishing the appeals procedure described in this policy; and
- disseminating the ETPL as described below.

### *Dissemination of the ETPL*

In order to assist WIOA participants in choosing employment and training activities and to ensure informed consumer choice, NDOL must disseminate the ETPL as follows:

- to local boards in Nebraska and the public through electronic means, including web sites and searchable databases, including formats accessible to individuals with disabilities, and through whatever other means NDOL uses to disseminate information to consumers, including the one-stop delivery system and its program partners;
- through the one-stop delivery system and its partners including Nebraska's secondary and postsecondary education systems;
- in a manner that does not reveal personally identifiable information about an individual participant, and any disclosure of personally identifiable information from an education record must be carried out in accordance with the Family Educational Rights and Privacy Act, including circumstances relating to prior written consent; and
- to individuals seeking information on training outcomes and participants in employment and training activities authorized under WIOA, including individuals with disabilities.

The ETPL will contain at least the following information supplied by providers:

- a description of each program, including the resulting postsecondary credential(s);
- program performance information, including rates of unsubsidized employment during the second (2nd) and fourth (4th) quarters after program exit, median quarterly earnings during the second (2nd) quarter after program exit, and credentials attainment;
- a description of provider partnerships with businesses relating to the program;
- other information NDOL may require in order to demonstrate high quality training services;
- how the program aligns with in-demand industry sectors and occupations; and
- program-specific performance and cost information, including tuition and fees.

### *Publication of Provider Performance Reports[25]*

Under WIOA, NDOL is required to publish, on an annual basis, ETP performance reports, which will include at a minimum, with respect to each program, the:

- total number of WIOA participants who received training services under adult and dislocated worker programs for the most recent year and three (3) preceding program years, including the number of WIOA participants disaggregated by barriers to employment, race, ethnicity, sex, age, and type of training entity;
- total number of WIOA participants who exited the program, including disaggregated counts by the type of training entity, during the most recent program year and three (3) preceding program years;
- average cost-per-participant for WIOA participants who received training services for the most recent program year and three (3) preceding program years, disaggregated by type of training entity;
- total number of students exiting from the program (all students); and
- levels of performance achieved for all students in the program:
  - percentage of students in unsubsidized employment during the second (2<sup>nd</sup>) and fourth (4<sup>th</sup>) quarters after exit from the program;
  - median quarterly earnings of students in unsubsidized employment during the second (2<sup>nd</sup>) quarter after exit from the program; and
  - percentage of WIOA participants enrolled in an education or training program (excluding those in on-the-job training and customized training) who obtained a recognized postsecondary credential, secondary school diploma, or GED during participation in or within one (1) year after exit from the program, provided the students are also employed or enrolled in another education or training program leading to a recognized postsecondary credential within one (1) year from program exit.

#### *Roles and Responsibilities of Local Workforce Development Boards[26]*

Local boards have statutory responsibilities related to Nebraska's ETP program and must:

- carry out ETP-related procedures and practices assigned by NDOL;
- work with NDOL to ensure sufficient numbers and types of providers serving the local area, including providers with expertise in serving individuals with disabilities and adults in need of education and literacy activities; and
- ensure the dissemination and appropriate use of the ETPL through the local one-stop delivery system.

In addition, local boards may:

- make recommendations to NDOL on the procedures used in determining eligibility;
- require additional criteria and information from providers and set higher levels of performance than those established by NDOL as criteria for local providers to become or remain eligible to receive local area ITA funds for the provision of training services.

### *Disclaimer*

This policy is based on NDOL's reading of the applicable statutes, regulations, rules and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

## Attachment A

### Nebraska Eligible Training Provider List - Training Provider Guide

#### Background

The Nebraska Eligible Training Provider List (ETPL) was first established in compliance with the Workforce Investment Act of 1998 (WIA) and continues under the Workforce Innovation and Opportunity Act of 2014 (WIOA), which was signed into law July 22, 2014 and became effective July 1, 2015. The ETPL is a list of training providers who qualify to receive ITA funds for the provision of training services. To be listed on the ETPL, a training provider's program of study (program) must be evaluated and approved by the Nebraska Department of Labor (NDOL). The purpose of this guide is to provide training providers (providers) with direction on the criteria, procedures, and performance reporting requirements and standards relating to the ETPL.

#### Eligibility

##### *Provider Eligibility:*

A provider must meet the following criteria for inclusion and retention on Nebraska's eligible training provider list (ETPL):

	Criteria	Federal Criteria under WIOA	State Criteria under WIOA	State Criteria under NDOL policy
1	a provider must be one of the following types of entities: <ul style="list-style-type: none"><li>▪ postsecondary education institution</li><li>▪ other public or private provider of training, including<ul style="list-style-type: none"><li>○ community-based organization</li><li>○ joint labor-management organization</li><li>○ providers of WIOA adult education and literacy activities as long as the activities are provided in combination with work-based training services</li></ul></li><li>▪ Registered Apprenticeship program</li></ul>	yes yes yes yes yes	no no no no no	yes yes yes yes yes
2	a provider must be authorized or licensed to provide training services by applicable accrediting or governing authorities	yes	no	yes
3	a provider and its programs must comply with the nondiscrimination requirements of WIOA, which include prohibitions against: <ul style="list-style-type: none"><li>▪ discrimination on the basis of age, disability, sex, race, color, national origin, or political affiliation or belief, or student status</li><li>▪ discrimination against certain noncitizens</li></ul>	yes yes	no no	yes yes

	▪ assistance for facilities used for religious instruction or religious worship	yes	no	yes
4	a provider's facilities must be compliant with the requirements of the Americans with Disabilities Act, as amended (ADA)	yes	no	yes
5	a provider must have been in operation at least twelve (12) months at the time of application for eligibility	no	no	yes
6	a provider must provide information on its participation (or non-participation) in the Federal Pell Grant program	no	no	yes
7	a provider must enter into a data-exchange agreement with NDOL in order for NDOL to verify program-performance data as required under WIOA	no	no	yes
8	a provider must provide information on:			
	▪ provider partnerships with businesses relating to the program	yes	no	yes
	▪ how the program relates to high-demand industry sectors and occupations in Nebraska	yes	yes	yes
	▪ how the program relates to high-wage and high-skill industry sectors and occupations in Nebraska	no	no	yes
	▪ whether the program includes an employability-skills course or component <sup>4</sup>	no	no	yes
	▪ the minimum qualifications of program instructors	no	no	yes
9	a provider must submit a complete eligible training provider application that includes:			
	▪ provider demographics	yes	yes	yes
	▪ information regarding regulatory compliance	yes	yes	yes
	▪ verifiable program-specific information, including but not limited to:	yes	yes	yes
	○ a program description	yes	yes	yes
	○ the programs minimum enrollment requirements	yes	yes	yes
	○ program costs and expenses	yes	yes	yes
	○ methods of instruction used during the program	yes	yes	yes
	○ program length	yes	yes	yes
	○ program schedule	yes	yes	yes

<sup>4</sup> Employability skills, commonly referred to as “soft skills,” are the non-technical skills, knowledge, and abilities necessary to obtain employment and effectively participate in the workplace, including communication, self-management, planning, decision-making and problem-solving skills.

### Program Eligibility:

A program must meet the following criteria for inclusion and retention on Nebraska's ETPL:

Criteria	Federal Criteria under WIOA	State Criteria under WIOA	State Criteria under NDOL policy
1 provide one or more courses or classes, or a structured regimen that provides training services leading to one or more of the following: <sup>5</sup>			
▪ an industry-recognized certificate or certification	yes	yes	yes
▪ a certificate of completion of a Registered Apprenticeship	yes	yes	yes
▪ a license recognized by the state or Federal government	yes	yes	yes
▪ an associate or baccalaureate degree	yes	yes	yes
▪ a secondary-school diploma or its equivalent earned in conjunction with:	yes	yes	yes
○ occupational skills training	yes	yes	yes
○ on-the-job training	yes	yes	yes
○ incumbent worker training	yes	yes	yes
○ workplace training	yes	yes	yes
▪ employment	yes	yes	yes
▪ measurable skill gains toward a credential described above in this row 1	yes	yes	yes
2 a program must meet or exceed the minimum program performance standards established by NDOL, except as stated in the section titled "Exception to Minimum Program Performance Standards" directly below this table:	yes	yes	yes
• ≥50% of all students who enrolled in the program are in unsubsidized employment during the second (2nd) quarter after exit from the program based on the latest-available verifiable wage data	no	yes	yes
• ≥65% of all students who enrolled in the program are in unsubsidized employment during the fourth (4th) quarter after exit from the program based on the latest-available verifiable wage data	no	yes	yes
• ≥\$7,020 median quarterly earnings, based on the latest-available verifiable wage data, for all students who enrolled in the program and are in unsubsidized employment during the fourth (4th) quarter after exit from the program, regardless of whether the students completed the program	no	yes	yes

<sup>5</sup> 20 CFR § 680.420(a)-(d)

Programs associated solely with occupations resulting in commission-only earnings or self-employment are not eligible.

Programs leading to advanced degrees are not eligible (masters, etc.).

#### *Limited Exceptions to Meeting Minimum Program Performance Standards*

There are two (2) exceptions to the minimum program performance standards requirement:

1. Due to the lack of complete data, the provision of federally required program-performance data will be waived during a provider's first twelve (12) months of eligibility. During this timeframe, NDOL will work with and provide technical assistance (as described below) to the provider to help ensure access to program-performance data within twelve (12) months of the provider's first determination of eligibility.
2. At least five (5) students must be enrolled in a program for the minimum program performance standards to be used in determining eligibility.

The Nebraska Workforce Development Board will review minimum program performance standards for providers and/or programs on a biennial basis.

#### *Additional Eligibility Criteria*

NDOL also considers the following criteria when determining eligibility:

Criteria	Federal Criteria under WIOA	State Criteria under WIOA	State Criteria under NDOL policy
1 provider and program performance	yes	yes	yes
2 ensuring access to training services throughout Nebraska and through the use of technology	yes	yes	yes
3 information reported to state agencies on Federal and state training programs other than programs authorized by WIOA Title I-B	yes	yes	yes
4 encouraging the use of industry-recognized certificates and credentials	yes	yes	yes
5 the quality of programs and ability of providers to provide programs to individuals who are employed and to individuals with barriers to employment	yes	yes	yes
6 whether providers timely and accurately submit performance reports	yes	yes	yes
7 other factors NDOL may determine are appropriate	yes	yes	yes

### *Registered Apprenticeship Programs*

Registered Apprenticeship programs are automatically qualified for inclusion on the ETPL.[29] On an annual basis, NDOL notifies Nebraska sponsors of Registered Apprenticeship programs by email of their programs' automatic eligibility for inclusion on the ETPL. If interested, the sponsor must provide the following information to NDOL by email at [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov):

- sponsor's name, and
- name of the Registered Apprenticeship program.

Once included, a Registered Apprenticeship program will be maintained on the ETPL:[30]

- for as long as the program remains registered with the U.S. Department of Labor Office of Apprenticeship;
- until the program sponsor contacts NDOL by email at [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov) and requests the program be removed from the ETPL; or
- unless the program's eligibility is denied or terminated for the reasons described in the section of this policy titled "Denial or Termination of Eligibility."

### *Exempted Providers and Programs*

Certain types of training providers and programs are exempted from the requirements of the eligible training provider provisions of WIOA, including:

- on-the-job training;
- customized training;
- incumbent worker training;
- internships;
- paid or unpaid work experience opportunities; and
- transitional jobs.

The exempted providers and programs listed above will not be included on the ETPL.

### ETP Performance Reporting Requirements and Standards

#### *Frequency of Performance Reporting*

In order for NDOL to measure the effectiveness of programs, NDOL must verify program-specific performance data as follows:

- when reviewing an application for initial eligibility;
- when reviewing an application for continued eligibility; and
- every twenty-four (24) months following a determination of continued eligibility (i.e., when reviewing an application for renewal of continued eligibility).

While WIOA requires ETPs to provide access to program-specific performance data at least once every two (2) years following a determination of continued eligibility, NDOL reserves the right to access program-specific performance data more frequently.

### *Information Required through Performance Reporting*

NDOL is required to access the following program-performance data all students:

- percentage of students in unsubsidized employment[31] during the second (2nd) and fourth (4th) quarters after exit from the program;
- median quarterly earnings of students in unsubsidized employment during the second (2nd) quarter after exit from the program;
- percentage of students who obtain a recognized postsecondary credential, secondary school diploma, or GED during participation in or within one (1) year after exit from the program, provided that the students are also employed or enrolled in another education or training program leading to a recognized postsecondary credential within one (1) year from program exit.

The program-specific performance information submitted to NDOL must include the following for all students:

- information about the recognized postsecondary credentials received by students completing the program;
- program cost information, including tuition and fees; and
- information on the program completion rate for students enrolled in the program.

NDOL must establish a procedure by which a provider can demonstrate that providing the required information is unduly burdensome or costly. If NDOL determines a provider has demonstrated such undue burden or extraordinary costs, NDOL:

- must provide access to cost-effective methods for the collection of the data;
- may provide additional resources to assist providers in the collection of the data; or
- may take other steps to assist providers in collecting and supplying required data, such as offering technical assistance.

### Technical Assistance

As stated in this guide and the NDOL Interim Policy on Eligible Training Provider Initial and Continued Eligibility, Change 3, a determination of continued or initial eligibility is conditional and dependent upon the provider's timely and accurate submission of program-performance data on all students. Over the next twelve (12) months, NDOL will provide technical assistance to assist providers in collecting and supplying the required program-performance data. Technical assistance is available to each provider during the provider's first 12-month period of eligibility. NDOL will reach out to all approved providers to ensure efforts to secure program-performance data move forward during this first year

of eligibility. Additionally, providers may request technical assistance by emailing [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

### Minimum Program Performance Standards for Continued Eligibility

In the spring of 2017, NDOL will review the progress of those providers who are granted continued eligibility in relation to the providers' submission of accurate and usable program-performance data. The goal is that all providers with continued eligibility have established processes, systems, and submittal procedures for NDOL to evaluate program-performance data beginning no later than July 1, 2017.

Providers may be required to meet or exceed the following minimum program performance standards in order to maintain eligibility:

- ≥50% of all students who enrolled in the program are in unsubsidized employment during the second (2nd) quarter after exit from the program based on the latest-available verifiable wage data;
- ≥65% of all students who enrolled in the program are in unsubsidized employment during the fourth (4th) quarter after exit from the program based on the latest-available verifiable wage data; and
- ≥\$7,020 median quarterly earnings, based on the latest-available verifiable wage data, for all students who enrolled in the program and are in unsubsidized employment during the fourth (4th) quarter after exit from the program, regardless of whether the students obtained a recognized postsecondary credential.

At least five (5) students must be enrolled in a program for the minimum program performance standards to be used in determining continued eligibility.

The Nebraska Workforce Development Board will review minimum program performance standards for providers and/or programs on a biennial basis.

### Procedures

To receive ITA funds for the provision of training services, a provider must establish eligibility as a training provider with NDOL prior to the enrollment of any WIOA student in the provider's program.

The application process is the same for all providers, except for WIA-eligible providers seeking to establish continued eligibility as described below.

**Use of ITA funds for training services with providers that are not on the ETPL is not permitted.** For more information on ITAs, please refer to NDOL's policy on ITAs.

### *Continued Eligibility for WIA-eligible Providers*

Any provider eligible under WIA as of July 21, 2014 (WIA-eligible Provider) must apply for continued eligibility for each of its WIA-eligible programs in order to continue receiving ITA funds after June 30, 2016 for the provision of training services for those programs. Eligibility is determined on a program-by-program basis. Continued eligibility is limited to a period of two (2) years for each NDOL-approved program commencing on the date of determination of continued eligibility. The provider must renew its continued eligibility for each NDOL-approved programs in order to continue receiving ITA funds after the program's two-year period of continued eligibility ends.

Continued eligibility for a provider and each of its NDOL-approved programs during the first year of eligibility is conditional and dependent upon the provider's accurate submission of program-performance data within twelve (12) months of the date of determination of continued eligibility. Over the next twelve (12) months, NDOL will provide technical assistance, as described below, to assist providers in collecting and supplying this required data.

Any WIA-eligible Provider that has not submitted an application and established continued eligibility by April 1, 2016 is subject to initial eligibility procedures described in this guide and NDOL's Interim Policy on Eligible Training Provider Initial and Continued Eligibility, Change 3.

### *Initial Eligibility for New Providers*

Any provider not previously eligible under WIA, as described directly above, must apply for initial eligibility for each program it intends to offer as an NDOL-approved program in order to receive ITA funds for the provision of training services. Eligibility is determined on a program-by-program basis. Initial eligibility is limited to a period of one (1) year for each NDOL-approved program. The provider must renew its eligibility and establish continued eligibility for each NDOL-approved program in order to continue receiving ITA funds after the program's one-year period of initial eligibility ends. Continued eligibility is limited to a period of two (2) years commencing on the date of determination of continued eligibility.

To be considered for continued eligibility following the one-year period of initial eligibility for a provider and each of its NDOL-approved programs, the provider must submit accurate program-performance data within twelve (12) months of the date of determination of initial eligibility. Over the next twelve (12) months, NDOL will provide technical assistance, as described below, to assist providers in collecting and supplying this required data.

### *Initial Eligibility for New Programs*

For providers that have established continued eligibility as a provider, subject to the conditions described above, and are applying for eligibility for a new program for which

program-performance data is not available, the new program will receive initial approval for a period of one (1) year. At the end of the one-year period, the provider must renew the program's eligibility and establish continued eligibility for that program in order to continue receiving ITA funds.

To be considered for continued eligibility following a new program's one-year period of initial eligibility, the provider must submit accurate program-performance data within twelve (12) months of each new program's date of determination of initial eligibility. Over the next twelve (12) months, NDOL will provide technical assistance, as described below, to assist providers in collecting and supplying this required data.

### *Application Process[32]*

To apply for eligibility and inclusion on the ETPL, providers must follow the process outlined below.

1. A provider must accurately complete a Word version of the application, a sample of which is provided as Appendix 1 to this guide.[33] The application has two (2) parts:
  - a. Section A. Training Provider Information - to be completed once per application
  - b. Section B. Program Information - to be completed once for each program the provider intends to offer as a NDOL-approved program
2. A provider must submit the completed application by email to [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov) for review and determination of eligibility.
3. Except as described above for WIA-eligible Providers seeking continued eligibility under WIOA, applications may be submitted at any time.

### *Review and Determination of Eligibility*

#### *For WIA-eligible Providers*

1. Applications submitted by WIA-eligible providers on or before April 1, 2016 will receive priority review and notification of determination in April 2016.
2. NDOL will notify providers by email of NDOL's determination of eligibility. Notice of determination will be issued as soon as reasonably practical if the application is complete upon receipt by NDOL.
3. Review of incomplete applications will be delayed until all information required in the application is provided in accordance with this guide and NDOL's Policy on Eligible Training Provider Initial and Continued Eligibility, Change 3.

#### *For Providers following Traditional Training/Academic Calendars*

1. Except as described above for WIA-eligible Providers seeking continued eligibility under WIOA, applications submitted by providers offering programs that follow a

traditional quarter or semester calendar are reviewed on a quarterly basis by NDOL during the following timeframes:

- a. October 1 through October 31
  - b. January 1 through January 31
  - c. April 1 through April 30
  - d. July 1 through July 31
2. Applications must be received by NDOL on or before the last day of the month preceding the scheduled quarterly review period (example: on or before September 30 for consideration during the October 1 through October 31 quarterly review period). Applications received after the last day of the month preceding the scheduled quarterly review will be reviewed during the next scheduled quarterly review period.
  3. NDOL will notify providers by email of NDOL's determination of eligibility. Notice of determination will be issued no later than the 31st day after the end of the quarterly review period, provided that the application is complete upon receipt by NDOL (example: by December 1 for the October review period).
  4. Review of incomplete applications will be delayed until all information required in the application is provided in accordance with this guide and NDOL's Policy on Eligible Training Provider Initial and Continued Eligibility, Change 3.

#### *For Providers following Non-traditional Training/Academic Calendars*

1. Except as described above for WIA-eligible Providers seeking continued eligibility under WIOA, applications submitted by providers offering programs that follow a non-traditional calendar are reviewed on an as-needed basis.
2. NDOL will notify providers by email of NDOL's determination of eligibility. Notice of determination will be issued no later than the 61<sup>st</sup> day after the date of submission of the application if application is complete upon receipt by NDOL.
3. Review of incomplete applications will be delayed until all information required in the application is provided in accordance with this guide and NDOL's Policy on Eligible Training Provider Initial and Continued Eligibility, Change 3.

#### Application Review

Applications are reviewed and scored based on an assessment of the sixteen (16) key eligibility factors for Federal and State Criteria established in this guide and the NDOL Interim Policy on Initial and Continued Eligibility, Change 3 and listed below. Providers and programs are assessed separately. Each factor listed below carries a value of one (1) point during the application-review process.

### *Provider Score*

A provider's eligibility is based on an assessment of the provider information stated in Section A of the Eligible Training Provider Application:

- A provider must score five (5) out of five (5) on Federal Criteria.
- A provider must score at least one (1) of three (3) on State Criteria, specifically the criteria requiring a provider to have been in operation for at least twelve (12) months.

Provider Review	Possible Federal Criteria Score	Possible State Criteria Score
1 Provider meets the eligibility criteria for organization type under WIOA Sec. 122.	1	
2 Provider is authorized or licensed to provide training services by the applicable accrediting or governing authority.	1	
3 Provider agrees to comply with the nondiscrimination requirements of WIOA Sec. 188.	1	
4 Provider represents its facilities are ADA compliant.	1	
5 Provider does not appear on Federal debarment, suspension or exclusion lists.	1	
6 Provider has been in operation at least 12 months.		1
7 Provider participates in Federal Pell Grant Program.		1
8 Provider has entered into a data-exchange agreement with NDOL.		1

If a provider's Federal Criteria Score is less than five (5) out of five (5), the provider and its programs are not eligible to receive ITA funds for providing training services in local areas.

### *Program Review*

A program's eligibility is based on an assessment of the program information stated in Section B of the Eligible Training Provider Application:

- A program must score six (6) out of eight (8) for Federal and State Criteria.

Provider Review	Possible Federal Criteria Score	Possible State Criteria Score
1 Program completion results: <ul style="list-style-type: none"><li>▪ an industry-recognized certificate or certification;</li><li>▪ a certificate of completion of a Registered Apprenticeship;</li><li>▪ a license recognized by the state or Federal government;</li><li>▪ an associate or baccalaureate degree;</li><li>▪ a secondary-school diploma or its equivalent earned in conjunction with:<ul style="list-style-type: none"><li>○ occupational skills training;</li><li>○ on-the-job training;</li><li>○ incumbent worker training; or</li></ul></li></ul>	1	

	<ul style="list-style-type: none"> <li>○ workplace training;</li> <li>▪ employment; or</li> <li>▪ measurable skill gains toward a credential described above in this row</li> </ul>		
2	Provider has business partnerships relating to the program.	1	
3	Program relates to a high-demand occupation in Nebraska.	1	
4	Program relates to a high-skill occupation in Nebraska.		1
5	Program relates to a high-wage occupation in Nebraska.		1
6	Program includes an employability-skills course or component.		1
7	Credentials for instructors are standard for type of program.		1
8	Program application is complete.		1

If a provider's total program score on Federal Criteria and State Criteria is less than six (6) out of eight (8), the program is not eligible to receive ITA funds for providing training services in local areas.

NDOL reserves the right to revise this application-review process and the scoring system described above.

#### Denial or Termination of Eligibility

NDOL must remove programs from the ETPL that fail to meet the eligibility criteria established in this policy.[34]

NDOL must deny or terminate the eligibility of a provider, program, or Registered Apprenticeship program for a period of not less than two (2) years if:[35][36]

1. a provider or sponsor of the Registered Apprenticeship program, or individual supplying information on behalf of the provider or Registered Apprenticeship program, intentionally supplies inaccurate information; or
2. a provider or sponsor of the Registered Apprenticeship program substantially violates any requirement under WIOA, including 29 CFR part 38 (Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act).

NDOL must deny or terminate the eligibility of a provider that has been debarred by the Federal government.

NDOL may terminate the eligibility of an ETP or program if program-specific performance outcomes for WIOA students fall below the minimum program performance standards outlined in this policy. For programs having four (4) or fewer enrolled students, factors other than the minimum rates of employment as NDOL determines to be appropriate may be considered in NDOL's evaluation of a program's nonperformance.

A local area may, in accordance with the local area's policy on eligible training provider initial and continued eligibility, deny or terminate the eligibility of local providers or programs to receive local-area ITA funds based on program performance.

A provider whose eligibility is terminated for reasons 1, 2, or 3 as described above is liable for repayment of all adult, dislocated worker, and youth funds received during a period of noncompliance.<sup>[37]</sup>

A Registered Apprenticeship Program whose eligibility is terminated for reasons 1 or 2 will be liable to repay all youth, adult, and dislocated worker funds received during the period of noncompliance.<sup>[38]</sup>

The remedies and penalties described above and in WIOA supplement, but do not supplant, other civil and criminal remedies and penalties in other provisions of law.

#### Appeals Process for Denial or Termination of Eligibility

NDOL has established an appeal process for providers and sponsors of Registered Apprenticeship programs who have been denied eligibility or whose eligibility has been terminated. To appeal a denial or termination of eligibility, the provider or sponsor of a Registered Apprenticeship program must submit a written request for a hearing to the NDOL Commissioner of Labor (Commissioner) at the address provided below within thirty (30) calendar days of notification of denial or termination.

Commissioner of Labor  
Nebraska Department of Labor  
PO Box 94600  
Lincoln, NE 68509-4600

Absent extenuating circumstances, the Commissioner will assign a hearing officer and a hearing will take place within ninety (90) calendar days of the Commissioner's receipt of the written request for a hearing. The hearing will include:

- a statement of the reason(s) why the provider's eligibility to provide training services was denied or terminated by NDOL; and
- an appeal by the provider describing why the decision should be reversed or a compromise established. The Commissioner will render a final judgment that will include the length of time, if any, the provider must remain ineligible and conditions under which reestablishment of the provider's eligibility are justified.

A decision issued under the NDOL appeal process may not be appealed to the Secretary of Labor.<sup>[39]</sup> Pursuant to the Nebraska Administrative Procedure Act,<sup>[40]</sup> any parties aggrieved by a final decision may file a petition for review in the district court of the county where the action is taken within thirty (30) calendar days after service of the final decision by NDOL and cause summons to be served within thirty (30) calendar days of the filing of the petition.

## Appendix 1

### Eligible Training Provider Application

To be considered for inclusion on the ETPL, the training provider (provider) must supply all of the information requested in this application. All completed applications, and any specific questions regarding this application, must be submitted to [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

#### INSTRUCTIONS:

1. Section A. Training Provider Information – to be completed once per application
2. Section B. Program Information – to be completed once for each program of study (program) the provider intends to offer as a NDOL-approved program

#### SECTION A. TRAINING PROVIDER INFORMATION

##### 1. Provider Information

Date of application	Click here to enter a date.
Provider name (as it appears on W-9 form)	
Provider address	<i>Street</i> <i>City/Town</i> <i>State</i> <i>Zip Code</i>
Federal Employer Identification Number (FEIN)	
Provider website (if any):	
Provider contact:	<i>Name</i> <i>Title</i> <i>Phone</i> <i>Fax</i> <i>Email</i>
How long has Provider been in operation?	

##### 2. Type of Provider (check only one):

- ☐ Postsecondary education institution
- ☐ Other public or private provider of training, which may include joint-labor management organizations and eligible providers of adult education and literacy activities under Title II of WIOA if such activities are provided in combination with occupational skills training
- ☐ A local board that meets the requirements of WIOA Sec. 107(g)(1)
- ☐ Community-based or private organization that provides training under contract with a local board

##### 3. Provider participates in the Federal Pell Grant Program (check only one):

- ☐ Yes    ☐ No

4. Provider is a private postsecondary career school (check only one):

☐ Yes    ☐ No

5. Are Provider's facilities compliant with the requirements of the Americans with Disabilities Act of 1990 (check only one)?

☐ Yes    ☐ No

6. WIOA Nondiscrimination Requirements

A. FEDERAL FINANCIAL ASSISTANCE. WIOA requires programs and activities funded or financially assisted in whole or in part under WIOA be in compliance with all laws on the prohibition against discrimination on the basis of age, disability, or sex, or on the basis of race, color, or national origin. (Check each of box below that applies to Provider.)

- ☐ Provider complies and will continue to comply with the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975.
- ☐ Provider complies and will continue to comply with the prohibitions against discrimination on the basis of disability under section 504 of the Rehabilitation Act of 1973.
- ☐ Provider complies and will continue to comply with the prohibitions against discrimination on the basis of sex under Title IX of the Education Amendments of 1972.
- ☐ Provider complies and will continue to comply with the prohibitions against discrimination on the basis of race, color, or national origin under Title VI of the Civil Rights Act of 1964.
- ☐ Provider agrees to comply with the prohibitions against discrimination against WIOA students on the basis of political affiliation or belief under WIOA Sec. 188(a)(2).

B. PROHIBITION ON ASSISTANCE FOR FACILITIES FOR SECTARIAN INSTRUCTION OR RELIGIOUS WORSHIP. In accordance with WIOA Sec. 188(a)(3), WIOA students shall not be employed under Title I of WIOA to carry out the construction, operation, or maintenance of any part of any facility that is used or to be used for religious instruction or as a place for religious worship (except with respect to the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the Provider operating the facility is part of a program or activity providing services to students).

Will any program offered by Provider involve employment of WIOA students in the construction, operation, or maintenance of any part of any facility that is used or to be used for religious instruction or as a place for religious worship (check only one)?

☐ Yes    ☐ No

If yes, which program offered involves such employment of WIOA students? Please provide the name of each program:

C. PROHIBITION ON DISCRIMINATION ON THE BASIS OF STUDENT STATUS. In accordance with WIOA Sec. 188(a)(4), no person may discriminate against an individual who is a student in a WIOA program or activity that receives funds under Title I of WIOA, with respect to the terms and conditions affecting, or rights provided to, the student, solely because of the status of the individual as a WIOA student.

Provider agrees to comply and confirms that all programs offered comply with the prohibitions against discrimination against WIOA students on the basis of student status under WIOA Sec. 188(a)(4) (check only one).

☐ Yes    ☐ No

D. PROHIBITION ON DISCRIMINATION AGAINST CERTAIN NONCITIZENS. In accordance with WIOA Sec. 188(a)(5), participation in WIOA programs and activities or receiving funds under Title 1 of WIOA shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States.

Provider agrees to comply and confirms that all programs offered comply with the prohibitions against discrimination against certain noncitizen WIOA students under WIOA Sec. 188(a)(5) (check only one).

☐ Yes    ☐ No

## 7. Data Agreement

Under WIOA, NDOL is required to verify the program-performance data for this program. Has Provider entered into a data exchange agreement with NDOL (check only one)?

☐ Yes    ☐ No

If no, NDOL will contact Provider to initiate the process for establishing a data exchange agreement.

## SECTION B. PROGRAM INFORMATION

If Provider is submitting an application for more than one (1) program, a separate Section B. Program Information must be submitted for each program Provider intends to offer as an NDOL-approved program.

### 1. Provide a brief description of the program:

Program name	
Brief description of program	
Does the program result in a recognized postsecondary credential? If yes, please describe	Choose an item.
Does program include an "employability skills" component or course? If yes, please describe	Choose an item.

### 2. What are the minimum enrollment requirements for acceptance into the program (high school diploma, prerequisites, assessment scores, etc.)?

### 3. Provide a brief description of the minimum qualifications to be an instructor for this program:

### 4. Provide information as to whether the provider is in a partnership with a business in relation to the program (include, if applicable, information about the quality and quantity of employer partnerships):

### 5. To the extent possible, provide information that addresses alignment of the program with in-demand industry sectors and occupations:

*Note:* To find out if the program aligns with in-demand industry sectors and occupations, please visit <http://h3.ne.gov/H3/>.

### 6. Provide information as to how this program provides a program of high-quality study, including how the program leads to a recognized postsecondary credential:

### 7. Program cost information, including in-state tuition and fees, for students enrolled in the program:

Total program in-state tuition for one (1) student:	
Total program fees for one (1) student:	
Total of other costs for one (1) student:	
Description of other costs:	

### 8. Method of instruction for the program (check all that apply):

☐ Classroom instruction                      ☐ Combination of classroom instruction and distance learning  
☐ Distance learning (e.g., online classes)

### 9. Program duration, schedule, and minimum enrollment requirements for the program:

Total length of the program (number of hours, days, weeks, months, years, etc.)	
When are classes or training sessions normally held (days, evenings, or both)?	Choose an item.
Is the class or training schedule flexible?	Choose an item.
Days of the week on which classes meet and/or training occurs	

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- [1] WIOA Sec. 122; TEGL 41-14; 20 CFR § 680.400
- [2] WIOA Sections 116(b)(2)(A)(i)(I)-(IV), 122(a)(1), and 188(a); 20 CFR §§ 680.410 and 680.460(f)(11); TEGL 41-14
- [3] 20 CFR § 680.410(a)
- [4] Employability skills, commonly referred to as “soft skills,” are the non-technical skills, knowledge, and abilities necessary to obtain employment and effectively participate in the workplace, including communication, self-management, planning, decision-making and problem-solving skills.
- [5] 20 CFR § 680.420(a)-(d)
- [6] 20 CFR § 680.420(a)
- [7] Pre-apprenticeship programs do not have the same automatic ETP status under WIOA Title I-B as do Registered Apprenticeship programs and are subject to the information requirements, eligibility criteria, procedures, and performance reporting requirements and standards described in this policy and in Attachment A.
- [8] 20 CFR § 680.470(a)
- [9] 20 CFR § 680.470(b)
- [10] 20 CFR § 680.530(b)
- [11] 20 CFR § 680.530(c)-(d)
- [12] 20 CFR § 680.530(a)
- [13] 20 CFR § 680.400(a)
- [14] 20 CFR § 680.450(g)
- [15] 20 CFR § 680.480(b)
- [16] 20 CFR §§ 680.470(c) and 680.480(b)
- [17] WIO Sec. 122(f)
- [18] WIOA Sec. 122(f)(1)(C); 20 CFR § 684.480(b)
- [19] 20 CFR § 680.470(c)
- [20] 20 CFR § 683.630(b)(3)
- [21] Neb. Rev. Stat. § 84-917
- [22] WIOA Sections 116(b)(2)(A)(i)(I)-(IV) and 122(f)(1)(A); 20 CFR § 680.490(a)-(d); TEGL 41-14
- [23] For purposes of this policy, “unsubsidized employment” is defined as employment resulting in a wage paid to an individual and paid *only by the employer*. If a provider has questions about unsubsidized v. subsidized employment, the provider should contact NDOL at [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov) with questions.
- [24] WIOA Section, 116(b)(2)(A)(i)(I)-(IV); 20 CFR §§ 677.175, 680.430(b)(1)-(5), 680.450, 680.460, 680.470, 680.500(d)(1)-(4)
- [25] 20 CFR § 677.230
- [26] WIOA Sec. 107(d)(10)(E) and (g)(A), (B), and (D); 20 CFR § 680.430(b)(1)-(5), (c)(1)-(3), and (d)(1)-(3)
- [27] Employability skills, commonly referred to as “soft skills,” are the non-technical skills, knowledge, and abilities necessary to obtain employment and effectively participate in the workplace, including communication, self-management, planning, decision-making and problem-solving skills.
- [28] 20 CFR § 680.420(a)-(d)
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[29] 20 CFR § 680.470(a)

[30] 20 CFR § 680.470(b)

[31] For purposes of this policy, “unsubsidized employment” is defined as employment resulting in a wage paid to an individual and paid *only by the employer*. If a provider has questions about unsubsidized v. subsidized employment, the provider should contact NDOL at [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov) with questions.

[32] Applying for continued or initial eligibility and inclusion on the ETPL will be an online process in the near future at which point this guide will be updated.

[33] This guide and a Word version of the application are available on Nebraska Department of Labor (NDOL) website ([dol.nebraska.gov](http://dol.nebraska.gov)) on the Eligible Training Providers page. A Provider may also request the application by emailing [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

[34] 20 CFR § 680.480(b)

[35] 20 CFR §§ 680.470(c) and 680.480(b)

[36] WIO Sec. 122(f)

[37] WIOA Sec. 122(f)(1)(C); 20 CFR § 684.480(b)

[38] 20 CFR § 680.470(c)

[39] 20 CFR § 683.630(b)(3)

[40] Neb. Rev. Stat. § 84-917

## **Interim Policy on Equal Opportunity and Nondiscrimination**

### *Reference*

Workforce Innovation and Opportunity Act, Section 188; Workforce Innovation and Opportunity Act - Notice of Proposed Rulemaking, 20 CFR § 683.285; 29 CFR 38; 28 CFR 35; TEGL 37-14.

### *Background*

Recipients are obligated to ensure nondiscrimination and equal opportunity, as well as nonparticipation in sectarian activities. Any entity that receives financial assistance under Title I of WIOA is a recipient including State and Local Workforce Development Boards, One-Stop operators, service providers, Job Corps contractors, and subrecipients, as well as other types of individuals and entities.[1]

### *Action*

After a 10-day review period, this policy will be considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox: [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

Local areas need to establish a policy on equal opportunity and nondiscrimination addressing the provisions identified in this policy as well as ensure their local WIOA Plan addresses the requirements set forth in this policy.

### *Policy*

The Workforce Innovation and Opportunity Act (WIOA) prohibits discrimination on the basis of race, color, national origin, sex, age, disability, religion, political affiliation or belief, participant status, against certain noncitizens, sex-based stereotypes (including stereotypes about how persons of a particular sex are expected to look, speak, or act). This includes:

#### Prohibition on Discrimination regarding Participation, Benefits, and Employment

No individual is to be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with, any such program or activity because of race, color, religion, sex (except as otherwise permitted under Title IX of the Education Amendments of 1972), national origin, age, disability, or political affiliation or belief.[2]

#### Prohibition Involving Facilities for Sectarian Instruction or Religious Worship

Participants shall not be employed under WIOA Title I to carry out the construction, operation, or maintenance of any part of any facility that is used or is to be used for

sectarian instruction or as a place for religious worship (except with respect to the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity providing services to WIOA participants).[3]

#### Prohibition on Discrimination on Basis of Participant Status

No person may discriminate against an individual who is a participant in a program or activity that receives funds under WIOA Title I with respect to the terms and conditions affecting, or rights provided to, the individual, solely because of the status of the individual as a participant.[4]

#### Prohibition on Discrimination against Certain Noncitizens

Participation in programs and activities or receiving funds under WIOA Title I shall be available to citizens and nationals of the United States, lawfully admitted permanent resident aliens, refugees, asylees, and parolees, and other immigrants authorized by the Attorney General to work in the United States.[5]

#### Verification of Lawful Presence[6]

Each agency responsible for determining eligibility for WIOA benefits in Nebraska is required to:

1. Have each applicant for WIOA services attest that he or she is a U.S. citizen or a qualified alien. This must be done using the format prescribed by the Nebraska Department of Administrative Services (DAS).
  - a. If in the above Step 1, the applicant indicates he or she is an alien, then complete Step 2 as follows:
2. Verify his or her lawful presence in the United States using the SAVE (Systematic Alien Verification for Entitlements) Program operated by the U.S. Department of Homeland Security.

#### Prohibition on Discrimination on the Basis of Disability

Section 504 of the Rehabilitation Act of 1973 provides that no otherwise qualified individual with a disability shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.[7] For the purpose of applying these prohibitions against discrimination on the basis of disability, programs and activities funded or otherwise financially assisted in whole or in part under WIOA are considered to be programs and activities receiving Federal financial assistance.[8] A recipient is obligated to provide physical and programmatic accessibility and reasonable accommodation/modification in regard to the WIOA program, as required by section 504 of the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of

1990, as amended, and Section 188 of WIOA.[9] Financial assistance provided under Title I of WIOA may be used to meet this obligation.[10]

### Prohibition on Sex Discrimination against Lesbian, Gay, Bisexual and Transgender (LGBT) Individuals

Entities in the public workforce systems are prohibited from discriminating on the basis of sex-based stereotypes, including stereotypes about how persons of a particular sex are expected to look, speak, or act.[11] See TEGL 37-14, Attachment 2 for a non-exhaustive list of examples of unlawful discrimination against LGBT individuals.

### Equal Opportunity Officer

Every recipient must designate an Equal Opportunity Officer (EO Officer), except small recipients and service providers.[12] A small recipient is defined as serving fewer than 15 beneficiaries during the entire grant year and employing fewer than 15 employees on any given day during the grant year.[13]

The EO Officer should be a senior level employee of the recipient. He or she must not have other responsibilities or activities that create a conflict, or the appearance of a conflict, with the responsibilities of an EO Officer.[14]

The Nebraska Department of Labor is the WIOA Title I Grant Recipient Agency and Terri Slone is the EO Officer for State issues related to the grant. The EO Officer also serves as EO Officer for the Nebraska Department of Labor, and may be contacted at:

Terri Slone  
EO Officer  
Nebraska Department of Labor  
550 S. 16<sup>th</sup> Street  
P.O. Box 94600  
Lincoln, NE 68509-4600  
(402) 471-8358  
TDD (800) 833-7352

The EO Officer is responsible for:

- Serving as the recipient's liaison with Civil Rights Center (CRC);
- Monitoring and investigating the recipient's activities, and the activities of the entities that receive WIOA Title I funds from the recipient, to make sure that the recipient and its sub-recipients are not violating their nondiscrimination and equal opportunity obligations under WIOA Title I and 29 CFR Part 38;
- Reviewing the recipient's written policies to make sure that those policies are nondiscriminatory;
- Developing and publishing the recipient's procedures for processing discrimination complaints and making sure that those procedures are followed;

- Reporting directly to the Director of Administrative Services and the Commissioner of Labor about equal opportunity matters;
- Undergoing training (at the recipient's expense) to maintain competency; and
- If applicable, overseeing the development and implementation of the recipient's Methods of Administration.[15]

### Notice and Communication

Each recipient must provide initial and continuing notice that it does not discriminate on any prohibited grounds. The notice must be provided to: registrants, applicants, participants, applicants for employment and employees, unions or professional organizations that hold collective bargaining or professional agreements with the recipient, subrecipients that receive Title I funds from the recipient, and members of the public, including those with impaired vision or hearing. The recipient must take appropriate steps to ensure that communications with individuals with disabilities are as effective as communications with others.[16]

The specific wording in the notice is identified in 29 CFR § 38.30 and in Attachment A.

At a minimum, the notice must be:

- Posted prominently, in reasonable numbers and places;
- Disseminated in internal memoranda and other written or electronic communications;
- Included in handbooks or manuals; and
- Made available to each participant, and made part of each participant's file.[17]

The notice must be provided in appropriate formats to individuals with visual impairments. Where notice has been given in an alternate format, a record that such notice has been given must be made a part of the participant's file.[18] All brochures, pamphlets, and other publications which promote or broadcast WIOA program information must include the following tag line: "This WIOA Title I-financially assisted program/activity is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities." Where a telephone number is provided, the materials must also include a TDD/TTY or relay service number.[19]

Where a significant number or proportion of the population eligible to be served may need services or information in a language other than English in order to be effectively informed about, or able to participate in, the program or activity, then the recipient must:

- Consider the scope of the program/activity and the size and concentration of the population that needs services or information in a language other than English, and
- Based on those considerations, take reasonable steps to provide services and information in appropriate languages.[20]

In cases where there is not a significant proportion of the population that is limited-English-speaking, the recipient should still make reasonable efforts to meet the particularized language needs of individuals seeking services or information from the recipient.[21] For more information, please see the NDOL Office of Employment and Training's Limited English Proficiency Plan, which is available at [dol.nebraska.gov](http://dol.nebraska.gov).

To afford individuals with disabilities an equal opportunity to participate in and enjoy the benefits of the WIOA Title I program or activity, a recipient must furnish (at no cost to the individual) appropriate auxiliary aids or services where necessary. In determining what type of auxiliary aid or service is appropriate and necessary, such recipient must give primary consideration to the requests of the individual with a disability.[22] Primary consideration means honoring the choice of the individual with a disability unless the agency can demonstrate that another effective means of communication exists, or that using the means chosen would result in a fundamental alteration in the service, program, or activity, or undue financial and administrative burdens.[23]

### Assurances

Each application for financial assistance under Title I of WIOA must include the following assurance:

As a condition to the award of financial assistance from the United States Department of Labor (USDOL) under Title I of WIOA, the grant applicant assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

- Section 188 of the WIOA, which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I-financially assisted program or activity;
- Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the bases of race, color and national origin in programs or activities that receive federal financial assistance;
- Title VII of the Civil Rights Act of 1964, as amended, which prohibits employment discrimination on the bases of race, color and national origin;
- Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;
- The Americans with Disabilities Act, as amended, which prohibits discrimination on the basis of disability;
- The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and
- Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The grant applicant also assures that it will comply with 29 CFR Part 38 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIOA Title I-financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIOA Title I-financially assisted program or activity. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance.[24]

The assurance is considered incorporated by operation of law in the grant, cooperative agreement, contract or other arrangement whereby Federal financial assistance under Title I of the WIOA is made available, whether or not it is physically incorporated in such document and whether or not there is a written agreement between USDOL and the recipient, between the U.S. Department of Labor and the Governor, between the Governor and the recipient, or between recipients. The assurance also may be incorporated by reference in such grants, cooperative agreements, contracts, or other arrangements.[25]

### Orientations

During each presentation to orient new participants, new employees, and/or the general public to its WIOA Title I-financially assisted program or activity, a recipient must include a discussion of rights under the nondiscrimination and equal opportunity provisions of WIOA, including the right to file a complaint of discrimination with the recipient or Civil Rights Center Director.[26]

A hard copy of "Equal Opportunity is the Law" should be provided and signed by all participants and employees and retained on file. An example form is provided in Attachment A.

### Universal Access

Recipients must take appropriate steps to ensure that they are providing universal access to their WIOA Title I-financially assisted programs and activities. These steps should involve reasonable efforts to include members of both sexes, various racial and ethnic groups, individuals with disabilities, and individuals in differing age groups. Such efforts may include, but are not limited to:

- Advertising the recipient's programs and/or activities in media, such as newspapers or radio programs, that specifically target various populations;
- Sending notices about openings in the recipient's programs and/or activities to schools or community service groups that serve various populations; and
- Consulting with appropriate community service groups about ways in which the recipient may improve its outreach and service to various populations.[27]

## Reasonable Accommodations

With regard to aid, benefits, services, training, and employment, a recipient must provide reasonable accommodation to qualified individuals with disabilities who are applicants, registrants, eligible applicants/registrants, participants, employees, or applicants for employment, unless providing the accommodation would cause undue hardship. A recipient must not, directly or through contractual, licensing, or other arrangements, refuse to accommodate an individual's religious practices or beliefs unless to do so would result in undue hardship. Definitions of the terms "reasonable accommodation" and "undue hardship" are specified in 29 CFR § 38.4.[28]

## Complaints

Any person who believes that either he or she, or any specific class of individuals, has been or is being subjected to discrimination prohibited by WIOA or the regulations implementing the nondiscrimination provisions may file a written complaint, either by him/herself or through a representative. The complainant may file with either the recipient's Equal Opportunity Officer or to:

Director  
Civil Rights Center  
U.S. Department of Labor  
Room N4123  
200 Constitution Avenue, NW  
Washington, D.C. 20210 [29]

Generally, a complaint must be filed within 180 days of the alleged discrimination. However, for good cause shown, the CRC Director may extend the filing time.[30]

Each complaint must be filed in writing, and must contain the following:

- Complainant's name and address (or another means of contacting the complainant);
- The identity of the respondent (the individual or entity that the complainant alleges is responsible for the discrimination);
- A description of the complainant's allegations. This description must include enough detail to allow the CRC Director or the recipient, as applicable, to decide who has jurisdiction over the complaint, whether the complaint was filed on time, and the merit of the complaint (whether the complainant's allegations, if true, would violate any of the nondiscrimination and equal opportunity provisions of WIOA or the regulations); and
- The complainant's signature or the signature of the complainant's authorized representative.[31]

If a complaint is filed with the recipient, the complainant must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner),

before filing with the Civil Rights Center (CRC)[32]. If the recipient does not give the complainant a written Notice of Final Action within 90 days of the day the complaint was filed, the complainant does not have to wait for the recipient to issue that Notice before filing a complaint with CRC. However, the CRC complaint must be filed within 30 days of the 90-day deadline (in other words, within 120 days after the day on which the complainant filed the complaint with the recipient).[33] If the recipient does give the complainant a written Notice of Final Action on the complaint, but the complainant is dissatisfied with the decision or resolution, the complainant may file a complaint with CRC. The complainant must file the CRC complaint within 30 days of the date on which he/she received the Notice of Final Action.[34]

### Recipient's Discrimination Complaint Processing Procedures

The procedures that a recipient adopts and publishes must provide that the recipient will issue a written Notice of Final Action on discrimination complaints within 90 days of the date on which the complaint is filed.

The procedures must include the following elements:

- An initial, written notice to the complainant that contains an acknowledgment that the recipient has received the complaint and notice that the complainant has the right to be represented in the complaint process.
- A written statement of the issue(s), provided to the complainant, that includes the following information - a list of the issues raised in the complaint, and for each such issue, a statement whether the recipient will accept the issue for investigation or reject the issue, and the reasons for each rejection. If a recipient determines that it does not have jurisdiction over a complaint, it must notify the complainant in writing, immediately. This Notice of Lack of Jurisdiction must include a statement of the reasons for that determination and notice that the complainant has a right to file a complaint with CRC within 30 days of the date on which the complainant receives the Notice. The recipient may want to correspond through certified mail in order to verify date of receipt.
- A period for fact-finding or investigation of the circumstances underlying the complaint.
- A period during which the recipient attempts to resolve the complaint. The methods available to resolve the complaint must include alternative dispute resolution (ADR). The ADR procedures must provide that the choice whether to use ADR or the customary process rests with the complainant. The procedures must allow for a party to any agreement reached under ADR to file a complaint with the CRC Director in the event the agreement is breached. If that happens, then the non-breaching party may file a complaint with the CRC Director within 30 days of the date on which the non-breaching party learns of the alleged breach and the CRC Director must evaluate the circumstances to determine whether the agreement has been breached. If he or she determines that the agreement has been breached, the complainant may file a complaint with CRC based upon his/her original allegation(s), and the CRC Director will waive the time deadline for filing such a

complaint. If the parties do not reach an agreement under ADR, the complainant may file a complaint with the CRC Director.

- A written Notice of Final Action, provided to the complainant within 90 days of the date on which the complaint was filed. The Notice of Final Action must contain for each issue raised, a statement of either the recipient's decision on the issue and an explanation of the reasons underlying the decision, or a description of the way the parties resolved the issue. In addition, it must include notice that the complainant has a right to file a complaint with CRC within 30 days of the date on which the Notice of Final Action is received if he or she is dissatisfied with the recipient's final action on the complaint. [35]

Where state or local laws explicitly bar discrimination based on gender identity and/or sex stereotyping, EO officers should advise participants and employees that additional state and local laws may also cover their claims, and how to file a complaint.[36]

### Failure to Comply

Whenever the United States Secretary of Labor finds that a State or other recipient of funds under WIOA Title I has failed to comply with this provision of the law, the Secretary shall notify such State or recipient and shall request that compliance takes place. If within a reasonable period of time, not to exceed 60 days, the State or recipient fails or refuses to comply, the Secretary may:

- Refer the matter to the United States Attorney General with a recommendation that an appropriate civil action be instituted; or
- Take such other action as may be provided by law.[37]

Once a referral is received or if the United States Attorney General has reason to believe that a State or other recipient of WIOA Title I funds is engaged in a pattern or practice of discrimination, the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.[38]

### Data and Information Collection and Maintenance

Each recipient must collect and maintain records to determine whether the recipient has complied or is complying with the nondiscrimination and equal opportunity provisions of the WIOA.

Records must be collected and maintained on applicants, registrants, eligible applicants/registrants, participants, terminees, employees, and applicants for employment. Each recipient must record the race/ethnicity, sex, age, and where known, disability status of the specified groups. These records must be maintained for a period of not less than three years from the close of the applicable program year.[39]

The information must be stored in a manner that ensures confidentiality, and must be used only for the purposes of recordkeeping and reporting, determining eligibility for WIOA Title I-financially assisted programs/activities, or other uses authorized by law.[40]

Each recipient must maintain, and submit upon request of the State EO Officer or the Civil Rights Center, a log of complaints that allege discrimination. The log must include the name and address of the complainant, the status of the complainant (i.e., employee, WIOA participant, applicant, etc.), the grounds for the complaint, a description of the complaint, the date the complaint was filed, the disposition and date of disposition of the complaint, and whether or not the complaint utilized an alternative dispute resolution (ADR) process. The USDOL Civil Rights Center requires that all Discrimination Complaint Logs are submitted utilizing the electronic format they have established. The State Equal Opportunity Officer shall provide this electronic form on request. Records regarding complaints and actions taken on the complaints must be maintained for a period of not less than three years from the date of resolution of the complaint.[41]

When any administrative enforcement action or lawsuit is filed against a grant applicant and recipient alleging discrimination on the ground(s) of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in a WIOA Title I-financially assisted program or activity, the grant applicant and recipient must promptly notify the Director of the Civil Rights Center. This notification must include: the names of the parties to the action or lawsuit; the forum in which each case was filed; and the relevant case numbers.[42]

### *Disclaimer*

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

## *Attachment A*

### **Equal Opportunity Is the Law**

It is against the law for this recipient of Federal financial assistance to discriminate on the following bases:

- against any individual in the United States, on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief; and
- against any beneficiary of programs financially assisted under Title I of the Workforce Innovation and Opportunity Act (WIOA), on the basis of the beneficiary's citizenship/status as a lawfully admitted immigrant authorized to work in the United States, or his or her participation in any WIOA Title I-financially assisted program or activity.

The recipient must not discriminate in any of the following areas:

- deciding who will be admitted, or have access, to any WIOA Title I-financially assisted program or activity;
- providing opportunities in, or treating any person with regard to, such a program or activity; or
- making employment decisions in the administration of, or in connection with, such a program or activity.

### **What to Do If You Believe You Have Experienced Discrimination**

If you think that you have been subjected to discrimination under a WIOA Title I-financially assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with either:

- the recipient's Equal Opportunity Officer (or the person whom the recipient has designated for this purpose); or
- the Director, Civil Rights Center (CRC), U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210.

If you file your complaint with the recipient, you must wait either until the recipient issues a written Notice of Final Action, or until 90 days have passed (whichever is sooner), before filing with the Civil Rights Center (see address above).

If the recipient does not give you a written Notice of Final Action within 90 days of the day on which you filed your complaint, you do not have to wait for the recipient to issue that Notice before filing a complaint with CRC. However, you must file your CRC complaint within 30 days of the 90-day deadline (in other words, within 120 days after the day on which you filed your complaint with the recipient).

If the recipient does give you a written Notice of Final Action on your complaint, but you are dissatisfied with the decision or resolution, you may file a complaint with the Director of the CRC (at above address). You must file your CRC complaint within 30 days of the date on which you received the Notice of Final Action.

29 CFR 38.30

I, \_\_\_\_\_, acknowledge that I have received a copy of the Equal Opportunity is the Law Notice.

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

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- [1] 20 CFR §683.285(a)(1)
  - [2] WIOA Sec. 188(a)(2)
  - [3] WIOA Sec. 188(a)(3)
  - [4] WIOA Sec. 188(a)(4)
  - [5] WIOA Sec. 188(a)(5)
  - [6] Neb. Rev. Stat. § 4-108
  - [7] 29 USC § 794
  - [8] WIOA Sec. 188(a)(1)
  - [9] 20 CFR §683.285(a)(3)
  - [10] Ibid.
  - [11] TEGL 37-14, Attachment 2
  - [12] 29 CFR § 38.23
  - [13] 29 CFR § 38.4
  - [14] 29 CFR § 38.24
  - [15] 29 CFR § 38.25
  - [16] 29 CFR § 38.29
  - [17] 29 CFR § 38.31(a)
  - [18] 29 CFR § 38.31(b)
  - [19] 29 CFR § 38.34
  - [20] 29 CFR § 38.35(a)
  - [21] 29 CFR § 38.35(b)
  - [22] 29 CFR § 38.9(b)
  - [23] 28 CFR Part 35.160(b)(2), 28 CFR 35 Subpart E - Communications
  - [24] 29 CFR § 38.20(a)(1)
  - [25] 29 CFR § 38.20(a)(2)
  - [26] 29 CFR § 38.36
  - [27] 29 CFR § 38.42
  - [28] 29 CFR § 38.8(a)
  - [29] 29 CFR § 38.30 and § 38.71
  - [30] 29 CFR § 38.30
  - [31] 29 CFR § 38.73
  - [32] 29 CFR § 38.30
  - [33] 29 CFR § 38.80

- [34] 29 CFR § 38.79
- [35] 29 CFR § 38.76
- [36] TEGL 37-14
- [37] WIOA Sec. 188(b)
- [38] WIOA Sec. 188(c)
- [39] 29 CFR § 38.37(b)
- [40] Ibid.
- [41] 29 CFR § 38.37(c)
- [42] 29 CFR § 38.38

## **Preliminary Policy on Family Educational Rights and Privacy Act (FERPA)**

### *Reference*

Workforce Innovation and Opportunity Act (WIOA); Family Education Rights and Privacy Act (FERPA); 20 U.S.C. § 1232; 34 C.F.R. Part 99; 01/30/03 Memorandum from Department of Education; 01/19/01 Memorandum from Department of Labor and Department of Education.

### *Background*

The successful implementation of the Workforce Innovation and Opportunity Act (WIOA) will require States and local areas to establish strong partnerships with core programs and other partners in the community, including local educational agencies and institutions, in order to successfully serve program participants, workers, and learners. WIOA increases career planning services and federal reporting requirements with educational institutions, and requires strict adherence to federal student privacy laws, including the Family Educational Rights and Privacy Act (FERPA). Section 122 of the WIOA requires program providers to provide certain performance outcome information relating to all of their participants in the program so that the program providers may be considered eligible to receive funds under section 133(b). FERPA protects the privacy of student education records, yet allows schools to disclose those records, without consent, to the specific parties under certain conditions.

In January 2001, the Departments of Education and Labor jointly provided guidance through a memorandum allowing a State Educational authority to “authorize the State Unemployment Insurance agency (or other agency that has access to State Unemployment Insurance wage records) to be its representative, for the purpose of evaluating whether local vocational and adult education programs have achieved the student employment goals...” On January 30, 2003, the Department of Education published a memorandum reevaluating that authority. In light of the full text of the statutory language of FERPA and congressional statements, the Department of Education concluded “that for the purposes of FERPA, an ‘authorized representative’ of a state educational authority must be under the direct control of that authority.”

### *Action*

This policy will be effective immediately. Questions and comments should be submitted in writing to the WIOA Policy Mailbox: [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

Local areas need to establish a policy on FERPA addressing the provisions identified in this policy as well as ensure their local WIOA Plan addresses the requirements set forth in this policy.

## *Policy*

### Written Consent for Disclosure

Since the latest memorandum allows a State educational authority to disclose student social security numbers to a State Unemployment Insurance Agency (or other agency that has access to State Unemployment Insurance wage records) for the purpose of determining employment status if the eligible participants in question have provided consent for the disclosure, the attached WIOA Title I Client Release of Information has been prepared to meet this purpose. Local Areas (by either incorporating the language from the attached form or by directly using the WIOA Title I Client Release of Information form attached to this Preliminary Policy as Attachment A) must gain a signed client release of information from every participant enrolled in training at a postsecondary institution. Any signature may be transmitted electronically.

## *Disclaimer*

This policy is based on the Nebraska Department of Labor's reading of the statute along with the memorandums released by the U.S. Department of Labor and the U.S. Department of Education. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

*Attachment A*

**WIOA Title I Client Release of Information**

To:

\_\_\_\_\_  
Name of educational institution

\_\_\_\_\_  
Street address

\_\_\_\_\_  
City, state, and zip code

From:

\_\_\_\_\_  
Name of WIOA Title I training recipient

\_\_\_\_\_  
Social security number

\_\_\_\_\_  
Street address

\_\_\_\_\_  
City, state, and zip code

The above named educational institution is hereby authorized to pursuant to the Family Educational Rights and Privacy Act:

1. to release my social security number to a state Unemployment Insurance agency or other agency that has access to state Unemployment Insurance wage records for the purpose of determining my employment status for the purposes of monitoring performance standards under the Workforce Innovation and Opportunity Act of 2014 (WIOA).
2. to release information concerning my level of education attainment at the above referenced education institution to a state entity monitoring performance standards under WIOA.

This release of information is voluntarily given in accordance with the Family Educational Rights and Privacy Act and information provided thereunder may only be used for the purposes described in paragraphs 1 and 2 above. This release shall continue in full force and effect until revoked by me in writing. A photocopy of this release shall be as effective as an original.

\_\_\_\_\_  
Signature of WIOA Title I training recipient

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness signature if recipient is under 18

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Date

## **Interim Policy on Grievances or Complaints of a Nondiscriminatory Nature**

### *Reference*

The Workforce Innovation and Opportunity Act (WIOA), Section 181; WIOA Notice of Proposed Rulemaking, 20 CFR §§ 658.411, 683.600, 683.610

### *Background*

The Workforce Innovation and Opportunity Act (WIOA) mandates that each state and local area receiving an allotment under Title I establish and maintain a procedure for grievances or complaints alleging violations of the requirements of Title I. Such procedure shall include an opportunity for a hearing and be completed within 60 days after the filing of the grievance or complaint.[1]

### *Action*

After a 10-day review period, this policy will be considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox: [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

Local areas need to establish a policy on grievances or complaints of a non-discriminatory nature addressing the provisions identified in this policy as well as ensure their local WIOA Plan addresses the requirements set forth in this policy.

### *Policy*

The following provides standardized procedures for the submission and processing of grievances and complaints that allege:

- Violations of WIOA, regulations or agreements under the Act and other non-criminal complaints.
- Violations of the labor standards provisions at Section 181(b) of WIOA, i.e., violations involving activities that impact wages of employees, displacement, working conditions, and employment conditions.
- Violations of the relocation provisions in Section 181(d).

Each state, local area, and direct recipient must:

- Provide information about the content of the grievance and complaint procedures to participants and other interested parties affected by the local Workforce Development System, including One-Stop partners and service providers;
- Require that every entity to which it awards WIOA Title I funds provides such information to participants receiving Title I services from such entities;
- Make reasonable efforts to ensure that the grievance and complaint procedures information is understood by affected participants and other individuals, including

youth and those who are limited-English speaking individuals. Such efforts must comply with the language requirements of 29 CFR § 38.35;<sup>[2]</sup> and

- Respond to written complaints through written acknowledgment of receipt and explanation of status and next steps. If an oral complaint is received, an informal attempt at resolution can take place prior to the filing of a written complaint. If resolution does not result, the complaint must be put in writing. Complaints must be legible, signed by the complainant or complainant's authorized representative, and dated. In the event the complainant is unable to provide a written statement, an alternative method of obtaining written documentation from the complainant shall be pursued, which may include assistance by agency staff or local service provider.

These procedures will be available to all WIOA staff, applicants, participants, One-Stop partners, service providers, sub-recipients, contractors, labor unions, community based organizations or other interested parties seeking to do business with NDOL. Dissemination will be made through the Internet, NDOL Intranet, State Policy Manual, grant awards, and upon request. These procedures provide for prompt and equitable resolution of complaints.

#### Who May File

A complaint may be filed by any individual or organization, including but not limited to:

- program participants
- contractors
- WIOA staff
- local area staff
- One-Stop partner staff
- applicants for program participation
- labor unions
- community based organizations

The identity of the complainant or any other person who has furnished information or assisted in an investigation will be kept confidential to the maximum extent possible, consistent with a fair determination of the issues.<sup>[3]</sup>

No person, organization or agency may retaliate against any individual that files a complaint or testifies during complaint proceedings. Any individual may file a complaint without fear of jeopardizing their position, opportunity for advancement, or salary increase, and without fear of the denial of rights and benefits provided by the Act, regulations, or state and local laws.

#### Time Frames

Except for complaints alleging fraud or criminal activity, complaints shall be made within one hundred eighty (180) days of the alleged occurrence.

This policy provides that complaints submitted under this procedure will be either resolved or a decision issued within sixty (60) days.

### Submission Requirements

Grievance procedures shall be established at the local area level for resolving any complaint alleging the violation of the Act, regulations or other agreements under the Act. The procedures will explain the process for dealing with grievances and complaints from participants and other interested parties affected by the local Workforce Development System, including One-Stop partners and service providers.

The local area procedures must provide an opportunity for an informal resolution and a hearing. Any hearing that may be required shall be completed within sixty (60) days of the filing of the grievance or complaint. The local area procedures may include a requirement that the complainant pursue an informal resolution with a local area service provider if the complaint or grievance involves an action or decision of the service provider or one of its employees. If mutually satisfactory resolution results from an informal process, the staff member should include documentation in the file stating the issues and resolution. The matter would then be considered closed.

The local area process must allow an individual alleging a labor standards violation the opportunity to submit the grievance to binding arbitration, if a collective bargaining agreement covering the parties to the grievance so provides.

If the grievance or complaint is not resolved at the local level, then there must be an opportunity for a local level appeal according to the procedures below and submitted to the state at:

Nebraska Department of Labor  
Office of Employment and Training  
550 South 16th Street  
PO Box 94600  
Lincoln, Nebraska 68509-4600

### State Appeal/Review Process

#### *Appeal of a Local Area Grievance or Complaint*

If the complainant does not receive a determination of a complaint filed at the local level within sixty (60) days of filing or if either party is dissatisfied with the local hearing decision, an appeal may be made to the state. The request for review shall be filed within ten (10) days of receipt of the adverse determination or, if no determination is made within sixty (60) days, then at any time prior to the receipt of a determination from the local level. Staff will review and/or investigate, provide opportunity for a hearing, and the hearing officer will issue a decision within sixty days of the appeal to the state. A complainant may withdraw his/her appeal at any time prior to the hearing. The decision is final unless appealed to the Secretary.

## *Statewide Workforce Development System Review Process*

Grievances or complaints from participants and other interested parties affected by Statewide Workforce Development programs may be submitted at:

Nebraska Department of Labor  
Office of Employment and Training  
550 South 16th Street  
PO Box 94600  
Lincoln, Nebraska 68509-4600

If it is determined that the complaint is directly related to the local Workforce Innovation and Opportunity Act Program, then the complaint/grievance will be remanded to the local area grievance process. Local level procedures shall be exhausted before the complaint may be addressed at the state level. The local area shall either resolve the complaint informally or have a hearing and issue a final local decision within sixty (60) days.

### Elements to Include in the Complaint Requesting Appeal of Local Area Decision or State Review

Complaints must:

- Be legible, signed by the complainant or the complainant's authorized representative, and dated. The date of receipt of the written complaint by the appropriate authority [local area, state, or direct recipient], triggers the clock for counting days of action taken;
- Pertain to a single subject, situation, or set of facts.
- Clearly indicate the complainant's name, address and phone number. If the complainant is represented by an attorney or other representative of the complainant's choice, the name, address and phone number of the representative must also appear in the complaint;
- State the name of the party or parties complained against and, if known to the complainant, the address and phone number of the party or parties complained against;
- Contain clear and concise statements of the facts including pertinent dates constituting alleged violations;
- Cite the provisions of the Act, regulations or grant or other agreements under the Act believed to have been violated, if known; and
- State the relief or remedial action(s) sought.

Copies of documents supporting or referred to in the complaint must be attached to the complaint.

### Investigation and Initial Determination

The Office of Employment and Training will review and/or investigate the alleged incident and issue a written initial determination within ten (10) days.

The Initial Determination will include:

- Statement of Issues;
- Initial Determination;
- Reason for Determination; and
- Opportunity for the complainant to request a hearing if not satisfied with the determination.

### Hearing

If the complainant is not satisfied with the Initial Determination, he/she may request a hearing before the Commissioner of Labor or an appointed representative. The request for hearing will be filed within seven (7) days of receipt of the Initial Determination. The hearing will be conducted in an informal manner and formal or technical rules of evidence will not apply.

If a hearing is requested, the Office of Employment and Training will:

- Arrange for a hearing in the complainant's locale if possible;
- Ensure the hearing is held within thirty (30) days of filing; and
- Prepare a written notice of hearing and forward to all affected/interested parties.

The written notice of hearing will include:

- The identity of the hearing officer; the date, time, and place of hearing; how the hearing will be conducted; and the issues to be decided;
- Notification of the opportunity to withdraw the request before the hearing. This request must be received in writing before the hearing date;
- Notification of the opportunity to bring witnesses and/or documentary evidence;
- Notification of the opportunity to be represented by an attorney or other representative selected by the complainant;
- Notification of the opportunity to have records or documents relevant to the issues to be decided at the hearing produced by their custodian;
- Notification of the opportunity to question any witness or parties; and
- Notification of the opportunity to amend the complaint prior to the hearing.

The decision of the hearing officer will be rendered, in writing, within ten (10) days from the date of hearing. The decision will include:

- A statement of the issues presented at the hearing;
- The hearing officer's decision;
- The reason for the decision; and
- The recommended remedies to be applied.

#### Appeal to the Secretary of Labor

The Secretary of Labor shall investigate an allegation of a violation of the requirements of Title I if:

1. A decision relating to a Statewide Workforce Development program grievance or complaint has not been reached within sixty (60) days of receipt of the grievance or complaint or within sixty (60) days of receipt of the request for appeal of a local level grievance and either party appeals to the Secretary; or
2. A decision relating to such violation has been reached and the party to which such decision is adverse appeals such decision to the Secretary.[4]

All appeals to the Secretary must be submitted by certified mail, return receipt requested, to:

Secretary  
U.S. Department of Labor  
200 Constitution Ave. NW  
Washington, D.C. 20210  
Attention: ASET

A copy of the appeal must be simultaneously provided to the opposing party and to:

Region V Administrator  
U.S. Department of Labor  
Employment and Training Administration  
230 S. Dearborn Street  
Chicago, Illinois 60604

Appeals made under (1) above must be filed within one hundred twenty (120) days of the filing of the grievance with the state, or the filing of the appeal of a local grievance with the state. Appeals made under (2) above must be filed within sixty (60) days of the receipt of the decision being appealed.[5] All appeals should contain:

- The full name, phone number, and address of the person making the complaint;
- The full name and address of the respondent against whom the complaint is made;
- A clear concise statement of the facts, including pertinent dates, constituting the alleged violation;

- The provisions of the Act, regulations or grant or other agreements under the Act believed to have been violated; and
- A statement disclosing whether proceedings involving the subject of the request have been commenced or concluded before any federal, state, or local authority and, if so, the date of such commencement or conclusion, the name and address of the authority and the style of the case.

The Secretary is required to make a final determination relating to an appeal no later than 120 days after receiving such appeal.[6]

### Remedies

Remedies that may be imposed through this grievance/complaint process for a violation of any requirement of Title I shall be limited to:

- Suspension or termination of payments under this title;
- Prohibition of placement of a participant with an employer that has violated any requirement under this title;
- Where applicable, reinstatement of an employee, payment of lost wages and benefits, and privileges of employment; and
- Where appropriate, to other equitable relief.[7]

### Other Remedies

Nothing prohibits a grievant or complainant from pursuing a remedy authorized under another federal, state, or local law for a violation of Title I of WIOA.[8]

### Violations of the Labor Standards Provisions at Section 181(b)

#### *Complaints Related to Conditions of Employment*

Employees of the local areas and sub-contractors shall submit and resolve complaints through local employer procedures.

Each recipient of WIOA funds which is an employer of WIOA participants shall continue to operate or establish and maintain a grievance procedure relating to the terms and conditions of employment.

Employers, including private for-profit employers of WIOA participants, may operate their own grievance system established by the state or the local area. Employers shall inform WIOA participants of the grievance procedure they are to follow when the participant begins employment.

A complainant may appeal/submit a complaint if any of the following conditions exist:

- The employing agency does not operate a complaint system;
- The employing agency operates a complaint system but the procedures are not followed; or
- The complaint alleges a violation of federal or state rules and regulations.

#### Appeal to the Secretary of Labor

When the grievance alleges violation of Section 181(b) and the grievance procedure rights have been exhausted or the 60-day time period has elapsed without a decision, either party to such procedure may submit the grievance to the Secretary. The Secretary shall investigate the allegations and make a determination as to whether a violation under Section 181(b) has occurred.

If a modification or reversal of the decision issued pursuant to the recipient's grievance procedure is warranted, or the 60-day time period has elapsed without a decision, the Secretary may modify or reverse the decision, or issue a decision if no decision has been issued, after an opportunity for a hearing.

If the Secretary determines that the decision issued pursuant to the grievance procedure is appropriate, the determination shall become the final decision of the Secretary.

#### Binding Arbitration

As an alternative to the above, a person alleging a violation of Section 181(b) may submit the grievance to a binding grievance procedure if a collective bargaining agreement covering the parties to the grievance so provides. However, binding arbitration decisions are not reviewable by the Secretary and the remedies available to the grievant are limited to those set forth in the Act.

#### Violations of the Relocation Provisions in Section 181(d) of the Act

When the grievance alleges violation of the relocation prohibitions in Section 181(d) of the Act, the grievance may be submitted to the Secretary for investigation to determine whether the state or local area is in compliance with the Act.

If the Secretary determines that a violation of the relocation prohibitions has occurred, either by a state or by an entity to which a state provided funds, the Secretary shall require the state to repay to the United States an amount equal to the amount expended in violation.[9]

## Recordkeeping Requirements

Complaint records must be retained for a minimum of three years following resolution of the complaint. These records should be made available for review, as needed for compliance verification purposes.

### *Disclaimer*

This interim policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

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- [1] WIOA Sec. 181(c)(1)
  - [2] 20 CFR § 683.600(b)
  - [3] 20 CFR § 658.411
  - [4] WIOA Sec. 181(c)(2)
  - [5] 20 CFR § 683.610(c)
  - [6] WIOA Sec. 181(c)(2)(B)
  - [7] WIOA Sec. 181(c)(3)
  - [8] WIOA Sec. 181(c)(4)
  - [9] WIOA 181(d)(3)

## **Interim Policy on the Hatch Act**

### *Reference*

Workforce Innovation and Opportunity Act; Hatch Act; Hatch Act Modernization Act of 2012; and TEGL 35-10.

### *Background*

Providing responsible stewardship for and oversight of public funding for federally-funded workforce programs must be accomplished in a way that demonstrates strong integrity, accountability, and transparency in order to preserve the public trust. The responsibility for this stewardship and oversight is shared in the public workforce system by federal, state and local entities. Workforce programs are largely governed under the Workforce Innovation and Opportunity Act (WIOA) by state and local Workforce Development Boards (WDBs). The WDBs are responsible for multiple functions, including procurement decisions. Local WDBs select One-Stop Career Center operators and youth service providers, and develop a budget for carrying out the duties of the local WDB. These decisions often have significant implications for service providers and participants they serve, and thus must be made in a transparent and ethical manner. In 1939, Congress approved legislation known as the Hatch Act which limits the political activities of federal employees, employees of the District of Columbia government, and certain state and local government employees. Members of state and local WDBs should be aware of the federal, state and local laws and regulations which guide their conduct while serving on the WDB. On December 19, 2012, Congress passed the Hatch Act Modernization Act of 2012, which updated the language of the Hatch Act.

### *Action*

After a 10-day review period, this policy will be considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox: [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

### *Policy*

For individuals paid with federal funds, the Hatch Act restricts the political activity of individuals principally employed by state or local executive agencies and who work in connection with programs financed in whole or in part by federal loans or grants. Covered state and local employees may not, among other things, use their official authority or influence to interfere with or affect the results of an election or nomination; or directly or indirectly coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.

The Hatch Act provides the following definitions:

- “State” means a state or territory or possession of the United States.
- “State or local agency” means the executive branch of a state, municipality, or other political subdivision of a state, or an agency or department thereof, or the executive branch of the District of Columbia, or an agency or department thereof. [Earlier decisions have determined local boards meet this definition.]
- “Federal agency” means an executive agency or other agency of the United States, but does not include a member bank of the Federal Reserve System.
- “State or local officer or employee” means an individual employed by a state or local agency whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a federal agency, but does not include:
  - An individual who exercises no functions in connection with that activity; or
  - An individual employed by an educational or research institution, establishment agency, or system which is supported in whole or in part by a state or political subdivision thereof, the District of Columbia, or a recognized religious, philanthropic, or cultural organization.[1]

The Hatch Act clarifies that a state or local officer or employee retains the right to vote as he or she chooses and to express personal opinions on political subjects and candidates.[2] However, with few exceptions, a state or local officer or employee may not be a candidate for partisan elective office if the salary of the employee is paid completely, directly or indirectly, by loans or grants made by the United States or a Federal agency.[3] This restriction does not apply to the Governor or Lieutenant Governor of a state or an individual authorized by law to act as Governor; the mayor of a city; a duly elected head of an executive department of a state, municipality, or the District of Columbia who is not classified under a state, municipal, or the District of Columbia merit or civil service system; or an individual holding elective office.[4]

#### Examples of Permitted Activities

State and local employees may, so long as they are acting in a personal capacity (i.e., not an official capacity) engage in the following activities:

- register and vote as they choose
- assist in voter registration drives
- express opinions about candidates and issues
- contribute money to political organizations
- attend political fundraising functions
- attend and be active at political rallies and meetings
- join and be active members of a political party or club
- sign and circulate nominating petitions
- campaign for or against referendum questions, constitutional amendments and/or municipal ordinances
- campaign for or against candidates in partisan elections

- make campaign speeches for candidates in partisan elections
- distribute campaign literature in partisan elections
- campaign for and hold office in political clubs or parties
- volunteer to work on a partisan political campaign
- participate in any activity not specifically prohibited by law or regulation. [6]

### Prohibited Activities

Covered state, District of Columbia, and local employees *may not*:

- be candidates for public office in a partisan election; \*
- use official authority or influence to interfere with or affect the results of an election or nomination; or
- directly or indirectly coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.

State, District of Columbia, and local employees subject to the Hatch Act should note that an election is partisan if any candidate is to be nominated or elected as representing a political party, for example, the Democratic or Republican Party.[7]

### General Points

An employee's conduct is also subject to the laws of the state and the regulations of the employing agency. Prohibitions of the Hatch Act are not affected by state or local laws.

For answers to specific questions, call the Office of Special Counsel at 800-85-HATCH (854-2824) or 202-254-3650. Requests for written advisories may be made to the:

U.S. Office of Special Counsel  
1730 M Street, NW Suite 218  
Washington, DC 20036  
E-mail: [hatchact@osc.gov](mailto:hatchact@osc.gov)  
Homepage: [www.osc.gov](http://www.osc.gov)

### *Disclaimer*

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

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[1] 5 U.S.C. § 1501

[2] 5 U.S.C. § 1502(b)

[3] 5 U.S.C. § 1502(a)

[4] 5 U.S.C. § 1502(c)

[5] 5 U.S.C. § 1504

[6] State and Local Employees - Examples of Permitted Activities, Information on Hatch Act, US Office of Special Counsel, March 10, 2014

[7] State, DC and Local Employees - Examples of Prohibited Activities, Information on Hatch Act, US Office of Special Counsel, March 10, 2014

## Interim Policy on Incumbent Worker Training Programs

### *Reference*

Workforce Innovation and Opportunity Act (WIOA), Sections 108, 122, 134, 181, and 194; WIOA Notice of Proposed Rulemaking, 20 CFR §§ 680.780, 680.790, 683.200(c)(9); TEGL 3-15.

### *Background*

The Workforce Innovation and Opportunity Act (WIOA) specifically allows local boards to use up to 20 percent of certain funding dollars to address incumbent worker training. These funds allow local boards to help area employers through the training of their current workforce in order to obtain the skills necessary to retain employment and prevent job loss. Implementation of incumbent worker training may be included in the description of strategies that will be used in a local area as required by the local plan.

### *Changes:*

- Directive that local areas must establish incumbent worker training policies and minimum requirements for such policies
- Incumbent worker training defined
- Employer size defined

### *Action*

After a 10-day review period, this policy will be considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox at [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

Local areas, in conjunction with their local board, must establish a local incumbent worker training policy that, at a minimum, outlines the following:

- Criteria for determining employer eligibility;
- How the employers' share of incumbent worker training cost will be established;
- Agreement or contracting process with providers of incumbent worker training; and
- The process for the collection and dissemination of performance information through the One-Stop system.

Local areas must also ensure their local WIOA Plan addresses the requirements set forth in this policy

## *Policy*

### Who is an Incumbent Worker?

States and local areas must establish policies and definitions to determine which workers, or groups of workers, are eligible for incumbent worker services. To qualify as an incumbent worker, the worker needs to be employed, meet the Fair Labor Standards Act requirements for an employee-employer relationship, and have an established employment history with the employer for 6 months or more. The training must satisfy the requirements of Section 134(d)(4) of WIOA and 20 CFR § 680.790 and increase the competitiveness of the employee and employer. An incumbent worker does not necessarily have to meet eligibility requirements for career and training services for adult and dislocated workers.[1]

### Use of Funds for Incumbent Worker Training Activities

The local board may reserve and use not more than 20 percent of the funds allocated by the governor under Section 133(b) of WIOA [Adult Employment and Training Activities and Dislocated Worker Funds] to the local area involved to pay the program cost of providing training through a training program for incumbent workers.[2] In determining the eligibility of an employer to receive this funding, the local board must take into account the following:

- the characteristics of the participants in the program;
- the relationship of the training to the competitiveness of a participant and the employer; and
- such other factors as the local board may determine to be appropriate, which may include the number of employees participating in the training, the wage and benefit levels of those employees (both pre- and post-participation earnings), and the existence of other training and advancement opportunities provided by the employer.[3]

The governor or state board may make recommendations to the local board for incumbent worker training that has a statewide impact.[4]

The training activities for incumbent workers shall be carried out by the local board in conjunction with the employers or groups of employers of incumbent workers (which may include employers in partnership with other entities for the purposes of delivering training) for the purpose of assisting such workers in obtaining the skills necessary to retain employment or avert layoffs.[5] Incumbent worker training for purposes of Section 134(d)(4)(B) of WIOA is training:

- Designed to meet the special requirements of an employer (including a group of employers) to retain a skilled workforce or avert the need to lay off employees by assisting the workers in obtaining the skills necessary to retain employment.

- Conducted with a commitment by the employer to retain or avert the layoffs of the incumbent worker(s) trained.[6]

The local board will utilize program funds to reimburse employers providing incumbent worker training on a graduated scale based on the size of a business. Such participating employers must pay the remaining share of the costs not covered by WIOA program funds for providing such training.[7] The local board shall establish the employers' share of cost, taking into consideration factors such as the number of employees participating in the training, the wage and benefit levels of the employees (at the beginning and anticipated upon completion of the training), the relationship of the training to the competitiveness of the employer and employees, and the availability of other employer-provided training and advancement opportunities.[8]

For an employers' share of cost, a sliding scale has been established based on the employer size at a local operation (i.e., not based on nationwide employer size) where the incumbent worker training will be provided. The employers' share of cost shall not be less than:

- 10 percent of the cost for employers with not more than fifty (50) employees;
- 25 percent of the cost for employers with more than fifty (50) employees but not more than 100 employees; and
- 50 percent of the cost for employers with more than 100 employees.[9]

The share provided by an employer participating in the program may include the amount of wages paid by the employer to a worker while the worker is attending an incumbent worker training program under Section 134(d)(4) of WIOA. The employer may provide this share of cost in cash or in kind, fairly evaluated.[10] Official payroll records documenting the worker's hours and wages must be utilized to determine the amount of the employer's share of cost.

The employer size means the number of employees currently employed at the local operation where the incumbent worker training placements will be made. When substantiating the employer count, the most current Labor Market Information (LMI) may be a source to consider. LMI may be obtained from NEworks. Local employer site information, including an employee size range for each local operation, is available in NEworks through data provided by Infogroup. The employee size range from NEworks is acceptable to the extent the entire size range fits within the incumbent worker training employer reimbursement sliding scale ranges (e.g. an employee size range listed as 20-49 in NEworks falls within the 1-50 employee range found within the incumbent worker training employer reimbursement sliding scale). Employer Size is determined by the number of employees at the time of the execution of the incumbent worker training contract. This applies to all employers, including employers with seasonal or intermittent employee size fluctuations.

## Conflict of Interest

A state board member, a local board member, or a standing committee member must neither cast a vote on, nor participate in any decision-making capacity, on the provision of services by such member (or any organization which that member directly represents), nor on any matter which would provide any direct financial benefit to that member or the member's immediate family.[11] For example, a local board member who is also an employer who wants to use services on a fee-for-service basis would be prohibited from voting to approve the use of local area services, facilities, or equipment for employment and training activities to such board member's incumbent workers.

Neither membership on the state board, local board, or standing committee, nor receipt of WIOA funds to provide training and related services, by itself, violates these conflict of interest provisions.[12]

In accordance with § 200.112 of the Uniform Guidance, recipients of federal awards must disclose in writing any potential conflict of interest to the Department of Labor. Subrecipients must disclose in writing any potential conflict of interest to the recipient of grant funds.[13]

## Providers of Incumbent Worker Training Services

Providers of incumbent worker training shall not be subject to the requirements of 122(a) through (f) [Eligible Training Provider requirements] regarding the governor's criteria and information requirements and application and renewal procedures in identification of eligible providers of training services.[14]

Training services authorized under Section 134 of WIOA [Use of Funds for Employment and Training Activities] may be provided pursuant to a contract for services in lieu of an individual training account if such services are incumbent worker training.[15]

A One-Stop operator must collect performance information from providers on incumbent worker training and use the information to determine whether the providers meet such performance criteria as the governor may require. The One-Stop operator must disseminate information identifying providers that meet the criteria as eligible providers, and the performance information, through the One-Stop delivery system. Providers determined to meet the criteria for incumbent worker training services shall be considered to be identified as eligible providers of such training services.[16]

Agreements with employers regarding incumbent worker training must be in writing and must ensure that all participants are provided a structured training opportunity by which to gain the knowledge and competencies necessary to retain employment and avoid lay-offs.

## General Program Requirements for Incumbent Worker Training

On a fee-for-service basis, employers may use local area services, facilities, or equipment funded under Title I of WIOA to provide employment and training activities to incumbent workers:

- When the services, facilities or equipment are not being used by eligible participants;
- If their use does not affect the ability of eligible participants to use the services, facilities, or equipment; and
- If the income derived from such fees is used to carry out the programs authorized under Title I.[17]

## Restrictions

Funds provided under WIOA cannot be used to pay the wages of incumbent employees during their participation in an economic development activity provided through a statewide workforce development system.[18] Additionally, when a relocation of a business results in the loss of employment of any employee of such business, no funds provided for employment training can be used for incumbent worker training until after 120 days has passed since the relocation that caused the loss of employment at an original business location in the U.S.[19]

## *Disclaimer*

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[1] 20 CFR § 680.780

[2] WIOA Sec. 134(d)(4)(A)(i)

[3] WIOA Sec. 134(d)(4)(A)(ii), TEGL 3-15

[4] WIOA Sec. 134(d)(4)(A)(iii)

[5] WIOA Sec. 134(d)(4)(B)

[6] 20 CFR § 680.790

[7] WIOA Sec. 134(d)(4)(C)

[8] WIOA Sec. 134(d)(4)(D)(i)

[9] WIOA Sec. 134(d)(4)(D)(ii)

[10] WIOA Sec. 134(d)(4)(D)(iii)

[11] 20 CFR § 683.200(c)(5)(i)

[12] 20 CFR § 683.200(c)(5)(ii)

[13] 20 CFR § 683.200(c)(5)(iii)

[14] WIOA Sec. 122(h)(1)

[15] WIOA Sec. 134(b)(3)(G)(ii)(II)

[16] WIOA Sec. 122(h)(2)

[17] 20 CFR § 683.200(c)(9)

[18] WIOA Sec. 181(b)(1)

[19] WIOA Sec. 181(d)(1)

## Preliminary Policy on In-Demand Industries and Occupations

### *Reference*

Workforce Innovation and Opportunity Act Sections 3, 108, 129, 134, and 181; TEGL 19-14

### *Background*

The Workforce Innovation and Opportunity Act (WIOA) presents an extraordinary opportunity to improve job and career options for Nebraska's workers and jobseekers through an integrated, job-driven public workforce system that links diverse talent to businesses. It supports the development of strong, vibrant regional economies where businesses thrive and people want to live and work.

Businesses inform and guide the workforce system and access skilled talent as they shape regional workforce development and build a pipeline of skilled workers. This engagement includes leadership in the workforce system and active participation in the development and provision of education and training, work-based learning, career pathways, and industry sector partnerships.

One of the hallmarks of the revitalized workforce system established under WIOA is that the needs of business and workers drive workforce solutions. This is reflected in the emphasis WIOA places on in-demand industries in the state. This policy will explain the definition of "in-demand" industries and occupations and how it is further clarified by the current state plan.

### *Action*

This policy becomes effective on immediately.

### *Policy*

#### WIOA Definition

WIOA Sec. 3(23) defines "in-demand sector or occupation", in general, as:

1. An industry sector that has a substantial current or potential impact (including through jobs that lead to economic self-sufficiency and opportunities for advancement) on the state, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors; or
2. An occupation that currently has or is projected to have a number of positions (including positions that lead to economic self-sufficiency and opportunities for advancement) in an industry sector so as to have a significant impact on the state, regional, or local economy, as appropriate.

Determination - the determination of whether an industry sector or occupation is in-demand shall be made by the state board or local board, as appropriate, using state and regional business and labor market projections, including the use of labor market information.[1]

### Foundational Principles

WIOA Sec. 134(c)(3)(G)(iii) indicates that training services for adults and dislocated workers must be directly linked to an in-demand industry sector or occupation in the local area or planning region, or in another area to which an adult or dislocated worker receiving such services is willing to relocate. However, the local board may approve training services for occupations determined by the local board to be in sectors of the economy that have a high potential for sustained demand or growth in the local area.

Similarly, local plans for youth programs must also include consideration of in-demand industry sectors or occupations. WIOA Sec. 129(c)(2)(D) requires that local areas offer eligible youth occupational skill training, which includes priority consideration for training programs that lead to recognized postsecondary credentials that are aligned with in-demand industry sectors or occupation in the local area involved.

The definitions below clarify the expectations for funding WIOA Adult and Dislocated Worker training in Nebraska. Dynamic occupations identified by the local boards and “directly linked to employment opportunities” following the completion of training shall be included in this criteria. Individuals training for a Registered Apprenticeship are also included as participants meeting the criteria.

### *Targeted Sectors of the Economy*

Nebraska’s competitive advantages were studied in the *Growing Jobs, Industries and Talent: A Competitive Advantage Assessment and Strategy for Nebraska* report prepared for the Nebraska Department of Economic Development and Nebraska Department of Labor by the Battelle Technology Partnership Practice in October 2010. The study was designed to help the state assess its economic building blocks and address both gaps holding Nebraska back and specific opportunities for growth. Twelve industry clusters were identified as components of the state’s economic growth, which included:

- Agricultural Machinery
- Agriculture and Food Processing
- Biosciences
- Business Management and Administrative Services
- Financial Services
- Health Services
- Hospitality and Tourism
- Precision Metals Manufacturing
- Renewable Energy
- Research, Development, and Engineering Services

- Software & Computer Services
- Transportation, Warehousing, and Distribution Logistics

Occupations associated with these industry clusters are available to users on the H3 (High Wage, High Demand, High Skill) website, accessible at [h3.ne.gov](http://h3.ne.gov). Detailed labor market information is available for occupations within the target industry clusters to enable individuals to make informed career decisions.

### Definitions[2]

Nebraska defines in-demand sectors and occupations as those sectors and occupation which fall into the High Demand, High Wage, and High Skill definitions as follows:

1. **Defining High Growth and High Demand.** High Demand/Growth ratings are based on the long-term occupational projections that cover a ten year time span. The NDOL assigns a rating based on three factors; the number of annual openings, the net change in employment and the growth rate. The highest weighted factor in determining opportunity is the number of actual job openings expected. The second highest weighted factor is the net change in employment, which represents the pure volume of increased numbers of positions expected in the workforce. The growth rate is third factor of the three, and given the lowest weight because while the rate of growth or decline can impact the speed at which jobs may be eliminated or created, the rate itself does not change the number of current job opportunities. These calculations assign each occupation a rating and rank. High Demand/Growth occupation ratings are calculated separately for the state and each region. Occupations are ranked against other occupations within their region to determine their final rating. Because each area is ranked individually, occupations may have a higher rating in one region than another.
2. **Defining High-Wage Occupations.** NDOL produces wages for eight wage categories. The eight categories are: average hourly wage, entry wage, experienced wage, tenth percentile wage, twenty-fifth percentile wage, fiftieth percentile wage, seventy-fifth percentile wage and ninetieth percentile wage. When an occupation has wages at or above the average of all occupations within the region, all industries wage in a category get a score for that wage category. If an occupation gets a score in four or more of the categories, it is considered high wage.
3. **Defining High-Skill Occupations.** The Bureau of Labor Statistics assigns three measures of education/training to each occupation. The first is "Education" and has eight possible rankings: "Less than high school"; "High school diploma or equivalent"; "Some college, no degree"; "Postsecondary non-degree award"; "Associate degree"; "Bachelor's degree"; "Master's degree"; and "Doctoral or professional degree". The second is "Work Experience" and has three possible assignments: "None"; "Less than Five Years"; and "Five Years or More". The third category is "Job Training" and has six categories: "None"; "Short-term on-the-job training"; "Moderate-term on-the-job training"; "Long-term on-the-job training"; "Apprenticeship"; and "Internship/residency." Any occupation assigned an

“Education” value of “Some college, no degree” or higher is considered High Skill. In addition occupations with an education level of “High school diploma or equivalent” and a job training value of “Long-term on-the-job training”, “Apprenticeship”, or “Internship/residency” are rated as high skill. All occupations are ranked and rated against other occupations within their region. This may result in an occupation appearing on the list for one region but not another.

### Development of State and Local Plans

Identifying the need to train participants for careers in in-demand sector and occupations is a requirement in State and Local plans.

1. The narrative in the current State Plan includes:
  - a. Analysis of the economic and labor market;
  - b. Projection of industries and occupations expected to grow and/or decline;
  - c. A listing of industries and occupations showing a demand for skilled workers;
  - d. A listing of occupations considered most critical to the State’s economy; and
  - e. Identification of skill needs for the available, critical and projected jobs.[3]
2. Under WIOA, the local plan must include, among other things:[4]
  - a. An analysis of the regional economic conditions including:
    - i. Existing and emerging in-demand industry sectors and occupations; and
    - ii. The employment needs of employers in those industry sectors and occupations;
  - b. An analysis of the workforce skills and knowledge individuals need to meet the employment needs of the employers in the region, including employment needs in in-demand industry sectors and occupations;
  - c. An analysis of the workforce in the region, including current labor force employment (and unemployment data), and information on labor market trends, and the educational and skill levels of the workforce in the region, including individuals with barriers to employment;
  - d. An analysis of the workforce development activities (including education and training) in the region, including;
    - i. An analysis of the strengths and weaknesses of such services; and
    - ii. The capacity to provide such services;
  - e. A description of the local board’s strategic vision and goals for preparing an educated and skilled workforce, including goals relating to the performance accountability measures based on primary indicators of performance;
  - f. A strategy to work with the entities that carry out the core programs to align resources available to the local area to achieve the local board’s vision and goals;
  - g. A description of the strategies and services that will be used in the local area in order to:

- h. Facilitate engagement of employers, including small employers and employers in in-demand industry sectors and occupations, in workforce development programs;
  - i. Support a local workforce development system that meets the needs of businesses in the local area;
  - ii. Better coordinate workforce development programs and economic development; and
  - iii. Strengthen linkages between the one-stop delivery system and unemployment insurance programs; and
- i. A description of the one-stop delivery system in the local area, including a description of how the local board will ensure the continuous improvement of eligible providers of services through the system and ensure that such providers meet the employment needs of local employers.

Existing Analysis - As appropriate, a local area may use an existing analysis in order to carry out the requirements of the analysis.[5]

#### Establishing and Maintaining Partnerships

1. Employer and Industry Involvement. Active employer and industry involvement is critical to ensure well-targeted and up-to-date training in high-growth industries is provided. Employers and industry associations must play an active role in establishing requirements for entry into training, developing training curricula and instructional methods, selecting training materials/equipment, and determining the duration of training.
2. Regional Partnership. Training solutions must be developed and implemented by a strategic regional partnership, which includes leaders from the workforce development system, business and industry, economic development, and the education and training community, as well as other public and private sector partners that bring critical assets to the joint venture.
3. Community Colleges. Community colleges have come to understand the specific training needs of key industries in their regions and use this information to keep programs current or develop new programs to address these needs. Given their mission, affordability, and accessibility, community colleges will continue to be an important part of a responsive workforce system. Community colleges often address employer needs by providing training to the employees of specific employers through contract or customized training.

#### Requests for Non-Demand Occupational Training

Under WIOA, training may not be furnished through an ITA unless the training is in an in-demand occupation. The limited exceptions to the use of Individual Training Accounts include:[6]

1. When the services provided are on-the-job training (OJT), customized training, incumbent worker training, or transitional employment.

2. When the local board determines there are an insufficient number of eligible providers in the local area to accomplish the purposes of a system of individual training accounts.
3. When the local board determines there is a training services program of demonstrated effectiveness offered in the area by a community-based organization or another private organization to serve individuals with barriers to employment.
4. When the local board determines that
  - a. It would be most appropriate to award a contract to an institution of higher education or other eligible provider of training services in order to facilitate the training of multiple individuals in in-demand industry sectors or occupations and
  - b. Such contract does not limit customer choice; or
5. When the contract is a pay-for-performance contract.

*50% Threshold Requirement* - When providing training services under any of the exceptions to the use of ITAs, at least 50% of the services must be in an in-demand occupations.

#### Evaluations and Reviews

To ensure the appropriate training is provided, industry trends must be continuously monitored and analyzed, using input from employers, industry trade associations, and other outside experts, along with review of occupational projections.

#### Reporting and Documentation

WIOA enrollment in high demand, high wage, and high skill occupational training will be tracked and recorded in the State MIS NEworks. Occupations associated with these industry clusters can be identified by staff in the High Wage, High Demand, High Skill web application [h3.ne.gov](http://h3.ne.gov). Detailed labor market information is available for occupations within the target industry clusters to enable individuals to make informed career decisions. Staff will store evidence of a demand occupation in participants' electronic case file (ECM) under Demand Occupation document type; staff will also utilize case notes to detail training selection criteria.

WIOA enrollment activities will be recorded and maintained in an electronic case file in NEworks; each enrollment activity will indicate training type, program and related occupational training code on the service provider tab in the activity record. The recorded occupation code will be queried and compared to the identified demand occupation codes to monitor training enrollments in H3 occupations. The report includes state and regional data specific to each area.

### *Disclaimer*

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and guidance are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

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[1] WIOA Sec. 3(23)(B)

[2] Source: Nebraska Department of Labor Office of Labor Market information, July 2014

[3] As required by WIOA Sec. 102(b)(1)(A)(i).

[4] WIOA Sec. 108(b).

[5] WIOA Sec. 108(c).

[6] WIOA Sec. 134(c)(3)(G)(ii)

## Interim Policy on Individual Training Accounts

### Reference

Workforce Innovation and Opportunity Act (WIOA), Sections 122 and 134; WIOA Notice of Proposed Rulemaking, 20 CFR §§ 680.300-680.340; Higher Education Act (HEA) of 1965, as amended by the College Cost Reduction Act of 2007; TEGL 10-09, Attachment A; TEN 11-09; and Pell Grants and Other Financial Aid Issues Policy.

### Changes

This interim policy establishes and implements the following material changes to the Nebraska Department of Labor (NDOL) Preliminary Policy on Individual Training Accounts:

- Revisions have been made relating to the use of Individual Training Accounts (ITAs) for out-of-school youth training services;
- Provisions have been added to the section titled *Local Area ITA Policy Requirements*;
- The opening paragraph of the subsection titled *Limited Exceptions to the Use of Individual Training Accounts* has been revised;
- Provisions have been added to the section titled *Consumer Choice Requirements*; and
- Clarifying language has been added to the section titled *Coordination of Individual training Accounts with other Grant Assistance*, identify other sources of training grants.

### Background

WIOA states that training services must be provided in a manner that maximizes consumer choice in the selection of eligible providers.[1]

WIOA uses Individual Training Accounts (ITAs), eligible training provider lists, and consumer information regarding training providers to help participants make responsible and informed choices about where to receive training.

This policy concerns ITAs established on behalf of participants for the payment of training expenses to eligible training providers using funds from WIOA.

### Action

This policy will be considered final after a 10-day review period. Questions and comments must be submitted in writing to the WIOA Policy Mailbox at [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

Each local area board must:

- establish a policy on ITAs that addresses the provisions of this policy; and
- ensure their local area WIOA plans address the requirements of this policy.

### *Policy*

WIOA requires that all training services (except for limited exceptions identified later in this policy) be provided through the use of Individual Training Accounts (ITAs) and that eligible individuals must receive ITAs through the one-stop delivery system.[2]

ITAs are funded with WIOA Title I adult and dislocated worker funds. In addition, ITAs may also be funded with WIOA Title I funds for out-of-school youth age 16 to 24 when appropriate.[3]

ITAs pay for training services for skills in in-demand occupations as defined by the local board from training providers on the approved list of eligible training providers (ETPs).[4]

Payments may be made in a variety of ways including the electronic transfer of funds through financial institutions, vouchers, or other appropriate methods. Payments may also be made incrementally, through payment of a portion of the costs at different points in the training course.[5]

### Local Area ITA Policy Requirements

Local area policies on ITAs must incorporate a description of each of the following:

#### *Part I*

1. how participants will receive assessment, counseling, and an individual employment plan through career services prior to selecting a training program;
2. how training is limited to skills relevant to in-demand industry sectors or occupations, the manner in which participants will learn of the in-demand industry sectors or occupations, and how exceptions to the list of locally recognized in-demand industry sectors or occupations will be handled;
  - a. Under WIOA, a local board may approve training services for occupations they have determined to be in sectors of the economy that have high potential for sustained demand or growth in the local area. The in-demand industry sectors or occupations are to be contained in the local area plan and the local board must be involved in the exception process.
  - b. **Priority consideration must be given to programs that are aligned with in-demand industry sectors or occupations in the local area.**[6]
3. how training is limited to programs of training services that include one or more courses or classes or a structured regimen that lead to one or more of the following outcomes:

- a. an industry-recognized certificate or certification, a certificate of completion of a registered apprenticeship, a license recognized by the state or the Federal government, an associate or baccalaureate degree;
  - b. a secondary school diploma or GED earned in conjunction with:
    - i. occupational skills training
    - ii. on-the-job training;
    - iii. incumbent worker training; or
    - iv. workplace training;
  - c. employment; or
  - d. measurable skill gains toward employment or a credential described in paragraph (a) or (b) of this section.
- 4. how the intended and actual outcomes described above in section 3 will be documented in the participant's individual employment plan;
- 5. how the policy will be communicated in simple, understandable language to customers of the one-stop center, including delivery methods;
- 6. how the participant will access the ETPL through the one-stop system.
  - a. Participants must be able to select training services from any ETPs from any of the local areas on the ETPL. For more information on ETPs and the ETPL, see the NDOL Policy on Eligible Training Providers.

## *Part 2*

- 1. whether ITAs cover books, or other instructional materials, or fees in addition to tuition;
- 2. the maximum duration of ITAs must be described in the local area plan;
- 3. how the value of each ITA will be determined (will there be a cap on value, will the cap vary for occupations or populations, etc.);
  - a. A range of amounts may be established and/or a maximum amount applicable to all ITAs may be established. If a dollar amount or durational limit for an individual participant established, identify how the limits will be based on the needs of the participant and identified in the individual employment plan. Dollar amount and/or durational limitations established by local board policies must be described in the local area plan. Limitations established by local board policies should not be implemented in a manner that undermines WIOA's requirement that training services are provided in a manner that maximizes customer choice in the selection of an ETP. ITA limitations may provide for exceptions to the limitations in individual cases.[7]
- 4. a process for documenting how other sources of funding are sought prior to establishment of the ITA (Pell Grants, scholarships, one-stop programs other than WIOA, etc.);
- 5. internal procedures for evaluating, endorsing, publicizing, and facilitating access to training services;
- 6. a formal process for tracking WIOA Title I expenditures paying for the individual's training; and
- 7. the method of disbursement of funds;

**Providers on the ETPL are the ONLY entities eligible to receive funding through ITAs.[8]**

*Part 3*

1. how coordination of ITA funds with other grant assistance will be accomplished:
  - a. Formal procedures so participants will be assisted early in the assessment process, as appropriate, to establish eligibility for Pell Grant funds and other forms of financial aid. This includes helping workforce system customers access the Free Application for Federal Student Aid (FAFSA) form and navigate between the financial aid office and the one-stop career center. Refer to the NDOL Policy on Pell Grants and Other Financial Aid Issues.
  - b. Guidelines to determine and document, prior to training enrollment, that to the extent practicable, available federal, state, and local resources are coordinated sufficiently to meet the training and education-related costs of services, so that the participant can afford to complete the agreed-upon program successfully. Resources may include wages earned by the participant through employment while attending training.
  - c. The process to be followed by local staff to record the participant training-related financial assistance needs and the mix of funding assistance (employment and training and HEA funding) in the participant's record. Also, local policy will establish a methodology to determine the participant training-related financial assistance needs.
  - d. Procedures and forms to authorize release of a participant's financial aid information by the post-secondary institution.
  - e. Narrative ensuring the ITA requires the educational institution's financial aid officer to inform the career planner of the amounts and disposition of any Pell Grants, and other types of financial aid awarded after the enrollment of the participant, as part of a continuing, regular information sharing process. Also, the ITA contains language to ensure that WIOA funds are used in addition to funds otherwise available and are coordinated with these funds.
  - f. Language specifying that WIOA participants are not required to apply for or access student loans or incur personal debt as a condition of participation. However, the participant may incur personal debt when agreed to and after counseling regarding the responsibilities associated with the indebtedness, including loan repayment. Such counseling must be acknowledged in the participant's record.
  - g. Safeguards to ensure contracts with training providers prevent participants from being billed for outstanding charges.
  - h. Operating procedures concerning the cost of training and training-related expenses that reflect prudent fiscal management resulting in outstanding customer satisfaction. Every effort should be made to honor the commitments made to clients. However, clients must also assume equal individual responsibility for the success of their training.

### Limited Exceptions to the Use of Individual Training Accounts

Contracts for services may be used instead of ITAs **only** when one (1) or more of the following five (5) exceptions apply and the local area has fulfilled the consumer choice requirements described below:[9]

1. when the services provided are on-the-job training (OJT), customized training, incumbent worker training, or transitional employment;
2. when the local board determines that there are an insufficient number of eligible training providers in the local area;
  - a. The local area plan must describe the process to be used in selecting the providers under a contract for services. **This process must include a public comment period for interested providers of at least thirty (30) days.**
    - i. when the local board determines that there is a training services program of demonstrated effectiveness offered in the area by a community-based organization or another private organization to serve individuals with barriers to employment;
  - b. The local board must develop criteria to be used in determining demonstrated effectiveness, particularly as it applies to the individuals with barriers to employment to be served. The criteria may include, but are not limited to:
    - i. financial stability of the organization;[10]
    - ii. demonstrated performance in the delivery of services to hard to serve participant populations through such means as program completion rate; attainment of skills, certificates or degrees the program is designed to provide; placement after training in unsubsidized employment and retention in employment; and
    - iii. the relevance of the specific program to the workforce development needs identified in the local plan;
  - c. Individuals with barriers to employment include the following:
    - i. displaced homemakers;
    - ii. low-income individuals;
    - iii. Indians, Alaska Natives, and Native Hawaiians;
    - iv. individuals with disabilities;
    - v. older individuals, i.e., those aged 55 or over;
    - vi. ex-offenders;
    - vii. homeless individuals;
    - viii. youth who are in or have aged out of the foster care system;
    - ix. individuals who are English language learners;
    - x. individuals who have low levels of literacy;
    - xi. individuals facing substantial cultural barriers;
    - xii. eligible migrant and seasonal farmworkers [defined in Sec. 167(i) of WIOA];
    - xiii. individuals with two (2) years of exhausting lifetime eligibility under Temporary Assistance for Needy Families (TANF);

- xiv. Single-parents (including single pregnant women);
  - xv. long-term unemployed individuals; and
  - xvi. other groups determined by the governor to have barriers to employment.
3. when the local board determines that it would be most appropriate to contract with an institution of higher education or other eligible provider of training services that will facilitate the training of multiple individuals in in-demand industry sectors or occupations, provided that the contract does not limit consumer choice; or
  4. when the local board is considering entering into a pay-for-performance contract, and the local board ensures the contract is consistent with WIOA requirements on pay-for-performance contracts (see 20 CFR § 683.510).

**Exceptions are intended to meet special needs and should be used infrequently.**

Consumer Choice Requirements[11]

Training services, whether accessed by ITAs or under contract, must be provided in a manner that maximizes informed consumer choice in selecting an eligible training provider in accordance with the goals and objectives outlined in the participant's individual employment plan:

1. The local board, through the one-stop center, must make the ETPL available to customers.
2. An individual who has been determined eligible for training services may select a provider from the ETPL after consultation with a career planner.
3. Unless the program under which the participant is eligible has exhausted training funds for the program year, the one-stop center must refer the individual to the selected provider, and establish an ITA for the individual to pay for training.
4. The ITA funds paid to the ETP are paid by the applicable adult, dislocated worker, or out-of-school youth program under Title I of WIOA.
5. The local board, through the one-stop center, may coordinate funding for ITAs with funding from other Federal, state, local, or private job training programs or sources to assist the individual in obtaining training services.

Coordination of Individual Training Accounts with other Grant Assistance

WIOA requires that training funds be coordinated with other grant sources for training such as the Federal Pell Grant Program.[12]

Veterans Administration benefits such as the GI Bill are not considered grant assistance for purposes of coordination with ITAs.[13]

WIOA limits funding for training to individuals who:

1. are unable to obtain grant assistance from other sources to pay for the cost of their training; or

2. require assistance beyond what is available under grant assistance from other sources to pay the costs of such training.[14]
  - a. In determining whether an individual requires such assistance, a one-stop center (or one-stop partner, where appropriate) may consider the full cost of participating in training services, including the costs of dependent care and transportation, and other appropriate costs.

One-stop centers must consider the availability of other sources of training grants such as Temporary Assistance for Needy Families (TANF), state-funded training funds, Federal Pell Grants so that WIOA funds supplement other sources of training grants.[15] Program operators and training providers must coordinate available funds to pay for training and prevent duplication of payments.

The exact mix of funds should be determined based on the availability of funding for either training costs or supportive services, with the goal of ensuring that the costs of the training program the participant selects are fully paid and that necessary supportive services are available so that the training can be completed successfully. This determination should focus on the needs of the participant and satisfy the following three conditions:

1. WIOA funds for training services are limited to instances when there is inadequate or no grant assistance from other sources;
2. duplicate payments of costs when an individual is eligible for both WIOA and other assistance including Pell Grants must be avoided; and
3. participation in a training program funded under WIOA may not be conditioned on applying for or using a loan to help finance training costs.

One-stop centers and training providers must coordinate by entering into arrangements with the entities administering the alternate source of funds, including eligible providers administering Pell Grants. These entities should consider all available sources of funds, excluding loans, in determining an individual's overall need for WIOA funds. The WIOA career planner must work with the WIOA participant to calculate the total funding resources available as well as to assess the full "education and education related costs" (training and supportive services costs) if the participant is to complete the chosen program with WIOA funds while an application for Pell Grant funds is pending.

WIOA permits a WIOA participant to enroll in a training program with WIOA funds while an application for Pell Grant funds is pending.[16] However, the one-stop operator must be reimbursed if both funding sources end up paying the same costs for the same WIOA participant. When the agreements negotiated are performance-based contracts, one-stop centers must prohibit training institutions or organizations from holding the student liable for outstanding charges. Otherwise, the performance agreements would be undercut because the incentive for the institution or organization to perform would be removed.

Refer to the section of this policy titled "Local Area ITA Policy Requirements" for information on the requirements relating to coordination of individual training accounts with other grant assistance and local area plans and policies.

### *Disclaimer*

This policy is based on NDOL's reading of the applicable statutes, regulations, rules and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

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- [1] WIOA Sec. 134(c)(3)(F)(i)
- [2] WIOA Sec. 134(c)(4)(G)
- [3] 20 CFR § 651.550
- [4] WIOA Sec. 134(c)(3)(F)(ii) and 134(c)(3)(G)(iii)
- [5] 20 CFR § 680.300
- [6] 20 CFR § 680.340(f)
- [7] 20 CFR § 680.310(c)
- [8] 20 CFR § 680.410(a)
- [9] 20 CFR § 680.320(a)
- [10] 20 CFR § 680.320(a)(3)(i)
- [11] 20 CFR § 680.340
- [12] 20 CFR § 680.230
- [13] TEGL 10-09, Attachment A
- [14] 20 CFR § 680.230(a)(2)
- [15] 20 CFR § 680.230(b)
- [16] WIOA Sec.134(c)(3)(B)(ii)

## **Preliminary Policy on Local Area Plan Modifications and Revisions - Change 1**

### *Reference*

Workforce Innovation and Opportunity Act, Section 108, 121, 129, and 134.

### *Background*

Local areas will operate under modified local plans from July 1, 2015, until June 30, 2017, at which time each local area will submit a new local plan for approval. The modified local plan will serve as a “transitional” plan during the first two program year of WIOA implementation.

### *Action*

### *Policy*

There are two methods by which a plan may be changed:

- modification, or
- revision.

All submissions for modifications and revisions must be done electronically. The Office of Employment and Training (OET) will confirm receipt of all submissions. Additional information regarding electronic submission will be provided to local areas at a later date.

### Modification:

#### *Timeline:*

- March, 2015 State issues Preliminary Local Plan Modification Instructions to transition from WIA to WIOA.
- March 18, 2015 State issues Preliminary Policy on Local Area Modifications and Revisions - Change 1.
- May 29, 2015 Local plan modifications due to the State.
- June, 2015 State WIOA board approves Local Plan Modifications.
- July 1, 2015 the modified local plan takes effect and remains in effect through June 30, 2017.

### Modifications for the Use of Funds for Adult and Dislocated Worker Employment and Training Activities

WIOA necessitates a number of modifications to local plan provisions for the use of funds for adult and dislocated worker employment and training activities. Local plans must be modified to include the following:

### Transfer Authority

WIOA provides that so long as a local board receives approval from the Governor, a local board may transfer up to and including 100 percent of the funds allocated for adult employment and training activities and dislocated worker employment and training activities for a fiscal year between both programs.[1]

### Program Eligibility

Local plans must be modified to accommodate new categories of eligibility for adult and dislocated worker employment and training activities. Along with existing eligibility categories, local plans must include adult and dislocated workers who, after an interview, evaluation, or assessment and career planning have been determined by a one-stop operator or one-stop partner to be unlikely or unable to retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment through career services described in Sec. 134(c)(2)(A)(xii); as well as those who have been determined to be in need of training services to obtain or retain employment that leads to economic self-sufficiency or wages comparable to or higher than wages from previous employment.[2]

### Training Services

Because WIOA provides additional options for adult and dislocated worker training services, local plans must be modified if the local board determines it is appropriate to provide any training services not previously available, including:

1. incumbent worker training;
2. transitional jobs;
3. job readiness training provided in combination with occupational skills training, on-the-job training, incumbent worker training, programs that combine workplace training with related instruction, training programs operated by the private sector, skills upgrading and training, and transitional jobs;
4. adult education and literacy activities that include English language acquisition and integrated education and training programs, provided concurrently with occupational skills training, on-the-job training, incumbent worker training, programs that combine workplace training with related instruction, training programs operated by the private sector, skills upgrading and training, and transitional jobs.
5. customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training. [3]

### Incumbent Worker Training

WIOA allows the local area to use up to 20 percent of the funds allocated by the Governor under 133(b) [Adult Employment and Training Activities and Dislocated Worker Training] to the local area involved to pay the program cost of providing training through a training

program for incumbent workers. These funds allow for the training of the current workforce in obtaining the skills necessary to retain employment and prevent job loss.

Providers of incumbent worker training shall not be subject to the requirements of 122(a) through (f) [Eligible Training Provider requirements] regarding the Governor's criteria and information requirements and application and renewal procedures in identification of eligible providers of training services.[4] This provision does not prohibit local areas from imposing additional requirements on providers of incumbent worker training. Modifications to the local plan must describe any such additional requirements.

### Modifications for the Use of Funds for Youth Workforce Development Activities

WIOA necessitates a number of modifications to local plan provisions for the use of funds for youth workforce development activities. Local plans must be modified to include the following:

#### Program Eligibility

To be eligible to participate in youth workforce development activities, an individual must meet WIOA definitions of in-school youth or out-of-school youth.[5] The Act provides criteria for determining what an in-school youth or out-of-school youth is, including age ranges (14 to 21 years old for in-school youth, and 16 to 24 years old for out-of-school youth).[6] The local plan must identify what it means to require "additional assistance to complete an educational program or to secure and hold employment."

#### Out-of-school Priority

Local plans must specify what percentage of funds allotted for youth workforce development activities will be used to provide youth workforce development activities for out-of-school youth (at least 75 percent, or at least 50 percent in limited circumstances when a request for a waiver is submitted to the United States Secretary of Labor after an analysis is completed and sufficient evidence is presented indicating that the local area will be unable to use at least 75% of available youth funds on out-of-school youth in the local area due to a low number of out-of-school youth).[7]

#### Program Elements

Local plans must describe in detail the type and availability of youth activities in the local area identifying successful providers of such activities, including activities for youth who are individuals with disabilities. Include in this description an identification of successful models of such youth workforce activities.[8] Because WIOA provides additional requirements for existing program elements as well as introduces new ones, it is necessary to modify the local plan to address the local area's strategy for providing comprehensive services to eligible youth to include these local program elements.

## Original Youth Elements

The original ten youth development program elements provided for under the Workforce Investment Act (WIA) remain in place under WIOA. Of the original ten, five elements have been changed to include additional requirements:

1. tutoring, study skills training, and evidence-based dropout prevention and recovery strategies, that lead to completion of the requirements for a secondary school diploma or its recognized equivalent (including a recognized certificate of attendance or similar document for individuals with disabilities) or for a recognized postsecondary credential;
2. alternative secondary school services, or dropout recovery services, as appropriate;
3. paid and unpaid work experiences that have as a component academic and occupational education, which may include summer employment opportunities and other employment opportunities available throughout the school year; pre-apprenticeship programs; internships and job shadowing; and OJT training opportunities;
4. occupational skill training, which will include priority consideration for training programs that lead to recognized postsecondary credentials that are aligned with in-demand industry sectors or occupations, if the local board determines the programs meet the criteria described in Sec. 123 [Eligible Providers of Youth Workforce Development Activities]; and
5. leadership development opportunities, which may include community service and peer-centered activities encouraging responsibility and other positive social and civic behaviors, as appropriate.[9]

## New Program Elements

Five new program elements have been added:

1. education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;
2. financial literacy education;
3. entrepreneurial skills training;
4. services that provide labor market and employment information about in-demand industry sectors or occupations available in the local area, such as career awareness, career counseling, and career exploration services; and
5. activities that help youth prepare for and transition to postsecondary education and training.[10]

Providers of youth services are not required to provide all of these elements. Instead, the local program must provide access to all the required elements.[11]

The local plan must specify what percentage of funds allotted for youth programs will be used to provide in-school and out-of-school youth with paid and unpaid work experience activities (at least 20 percent).[12]

#### Involvement in Youth Program Design and Implementation

Local boards must ensure that parents, youth participants, and other members of the community with experience relating to youth programs are involved in both the design and implementation of its youth programs.[13] Evidence of this involvement in the design and implementation of the youth program shall be outlined in the local area plan.

#### Volunteer Opportunities

Local boards must ensure that successful youth program participants have opportunities to volunteer to help other youth participants through mentoring, tutoring, and other activities.[14] Local area plans shall describe how volunteer opportunities are afforded to successful youth program participants.

#### Supportive Services

Local boards, in consultation with the One-Stop partners and other community service providers, must develop a policy on supportive services that ensures resource and service coordination (see Attachment S). Such policy should address procedures for referral to such services, including how such services will be funded when they are not otherwise available from other sources.[15] Such policy must include whether or not needs-related payments will be authorized and, if they are, establish the payment level for adults.

Local boards may establish limits on the provision of supportive services or provide the One-Stop operator with the authority to establish such limits, including a maximum amount of funding and maximum length of time for supportive services to be available to participants.[16]

Procedures may be established to allow One-Stop operators to grant exceptions to the limits established.[17] If the local policy allows for needs-related payment exceptions when there is a training delay (described below) beyond thirty days, the policy should address the special circumstances that would qualify for the exception basis.[18]

#### Needs-related Payments: Training Delay

Needs-related payments may be paid while a participant is waiting to start training classes provided the participant has been accepted in a training program that will begin within thirty (30) calendar days. Local areas may extend the 30 day period on an exception basis to address appropriate circumstances.[19] If local areas choose to do so, the availability of such extension must be noted in the local plan.

## Biennial Process for Review and Modification of Local Plans

Beginning July 1, 2017, each local board shall develop and submit to the Governor a comprehensive 4-year plan, in partnership with the chief elected official. The local plan shall support the strategy described in and otherwise be consistent with the State plan. If the local area is part of a planning region, the local board shall comply with 106(c) in the preparation and submission of a regional plan. At the end of the first 2-year period of the 4-year plan, each local board shall review the local plan and the local board, in partnership with the chief elected official, shall prepare and submit modifications to the local plan to reflect changes in labor market and economic conditions or in other factors affecting the implementation of the local plan.[20]

A local plan as well as modifications to a local plan submitted to the Governor will be considered to be approved by the Governor at the end of the 90-day period beginning on the day the Governor receives the modification, unless the Governor makes any of the following written determinations during that period:

- Deficiencies regarding Workforce Investment Activities and Providers under Subtitle B have been identified through audits and the local area has not made acceptable progress in implementing corrective measures to address the deficiencies;
- the modification does not comply with WIOA; or
- the modification does not align with the State plan.[21]

Criteria and procedures for the certification and continuous improvement of the One-Stop centers provided in 121(g) shall be reviewed and updated by the local board as part of the biennial process review and modification of the local plan.[22]

## Transition Plan Modification Submission

Submit electronically to OET the modification for review and approval on or before May 29, 2015. Include in the modification package:

1. A cover letter outlining:
  - a. the reason for the modification
  - b. the effective date (recognizing that the local plan modification is not approved until a recommendation by the NWDB and approval by the Governor or his representative)
  - c. a brief description of the modified sections
  - d. any deletions from the original plan
  - e. identification of the PY/FY
  - f. A dated and signed signature page indicating joint submission and approval by the WDB Chair and the CEO. All local plan modifications must be approved by local area Workforce Development Boards and follow any review processes described in the CEO Agreement.

- g. Newly prepared Assurances (see Attachment A).
- h. The modified pages of local plan narrative.
- 2. Updated Attachments as required (see Attachment B).
- 3. *Budget, Participant, and Exit Summary* attachments. The Budget, Participant, and Exit Summary sheets and instructions for the “transitional” plan will be provided with the issuance that distributes the PY15/FY16 WIOA funds.
- 4. Any comments that express disagreement with the local plan modification must be included in the modification request.[23]
- 5. Assurance that hard copies of the complete modification and signature page shall be kept on file at the local area administrative office and be available for review.

#### Revision:

A plan revision shall be made for the following reasons:

- A change of 25% or less of the cumulative number of participants served;
- A change of 15% or less of the financing available in any one of the individual WIOA program funds (Adult, Dislocated Worker, or Youth) to support WIOA Title I and partner-provided WIA services. This includes the receipt of Program Year, Fiscal Year and additional funds from the State;
- A need to revise strategies to meet performance goals; or
- Any change that does not meet the modification criteria and that is not defined as a substantial deviation from the state plan, i.e., program design issues.

All Local Plan revisions must be submitted electronically to OET within 30 days of the effective date. The revision will contain:

- 1. A cover letter identifying: revised sections; the effective date; a brief description of the change.
- 2. A replacement page or pages for the revised item.
- 3. A signature sheet indicating review and approval by the WDB Chair and CEO prior to submittal.

#### Budget, Participant, and Exit Summary Instructions

The Budget, Participant, and Exit Summary sheets and instructions for the “transitional” plan modification were provided with the Issuance 14-07.

#### *Disclaimer*

This policy is based on NDOL’s reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

## *Attachment A*

### **Signed Assurances**

#### Assurances

The purpose of distinguishing the following assurances is to highlight specific requirements and does not limit local area responsibilities in any way. Local areas are required to ensure that the local area and its subrecipients are held accountable to all state and federal laws, regulations, and policies. By signing the following assurances, the local area assures the State that in the local area and all of its subrecipients will abide by the following requirements.

#### Access to Records -

The Grantee assures it will give the Department of Labor or its representatives the access to, and the right to examine, all documents related to the grant agreement.

#### Administration -

The Grantee assures it will fully comply with all Grantor instructions and relating to the administration of funds.

#### Administration and Fiscal Systems -

The Grantee assures it has adequate administrative and fiscal systems necessary to promote effective use of the grant funds, which comply with the provisions for Fiscal Controls by States in Section 184 of the Workforce Innovation and Opportunity Act (WIOA), and the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards in 2 CFR Part 200. This includes, but is not limited to, a financial management system that satisfactorily accounts for and documents the receipt and disbursement of WIOA funds, including information pertaining to subgrants and contract awards, obligations, unobligated balances, assets, expenditures, and income. Effective internal controls will be in place to safeguard assets and ensure their proper use (including property location and usage). All source documentation will be maintained to support accounting records that will permit the tracking of funds to a level of expenditure adequate to establish that funds have not been used in a violation of the applicable restrictions on the use of such funds.

#### Audit Resolution File -

The Grantee assures that the local area will maintain an audit resolution file documenting the disposition of reported questioned costs and corrective actions taken for all findings.

#### Bonding -

The Grantee assures that all persons and/or subrecipients who are authorized to receive or deposit WIA funds, or to issue financial documents, checks, or other instruments of payment for WIOA program costs, will be bonded in accordance with federal and State regulatory requirements for protection against loss.

#### Cash Management -

The Grantee assures that no excess cash will be kept on hand, and procedures for maintaining and monitoring the minimum amount of cash on hand necessary to efficiently improve the timing and control of disbursements will be in place.

#### Compliance with Nebraska Revised Statutes § § 4-108 through 4-112 and 48-114 -

The Grantee assures that all contracts shall certify that the Contractor has registered with and is using a federal immigration verification system, as defined in Neb. Rev. Stat. § 4-114, to determine the work eligibility status of all new employees performing services within the State of Nebraska. Upon reasonable notice, the Contractor shall provide documentation to the Department of Labor which proves the Contractor is or was at all times during the term of the agreement in compliance with this provision. If the Contractor is an individual or sole proprietorship, the Contractor shall complete the U.S. Citizenship Attestation Form, available on the Department of Administrative Services at [www.das.state.ne.us](http://www.das.state.ne.us). If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor shall agree to provide to the U.S. Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the U.S. using the Systematic Alien Verification for Entitlements (SAVE) Program. Verification of lawful presence in the United States and qualified alien status must also be established, pursuant to § § 4-111 and 4-112, if the Contractor has applied for public benefits, as defined in § 48-108. The Contractor understands that the lawful presence in the U.S. is required and that the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified.

#### Compliance with WIOA -

The Grantee assures that it will fully comply with the requirements of the Workforce Innovation and Opportunity Act.

#### Confidentiality -

The Grantee assures it will comply with the confidentiality requirements of section 116(i)(3) of WIOA.

### Consultation -

The Grantee has developed this plan in consultation with local elected officials, the local Workforce Development Board, the business community, labor organizations, and other partners.

### Expending Funds -

The Grantee assures that funds will be spent in accordance with the Workforce Innovation and Opportunity Act and the Wagner-Peyser Act and their regulations, written Department of Labor guidelines, and all other applicable federal laws and regulations, state statutes and regulations, and state policies.

### Governor's Grant Procedures -

The Grantee assures funds will comply with the grant procedures described by the Governor that are necessary to enter into grant agreements for the allocation and payment of funds under WIOA. The procedures and agreements will be provided by the Governor and will specify the requirements, terms, conditions, assurances and certifications, and shall include, but not be limited to, the following:

### General Administrative Requirements:

- 2 CFR Part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- Assurances and Certifications:
  - Standard Form 424 B - Assurances - Non-Construction Programs.
  - 29 CFR Part 2 Subpart D - Equal Treatment in Department of Labor Programs for Religious Organizations.
  - 29 CFR Part 31 - Nondiscrimination in Federally Assisted Programs of the Department of Labor.
  - 29 CFR Part 32 - Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.
  - 29 CFR Part 93 - New Restrictions on Lobbying.
  - 2 CFR Part 180 Subparts F, G and H - Suspension and Debarment Actions.
  - 2 CFR Part 182 - Government-Wide Requirements for Drug-Free Workplace (Financial Assistance).

### Grievances/Complaints-

The Grantee will comply with federal, state, and local procedures for grievances and complaints from participants and employees under the WIOA program.

#### Human Trafficking -

The Grantee understands that the awarding agency may terminate the award, without penalty, as a result of actions by grantee, employees or subrecipients, based on noncompliance with the Trafficking Victims Protection Act of 2009, as amended, and as implemented by 2 CFR Part 175.15(b).

#### In Demand Occupation or Industry -

WIOA training shall be provided only for those occupations that are directly linked to an in-demand industry sector or occupation in the local area or the planning region, as those terms are defined in section 3 (23), (32) and (48) of WIOA, or in another area to which an adult or dislocated worker is willing to relocate.

#### Licensing, Taxation, and Insurance -

The Grantee assures it will comply with federal, state, or local laws governing applicable licensing, taxation, and insurance requirements.

#### Nondiscrimination -

The Grantee assures it will comply with the nondiscrimination and equal opportunity provisions of Section 188 of WIOA, which prohibits discrimination:

- On the basis of race, color, or national origin under Title VI of the Civil Rights Act of 1964;
- On the basis of age under the Age Discrimination Act of 1975;
- On the basis of sex under Title IX of the Education Amendments of 1972; and
- On the basis of disability under Section 504 of the Rehabilitation Act of 1973

The Grantee further assures it will comply with the nondiscrimination and equal opportunity provisions of section 184 of WIOA, which includes the prohibition of discrimination on the basis of participation in programs or activities funded or otherwise financially assisted under WIOA, and discrimination on the basis of citizenship status for certain noncitizens.

#### Patent Rights, Copyrights and Rights in Data -

The Grantee understands that NDOL and US Department of Labor reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government purpose: (a) the copyright in any work developed under a grant, sub-grant, or contract under a grant of sub-grant; and (b) any rights of copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.

### Regional Planning -

The Workforce Development Board will participate in regional planning.

### Reporting -

The Grantee shall submit complete, accurate, and timely reports as specified by the Governor.

### Responsibility Matters -

The Grantee shall enforce standards and procedures to ensure against fraud and abuse, including standards and procedures against nepotism, conflicts of interest, lobbying, kickbacks, drug-free, political patronage (Hatch Act) and provisions which govern debarment, suspension, and other responsibility matters.

### Retention of Records -

The Grantee assures that it will retain all financial and program records, books of account, and other documents related to the grant agreement for a period of three years after grant closeout. If prior to the three-year retention period, any litigation or an audit has begun, the records, books of account and documents relating to the grant agreement will be maintained until the litigation is complete and audit findings are resolved.

### Salary and Bonus Limitations -

The Grantee assures none of the funds appropriated in WIOA or prior Acts under the heading "Employment and Training Administration" that are available for expenditure on or after June 15, 2006, shall be used by a recipient or subrecipients of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II, except as provided under section 194(15) of WIOA. The limitation shall not apply to vendors providing goods and services, as defined in 2 CFR Part 200 Subpart B.

### Special Clauses/Provisions -

Grantee understands that other special assurances or provisions may be required under Federal law or policy, including specific appropriations legislation, WIOA, or subsequent Executive or Congressional mandates.

### State Energy Conservation Plan -

The Grantee recognizes mandatory standards and policies relating to energy efficiency which as contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act of 1975. The Grantee agrees to comply with all applicable standards, orders, or requirements issued under § 306 of the Energy Policy

and Conservation Act, § 508 of the Clean Water Act, Executive Order 11738, and the Environmental Protection Agency regulations pertaining to contracts, subcontracts, and subgrants in excess of \$100,000 (40 CFR Part 15).

Sunshine Provision -

The local Workforce Development Board assures that the public, including individuals with disabilities, has access to minutes of its meetings.

Union Organizing -

The Grantee assures no funds received under WIOA will be to assist, promote, or deter union organizing.

Veterans -

The Grantee assures that funds received under WIOA will comply with the Veteran's priority provisions established in the Jobs for Veterans Act.

Local WDB Chairperson

Local Chief Elected Official

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## *Attachments B and C Instructions for the Budget, Participant, and Exit Summary Sheets— Adult & Dislocated Worker Programs*

The correct Issuance number and Program Period must be completed. If an Issuance is not applicable, indicate “Not applicable.” Program Period must be completed, and include Program and Fiscal Year. The Budget, Participant, and Exit Summary sheet should only reflect program costs (90% funds) and no administrative costs (10%).

### I. Funds Available

Under the Funds Available section:

- Column 1 should reflect the estimated carry-in funds from the previous year.
- Column 2 should reflect the Program Year (PY), July through September funds the local area will receive. This amount should match the amount provided for planning purposes in the State Issuance.
- Column 3 should reflect the Fiscal Year (FY), October-June funds the local area will receive. This amount should also match the amount provided for planning purposes in the State Issuance.
- Column 4 is to be used when transferring funds between adult and dislocated workers. In the header column, the local area will need to identify the Name (i.e. PY or FY) and the Effective Date which is the program or fiscal year the funds were initially awarded to the State. When transferring funds the original funds source should be displayed as a negative and the receiving funding source should be displayed as a positive.
- Column 5 is the total of Columns 1, 2, 3 and, if applicable, 4.

### II. Projected Costs

Under the Projected Costs section, staff costs are salary and benefit cost that will be charged to the adult program and operational costs are those expenses needed to operate the adult program (i.e. all cost related to the program that are not a personnel cost such as; rent, utilities, publications and printing, travel, etc.). :

- Column 1 should reflect the amount of carry in funds that will be spent on participant costs, staff costs, operational costs, equipment costs, Incumbent Worker Training, Transitional Jobs, and Pay for Performance Contracts.
- Column 2 should reflect the amount of Program Year funds that will be spent on participant costs, staff costs, operational costs, equipment costs, Incumbent Worker Training, Transitional Jobs, and Pay for Performance Contracts.
- Column 3 should reflect the amount of Fiscal Year funds that will be spent on participant costs, staff costs, operational costs, equipment costs, Incumbent Worker Training, Transitional Jobs, and Pay for Performance Contracts.
- Column 4 should identify any participant, staff, operational, or equipment costs that will be charged to additional or transferred funds.

- Column 5 should be the total of Columns 1-3 and, if applicable, 4, for participant, staff, operational, equipment costs, Incumbent Worker Training, Transitional Jobs, and Pay for Performance Contracts.

### III. Projected Carry-In

In this section the local area should indicate the planned amount to be carried in for the following program year.

- Column 1 should be left blank.
- Columns 2-3 and, if applicable, 4, should be totaled and reflected in Column 5.

### IV. Actual Expenditures

This section only needs to be completed when the local plan is being modified or revised after the beginning of the program year. Depending on the quarter of the program year the modification is submitted, the local area needs to complete in the appropriate column (1-4), the actual per quarter expenditures for the quarters completed to date.

- Column 5 should reflect the total of columns 1-4 as appropriate.

### V. Participants

- Columns 1-4 of this section should show the planned number of new enrolled participants per quarter. Each column should only show the number of new enrollees per quarter.
- Column 1 reflects both the number of prior year carry-in participants and the new enrollees for 1st quarter.
- Column 5 is the annual cumulative total over a four quarter period which includes the prior year carry-in shown in Column 1 and the addition of Columns 1-4 of new enrollees.
- Column 6 needs to show the number of planned participants to be carried into the next program year.

### VI. Exits

- Columns 1-4 - The number of planned Exits per quarter should be shown in Columns 1-4. Of the planned Exits, Columns 1-4 also asks how many will enter employment.
- Column 5 is the cumulative total of Exits over a 4 quarter period and of those exited how many will enter employment

VII. Projected Cost per Participant is the planned average cost per participant for the program period.

- Actual Cost per Participant is the local area's average cost per participant for the previous program year.

## Attachment B

BUDGET, PARTICIPANT, AND EXIT SUMMARY – <a href="#">Adult</a>						
Program Area	<a href="#">Adults</a> (Training Funds - 90%)			Issuance No.		
Program Period						
				Additional and/or Transferred Funds		

## Funds Available

<a href="#">I. Funds Available</a>	1. Carry In Funds	2. PY Funds	3. FY Funds	4. Name/Year	5. Total		
		(July – Sept.)	(Oct – June)	Effective Date	Available Funds		
A. Program (90%)							
B. Additional/Transfer							
C. Additional/Transfer							
D. Additional/Transfer							
E. Admin Funds for Program							
E. Total Funds							

## Projected Costs

<a href="#">II. Projected Costs</a>							
A. Participant Costs							
B. Staff Costs							
C. Operational Costs							
D. Equipment Costs							
E. Incumbent Worker							
F. Transitional Jobs							
G. Pay for Performance							
H. Total Projected							

## Projected Carry-In

<a href="#">III. Projected Carry-In</a>							

### Actual Expenditures

<u>IV. Actual Expenditures</u>	1. 1st Qtr	2. 2nd Qtr	3. 3rd Qtr	4. 4th Qtr	5. Cumulative Total		
	(July-Sept.)	(Oct.-Dec.)	(Jan.-March)	(April-June)			
A. Program (A-D of Projected)							
B. Incumbent Worker							
C. Transitional Jobs							
D. Pay for Performance							

### Participants

<u>V. Participants</u>	1. 1st Qtr	2. 2nd Qtr	3. 3rd Qtr	4. 4th Qtr	5. Cumulative Totals	6. Carry-In to Next PY	6. Carry-In to Next PY
	(July-Sept.)	(Oct.-Dec.)	(Jan.-March)	(April-June)			
A. Prior Year Carry-In							
B. New Enrollees							

### Exits

<u>VI. Exits</u>							
A. Planned Exits							
B. Entered Employment							
Projected Cost per Participant				Actual Cost per Participant			

### Attachment C

BUDGET, PARTICIPANT, AND EXIT SUMMARY – DLW							
Program Area	DLW (Training Funds - 90%)				Issuance No.		
Program Period							
				Additional and/or Transferred Funds			

### Funds Available

<u>I. Funds Available</u>	1. Carry In Funds	2. PY Funds	3. FY Funds	4. Name/Year	5. Total		
		(July – Sept.)	(Oct – June)	Effective Date	Available Funds		
A. Program (90%)							
B. Additional/Transfer							
C. Additional/Transfer							
D. Additional/Transfer							
E. Admin Funds for Program							
E. Total Funds							

### Projected Costs

<u>II. Projected Costs</u>							
A. Participant Costs							
B. Staff Costs							
C. Operational Costs							
D. Equipment Costs							
E. Incumbent Worker							
F. Transitional Jobs							
G. Pay for Performance							
H. Total Projected							

### Projected Carry-In

<u>III. Projected Carry-In</u>							

### Actual Expenditures

<u>IV. Actual Expenditures</u>	1. 1st Qtr	2. 2nd Qtr	3. 3rd Qtr	4. 4th Qtr	5. Cumulative Total		
	(July-Sept.)	(Oct.-Dec.)	(Jan.-March)	(April-June)			
A. Program (A-D of Projected Costs)							
B. Incumbent Worker							
C. Transitional Jobs							
D. Pay for Performance							

### Participants

<u>V. Participants</u>	1. 1st Qtr	2. 2nd Qtr	3. 3rd Qtr	4. 4th Qtr	5. Cumulative Totals	6. Carry-In to Next PY	6. Carry-In to Next PY
	(July-Sept.)	(Oct.-Dec.)	(Jan.-March)	(April-June)			
A. Prior Year Carry-In							
B. New Enrollees							

### Exits

<u>VI. Exits</u>							
A. Planned Exits							
B. Entered Employment							
Projected Cost per Participant				Actual Cost per Participant			

## *Attachment D Instructions for the Budget, Participant, and Exit Summary Sheets—Youth Program*

The correct Issuance number and Program Period must be completed. If an Issuance is not applicable, indicate “Not applicable.” Program Period must be completed, and include Program and Fiscal Year. The Budget, Participant, and Exit Summary sheet should only reflect program costs (90% funds) and no administrative costs (10%).

### I. Funds Available

Under the Funds Available section:

- Column 1 should reflect the estimated carry-in funds from the previous year.
- Column 2 should reflect the Program Year (PY), July through June funds the local area will receive. This amount should match the amount provided for planning purposes in the State Issuance.
- Column 3 should reflect any additional youth funds the local area may receive. In the header of Column 3, the local area will need to identify the source of the additional funds and the Effective Date which is the program or fiscal year the funds were initially awarded to the State.
- Column 4 is the total of Columns 1, 2 and 3, if applicable.

### II. Projected Costs

The Projected Cost section has two parts; A. Out of School Youth, and B. In School youth. For the purpose of this section, staff costs are salary and benefit cost that will be charged to the youth program and operational costs are those expenses needed to operate the youth program (i.e. all cost related to the program that are not a personnel cost such as; rent, utilities, publications and printing, travel, etc.).

- Column 1 should reflect the amount of carry in funds that will be spent on participant costs (non-Work Experience), staff costs (non-Work Experience), operational costs, equipment costs, participant (Work Experience), and Staff (Work Experience) for A. Out of School Youth, B. In School Youth and C. Pay for Performance.
- Column 2 should reflect the amount of Program Year funds that will be spent on participant costs (non-Work Experience), staff costs (non-Work Experience), operational costs, equipment costs, participant (Work Experience), and Staff (Work Experience) for A. Out of School Youth, B. In School Youth and C. Pay for Performance
- Column 3 should reflect any additional funds the local area received that will be spent on participant costs (non-Work Experience), staff costs (non-Work Experience), operational costs, equipment costs, participant (Work Experience), and Staff (Work Experience) for A. Out of School Youth, B. In School Youth and C. Pay for Performance

- Column 4 should be the total cost for participant costs (non-Work Experience), staff costs (non-Work Experience), operational costs, equipment costs, participant (Work Experience), and Staff (Work Experience) (Columns 1-3).

### III. Projected Carry-In Funds

In this section the local area should indicate the planned amount to be carried in for the following program year.

- Column 1 should be left blank.
- Columns 2-4 should be totaled and reflected in Column 5.

### IV. Actual Expenditures

This section only needs to be completed when the local plan is being modified or revised after the beginning of the program year. Depending on the quarter of the program year the modification is submitted, the local area needs to complete, in the appropriate column (1-4), the actual per quarter expenditures for the quarters completed to date. This information must be provided specific to Out of School (except work experience), In School Youth (except work experience), and Work Experience expenditures.

- Column 5 should reflect the total of Columns 1-4.

### V. Participants

- Columns 1-4 of this section should show the planned number of new enrolled participants per quarter. Each column should only show the number of new enrollees per quarter.
- Column 1 reflects both the number of prior year carry-in participants and the new enrollees for 1st quarter. Of the combined total, A. prior year carry-in and B. new enrollees, indicate how many are planned to be: 1. Low income/economically disadvantaged, 2. High school dropout/ no GED, 3. Unemployed, 4. English Language Learner, 5. Basic Skills Deficient, 6. Out of school and, 7. In school.
- Column 5 is the annual cumulative total over a four quarter period which includes A. prior year carry-in shown in Column 1 and B. new enrollees in Columns 1-4.
- Column 6 needs to show the number of planned participants to be carried into the next program year.

### VI. Exits

- The number of planned Exits per quarter should be shown under A. Exits in Columns 1-4.
- Of the planned Exits, Columns 1-4 also asks per quarter how many will: 1. Be placed in Employment/Education, 2. Attain a degree/certificate, and/or 3. Achieve literary/numeracy gains.

- Column 5 is the cumulative total of Exits over a four quarter period and a cumulative total of those exited how many plan to: 1. Be placed in Employment/Education, 2. Attain a degree/certificate, and/or 3. Achieve literary/numeracy gains.

VII. Projected Cost per Participant is the planned average cost per participant for the program period.

- Actual Cost per Participant is the local area's average cost per participant for the previous program year.

## Attachment D

BUDGET, PARTICIPANT, AND EXIT SUMMARY – Youth						
Program Area	Youth (90%)			Issuance No.		
Program Period						
			Additional Funds			

### Funds Available

<u>I. Funds Available</u>	1. Carry In Funds	2. PY Funds	3. Program/ Year	4. Total		
-			Effective Date	Available Funds		
A. Program (90%)						
B. Additional Funds						
C. Additional Funds						
D. Additional Funds						
E. Admin Funds for Program						
F. Total						

### Projected Costs

<u>II. Projected Costs</u>	1. Carry-In Funds	2. PY Funds	3. Program/ Year	4. Total Costs		
			Effective Date			
A. Out of School Youth (Minimum 75% of WIOA Funds)						
1. Participant Funds (non-Work Experience)						
2. Staff Costs (non-Work Experience)						
3. Operational Costs						
4. Equipment Costs						
5. Participant (Work Experience)						
6. Staff Costs (Work Experience)						
B. In School Youth						
1. Participant Funds (non-Work Experience)						
2. Staff Costs (non-Work Experience)						
3. Operational Costs						
4. Equipment Costs						
5. Participant (Work Experience)						
6. Staff Costs (Work Experience)						
C. Pay for Performance						

### Projected Carry-In Funds

<u>III. Projected Carry-In Funds</u>						
(to next Program Year)						

### Actual Expenditures

<u>IV. Actual Expenditures</u>	1. 1st Qtr (July-Sept.)	2. 2nd Qtr (Oct.-Dec.)	3. 3rd Qtr (Jan.-Mar.)	4. 4th Qtr (April-June)	5. Cumulative Total	Funding Carry-In to PY15
A. Out of School (except work experience)						
B. In School (except work experience)						
C. Work Experience						
D. Total Expenditures						

### Participants

<u>V. Participants</u>	1. 1st Qtr (July-Sept.)	2. 2nd Qtr (Oct.-Dec.)	3. 3rd Qtr (Jan.-Mar.)	4. 4th Qtr (April-June)	5. Cumulative Totals	
A. Prior Year Carry-In						
B. New Enrollees						
1. Low Income/ Econ. Disadvantaged						
2. High School Dropouts/ No GED						
3. Unemployed						
4. English Language Learner						
5. Basic Skills Deficient						
6. Out of School						
7. In School						

### Exits

<u>VI. Exits</u>						
A. Exits (WIA Measures Still in Effect until PY16)						
1. Placement in Empl. / Educ.						
2. Attain Degree / Certificate						
3. Literacy/Numeracy Gains						

## *Attachment E Instructions for the Budget Summary Sheets—Administration*

*This Budget Summary Sheet should only reflect the 10% Administrative set aside funds allowed for administration under the WIOA Adult, Youth and Dislocated Worker Programs.*

The correct Issuance number and Program Period must be completed. If an Issuance is not applicable, indicate “Not applicable.” Program Period must be completed, and include Program and Fiscal Year. The Budget, Participant, and Exit Summary sheet should only reflect administrative costs (10% funds) and no program costs (90%).

### I. Funds Available

Under the Funds Available section:

- Column 1 should reflect the estimated carry-in funds from the previous year.
- Column 2 should reflect the Program Year (PY), July through September funds the local area will receive. This amount should match the amount provided for planning purposes in the State Issuance.
- Column 3 should reflect the Fiscal Year (FY), October-June funds the local area will receive. This amount should also match the amount provided for planning purposes in the State Issuance.

### II. Projected Costs

Under the Projected Costs section, staff costs are salary and benefit cost that will be charged to administrative funds and overhead costs are those expenses needed to support administrative functions (i.e. all cost related to the program that are not a personnel cost such as; rent, utilities, publications and printing, travel, etc.):

- Column 1 should reflect the amount of carry in funds that will be spent on: A. staff costs and B. overhead costs.
- Column 2 should reflect the amount of Program Year funds that will be spent on staff costs and overhead costs.
- Column 3 should reflect the amount of Fiscal Year funds that will be spent on staff costs and overhead costs.
- Column 4 should identify any administrative costs (staff or overhead) the local area may receive.
- Column 5 should be the total of Columns 1-4 for participant, staff, operational, and equipment costs.

### III. Projected Carry-In

In this section the local area should indicate the planned amount to be carried in for the following program year.

- Column 1 should be left blank.
- Columns 2-4 should be totaled and reflected in Column 5.

### IV. Actual Expenditures

This section only needs to be completed when the local plan is being modified or revised after the beginning of the program year. Depending on the quarter of the program year the modification is submitted, the local area needs to complete in the appropriate column (1-4), the actual per quarter expense for the quarters completed to date.

- Column 5 should reflect the total of columns 1-4 as appropriate.

## Attachment E

BUDGET SUMMARY – Administration					
Program Area	Administration (10%)			Issuance No.	
Program Period					
				Other Funds	

### Funds Available

I. Funds Available	1. Carry In Funds	2. PY Funds (July – Sept.)	3. FY Funds (Oct – June)	4. Source	5. Total Available Funds
A. Adult					
B. DLW					
C. Youth					
D. Total Funds					

### Projected Costs

II. Projected Costs					
A. Staff Costs					
B. Overhead Costs					
C. Transfer to Program					
D. Total Projected					

### Projected Carry-In

III. Projected Carry-In					

### Actual Expenditures

IV. Actual Expenditures	1st Qtr PY (July-Sept.)	2nd Qtr FY (Oct.-Dec.)	3rd Qtr (Jan.-Mar.)	4th Qtr (April-June)	Cumulative Totals
A. Administration					

## *Attachment F*

### I. Required Attachments to the Local Area Plan

The following changes to local area attachments must be addressed, as appropriate, by the local plan modification. All attachments that refer to the Workforce Investment Act (WIA) must be modified to refer to WIOA, and all attachments that refer to a workforce investment board (WIB) must be modified to refer to a workforce development board (WDB).

If appropriate, include an attachment regarding a local area's Incumbent Worker Training Policy, and assign the appropriate sequential letter to such attachment.

#### *Attachment A - Assurances*

- Submit new signed Assurances.

#### *Attachments B-E - Budget, Participant, and Exit Summary Attachments and Instructions*

- These will be provided at a later time along with the issuance that distributes the PY15/FY16 WIOA funds.

#### *Attachment F - List of Required Attachments to the Local Area Plan*

#### *Attachment G - Local Area Participant Appeals Procedure*

- Must be updated to comply with WIOA Sec. 181(c).

#### *Attachment H - CEO Agreement*

- Must be extended if not in effect through June 30, 2017.

#### *Attachment I - CEO/WDB Agreement*

- Must be updated to comply with WIOA requirements, and extended if not in effect through June 30, 2017.

#### *Attachment J - Local Area Complaint & Grievance Procedure*

- Must be updated as appropriate to refer to WIOA Sec. 181(c).

#### *Attachment K - Local Area Customized Training Policy and/or Procedure*

- Must be updated to comply with WIOA Sec. 3(14) and other applicable requirements of the Act.

*Attachment L - Local Area Equal Opportunity Policy Statement*

- Must be updated to refer to WIOA, and remove WIA nondiscrimination and equal opportunity provisions implementing regulations (29 CFR 37).

*Attachment M - Local Area Individual Training Account*

- Must be updated to comply with section 134 of WIOA.

*Attachment N - Memorandums of Understanding*

- Must be updated to comply with WIOA requirements, NDOL Preliminary Policy on the Memorandum of Understanding, and extended if not in effect through June 30, 2017.

*Attachment O - Local Area On-The-Job Training Policy and/or Procedure*

- Must be updated to comply with reimbursement provisions found at section 134(c)(3)(H) of WIOA and any other applicable requirements of the Act.

*Attachment P - Proof of Publication of the Public Notice*

- Submit new proof of publication.

*Attachment Q - Public Comments on Plan*

- Submit comments on the “transitional” plan.

*Attachment R - Local Area Rapid Response Procedure*

- Must be updated as appropriate to refer to WIOA.

*Attachment S - Signature Sheet*

- Must be updated to refer to WIOA and extended if not in effect through June 30, 2017.

*Attachment T - Local Area Supportive Services Policy*

- Must be updated to comply with section 107(d)(5) WIOA and other applicable requirements of the Act.

*Attachment U - WDB By-Laws*

- Must be updated to comply with WIOA Sec. 107 and other applicable requirements of the Act.

*Attachment V - WDB Membership List*

- Must be updated to comply with WIOA Sec. 107 and other applicable requirements of the Act.

*Attachment W - Standing Committee List*

- Must be updated to comply with WIOA Sec. 3(4) and other applicable requirements of the Act.

*Attachment X - WIOA Grant Agreement with NDOL (Greater Lincoln and Greater Omaha) or One-Stop Certification Process (Greater Nebraska)*

- Must be updated to comply with WIOA requirements.

II. Greater Nebraska Only

*Attachment Y - Continuous Improvement Model Template*

- Update as appropriate to comply with WIOA requirements.

*Attachment Z - Optimum Policy Making Experience*

- Update as appropriate.

III. Greater Omaha Only

*Attachment Y - HWS Organizational Chart*

- Update as appropriate.

*Attachment Z - Eligible Training Provider Accreditation Process*

- Update as appropriate.

*Attachment AA - Performance Oversight Procedures*

- Update as appropriate to comply with WIOA requirements regarding standing committees

*Attachment BB - Job Description EEO Executive Director*

- Update as appropriate

*Attachment CC - Procurement Procedures*

- Must be updated to comply with sections 121(d) and 123(a) and (b) of WIOA, and other applicable WIOA requirements, and NDOL Preliminary Policy on Procurement.

*Attachment DD - HWS Mission Statement*

- Update as appropriate.

- 
- [1] WIOA Sec. 133(b)(4)
  - [2] WIOA Sec. 134(c)(3)(A)(i)(I)(aa) and (bb)
  - [3] WIOA Sec. 134(c)(3)(D)
  - [4] WIOA Sec. 122(h)(1)
  - [5] WIOA Sec. 129(a)(1)(A)
  - [6] WIOA Sec. 129(a)(1)(B) and (C)
  - [7] WIOA Sec. 129(a)(4)
  - [8] WIOA Sec. 108(b)(9)
  - [9] WIOA Sec. 129(c)(2)
  - [10] Ibid.
  - [11] WIOA Sec. 129(c)(5)
  - [12] WIOA Sec. 129(c)(4)
  - [13] WIOA Sec. 129(c)(3)(C)
  - [14] WIOA Sec. 129(c)(8)
  - [15] 20 CFR § 680.900
  - [16] 20 CFR § 680.920(a)
  - [17] 20 CFR § 680.920(b)
  - [18] Strategic Five-Year State Workforce Investment Plan, p. 75-76
  - [19] 20 CFR § 680.960
  - [20] WIOA Sec. 108(a)
  - [22] WIOA Sec. 121(g)(5)
  - [23] WIOA Sec. 108(d)(3)

## Preliminary Policy on Monitoring

### *Reference*

Workforce Innovation and Opportunity Act sections 107, 108, 129, 134, 184, 188. Uniform Requirements, Cost Principles, and Audit Requirements for Federal Awards Final Rule; Workforce Innovation and Opportunity Act - Notice of Proposed Rulemaking, Workforce Innovation and Opportunity Act - Notice of Proposed Rulemaking, 20 CFR § 683.410.

### *Action*

This policy is effective immediately.

### *Background*

The State is the pass-through entity of funds awarded for WIOA Title I Adult, Dislocated Worker, and Youth programs. It is responsible for oversight of the operations of the WIOA activities. The State must monitor its activities under the Federal awards to assure compliance with applicable WIOA requirements and performance expectations are being achieved. Monitoring by the State must cover each program, function, or activity.[1]

The Nebraska Department of Labor, Office of General Counsel, monitors program and fiscal performance of local areas to ensure proper systems are not only in place, but that they are being followed and meet the requirements of the law on a yearly basis. A procedural guide for statewide monitoring activities will be available on the Internet at [dol.nebraska.gov](http://dol.nebraska.gov).

### Definitions and Oversight Responsibilities:

#### *Non-Federal Entity*

“Non-Federal entity” means a State, local government, Indian tribe, institution of higher education, or non-profit organization that carries out a Federal award as a recipient or subrecipient.[2] The City of Omaha, City of Lincoln, State of Nebraska, Heartland Workforce Solutions (HWS), and Goodwill Industries, as subrecipients of WIOA funds, are considered “non-Federal entities.”

The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function, or activity.[3]

The non-Federal entity must submit performance reports at the interval required by the federal awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. These reports will contain:

- A comparison of actual accomplishments to the objectives of the Federal award established for the period;
- The reasons why established goals were not met, if appropriate; and
- Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.[4]

Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the non-Federal entity must inform the Federal awarding agency or pass-through entity as soon as the following types of conditions become known:

1. Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation; and
2. Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.[5]

### *Pass-through Entity*

“Pass-through entity” means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.[6] If the non-Federal entity for the local area provides a subaward to a subrecipient to carry out part of a Federal program, the subrecipient is considered a “pass-through entity.” The State of Nebraska, the City of Omaha, and HWS are pass-through entities.

Among its responsibilities regarding subrecipients, a pass-through entity must:

- Evaluate each subrecipient’s risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring;
- Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.
- Verify that every subrecipient is audited as required by 2 CFR 200 Subpart F—Audit Requirements when it is expected that the subrecipient’s Federal awards expended during the respective fiscal year equaled or exceeded \$750,000.
- Consider whether the results of the subrecipient’s audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity’s own records.
- Consider taking enforcement action against noncompliant subrecipients as described in §200.338 Remedies for noncompliance of this part and in program regulations.[7]

### *Subrecipient*

“Subrecipient” means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a federal program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.[8] HWS, as a non-Federal entity that receives a subaward from the City of Omaha, is a subrecipient. Goodwill Industries, as a non-Federal entity that receives a subaward from HWS, is also a subrecipient.

Each subrecipient of funds under title I of WIOA must conduct regular oversight and monitoring of its WIOA programs and those of its subrecipients and contractors in order to:

- Determine that expenditures have been made against the proper cost categories and within the cost limitations specified in the Act and the regulations in this part;
- Determine whether there is compliance with other provision of the Act and the WIOA regulations and other applicable laws and regulations;
- Assure compliance with 2 CFR part 200; and
- Determine compliance with the nondiscrimination, disability, and equal opportunity requirements of WIOA Sec. 188.[9]

### *Subaward*

“Subaward” means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.[10]

### *Contractor*

“Contractor” means an entity that receives a legal instrument (i.e., contract) by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward.[11]

### *Subrecipient/Contractor Determination*

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Payments received for goods or services provided as a contractor are not federal awards.[12] Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Federal awarding agency may supply and require

recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.[13]

Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:	Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:
Determines who is eligible to receive what Federal assistance	Provides the goods and services within normal business operations
Has its performance measured in relation to whether objectives of a Federal program were met	Provides similar goods or services to many different purchasers
Has responsibility for programmatic decision making	Normally operates in a competitive environment
Is responsible for adherence to applicable Federal program requirements specified in the Federal award	Provides goods or services that are ancillary to the operation of the Federal program
In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.[14]	Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.[15]

In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.[16]

*"The chief elected official in a local area shall serve as the local grant recipient for, and shall be liable for any misuse of, the grant funds allocated to the local area...unless the chief elected official reaches an agreement with the Governor for the Governor to act as the local grant recipient and bear such liability." [WIOA Sec. 107(d)(12)(B)(i)(I)]*

### Policy

The State monitoring system must:

- Provide for annual on-site monitoring reviews of each local area to ensure compliance with 2 CFR part 200, as required by WIOA Sec. 184(a)(3).
- Ensure that established policies to achieve program quality and outcomes meet the objectives of the Act and WIOA regulations.
- Enable the Governor to determine if subrecipients and contractors have demonstrated substantial compliance with WIOA and Wagner-Peyser requirements;

- Enable the Governor to determine whether a local plan will be disapproved for failure to make acceptable progress in addressing deficiencies as required in WIOA Sec. 108(e)(1); and
- Enable the Governor to ensure compliance with the nondiscrimination, disability, and equal opportunity requirements of WIOA Sec. 188, including the Assistive Technology Act of 1998 (29 U.S.C. 3003).[17].

### Steps in State Monitoring Process

1. Notification: With the exception of unscheduled reviews, notification of pending reviews will be given at least ten (10) days before each review. The Nebraska Department of Labor is authorized to monitor any entity receiving WIOA funds, and these reviews may include entering sites or premises to examine program and fiscal records, question employees, and interview participants. It reserves the option to conduct unannounced or unscheduled reviews as appropriate.
2. Sampling: Random-sampling and data validation techniques will be used to draw the samples that will be used to review records. The review may include all (100%) of the record universe if the universe is small or problems are identified during the review.
3. Interviews: Review interviews will be offered and/or provided upon request to appropriate officials for each review conducted.
4. Working Papers: Review working papers shall be established during the review and maintained at the Nebraska Department of Labor, Office of General Counsel.
5. Report: A report will be issued within thirty (30) days of the completion of the review and it shall be published with the following: background; Limitations (if applicable); Results of the Review; Corrective Action if Required; and Summary. Copies of the report will be dispensed to the following: Local Workforce Development Area Administrative Entity; Local Workforce Development Area Board Chair; Commissioner of Labor/WIOA Liaison; Director of the Office of Employment and Training; General Counsel, Monitor File, and CEO Representative, upon request.
6. Resolution or Completion: The review is completed or resolved if corrective action is not required.
7. Corrective Action The entity will issue a corrective action plan to the Nebraska Department of Labor, Office of General Counsel, 550 South 16<sup>th</sup> Street, Lincoln, Nebraska 68509, within thirty (30) days of the receipt of a report that requires corrective action. The corrective action plan shall identify the action that the entity will initiate to correct the problem, the estimated date the problem will be resolved, and how the local board shall be involved in addressing this issue. In the event it is not possible to resolve findings through the monitoring system, a referral may be made to the Executive Director, Office of Employment and Training for Technical Assistance or referred to the Commissioner of Labor for resolution and/or action.
8. Acceptance of the Corrective Action Plan: The Nebraska Department of Labor shall notify the entity of the resolution of the corrective action plan.

9. Progress Reports: The Nebraska Department of Labor may choose to require progress reports from the entity for some corrective action plans. The acceptance notification will indicate if and when progress reports are required.
10. Further Action At the discretion of the Nebraska Department of Labor, additional monitor reviews may be conducted to ensure full implementation of the corrective action plan.
11. Fiscal Controls/Sanctions: In the event of a subrecipient's failure to take required corrective action for substantial violation of standards, sanctions and fiscal controls will be imposed according to WIOA sections 184(b) and (c). These actions may be appealed to the Secretary of Labor in accordance with section 184(b)(2).

Certification will be provided to the Secretary every two years that:

- The State has implemented uniform administrative requirements;
- The State has monitored local areas to ensure compliance with uniform administrative requirements; and
- The State has taken appropriate corrective action to secure such compliance.[18]

#### Local Monitoring and Oversight Responsibilities

Pursuant to WIOA Sec. 107(d)(8), the local board, in partnership with the chief elected official for the local area must:

1. Conduct oversight for local youth workforce investment activities, local employment and training activities for adults and dislocated workers, and the one-stop delivery system in the local area;
2. Ensure the appropriate use and management of the funds provided for the activities; and
3. For workforce development activities, ensure the appropriate use, management, and investment of funds to maximize performance outcomes under WIOA Sec. 116.

Each local area shall prepare and submit to the Nebraska Department of Labor, Office of Employment and Training, a schedule and a policy addressing how they will conduct monitoring of their subrecipients pursuant to 2 CFR § 200.331 and how they will engage their local board in monitoring and oversight activities.

#### *Disclaimer*

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

- [1] 2 CFR § 200.328
- [2] 2 CFR § 200.69
- [3] 2 CFR § 200.328(a)
- [4] 2 CFR § 200.328(b)(2)
- [5] 2 CFR § 200.328
- [6] 2 CFR § 200.74, A-133 § \_\_\_\_\_.105
- [7] 2 CFR § 200.331
- [8] 2 CFR § 200.93
- [9] 20 CFR § 683.410(a)
- [10] 2 CFR § 200.92
- [11] 2 CFR § 200.22 and 200.23
- [12] 2 CFR § 200.330, 2 CFR § 200.501(f)
- [13] 2 CFR § 200.330
- [14] 2 CFR § 200.330(a)
- [15] 2 CFR § 200.330(b)
- [16] 2 CFR § 200.330(c)
- [17] 20 CFR § 683.410
- [18] WIOA Sec. 184(a)(6)

## Preliminary Policy on On-The-Job Training

### *Reference*

Workforce Innovation and Opportunity Act Sections 3, 108, 122, 134, 181, 194; Workforce Innovation and Opportunity Act - Notice of Proposed Rulemaking, 20 CFR §§ 681.590, 680.700, 680.710, 680.720, 680.730, 680.740; 29 CFR § 37.

### *Background*

On-the-Job training (OJT) under the Workforce Innovation and Opportunity Act (WIOA) is provided under a contract with an employer in the public, private non-profit, or private sector. This training arrangement is an exception to the Individual Training Account (ITA) requirement specified in Section 134. 20 CFR § 680.720(b) allows employers to be reimbursed up to 50% of the wage rate of an OJT participant for the extraordinary costs of providing the training and additional supervision related to the OJT. As described later in the policy, employers that meet the criteria listed in 20 CFR § 680.730 may be reimbursed up to 75% of the wage rate for extraordinary costs of providing the training and additional supervision related to OJT.

### *Action*

This policy becomes effective July 1, 2015.

### *Policy*

WIOA and implementing regulations establish minimal requirements for on-the-job training contracts. Agreements for on-the-job training services must be in writing and must ensure that participants are provided a structured training opportunity in which to gain the knowledge and competencies necessary to be successful in the occupation in which they receive training. The training services shall be provided in a manner that maximizes consumer choice in the selection of an eligible provider of such services.[1]

### Definition

The term “on-the-job training” means training by an employer that is provided to a paid participant while engaged in productive work in a job that:

1. Provides knowledge or skills essential to the full and adequate performance of the job;
2. Is made available through a program that provides reimbursement to the employer of up to 50 percent of the wage rate of the participant, except as provided in WIOA Sec. 134(c)(3)(H), for the extraordinary costs of providing the training and additional supervision related to the training; and

3. Is limited in duration as appropriate to the occupation for which the participant is being trained, taking into account the content of the training, the prior work experience of the participant, and the service strategy of the participant, as appropriate.[2]

### Youth

Local youth programs must expend not less than 20 percent of the funds allocated to them to provide in-school youth and out-of-school youth with paid and unpaid work experiences.[3] These work experiences may include OJT opportunities.

### Adult Programs

Training services for adults and dislocated workers may include on-the-job training opportunities.[4] OJT may be provided pursuant to a contract for services in lieu of an individual training account.[5]

### General Restrictions and Guidelines

OJT contracts should not be entered into with employers who received payments under WIOA or the Workforce Investment Act and have exhibited a pattern of failing to provide on-the-job training participants with continued long-term employment as regular employees with wages and employment benefits and working conditions on the same level and to the same extent as other employees working a similar length of time and doing the same type of work.[6]

Each program under WIOA shall provide employment and training opportunities to those who can benefit from, and who are most in need of, such opportunities.[7] WIOA Sec. 134(c)(3)(E) requires that priority for OJT must be given to recipients of public assistance, other low-income individuals,[8] and individuals who are basic skills deficient.[9]

### Funds for Registered Apprenticeship Programs

OJT contracts may be written with registered apprenticeship programs or participating employers in registered apprenticeship programs for the OJT portion of the registered apprenticeship program consistent with 20 CFR § 680.700. Depending on the length of the registered apprenticeship and State and local OJT policies, these funds may cover some or all of the registered apprenticeship training.[10]

### Pre-Award Reviews

It is essential to conduct pre-award reviews or employer evaluations prior to executing an on-the-job training contract. Service deliverers shall determine if the employer/training provider is qualified and capable of entering into an agreement to provide on-the-job training. Pre-award reviews should be in written form and part of the OJT contract. Criteria

that must be established through the pre-award process includes the following [also, refer to the “Written Assurances” beginning on page 5 of this policy]:

- Whether the employer is a new or established business. If the company has operated at the current location less than 120 days and the business relocated from another area in the U.S., verify that employees were not laid off at the previous location as a result of the relocation. *[See Written Assurance 14 and WIOA Sec. 181(d)(2).]*
- The Employer Size, meaning number of employees currently employed at the local operation where the OJT placements will be made. When substantiating the employer count, the most current Labor Market Information (LMI) may be a source to consider. LMI may be obtained from NEworks. Local employer site information, including an employee size range for each local operation, is available in NEworks through data provided by Infogroup. Employer Size is determined by the number of employees at the time of the pre-award review. This applies to all employers, including employers with seasonal or intermittent employee size fluctuations.
- If the applicant has worked for the employer at any time in the past, and if so, the dates and circumstances. Individuals shall not be considered eligible for services with the same employer in the same occupation.
- The hiring practices of this employer in general, and for this position in particular. *[Note WIOA Sec. 194(4).]*
- If the applicant is related to the employer, or an employee who works for the employer in an administrative or supervisory capacity. *[See Written Assurance 4.]*
- The employer's rate of employee turnover, and the turnover for this particular position. Contracting with employers who have high employee turnover rates should be avoided.
- If the employer has incurred any layoffs in the past 12 months. Check to be sure no Worker Adjustment and Retraining Notification Act (WARN) notices have been filed. *[See Written Assurance 13.]*
- If the position is full- or part-time, and if permanent, temporary, or seasonal. Contracts shall not be established for positions that do not or cannot have a trainer or supervisor present, or for temporary positions that are supplied to employers by temporary employment contractors.
- If the position is covered by a collective bargaining agreement, and if the training is consistent with such agreement. *[See Written Assurance 15.]*
- If there have been any OSHA, wage and hour, or child labor law violations in the past year. *[See Written Assurance 5.]*
- If there have been any substantiated Equal Opportunity complaints. *[See Written Assurance 7.]*
- If there are minimum qualifications for the position, and a written job description is available.
- If the pay and benefits are equivalent to similar positions in the local labor market and/or similar positions with the employer. *[See Written Assurance 2.]*
- If the employer provides worker's compensation or accident insurance. *[See Written Assurance 5.]*

- If the employer's accounting system (especially payroll), personnel system, grievance system, etc., is adequate to administer the contract agreement?
- If the employer is presently disbarred or suspended from receiving federal contracts. [*See Written Assurance 8.*]
- Recontracting is allowable with the same employer and certainly desirable when an employer/training provider has a high success rate of training and placement. However, recontracting should not be entered into with employers who have received payments under previous contracts and have exhibited a pattern of failing to provide on-the-job training participants with continued long-term employment as regular employees with wages and employment benefits (including health benefits) and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.
- Reverse referrals are allowed, however, all of the conditions of this OJT policy must be met. A reverse referral occurs when an employer with a hiring need refers an individual to the Career Center for an eligibility determination, and then hires the individual under an OJT training contract.

Service deliverers who initiate multiple or follow-on contracts with the same employer need not conduct a complete pre-award review of subsequent contracts if a review has been conducted within the past six months.

#### On-the-Job Training Contract Requirements

OJT contracts shall be procured in accordance with all federal, state and local procurement policies and at a minimum shall contain or address the following information:

#### Occupation(s) For Which Training Is To Be Provided -

Training will be provided only for those occupations for which there is a demand in the area served, or in another area to which the trainee is willing to relocate.[11]

#### Length of Time the Training Will Be Provided -

The length of OJT in Nebraska shall be based on the skill gap assessment, and is limited to a maximum of six months or 1040 hours of work, whichever comes first. Skill gap occurs where there is a gap between the skills of the individual and the skills needed for the targeted job. The skill gap is measured (and should be documented) by taking into consideration:

- the initial skills of the participant as determined by recognized skill assessment tools (not just educational attainment)
- skill level needed to perform the job

There are several recognized skill assessment tools that are useful in determining the skills necessary for specific occupations and industries. Some of these include:

- Industries: Competency Model Clearinghouse ([www.CareerOneStop.org](http://www.CareerOneStop.org)); includes competency models for bioscience, construction, automation, and more
- Occupations: O\*NET OnLine ([online.onetcenter.org](http://online.onetcenter.org)); Occupational Competency Profiles contain: tasks, knowledge, skills, abilities, detailed work activities
- Certification Finder ([www.careerinfonet.org](http://www.careerinfonet.org)); includes certifications for hundreds of occupations.

In most instances in Nebraska, the O\*NET assessment shall be used, but the other tools listed above are acceptable. The duration must be limited to the period of time required for a participant to become proficient in the occupation for which the training is being provided. In determining the appropriate length of the contract, consideration should be given to the skill requirements of the occupation, the academic and occupational skill level of the participant, prior work experience, and the participant's individual employment plan[12]. Local policies for determining duration must be documented in the local policies or plans.[13]

#### Wage Rate to be Paid to the Trainee -

Individuals participating in on-the-job training must be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills. The rates may not be lower than the higher of the federal or state minimum wage.<sup>[14]</sup> Currently, the minimum wage is \$8.00 per hour in Nebraska until January 1, 2016.<sup>[15]</sup>

#### Reimbursement for On-the-Job Training -

OJT payments to employers are deemed to be compensation for the extraordinary costs associated with training participants and potentially lower productivity of the participants while in the OJT.<sup>[16]</sup> Typically, the reimbursement rate may be up to 50 percent of extraordinary costs. The Governor or local board may increase the amount of the reimbursement from 50 percent up to 75 percent of the wage rate of a participant for a program if:

1. The Governor approves the increase with respect to a program carried out with funds reserved by the state; or
2. The local board approves the increase with respect to a program carried out with funds allocated to a local area.<sup>[17]</sup>

In making the determination of whether to increase the reimbursement amount, the Governor or the local board must take into account factors consisting of

1. The characteristics of the participants taking into consideration whether they are "individuals with barriers to employment" as defined by WIOA Sec. 3(24);<sup>[18]</sup>
2. The size of the employer;
3. The quality of the employer-provided training and advancement opportunities; and

4. Such other factors as the Governor or local board, respectively, may determine to be appropriate, which may include
  - a. The number of employees participating in the training;
  - b. Wage and benefit levels of those employees (at present and anticipated upon completion of the training); and
  - c. Relation of the training to the competitiveness of a participant.[19]

The Governor or local board must document the factors used when deciding to increase the wage reimbursement levels above 50 percent.<sup>[20]</sup>

#### Training Outline Listing Work Skills to be Learned in the Position -

A comprehensive list of work skills the trainee will learn during the contract period is a required part of the contract. Efforts should be made to develop programs which contribute to occupational development, upward mobility, development of new careers, and opportunities for nontraditional employment.

#### Other Classroom Training -

An outline of any other separate classroom training may be provided by the employer.

#### Employer's Agreement to Maintain and Make Available Accurate and Complete Time and Attendance, Payroll and Other Records to Support Amounts Claimed by the Employer for Reimbursement under the Contract -

The employer must preserve all trainee payroll, fringe benefit, and personnel records (including time and attendance sheets normally kept by the employer for employees) for three years from the close of the applicable program year or longer if any litigation or audit has begun or any claim is instituted which involves these records. In that case, the employer shall retain the records beyond the three year period until the litigation, audit findings or claim has been resolved.

#### OJT Contracts for Employed Workers -

OJT contracts may be written for eligible employed workers when:

1. The employee is not earning a self-sufficient wage as determined by local board policy;
2. The requirements of 20 CFR § 680.700 are met; and
3. The OJT relates to the introduction of new technologies, introduction to new production or service procedures, upgrading to new jobs that require additional skills, workplace literacy, or other appropriate purposes identified by the local board.<sup>[21]</sup>

## Written Assurances -

OJT contracts must include several standard assurances that are designed to acknowledge a contractor's responsibilities in accepting public funds for training. The assurances should address these issues:

1. At the end of the training period, the employer intends to retain the trainee in the occupation and compensate the trainee for at least the hourly wage rate specified in the contract agreement. Retention will be subject to the employer's right to terminate the trainee for normal business or personnel reasons.
2. Individuals in on-the-job training must be provided benefits and working conditions at the same level and to the same extent as other trainees or employees working a similar length of time and doing the same type of work.[22]
3. Funds provided to employers for OJT must not be used to directly or indirectly assist, promote or deter union organizing.[23]
4. No individual in a decision making capacity including workforce development board members shall engage in any activity, including participation in the selection, award, or administration of a contract supported by WIOA funds if a conflict of interest would be involved.[24]
5. The employer will provide worker's compensation coverage for the trainee and abide by health and safety standards established under State and Federal law.[25]
6. The trainee will not conduct political or sectarian activities at work while under the provisions of the OJT contract.[26]
7. The employer will not discriminate against any trainee on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any Workforce Investment Act Title I-financially assisted program or activity.[27]
8. The employer certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract by any Federal department or agency.
9. The employer certifies that it will provide a drug-free workplace as defined by the Drug-Free Workplace Act of 1988.[28]
10. The employer is in compliance with all State and local laws regarding taxation and licensing.
11. Trainees who are working as laborers/mechanics in any construction, alteration or repair (including painting and decorating) of public buildings or works must be compensated in compliance with the Davis-Bacon Act.[29]
12. A trainee in an OJT program shall not displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any currently employed employee (as of the date of the participation).[30]
13. The employer agrees that no trainee shall be hired into or remain working in any position when any other individual is on layoff from the same or any substantially equivalent job. An OJT trainee may not be employed in a job if the employer has terminated the employment of any regular, unsubsidized employee or otherwise caused an involuntary reduction in its workforce with the intention of filling the

vacancy with the WIOA participant. It is not allowable for an OJT job to be created in a promotional line that infringes in any way on the promotional opportunities of currently employed workers.[31]

14. The contract will not encourage or induce the relocation, or an establishment or part thereof, that results in a loss of employment for any employee of such establishment at the original location.[32]
15. Nothing in the OJT contract shall impair existing contracts for services or existing collective bargaining agreements unless the employer and the labor organization concur in writing.[33]
16. The Contractor certifies that it has registered with and is using a federal immigration verification system as defined in section 7 of Nebraska Laws 2009, LB 403 to determine the work eligibility status of all new employees physically performing services within the State of Nebraska.[34]

### Performance Information

Providers of on-the-job training will not be subject to the eligible provider requirements.[35] However, American Job Centers in a local area must collect performance information on providers of on-the-job training. At a minimum, this performance information should include:

- Data on placement of trainee at end of the contract
- Six-month employment retention rate
- Rate of successful completion of On-the-Job Training
- Average Wage of OJT Training Recipients and Wage after his/her training ends (increase or decrease)

The American Job Center will determine whether providers meet acceptable performance levels for the above criteria. If a provider meets the performance criteria, it is considered an eligible provider of training services. The American Job Center will include the provider on the list of eligible providers, with accompanying performance information, and disseminate this information through the American Job Center delivery system.[36]

### Monitoring and Oversight

Subrecipients[37] in each local area must monitor training, invoice and reimbursement systems on a pre-determined systematic and documented basis.[38] The employer must preserve all trainee payroll, fringe benefit, and personnel records (including time and attendance sheets normally kept by the employer for employees) for three years from the close of the applicable program year or longer if any litigation or audit has begun or any claim is instituted which involves these records. In that case, the employer shall retain the records beyond the three year period until the litigation, audit findings or claim has been resolved. The employer must allow access to those records by authorized entities.

Monitoring of OJT contracts must include review of selection patterns to ensure compliance with WIOA Sec. 188 regarding nondiscrimination.[39]

## Eligible Training Provider List

Employers participating in the OJT Program will be listed on the State's Eligible Training Provider list. NEworks will be the source for employer information.

### *Disclaimer*

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

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[1] WIOA Sec. 134(c)(3)(F)

[2] WIOA Sec. 3(44)

[3] 20 CFR § 681.590 and WIOA Sec. 129(c)(4)

[4] WIOA Sec. 134(c)(3)(D)(ii)

[5] WIOA Sec. 134(c)(3)(G)(ii)

[6] WIOA Sec. 194(4)

[7] WIOA Sec. 194(1)

[8] The term "low-income individual" means an individual who— (i) 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, or the supplemental security income program established under title XVI of the Social Security Act, or State or local income-based public assistance; (ii) is in a family with total family income that does not exceed the higher of— (I) the poverty line; or (II) 70 percent of the lower living standard income level; (iii) is a homeless individual - WIOA Sec. 3(36)

## Preliminary Policy on Out-of-School Youth Spending

### Reference

Workforce Innovation and Opportunity Act (WIOA) Section 128.

### Background

At least 75% of youth funds (except for local area expenditures for administrative purposes) must be used to provide activities to out-of-school youth.[1]

### Action

This policy becomes effective on April 1, 2015.

### Policy

1. To qualify as an Out-of-School Youth, the individual must be:[2]
  - a. Not attending any school (as defined by state law[3]);[4]
  - b. Is no younger than 16 or older than 24; AND
  - c. One or more of the following:
    - i. A school dropout.
      - (1) School Dropout - WIOA Sec. 3(54) defines “school dropout” as an individual who is
      - (2) No longer attending any school; and
      - (3) Who has not received a secondary school diploma or its recognized equivalent.
      - (4) Dropout status must be verified at enrollment.
    - ii. A youth who is within the age of compulsory school attendance, but has not attended school for at least the most recent complete school year calendar quarter.
    - iii. A recipient of a secondary school diploma or its recognized equivalent who is a low-income individual and is
      - (5) Basic skills deficient; or
      - (6) Basic Skills Deficient - WIOA Sec. 3(5) defines “basic skills deficient” as an individual:
        - a. Who is a youth, that the individual has English reading, writing, or computing skills at or below the 8<sup>th</sup> grade level on a generally accepted standardized test; or
        - b. Who is a youth or adult that the individual is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual’s family, or in society.
      - (7) An English language learner.
    - iv. An individual who is subject to the juvenile or adult justice system.

- v. A homeless individual (as defined in Section 41403(6) of the Violence Against Women Act of 1994 (42 U.S.C. 14043e-2(6))), a homeless child or youth (as defined in Section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2))), a runaway, in foster care or has aged out of the foster care system, otherwise eligible for assistance under Section 477 of the Social Security Act (42 U.S.C. 677), or in an out-of-home placement.
- vi. An individual who is pregnant or parenting.
- vii. A youth who is an individual with a disability.
- viii. A low-income individual who requires additional assistance to enter or complete an education program or to secure or hold employment.
  - (1) Requires Additional Assistance to Complete an Educational Program or to Secure and Hold Employment - Definitions and eligibility documentation requirements regarding the "requires additional assistance to complete an educational program or to secure and hold employment" criterion shall be established at the local level. However, the policy must be included in the local plan.

#### Youth Funds - 75% Requirement

WIOA Sec. 129(a)(4)(A) requires that at least 75% of youth funds be used for activities for out of school youth. This requirement applies to the *total* amount of all funds allocated to a local area for youth activities.[5] Although it is not necessary to ensure that 75% of such funds spent on any particular element of the youth program are spent on out-of-school youth, the funds spent on these activities are included in the total to which the 75% requirement applies.

#### Exception

There is a limited exception under which States may apply to the Secretary of Labor to reduce the minimum amount that must be spent on out-of-school youth.[6] A State that receives a minimum allotment under the law may reduce the 75% to a percentage not less than 50% for a local area if:

1. after an analysis of the eligible youth population in the local area, the State determines the local area will be unable to meet the 75% requirement due to the low number of out-of-school youth
2. the State submits to the Secretary of Labor, for the local area, a request including a proposed reduced percentage for purposes of the 75% requirement, and the summary of the eligible youth population analysis
3. the request is approved by the Secretary of Labor

Nebraska does not have a Waiver for this exception.

### *Disclaimer*

This policy is based on NDOL's initial reading of the statute without any interpretive guidance from USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released that are contrary to or otherwise different from NDOL's interpretation of WIOA. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations and guidelines are established.

## Appendix A

### Nebraska's Census Tracts Meeting "High Poverty" Definition (30% or more of Household at or below the Poverty Line)

#### Greater Lincoln

Census Tract	Estimated Number	Estimated Number below Poverty	Poverty Percent
Census Tract 6, Lancaster County, Nebraska	101	92	0.910891
Census Tract 17, Lancaster County, Nebraska	2846	1217	0.427618
Census Tract 20.02, Lancaster County, Nebraska	1528	618	0.40445
Census Tract 20.01, Lancaster County, Nebraska	1468	569	0.387602
Census Tract 2.02, Lancaster County, Nebraska	1669	623	0.373277
Census Tract 7, Lancaster County, Nebraska	1087	405	0.372585
Census Tract 4, Lancaster County, Nebraska	1951	723	0.370579
Census Tract 5, Lancaster County, Nebraska	630	221	0.350794
Census Tract 19, Lancaster County, Nebraska	381	133	0.349081
Census Tract 31.03, Lancaster County, Nebraska	893	309	0.346025
Census Tract 3, Lancaster County, Nebraska	1504	457	0.303856

#### Greater Nebraska

Census Tract	Estimated Number	Estimated Number below Poverty	Poverty Percent
Census Tract 9696, Buffalo County, Nebraska	1632	567	0.347426
Census Tract 9657, Adams County, Nebraska	558	180	0.322581
Census Tract 101, Dakota County, Nebraska	2235	680	0.304251

#### Greater Omaha

Census Tract	Estimated Number	Estimated Number below Poverty	Poverty Percent
Census Tract 16, Douglas County, Nebraska	148	81	0.547297
Census Tract 7, Douglas County, Nebraska	613	283	0.461664
Census Tract 8, Douglas County, Nebraska	634	287	0.452681
Census Tract 11, Douglas County, Nebraska	1077	477	0.442897

Census Tract	Estimated Number	Estimated Number below Poverty	Poverty Percent
Census Tract 6, Douglas County, Nebraska	468	199	0.425214
Census Tract 60, Douglas County, Nebraska	1402	569	0.405849
Census Tract 40, Douglas County, Nebraska	1480	587	0.396622
Census Tract 59.02, Douglas County, Nebraska	755	296	0.392053
Census Tract 52, Douglas County, Nebraska	530	206	0.388679
Census Tract 29, Douglas County, Nebraska	1472	566	0.384511
Census Tract 51, Douglas County, Nebraska	1008	357	0.354167
Census Tract 61.02, Douglas County, Nebraska	1462	517	0.353625
Census Tract 4, Douglas County, Nebraska	840	295	0.35119
Census Tract 19, Douglas County, Nebraska	792	265	0.334596
Census Tract 12, Douglas County, Nebraska	957	318	0.332288
Census Tract 38, Douglas County, Nebraska	1576	521	0.330584
Census Tract 53, Douglas County, Nebraska	854	279	0.326698
Census Tract 5, Douglas County, Nebraska	575	180	0.313043
Census Tract 39, Douglas County, Nebraska	940	293	0.311702
Census Tract 21, Douglas County, Nebraska	867	267	0.307958
Census Tract 32, Douglas County, Nebraska	921	279	0.302932

[1] WIOA Sec. 129(a)(4)(A)

[2] WIOA Sections 3(46) and 129(a)(1)(B)

[3] For the purposes of defining what institutions meet the definition of a “school,” please see Chapter 85 of the Nebraska Revised Statutes. Chapter 85 recognizes community colleges and other institutions of higher education, both public and private. As officially recognized educational institutions, these entities will be considered "schools" for the purposes of the Out-of-School youth requirements.

[4] Neb. Rev. Stat. § 79-201

[5] WIOA Sec. 129(a)(4)(A)

[6] WIOA Sec. 129(a)(4)(B)

## Interim Policy on Pell Grants and Other Financial Aid

### *Reference*

Workforce Innovation and Opportunity Act (WIOA) Section 134 and 512; Higher Education Act of 1965, as amended by the College Cost Reduction and Access Act of 2007; Trade Act of 1974, as amended; WIOA Notice of Proposed Rulemaking, 20 CFR §§ 680.210 and 680.230; TEN 11-09; TEGL 2-09; TEGL 10-09, Attachment A; TEN 32-08; TEGL 21-08; Office of Unemployment Insurance Approved Training Program brochure; and Nebraska Administrative Code Title 225, Chapter 1.

### *Background*

The Pell Grant program is a post-secondary, educational grant program sponsored by the United States Department of Education. Pell Grants are for undergraduate students enrolled at least half-time who have not received a bachelor's or first professional degree. The grants are awarded based on financial need and other factors.[1] Federal Pell Grant scholarships cover education and training expenses of up to \$5,730 for the 2014-2015 academic year and up to \$5,775 for the 2015-2016 academic school year.[2] They are accepted at nearly all universities and community colleges and many trade and technical schools. Preliminary eligibility for a Pell Grant can, and should, be determined before the participant enrolls in a particular school or training program. To be eligible for a Pell Grant, an individual must not be in default on a student loan or other Federal obligation. This policy will guide the workforce development system in providing information to American Job Center network customers and supporting financial aid administrators at public, private, and proprietary (for profit) post-secondary institutions. To determine financial need for each participant, the WIOA service provider must ensure full documentation of such items as, including but not limited to, any Pell grants awarded or denied, other financial assistance received, and a list or budget of estimated monthly expenses, excluding any alcohol, cigarettes, entertainment, and other non-essential costs.

### *Action*

After a 10-day review period, this policy will be considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox: [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

### *Policy*

Because there are limited federal funds available to serve people, the workforce development system continues to look for new ways to serve dislocated workers and other unemployed and underemployed customers. The efforts to enhance collaboration between the workforce development system and financial aid offices will ultimately benefit eligible individuals and their dependents through increased financial aid and improved access to education and training opportunities.

## Student Financial Aid Program

Federal Student Aid, an office within the U.S. Department of Education, partners with post-secondary schools and financial institutions to deliver services that help students and families who are paying for college. The Federal Student Aid office issues the Free Application for Federal Student Aid (FAFSA), which is used by financial aid administrators at colleges and universities to prepare financial aid packages for students. Students or their parents must complete the FAFSA to be considered for federal student aid, including funding through grants, loans, and work-study. In addition, most colleges and universities use the FAFSA to award non-federal student aid from the state or school. The workforce system can facilitate the application process by helping individuals understand basic eligibility requirements, providing assistance in filling out the FAFSA, and helping the individual understand how to navigate between the financial aid office and the One-Stop Career Center. Ultimately, completing the FAFSA and seeking an adjustment to the expected family contribution under professional judgment authority is the responsibility of the individual, and he/she should be encouraged and counseled to play a proactive role in this process.

FAFSA responses are entered into a formula (known as the Federal Methodology) which is regulated by the Higher Education Act of 1965, as amended. The Student Financial Aid Program uses the following figures when calculating a student's eligibility for and amount of Pell Grant assistance:

- EFC - The Expected Family Contribution (EFC) formula is a preliminary estimate that measures the family's financial strength. The EFC is subtracted from the Cost of Attendance at the school(s) the individual plans to attend to determine his/her eligibility for federal student aid. The EFC is based on the financial information the student provides on the FAFSA. A Student Aid Report (SAR) is sent by e-mail or by postal mail depending on the addresses on file for the student. The SAR lists the information reported on the FAFSA. At the upper right of the front page of the SAR is the EFC figure. EFC is the same regardless of college attended.
- COA - The Cost of Attendance (COA) is an estimate of a student's education expenses for the period of enrollment. These expenses include tuition and fees, room and board, books, supplies, transportation and personal expenses, child or elder care expenses, and expenses associated with a disability. The Cost of Attendance varies by school and program.

For additional information on the FAFSA and the online application, visit [www.fafsa.ed.gov](http://www.fafsa.ed.gov).

## Eligibility of Dislocated Workers

Dislocated worker status is used in determining whether an applicant qualifies for one of the simplified needs analyses used to assess the student's need for federal student aid. (The College Cost Reduction and Access Act of 2007 amended section 479 of the Higher Education Act of 1965 to use dislocated worker status as a determining factor.)

A dependent student who has a parent who is a dislocated worker, or an independent student who is, or whose spouse is, a dislocated worker, may be eligible for one of the simplified need analyses. In addition, the Act amended section 479A to allow a family member of a dislocated worker to be considered as a special circumstance that may be the basis for a college financial aid administrator to otherwise adjust a student's cost of attendance or to adjust the data elements used to calculate the student's expected family contribution in determining the student's need for federal student aid. The act requires that Federal Student Aid follow the WIOA definition of dislocated worker located at section 3(15) of the Act.[3] As the local workforce development system is uniquely positioned to offer guidance, local One-Stop Career Centers are encouraged to respond to general information requests about the dislocated worker definition from financial aid offices, as necessary.

FAFSA includes questions asking whether an individual or an individual's spouse or parent is a dislocated worker, and the answers are used when determining need for financial aid.

Financial aid administrators have sole responsibility for determining the validity of student aid applicants' dislocated worker status for purposes of federal student aid and are required to make this determination regardless of whether an individual has proof of dislocated worker status from the workforce development system, and regardless of whether an individual is receiving dislocated worker services from the workforce development system. For an unemployed worker whose income level or unemployment status does not qualify him/her for an adjustment to their expected family contribution under the FAFSA dislocated worker question, financial aid officers are able to use "professional judgment" to adjust the applicant's expected family contribution or the cost of attendance based on special circumstances, such as becoming unemployed and claiming Unemployment Insurance (UI) benefits.

### Coordination of Training with Unemployment Benefits

#### *Role of the Workforce Development System*

The local workforce development system may assist in a number of ways, including:

1. **Providing General Information to Dislocated Workers.** The workforce development system may provide general information to an individual receiving dislocated worker services who may be applying, or whose spouse or dependent child may be applying, for financial aid in the upcoming year. As appropriate, the workforce system may encourage these individuals to check off the FAFSA box on question 82 or 100 indicating that the student, the student's spouse, or one of the student's parents (for a dependent child) is a dislocated worker. When appropriate, the workforce development system may coordinate efforts with local colleges and universities to ensure that dislocated workers are made aware of these questions. Note: Local financial aid offices make eligibility and aid determinations based on information provided in the FAFSA.

2. Providing General Information to Financial Aid Administrators. Strong relationships between One-Stop Career Center staff and financial aid office staff may facilitate closer coordination of WIOA and Pell Grant resources, and can help workforce system customer's transition smoothly into education and training experiences. The workforce development system may support financial aid administrators, when requested, by providing general guidance on:
  - a. the WIOA definition of dislocated workers
  - b. appropriate samples of documentation the financial aid offices could request from an individual to verify dislocated worker status
3. In providing guidance on appropriate documentation, the workforce development system may elect to provide information about or examples of Worker Adjustment and Retraining Notification (WARN) notices, layoff or no fault termination notices, local labor market information, documents issued by the state UI agency, or other areas or documents about which the financial aid office may be unfamiliar and have questions. The state UI agencies may provide general guidance and information on definitions and documentation related to the UI program to the extent that it relates to determining dislocated worker status.
4. Providing Specific Information to Dislocated Workers. If an individual receiving dislocated worker services through the workforce development system requests proof of dislocated worker status to provide to the college financial aid office in support of a FAFSA application for the individual, a spouse or a dependent, the One-Stop Career Center or other appropriate office should provide the individual or the college with a letter or other documentation verifying that the individual is receiving services as a dislocated worker. Note: State UI agencies and the workforce development system are not required to verify directly to a college financial aid office an individual's dislocated worker eligibility or employment status. The individual receiving dislocated worker services must make the request for documentation, and the One-Stop Career Center may determine the most appropriate method of delivering confirmation, either to the individual or directly to the college financial aid office.

### Coordinating Training Costs

WIOA funding for training is limited to participants who are unable to obtain grant assistance from other sources to pay the costs of their training, including such sources as state-funded training funds, Trade Adjustment Assistance, and Pell Grants, or require WIOA assistance in addition to other sources of grant assistance, including Pell Grants. Veterans Administration benefits for education and training services are not included in the statutory and regulatory category of grant assistance; therefore, Veterans and their spouses are not required to coordinate their entitlement to those benefits with any concurrent eligibility for WIOA funded training.[4] Program operators and training providers must coordinate funds available to pay for training. In making this determination, One-Stop operators should take into account the full cost of participating in training services, including the cost of support services (such as dependent care and transportation) and other appropriate costs.[5] One-Stop operators must coordinate training funds and make funding arrangements with One-Stop partners and other entities. One-Stop operators must consider the availability of grants to pay for training costs such

as Temporary Assistance for Needy Families (TANF), state-funded training funds, and Pell Grants, so that WIOA funds supplement other sources of training grants.[6]

A WIOA participant may enroll in WIOA-funded training while the participant has a Pell Grant application pending as long as the One-Stop operator or partner has made arrangements with the training provider and the WIOA participant regarding allocation of the Pell Grant, if it is subsequently awarded. In that case, the training provider must reimburse the One-Stop operator the WIOA funds used to underwrite the training for the amount the Pell Grant covers. Reimbursement is not required from the portion of Pell Grant assistance disbursed to the WIOA participant for education-related expenses.[7]

While WIOA training funds must be used to cover direct training costs, Pell Grants are more flexible and can also cover supplies and living expenses, excluding any alcohol, cigarettes, and entertainment expenses. Students who are awarded Pell Grants may benefit from a combination of WIOA training funds, WIOA-funded supportive services or needs related payments, and Pell Grants to cover the full costs of taking on a course of training. It is within the bounds of WIOA law and regulation to provide WIOA training funds to Pell Grant recipients, provided duplicate payments of training costs are not made.

#### Documentation

The workforce system must ensure adequate documentation is maintained for each participant, including but not limited to, the following:

- whether the individual received or did not receive a Pell Grant
- a list of all funding sources considered and received to pay for training
- a list or budget of the participant's estimated essential monthly living expenses used to determine financial need, excluding any costs associated with alcohol, cigarettes and entertainment

#### *Disclaimer*

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

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[1] TEGL 21-08

[2] <https://studentaid.ed.gov/sa/types/grants-scholarships/pell>

[3] WIOA Sec. 512(n)(3)

[4] TEGL 10-09, Attachment A

[5] WIOA Sec. 134(c)(3)(B)(iii), 20 CFR §§ 680.210(c) and 680.230(a)

[6] 20 CFR § 680.230(b)

[7] 20 CFR § 680.230(b)

## Interim Policy on Procurement Standards

### *Reference*

The Workforce Innovation and Opportunity Act (WIOA), Section 102, 107, 121, 123, 184; 29 CFR Parts 95, 97, and 98; State Workforce Investment Plan; Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Final Rule; 2 CFR § 2900; WIOA Notice of Proposed Rulemaking, 20 CFR §§ 683.200, 683.230, 683.500, 683.510, 683.520, 683.540; and Neb. Rev. Stat. §§ 4-108, 4-114, 73-501 to 73-509, 81-153, 81-161.03; TEGL 38-14.

### *Background*

All entities that received funds issued on or after December 26, 2014, are bound by the procurement requirements of 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Final Rule (Uniform Guidance).

All entities that received funds issued prior to December 26, 2014, and which will have funding actions, allotments, or incremental funding actions taking place after December 26, 2014, are bound by the procurement requirements of the Uniform Guidance for the new funds only.[1]

All entities that received funds issued prior to December 26, 2014, and which will not have additional funding actions taking place after December 26, 2014, may continue to follow the terms and conditions as outlined in their award documents, including the procurement requirements of 29 CFR 95 and 97.[2]

The State, each local area, and every provider receiving funds under Title I of WIOA shall comply with the appropriate uniform administrative requirements for grants and agreements applicable for the type of entity receiving the funds.[3] Standards have been established to ensure fiscal accountability and prevent waste, fraud, and abuse in all programs administered under the Act. In addition, the Act introduced changes in the way services for youth workforce development activities are obtained.

### *Changes from Preliminary Policy*

- DOL requires intellectual property developed under a competitive federal award process to be licensed under a Creative Commons Attribution license
- Changes to Local Service Provider Contracts under WIOA
- Additions under the Pay-for-Performance Contract subheading

### *Action*

After a 10-day review period, this policy will be considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox: [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

## *Policy*

### Definitions

“Non-Federal entity” means a State, local government, Indian tribe, institution of higher education, foreign public entity, foreign organization or non-profit organization that carries out a federal award as a recipient or subrecipient.[4] The City of Omaha, City of Lincoln, State of Nebraska, Heartland Workforce Solutions (HWS), and Goodwill Industries, as subrecipients of WIOA funds, are considered “non-Federal entities.”

“Pass-through entity” means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a federal program.[5] If the non-Federal entity for the local area provides a subaward to a subrecipient to carry out part of a federal program, the subrecipient is considered a “pass-through entity.” The State of Nebraska, the City of Omaha, and HWS are pass-through entities.

“Subrecipient” means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a federal program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.[6] HWS, as a non-Federal entity that receives a subaward from the City of Omaha, is a subrecipient. Goodwill Industries, as a non-Federal entity that receives a subaward from HWS, is also a subrecipient.

“Subaward” means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.[7]

“Contractor” means an entity that receives a legal instrument (i.e., contract) by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward.[8] Goodwill Industries, as an entity with which HWS contracts in order to purchase services to carry out workforce development activities, is a contractor.

## Subrecipient/Contractor Determination

Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:	Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:
Determines who is eligible to receive what Federal assistance	Provides the goods and services within normal business operations
Has its performance measured in relation to whether objectives of a Federal program were met	Provides similar goods or services to many different purchasers
Has responsibility for programmatic decision making	Normally operates in a competitive environment
Is responsible for adherence to applicable Federal program requirements specified in the Federal award	Provides goods or services that are ancillary to the operation of the Federal program
In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.[9]	Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.[10]

In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.[11]

## General Administration

### *Procurement Processes by Non-Federal Entities Other than the State*

For funds received prior to December 26, 2014, the contract procurement and subgrant requirements for local government can be found in the Unified Administrative Requirements for procurement by governmental entities as codified at 29 CFR 97.36 (procurement) and 97.37 (subgrants). For all non-governmental organizations, the procurement standards can be found at 29 CFR 95.40 through 95.48. These provisions require that grantees and subgrantees/non-Federal entity use their own procurement procedures which must follow applicable State and local laws and regulations, provided that the procurements conform to the applicable federal laws and the stated administrative standards.

A basic tenet of the standards found at 29 CFR 95.42 and 97.36(b)(2) is that the procurement be a process that provides for full and open competition and avoids even the appearance of a conflict of interest (either individually or organizationally). Procurement actions must be conducted in a manner that provides for full and open competition and prevents the existence of conflicting roles that might bias judgment and cause unfair competitive advantage. Such actions must assure separation of those who develop or issue solicitation, or are involved in the selection process, from those who bid

upon it. Accordingly, an identifiable sub-unit of the local government or non-governmental organization may not submit a bid or an offer on a grant or contract solicitation if that sub-unit is involved in the development of the solicitation, the review, evaluation and selection process, or the ongoing post award administration (including oversight) of the award. If the existing governmental structure does not have capabilities to exclude the sub-unit from the solicitation process, it must move the selection process to a higher-level governmental unit with oversight authority. Using guidelines set forth in this policy, the local grant recipient must document its competitive selection process.

For funds received on or after December 26, 2014, the contract procurement requirements for grantee or subgrantee/non-Federal entities (other than States), including subrecipients of a State, can be found in sections 200.318 through 200.326 of the Uniform Guidance.[12] These provisions require that grantees and subgrantees/non-Federal entities use their own procurement procedures which must meet or exceed applicable State, local, and tribal laws and regulations applicable to the grantee/non-Federal entity, provided that the procurements conform to the applicable federal laws and standards identified in the Uniform Guidance.[13]

In addition to the requirements found in sections 200.317 through 200.326 of the Uniform Guidance (as appropriate), all procurement contracts between local boards and units of state or local governments must be conducted only on a cost-reimbursement basis.[14]

#### Changes to Local Service Provider Contracts under WIOA

Note: As of July 1, 2015, all existing contracts must comply with WIOA requirements.

Local areas commonly enter into two-year agreements with their service providers which allow them to serve participants for the duration of the two-year cycle. Although we consider the contract to be obligated at the time of execution, expenditure of those funds is dependent on the enrollment of participants. As such, the contracts must be modified or amended, to the extent the contract terms allow, to ensure that enrollment into WIA program services ceases on June 30, 2015, and enrollment using WIOA requirements begins July 1, 2015. [15]

Current contracts do not need to be automatically terminated. Local areas may terminate current contracts in order to compete a new contract under WIOA, assuming the current contract permits taking this action. Local areas may also consider modifications to current contracts if they contain clauses to allow for changes to be made to conform to new legislation or regulations. If current contracts include multiple or option years, WIOA requirements must be incorporated by amending or modifying the option years of the contract. If, after July 1, 2015, a service provider refuses to comply with the new WIOA requirements, the awarding entity must take immediate corrective action, up to and including termination.[16]

In competing new contracts, ETA encourages local areas to employ one-year contracts with additional option years, rather than multi-year contracts. Given how resource-

intensive the Request for Proposals (RFP) process can be, option year contracts are a strategy to ensure maximum flexibility while final regulations are published and program guidance is issued.[17]

## Contracts and Agreements

### *Administration System*

Grantees and subgrantees/non-Federal entities shall maintain oversight which ensures that contractors perform in accordance with the terms, conditions, and specification of their contracts or purchase orders.[18] Awards shall be made only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.[19] Subgrantees/non-Federal entities shall conduct and document oversight of contractor activity to ensure compliance with procurement standards.

### *Records*

The grantee and subgrantee/non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to:

- Rationale for the method of procurement,
- Selection of contract type,
- Contractor selection or rejection, and
- The basis for the contract price.[20]

Financial records, supporting documents, statistical records, and all other grantee or subgrantee/non-Federal entity records pertinent to a federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon grantee or subgrantee/non-Federal entities. The only exceptions are:

- If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken
- When the grantee or subgrantee/non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
- Records for real property and equipment acquired with federal funds must be retained for 3 years after final disposition.

- When records are transferred to or maintained by the federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the grantee or subgrantee/non-Federal entity.
- In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the grantee or subgrantee/non-Federal entity's fiscal year in which the program income is earned.
- Indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).
  - If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the federal government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.
  - If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the federal government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.[21]

### *Affirmative Steps*

All necessary affirmative steps shall be taken to assure that small and minority firms, and women's business enterprises are used whenever possible.[22]

Affirmative steps shall include:

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;
- Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises;
- Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- Requiring the prime contractor, if subcontracts are to be let, to take affirmative steps.[23]

## *Code of Conduct/Conflict of Interest*

### *Issues Related to Employees*

The grantee and subgrantee/non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the grantee and subgrantee/non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, grantees and subgrantees/non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the grantee or subgrantee/non-Federal entity.[24]

### *Issues Related to Parent, Affiliate, or Subsidiary Organizations*

If the grantee and subgrantee/non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the grantee and subgrantee/non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the grantee and subgrantee/non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.[25]

### *Issues Related to Board and Council Members*

Every state or local Workforce Development Board member in Nebraska, regardless of occupation, is considered a public official. Consequently, they are subject to certain sections of the Nebraska Political Accountability and Disclosure Act. Those circumstances that would constitute a conflict of interest for all members of the state and local boards would include hiring of immediate family members, soliciting or accepting something of value, use of a public position for personal gain, use of public resources, and interests in contracts.

A state board member, a local board member, or a standing committee member must neither cast a vote on, nor participate in any decision-making capacity, on the provision of services by such member (or any organization which that member directly represents), nor on any matter which would provide any direct financial benefit to that member or the member's immediate family.[26]

Neither membership on the state board, local board, or standing committee, nor receipt of WIOA funds to provide training and related services, by itself, violates these conflict of interest provisions.[27]

### Issues Related to Grant Recipients and Subrecipients

In accordance with § 200.112 of the Uniform Guidance, recipients of federal awards must disclose in writing any potential conflict of interest to the Department of Labor. Subrecipients must disclose in writing any potential conflict of interest to the recipient of grant funds.[28]

### *Competition*

All procurement transactions shall be conducted in a manner providing full and open competition.[29] In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- Placing unreasonable requirements on firms in order for them to qualify to do business.
- Requiring unnecessary experience and excessive bonding.
- Noncompetitive pricing practices between firms or between affiliated companies.
- Noncompetitive awards to consultants that are on retainer contracts.
- Organizational conflicts of interest.
- Specifying only a “brand name” product instead of allowing “an equal” product to be offered.
- Overly restrictive specifications.
- Any arbitrary action in the procurement process.[30]

The grantee and subgrantee/non-Federal entity will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed State, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. Nothing in this section [§ 200.319 of the Uniform Guidance] preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criteria provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.[31]

Written selection procedures shall be used for procurement transaction to ensure that all solicitations:

- Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in

competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specification should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equal” description may be used as a means to define the performance or other salient requirements of a procurement. The specified features of the named brand which must be met by offerors shall be clearly stated; and

- Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.[32]

The grantee and subgrantee/non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the grantee or subgrantee/non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.[33]

#### *Confidentiality and Non-Disclosure*

The obtaining of confidential procurement information not made available to all offerors is strictly prohibited. In addition, improper communication with staff or board members to influence procurement decisions is not allowed.

#### *Construction*

WIOA Title I funds must not be spent on construction, purchase of facilities or buildings, or other capital expenditures for improvements to land or buildings except with prior approval from the Secretary of Labor.[34] WIOA Title I funds can be used for construction only in limited situations, including meeting obligations to provide physical and programmatic accessibility and reasonable accommodation; funding YouthBuild Programs under Sec. 177(c)(2)(A)(i) of WIOA; funding disaster relief projects under Sec. 170(d) of WIOA; and funding other projects the Secretary of Labor determines necessary to carry out WIOA as described under Sec. 189(c) of WIOA.[35]

#### *Contract Provisions*

In addition to other provisions required by the Federal agency or grantee or subgrantee/non-Federal entity, all contracts made by the grantee or subgrantee/non-Federal entity under WIOA must contain provisions covering the following, as applicable:

1. Compliance with WIOA.

Contracts shall contain provisions requiring compliance with WIOA, its implementing regulations, and State WIOA policies including those pertaining to reporting.

2. Compliance with Neb. Rev. Stat. § 4-108 Lawful Presence in the U.S.

All contracts shall certify that the contractor has registered with and is using a federal immigration verification system as defined in Neb. Rev. Stat. § 4-114(1)(a) to determine the work eligibility status of all employees physically performing services within the State of Nebraska.[36] Upon reasonable notice, the contractor shall provide documentation to the Department of Labor which proves that the contractor is or was at all times during the term of the agreement in compliance with this provision. If the contractor is an individual or sole proprietorship, the contractor shall complete the U.S. Citizenship Attestation Form, available at [www.das.state.ne.us](http://www.das.state.ne.us). If the contractor indicates on such attestation form that he or she is a qualified alien, the contractor shall agree to provide the U.S. Citizenship and Immigration Services documentation required to verify the contractor's lawful presence in the U.S. using the Systematic Alien Verification for Entitlements (SAVE) Program. The contractor understands and agrees that lawful presence in the U.S. is required and the contractor may be disqualified if such lawful presence cannot be verified.[37]

3. Contracts for More than The Simplified Acquisition Threshold (set at \$150,000)

All contracts must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.[38]

4. Termination for Cause and Convenience

All contracts in excess of \$10,000 shall contain suitable provisions for termination by the grantee or subgrantee/non-Federal entity including the manner by which it will be effected and the basis for settlement.[39]

5. Termination for Default

All contracts shall contain a suitable provision under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

6. Equal Employment Opportunity

Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must:

- a. Include the equal opportunity clause provided under 41 CFR 60-1.4(b);[40] and
- b. Assure compliance with the nondiscrimination and equal opportunity provisions of WIOA, Section 188 and its implementing regulations.

#### 7. Copeland Anti-Kickback Clause

All contracts and subcontracts for construction or repair shall include a provision for compliance with the Copeland “Anti-Kickback” Act (18 USC 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This Act provides that each contractor and subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which such person is otherwise entitled.[41]

#### 8. Labor Standard Provision

On-the-job training construction contractors and other construction contractors involving the use of WIOA funds shall have provisions requiring adherence with the Davis-Bacon Act and Sections 103 and 107 of the Contract Work Hours and Safety Standards Act as supplemented by the Department of Labor regulations.[42]

#### 9. Contract Work Hours and Safety Standards Act (40 USC 3701-3708)

Where applicable, all contracts awarded by the grantee or subgrantee/non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.[43]

#### 10. Rights to Inventions Made Under a Contract or Agreement

If the federal award meets the definition of “funding agreement” under 37 CFR §401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work

under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.[44]

- a. The term “funding agreement” means any contract, grant, or cooperative agreement entered into between any federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.[45]
- b. The Department of Labor requires intellectual property developed under a competitive federal award process to be licensed under a Creative Commons Attribution license. This license allows subsequent users to copy, distribute, transmit and adapt the copyrighted work and requires such users to attribute the work in the manner specified by the grantee.[46]

## 11. Copyrights

Contracts shall provide notice of the following:

- a. For grant funds received prior to December 26, 2014: The federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government purposes
  - i. the copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and
  - ii. any rights of a copyright to which a grantee, subgrantee or a contractor purchases ownership with grant support.[47]
- b. For grant funds received on or after December 26, 2014: The grantee and subgrantee/non-Federal entity may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a federal award. The federal awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for federal purposes, and to authorize others to do so.[48]

## 12. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended

Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the grantee or subgrantee/non-Federal entity to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).[49]

### 13. Debarment and Suspension (Executive Orders 12549 and 12689)

A contract award (see 2 CFR § 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.[50]

### 14. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)

Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any federal entity. Such disclosures are forwarded from tier to tier up to the grantee or subgrantee/non-Federal entity.[51]

### 15. Access to Contractor's Records

All negotiated contracts awarded by the grantee or subgrantee/non-Federal entity shall include a provision to the effect that the subgrantee/non-Federal entity, State of Nebraska, the Office of Inspector General of the United States, the U.S. Department of Labor, or any other duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contract for the purpose of making an audit, examination, excerpts, copies or transcriptions. Reasonable access to personnel for purposes of interviews and discussions related to such documents shall be permitted.[52]

### 16. Recovered Materials

Contracts between a State agency or agency of a political subdivision of a State and its contractors shall recognize mandatory standards and policies relating to section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of

the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.[53]

## 17. Maintenance of Records

A provision shall be included in the contract which shall require the contractors to maintain all required records for three (3) years after the grantees or subgrantees/non-Federal entities make final payment and all other pending matters are closed.[54] The records shall be sufficient enough to detail the significant history of the procurement. These records will include, but are not necessarily limited to, the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.[55]

## 18. Damages

Contracts for more than the Simplified Acquisition Threshold (set at \$150,000) shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.[56]

### *Time and Materials Type Contracts*

A grantee and subgrantee/non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a grantee or subgrantee/non-Federal entity is the sum of the actual cost of materials; and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.[57]

Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the grantee or subgrantee/non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.[58]

### *Cost Analysis*

The grantee and subgrantee/non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold (set at \$150,000) including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but

as a starting point, the grantee or subgrantee/non-Federal entity must make independent estimates before receiving bids or proposals.[59]

The grantee or subgrantee/non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.[60]

Costs or prices based on estimated costs for contracts under the federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the grantee or subgrantee/non-Federal entity under Subpart E—Cost Principles of the Uniform Guidance. The grantee or subgrantee/non-Federal entity may reference its own cost principles that comply with the federal cost principles.[61]

The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.[62]

#### *Debarred and Suspended Parties*

The grantee and subgrantee/non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.[63] Grantees and subgrantees/non-federal entities and contractors are subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR Part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.[64] No contracts or subcontracts shall be made at any time to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs.

#### *Documentation and Awarding Agency Review*

The grantee and subgrantee/non-Federal entity must make available, upon request of the federal awarding agency or pass-through entity, technical specifications on proposed procurements where the federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the grantee and subgrantee/non-Federal entity desires to have the review accomplished after a solicitation has been developed, the federal awarding agency or pass-through entity may still review the

specifications, with such review usually limited to the technical aspects of the proposed purchase.[65]

The grantee and subgrantee/non-Federal entity must make available upon request, for the federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals (RFPs) or invitations for bids, or independent cost estimates, when:

- The grantee or subgrantee/non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in the Uniform Guidance;
- The procurement is expected to exceed the Simplified Acquisition Threshold (set at \$150,000) and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
- The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;
- The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
- A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.[66]

The grantee and subgrantee/non-Federal entity is exempt from the pre-procurement review described above if the federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of the Uniform Guidance. The grantee or subgrantee/non-Federal entity may request that its procurement system be reviewed by the federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis. The grantee and subgrantee/non-Federal entity may self-certify its procurement system. Such self-certification must not limit the federal awarding agency's right to survey the system. Under a self-certification procedure, the federal awarding agency may rely on written assurances from the grantee and subgrantee/non-Federal entity that it is complying with these standards. The grantee or subgrantee/non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.[67]

All steps of the procurement process must be documented including solicitations, selection process, contract negotiations and award.

In addition, all documents (e.g., proposal review forms, cost analysis work papers, etc.) developed during the procurement process must be maintained as required in the record keeping and maintenance provisions of the Uniform Guidance. If a procurement requires state approval, a copy of that approval must also be retained. For competitive procurement through RFPs the following must be documented:

- The name and title of the individual initiating the procurement process;
- The date the procurement process began (i.e., the date of decision to procure);
- Information relating to the amount and source(s) of available funds;
- The description of the supplies, property, or services to be procured;
- A list of service providers who received direct solicitations, and any publications which were made, or for Requests for Quotation where verbal solicitations were conducted, the name of the individual contacted and the name of the individual making the contact;
- The prices or proposals received;
- For RFPs, a copy of the request which was released, a copy of all proposals received and the evaluations of proposals received;
- The name(s) of the offeror(s) selected for award;
- When the lowest offer is not accepted, additional justification for the selection; and
- The name, title, and signature of the individual with final approval authority.

### *Bonding Requirements*

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the federal awarding agency or pass-through entity may accept the bonding policy and requirements of the grantee or subgrantee/non-Federal entity provided that the federal awarding agency or pass-through entity has made a determination that the federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

### *Economies and Efficiencies*

Proposed procurement shall be reviewed to avoid acquisition of unnecessary or duplicative items. Consideration shall be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.[69]

To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the federal government, the grantee or subgrantee/non-Federal entity is encouraged to enter into State and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common goods and services.[70] When feasible, federal excess and surplus property shall be used in lieu of purchasing new equipment and property, when such use reduces project costs.[71]

When contracting for construction projects, value engineering clauses shall be considered for appropriateness in reducing costs. Value engineering is systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.[72]

## *Methods of Procurement*

### 1. Micro-Purchase Procedures

- a. Micro-purchase means a purchase of supplies or services using Simplified Acquisition Procedures, the aggregate amount of which does not exceed the micro-purchase threshold. Micro-purchase procedures comprise a subset of a grantee or subgrantee/non-Federal entity's small purchase procedures. The grantee or subgrantee/non-Federal entity uses such procedures in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and cost. The micro-purchase threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions). It is \$3,000 except as otherwise discussed in Subpart 2.1 of that regulation, but this threshold is periodically adjusted for inflation.[73]
- b. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§ 200.67 Micro-purchase). To the extent practicable, the grantee or subgrantee/non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the grantee or subgrantee/non-Federal entity considers the price to be reasonable.[74]

### 2. Small Purchase Procedures

- a. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold (set at \$150,000). If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.[75]

### 3. Sealed Bids (Formal Advertising)

- a. Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest price.[76]
- b. In order for sealed bidding to be feasible, the following conditions should be present:
  - i. A complete, adequate, and realistic specification or purchase description is available;
  - ii. Two or more responsible bidders are willing and able to compete effectively and for the business; and
  - iii. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.[77]
- c. If sealed bids are used, the following requirements apply:
  - i. The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening bids;

- ii. The invitation for bids, which will include any specification and pertinent attachments, shall define items or services in order for the bidder to properly respond;
- iii. All bids will be publicly opened at the time and place prescribed in the invitation for bids;
- iv. A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- v. Any or all bids may be rejected if there is a sound documented reason.[78]

#### 4. Competitive Proposals

- a. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
  - i. Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
  - ii. Proposals will be solicited from an adequate number of qualified sources;
  - iii. The grantee or subgrantee/non-Federal entity will have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
  - iv. Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
  - v. The grantee or subgrantee/non-Federal entity may use competitive proposal procedures for qualifications-based procurement of A/E professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.[79]

#### 5. Noncompetitive Proposals

- a. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

- b. Procurement by noncompetitive proposals may be used only when the award of contract is infeasible under small purchase procedures, sealed bids, or competitive proposals and one of the following circumstances applies:
  - i. The item is available only from a single source;
  - ii. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
  - iii. The awarding agency authorizes noncompetitive proposals; or
  - iv. After solicitation of a number of sources, competition is determined inadequate.[80]
- c. Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.
- d. The awarding agency may require the proposed procurement be submitted for pre-award review.

#### *Monitoring of Local Procurement Practices*

The State shall conduct on an annual basis onsite monitoring of each local area to ensure compliance with the uniform administration requirements for grants and agreements applicable for the type of entity receiving the funds according to the circulars of the Office of Management and Budget. If problems are identified, corrective action will be required.

#### *Protest Procedures*

The grantee or subgrantee/non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the grantee or subgrantee/non-Federal entity of any contractual responsibilities under its contracts. The federal awarding agency will not substitute its judgment for that of the grantee or subgrantee/non-Federal entity unless the matter is primarily a federal concern. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction.[81]

#### Pay-for-Performance Contracts

A pay-for-performance contract is a type of performance-based contract, and may only be entered into when it is part of pay-for-performance contract strategy described below.[82] In accordance with 2 CFR § 200.323, the use of cost-plus percentage contracts is prohibited.[83]

Pay-for-performance contracts must be in compliance with this Procurement Standards Policy.[84]

### *Pay-For-Performance Contract Strategy*

“Pay-for-performance contract strategy” means a procurement strategy that uses pay-for-performance contracts in the provision of training services described in sec.134(c)(3) or 129(c)(2) of WIOA and includes:

- Contracts, each of which shall specify a fixed amount that will be paid to an eligible service provider (which may include a local or national community-based organization or intermediary, community college, or other training provider, that is an eligible provider of training services or of youth workforce development activities, as appropriate) based on the achievement of specified levels of performance described in 116(b)(2)(A) for target populations as identified by the local board (including individuals with barriers to employment), within a defined timetable, and which may provide for bonus and/or incentive payments to such service provider.
  - Bonus payments for achieving outcomes above and beyond those specified in the contract may be used by the service provider to expand capacity to provide effective training.
  - Incentive payments must be consistent with incentive payments for performance-based contracting as described in the Federal Acquisition Regulations (FAR);
- A strategy for independently validating the achievement of performance described above; and
- A description of how the state or local area will reallocate funds not paid to a provider because the achievement of performance did not occur, for further activities related to such a procurement strategy, subject to Sec. 189(g)(2)(D) of WIOA, which states that funds used to carry out pay-for-performance contract strategies by local areas shall remain available until expended.[85]

A pay-for-performance contract strategy has four distinct characteristics:

- It is a strategy to use WIOA pay-for-performance contracts;
- It must include the identification of the problem space and target populations for which the local area will pursue a WIOA pay-for-performance contract strategy; the outcome the local area would hope to achieve through a pay-for-performance contract relative to baseline performance; the acceptable cost to government associated with implementing such a strategy; and a feasibility study to determine whether the intervention is suitable for a WIOA pay-for-performance contracting strategy;
- It must include a strategy for independently validating the performance outcomes achieved under each contract within the strategy prior to the payment occurring; and
- It must include a description of how the state or local area will reallocate funds to other activities under the contract strategy in the event a service provider does not achieve performance benchmarks under a WIOA pay-for-performance contract.[86]

### *Funding to Support Pay-For-Performance Contract Strategies*

For pay-for-performance contract strategies providing adult and dislocated worker training services, funds allocated under Sec. 133(b)(2)-(3) of WIOA can be used. For pay-for-performance contract strategies providing youth activities, funds allocated under Sec. 128(b) of WIOA can be used.[87]

No more than 10 percent of the total adult and dislocated worker allotments can be expended on the implementation of pay-for-performance strategies for adult training services described in Sec. 134(c)(3) of WIOA. No more than 10 percent of the local youth allotment can be expended on the implementation of WIOA pay-for-performance contract strategies for youth training services and other activities described in Sec. 129(c)(1)-(2) of WIOA.[88]

### Designation and Certification of One-Stop Operators

#### *Process*

An entity (which may be a consortium of entities) shall be designated or certified as a one-stop operator through:

- A competitive process; and
- Shall be an entity (public, private, or nonprofit), or consortium of entities (including entities that, at a minimum, includes 3 or more of the required one-stop partners) of demonstrated effectiveness, located in the local area, which may include:
  - An institution of higher education;
  - An employment service agency established under the Wagner-Peyser Act on behalf of the local office of the agency;
  - A community-based organization, nonprofit organization, or intermediary;
  - A private for-profit entity;
  - A government agency; and
  - Another interested organization or entity, which may include a local chamber of commerce or other business organization.[89]

#### *Exception*

Elementary schools and secondary schools shall not be eligible for designation or certification as one-stop operators, except that nontraditional public secondary schools and area vocational education schools shall be eligible for such designation or certification.[90]

## Youth Workforce Development Activities: Competitive Selection Requirements

### *Competitive Selection Requirements*

A local board shall award grants or contracts on a competitive basis to providers of youth workforce development activities identified based on the State Plan (including such quality criteria as the governor shall establish for a training program that leads to a recognized post-secondary credential) and taking into consideration the ability of the providers to meet performance accountability measures established in Sec. 116.[91]

### *Exception*

A local board may award grants or contracts on a sole-source basis (i.e., through a noncompetitive process) if it determines that there is an insufficient number of eligible providers in the local area involved (such as a rural area) to accommodate competitive selection requirements.[92]

### *Criteria in the State Plan*

The State will expect the local areas to include criteria to be used by the local boards in awarding grants for youth workforce development activities and describing how the local boards will take into consideration the ability of the providers to meet performance accountability measures as described in Sec. 116(b)(2)(A)(ii).[93] Such criteria will be determined by the local Workforce Development Board and standing committees, if appropriate, but should include, but not be limited to:

- Success rates based on enrollments and completions;
- Provisions of accommodations for special needs populations;
- Involvement of local employers, business, and community resources;
- Consideration of assessed needs;
- Attainment of employment and academic credentials;
- Leading to credentials, diplomas, and equivalents;
- Improving educational and skill competencies;
- Ensuring youth of opportunities for positive mentoring experiences;
- Providing training opportunities to eligible youth;
- Strengthening leadership, youth developments, decision-making, citizenship, and community service.

In addition, the local Workforce Development Boards shall identify eligible providers of youth workforce development activities by awarding grants or contracts on a competitive basis (subject to the exception above).[94] The primary consideration in selecting agencies or organizations shall be the effectiveness of the agency or organization in delivering comparable or related services based on demonstrated performance. This determination shall be in writing and take into consideration such matters as whether the organization has:

- The ability to meet the program design specifications at a reasonable cost, as well as the ability to meet performance goals;
- Adequate financial resources or the ability to obtain them;
- A satisfactory record of past performance (in job training, basic skills training, youth activities), including demonstrated quality of training and reasonable dropout rates;
- The ability to provide, or arrange for, appropriate supportive services as specified in the individual employment plan;
- The ability to provide services that can lead to the achievement of competency standards for participants with identified deficiencies;
- A satisfactory record of integrity, business ethics, and fiscal accountability;
- The necessary organization, experience, accounting, and operation controls, and
- The technical skills to perform the work.

### Waiver Authority for In-House Programs

Except under waiver authority no local board (or its staff) may provide training services. However, local boards may submit a proposed request for a waiver of training prohibition to the governor to become an eligible provider of training services. The local board's request must include:

- Satisfactory evidence that there is an insufficient number of eligible providers of such training services to meet the demand in the local area;
- Information demonstrating that the board meets the requirements as an eligible provider of training services; and
- Information demonstrating that the program of training services prepares participants for an occupation that is in demand in the local area.[95]

The local board must also make the proposed request available to eligible providers of training services and other interested member of the public for a public comment period of not less than 30 days. The local board must then submit the request with the information and evidence listed above, as well as information from the public comments received.[96] Local boards may apply for a waiver that does not exceed the duration of the local plan if they meet the requirements listed above.[97]

The waiver may be revoked if the governor determines that the waiver is no longer needed or that the local board involved has engaged in a pattern of inappropriate referrals to training services operated by the local board.[98]

### *Disclaimer*

This interim policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

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- [1] <http://doleta.gov/grants/UniformGuidance.cfm>
- [2] Ibid.
- [3] WIOA Sec. 184(a)(3)(A)
- [4] 2 CFR § 200.69, 2 CFR § 2900.4
- [5] 2 CFR § 200.74, A-133 § \_\_\_\_\_.105
- [6] 2 CFR § 200.93
- [7] 2 CFR § 200.92
- [8] 2 CFR § 200.22 and 200.23
- [9] 2 CFR § 200.330(a)
- [10] 2 CFR § 200.330(b)
- [11] 2 CFR § 200.330(c)
- [12] 2 CFR § 200.317
- [13] 2 CFR § 200.318(a)
- [14] 20 CFR § 683.200(c)(4)
- [15] TEGL 38-14
- [16] Ibid.
- [17] Ibid.
- [18] 2 CFR § 200.318(b)
- [19] 2 CFR § 200.318(h)
- [20] 2 CFR § 200.318(i)
- [21] 2 CFR § 200.333
- [22] 2 CFR § 200.321(a)
- [23] 2 CFR § 200.321(a) & (b)
- [24] 2 CFR § 200.318(c)(1)
- [25] 2 CFR § 200.318(c)(2)
- [26] 20 CFR § 683.200(c)(5)(i)
- [27] 20 CFR § 683.200(c)(5)(ii)
- [28] 20 CFR § 683.200(c)(5)(iii)
- [29] 2 CFR § 200.319(a)
- [30] Ibid.
- [31] 2 CFR § 200.319(b)
- [32] 2 CFR § 200.319(c)
- [33] 2 CFR § 200.319(d)
- [34] 2 CFR § 200.439(b)(3), 20 CFR § 283.230
- [35] WIOA NPRM p. 233
- [36] Neb. Rev. Stat. § 4-114
- [37] Neb. Rev. Stat. § 4-108
- [38] Appendix II to 2 CFR Part 200
- [39] Ibid.
- [40] Ibid.
- [41] Ibid.
- [42] Ibid.
- [43] Ibid.
- [44] Ibid.
- [45] 37 CFR § 401.2(a)

- [46] 2 CFR § 2900.13
- [47] 29 CFR § 97.34
- [48] 2 CFR § 200.315(b)
- [49] Appendix II to 2 CFR Part 200
- [50] Ibid.
- [51] Ibid.
- [52] 2 CFR § 200.336(a)
- [53] 2 CFR § 200.322
- [54] 2 CFR § 200.333
- [55] 2 CFR § 200.318(i)
- [56] 2 CFR § 200.326, Appendix II to 2 CFR Part 200
- [57] 2 CFR § 200.318(j)(1)
- [58] 2 CFR § 200.318(j)(2)
- [59] 2 CFR § 200.323(a)
- [60] 2 CFR § 200.323(b)
- [61] 2 CFR § 200.323(c)
- [62] 2 CFR § 200.323(d)
- [63] 2 CFR § 200.318(h)
- [64] 2 CFR § 200.212
- [65] 2 CFR § 200.324(a)
- [66] 2 CFR § 200.324(b)
- [67] 2 CFR § 200.324(c)
- [68] 2 CFR § 200.325
- [69] 2 CFR § 200.318(d)
- [70] 2 CFR § 200.318(e)
- [71] 2 CFR § 200.318(f)
- [72] 2 CFR § 200.318(g)
- [73] 2 CFR § 200.67
- [74] 2 CFR § 200.320(a)
- [75] 2 CFR § 200.320(b)
- [76] 2 CFR § 200.320(c)
- [77] 2 CFR § 200.320(c)(1)
- [78] 2 CFR § 200.320(c)(2)
- [79] 2 CFR § 200.320(d)
- [80] 2 CFR § 200.320(f)
- [81] 2 CFR § 200.318(k)
- [82] 20 CFR § 683.510(a) and (b)
- [83] 20 CFR § 683.510(c)
- [84] 20 CFR § 683.540(c)(3)
- [85] WIOA Sec. 3(47), 20 CFR § 683.510
- [86] 20 CFR § 683.500(a)
- [87] 20 CFR § 683.520(a)
- [88] 20 CFR § 683.520(b)
- [89] WIOA Sec. 121(d)(2)(A)
- [90] WIOA Sec. 121(d)(3)
- [91] WIOA Sec. 123(a)

- [92] WIOA Sec. 123(b)
- [93] WIOA Sec. 102(b)(2)(D)(i)(V)
- [94] WIOA Sec. 107(d)(10)(B)
- [95] WIOA 107(g)(1)(B)
- [96] Ibid.
- [97] WIOA 107(g)(1)(C)
- [98] WIOA 107(g)(1)(D)

## **Preliminary Policy on Property Management**

### *Reference*

Workforce Innovation and Opportunity Act (WIOA), Sec. 170, 184, 192, and 194; WIOA Notice of Proposed Rulemaking (WIOA NPRM), 20 CFR § 683.235; Revised Continuing Appropriations Resolution, 2007; 29 CFR Part 97; 29 CFR Part 95; and TEGL 3-07.

### *Background*

All entities that received funds issued on or after December 26, 2014, are bound by the property management requirements of 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Final Rule (Uniform Guidance).

All entities that received funds issued prior to December 26, 2014, and which will have funding actions, allotments, or incremental funding actions taking place after December 26, 2014, are bound by the property management requirements of the Uniform Guidance for the new funds only.[1]

All entities that received funds issued prior to December 26, 2014, and which will not have additional funding actions taking place after December 26, 2014, may continue to follow the terms and conditions as outlined in their award documents, including the property management requirements of 29 CFR § 97.32 (for governmental agencies) and 29 CFR § 95.34 (for institutions of higher education (not a part of State government), hospitals and other nonprofit organizations, and commercial entities). These recipients may request a formal grant modification to replace the existing regulations with the Uniform Guidance should they choose to standardize their internal procedures as all new funding will be subject to the new regulations.[2]

### *Action*

This policy takes effect immediately.

### *Policy*

#### Uniform Guidance Definitions

“Non-Federal entity” means a State, local government, Indian tribe, institution of higher education, or non-profit organization that carries out a federal award as a recipient or subrecipient.[3] The City of Omaha, City of Lincoln, State of Nebraska, Heartland Workforce Solutions (HWS), and Goodwill Industries, as subrecipients of WIOA funds, are considered “non-Federal entities.”

“Pass-through entity” means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a federal program.[4] If the non-Federal entity for the local

area provides a subaward to a subrecipient to carry out part of a federal program, the subrecipient is considered a “pass-through entity.” The State of Nebraska, City of Omaha, and HWS are pass-through entities.

“Subrecipient” means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a federal program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.[5] HWS, as a non-Federal entity that receives a subaward from the City of Omaha, is a subrecipient. Goodwill Industries, as a non-Federal entity that receives a subaward from HWS, is also a subrecipient.

### Equipment

#### *Equipment Acquired with Grant Funds Received Prior to December 26, 2014*

Equipment means tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.[6]

#### *Equipment Acquired with Grant Funds Received on or after December 26, 2014*

Equipment means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the grantee or subgrantee/non-Federal entity for financial statement purposes, or \$5,000.[7]

### *Title*

Title to equipment acquired with grant funding received prior to December 26, 2014, shall vest upon acquisition in the grantee or subgrantee/non-Federal entity, subject to conditions of 29 CFR § 97.32 or 29 CFR § 95.34, as applicable.

Title to equipment acquired with grant funding received on or after December 26, 2014, shall vest upon acquisition in the grantee or subgrantee/non-Federal entity, subject to the obligations and conditions set forth in the Property Standards section of Subpart D - Standards for Financial and Program Management of the Uniform Guidance. Unless a statute specifically authorizes the Federal agency to vest title on the grantee or subgrantee/non-Federal entity without further obligation to the Federal Government, and the Federal agency elects to do so, the title must be a conditional title. Title must vest in the grantee or subgrantee/non-Federal entity subject to the following conditions:

- Use the equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project.

- Not encumber the property without approval of the Federal awarding agency or pass-through entity.
- Use and dispose of the property in accordance with § 200.313(b), (c), and (e) of the Uniform Guidance.[8]

### *State*

The State shall use, manage, and dispose of equipment acquired under a federal grant in accordance with State laws and procedures.[9] This allows for consistency by the State in handling equipment acquired with either federal funds or State funds.

### Use Standards

#### *For Recipients and Subrecipients Other than the State*

When equipment is acquired with federal grant funds received by governmental recipients/subrecipients other than the State prior to December 26, 2014, then these use standards must be followed:

- Equipment shall be used by the grantee or subgrantee/non-Federal entity in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by federal funds. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by a federal agency.
- The grantee or subgrantee/non-Federal entity shall make equipment available for use on other projects or programs currently or previously supported by the federal government, provided such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the awarding agency. User fees shall be considered if appropriate.
- The grantee or subgrantee/non-Federal entity may not use equipment acquired with grant funds to provide services for a fee to compete unfairly with private companies that provide equivalent services, unless specifically permitted or contemplated by federal statute.
- When acquiring replacement equipment, the grantee or subgrantee/non-Federal entity may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property, subject to the approval of the awarding agency.[10]

When equipment is acquired with grant funds received by non-governmental recipients prior to December 26, 2014, then these use standards must be followed:

- The recipient shall not use equipment acquired with federal funds to provide services to non-federal organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by federal statute.

- Equipment shall be used by the recipient in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by federal funds and shall not encumber the property without approval of the grant officer. When no longer needed for the original program or project, the recipient shall use the equipment in connection with its other federally, sponsored activities. Activities sponsored by the agency funding the original project shall receive first priority for use and then the equipment may be used for activities sponsored by other federal awarding agencies.
- During the time that equipment is used on the project or program for which it was acquired, the recipient shall make it available for use on other projects or programs if such other use will not interfere with the work on the project or program for which the equipment was originally acquired. First preference for such other use shall be given to other programs or projects supported by the agency that financed the equipment. Second preference shall be given to projects or programs sponsored by other federal awarding agencies.
- When acquiring replacement equipment, the recipient may use the equipment to be replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment, subject to the written approval of the grant officer.[11]

*For Grantees or Subgrantees/Non-Federal Entities*

When equipment is acquired with federal grant funds received by a grantee or subgrantee/non-Federal entity on or after December 26, 2014, then these use standards must be followed:

- Equipment must be used by the grantee or subgrantee/non-Federal entity in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award, and the grantee or subgrantee/non-Federal entity must not encumber the property without prior approval of the Federal awarding agency. When no longer needed for the original program or project, the equipment may be used in other activities supported by the Federal awarding agency, in the following order of priority:
  - Activities under a Federal award from the Federal awarding agency which funded the original program or project, then
  - Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems.
- During the time that equipment is used on the project or program for which it was acquired, the grantee or subgrantee/non-Federal entity must also make equipment available for use on other projects or programs currently or previously supported by the Federal Government, provided that such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use must be given to other programs or projects supported by the federal awarding agency that financed the equipment and second preference must be given to programs or projects under Federal awards from other Federal awarding

agencies. Use for non-federally-funded programs or projects is also permissible. User fees should be considered if appropriate.

- Notwithstanding the encouragement in § 200.307 of the Uniform Guidance [Program income] to earn program income, the grantee or subgrantee/non-Federal entity must not use equipment acquired with the federal award to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal Government retains an interest in the equipment.
- When acquiring replacement equipment, the grantee or subgrantee/non-Federal entity may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.[12]

### Equipment Management Procedures

#### *For Recipients and Subrecipients Other than the State*

When equipment is acquired in whole or in part with Federal grant funds by governmental recipients/subrecipients other than the State prior to December 26, 2014, then these procedures for managing equipment (including replacement equipment) must be followed until disposition takes place:

- Property records must be maintained accurately and include: a description of the property; a serial number or other identification number; the source of the property; identification of who holds title; the acquisition date and cost of the property; the percentage of federal participation in the cost of the property; the location, use and condition of the property; and any ultimate disposition data including the date of disposal and sale price of the property.
- A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
- A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated.
- Adequate maintenance procedures must be developed and implemented to keep the property in good condition.
- If the grantee or subgrantee/non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.[13]

When equipment is acquired in whole or in part with Workforce Investment Act (WIA) grant funds by non-governmental recipients prior to December 26, 2014, then these property management standards must be followed until disposition takes place:

- Equipment records shall be maintained accurately and include a description of the equipment, manufacturer's serial number, model number, federal stock number, national stock number, or other identification number, the source of the equipment (including the award number), whether title vests in the recipient or the federal

government, the acquisition date, and cost, percentage of federal participation in the cost of the equipment, the location and condition of the equipment and the date the information was reported, unit acquisition cost, and ultimate disposition data including the date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the awarding agency for its share.

- Equipment owned by the Federal Government shall be identified to indicate Federal ownership.
- A physical inventory of the equipment shall be taken and the results reconciled with the equipment records at least once every two years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The recipient shall, in connection with the inventory, verify the existence, current utilization, and continued need for the equipment.
- A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment. Any loss, damage, or theft of equipment shall be investigated and fully documented.
- Adequate maintenance procedures shall be implemented to keep the equipment in good condition.
- Where the recipient is authorized or required to sell the property, proper sales procedures shall be established which provide for competition to the extent practicable and result in the highest possible return.[14]

#### *For Grantees or Subgrantees/Non-Federal Entities*

When equipment is acquired in whole or in part with Federal grant funds by grantees or subgrantees/non-Federal entities on or after December 26, 2014, then, as a minimum, these procedures for managing equipment (including replacement equipment) must be followed until disposition takes place:

- Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
- A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
- A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.
- Adequate maintenance procedures must be developed to keep the property in good condition.

- If the grantee or subgrantee/non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.[15]

### Disposition Requirements

#### *For Recipients and Subrecipients Other than the State*

When the original or replacement equipment is acquired with Federal grant funds by governmental recipients or subrecipients other than the State prior to December 26, 2014, and if it is no longer needed for the original project or program or for other activities currently or previously supported by a federal agency, then these disposition requirements must be followed:

- Items of equipment with a current per-unit fair market value of less than \$5,000 may be retained, sold or otherwise disposed of with no further obligation to the awarding agency.
- Items of equipment with a current per unit fair market value in excess of \$5,000 may be retained or sold and the awarding agency shall have a right to an amount calculated by multiplying the current market value or proceeds from sale by the awarding agency's share of the equipment.
- In cases where a grantee or subgrantee/non-Federal entity fails to take appropriate disposition actions, the awarding agency may direct the grantee or subgrantee/non-Federal entity to take excess and disposition actions.[16]

When the original or replacement equipment is acquired with Federal grant funds by non-governmental recipients prior to December 26, 2014, and if it is no longer needed, then these disposition requirements must be followed:

For equipment with a current per unit fair market value of \$5,000 or more, the recipient may retain the equipment for other uses provided that compensation is made to the original awarding agency. The amount of compensation shall be computed by applying the percentage of federal participation in the cost of the original project or program to the current fair market value of the equipment. If the recipient has no need for the equipment, the recipient shall request disposition instructions from the awarding agency.[17]

#### *For Grantees or Subgrantees/Non-Federal Entities*

When the original or replacement equipment is acquired with Federal grant funds by grantees or subgrantees/non-Federal entities on or after December 26, 2014, and if it is no longer needed for the original project or program or for other activities currently or previously supported by a federal agency, except as otherwise provided in Federal statutes, regulations, or Federal awarding agency disposition instructions, the grantee or subgrantee/non-Federal entity must request disposition instructions from the Federal awarding agency if required by the terms and conditions of the Federal award. Disposition

of the equipment will be made as follows, in accordance with Federal awarding agency disposition instructions:

- Items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation to the Federal awarding agency.
- Except as provided in § 200.312 of the Uniform Guidance (Federally-owned and exempt property), § 200.313 (b), or if the Federal awarding agency fails to provide requested disposition instructions within 120 days, items of equipment with a current per-unit fair-market value in excess of \$5,000 may be retained by the grantee or subgrantee/non-Federal entity or sold. The Federal awarding agency is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the Federal awarding agency's percentage of participation in the cost of the original purchase. If the equipment is sold, the Federal awarding agency may permit the grantee or subgrantee/non-Federal entity to deduct and retain from the Federal share \$500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.
- The grantee or subgrantee/non-Federal entity may transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the grantee or subgrantee/non-Federal entity must be entitled to compensation for its attributable percentage of the current fair market value of the property.
- In cases where a grantee or subgrantee/non-Federal entity fails to take appropriate disposition actions, the Federal awarding agency may direct the grantee or subgrantee/non-Federal entity to take disposition actions.[18]

#### Federally Owned Equipment

In the event a grantee or subgrantee/non-Federal entity is provided federally-owned equipment:

*For grant funds received prior to December 26, 2014:*

- Title shall remain vested in the federal government.[19]
- Grantee or subgrantees/non-Federal entities shall manage the equipment in accordance with federal agency rules and procedures, and submit an annual inventory listing.
- When the equipment is no longer needed, the grantee or subgrantee/non-Federal entity shall request disposition instructions from the federal agency.[20]

*For grant funds received on or after December 26, 2014:*

Title to federally-owned property remains vested in the Federal Government. The grantee or subgrantee/non-Federal entity must submit annually an inventory listing of federally-owned property in its custody to the Federal awarding agency. Upon completion of the Federal award or when the property is no longer needed, the grantee or subgrantee/non-

Federal entity must report the property to the Federal awarding agency for further Federal agency utilization.[21]

### Real Property

Real property means land, including land improvements, structures, and appurtenances thereto, excluding movable machinery and equipment.[22]

Title to real property acquired under a grant or subgrant shall vest upon acquisition in the grantee or subgrantee/non-Federal entity respectively.[23]

Real property shall be used for the originally authorized purpose as long as needed for that purpose, and the grantee or subgrantee/non-Federal entity shall not dispose of or encumber its title or other interests.[24]

According to TEGL 3-07, for all real property disposed of on or after February 15, 2007, the provisions at 29 CFR § 97.31(c) no longer apply. When real property is no longer needed for the purposes for which it was acquired, a state may either retain the property for other purposes or sell the property. A disposition while retaining the property for other purposes means that WIA, Unemployment Compensation, and Wagner-Peyser activities entirely vacate the property, but the state retains the property for other activities. Whether or not the property is retained for other purposes or sold, the disposition of property instructions in TEGL 3-07 must be followed. This provision applies to property acquired with WIA funds until further directives indicate otherwise.

WIOA provides that, notwithstanding any other provision of law, any Federal equity acquired in real property through grants to the States awarded under title III of the Social Security Act or under Wagner-Peyser is transferred to the States that used the grants for the acquisition of such property. The portion of any real property that is attributable to the Federal equity transferred under this section shall be used to carry out activities authorized under this Act, Title III of the Social Security Act, or the Wagner-Peyser Act. Any disposition of such real property shall be carried out in accordance with the procedures prescribed by the Secretary and the portion of the proceeds from the disposition of such real property that is attributable to the Federal equity transferred under this section shall be used to carry out activities authorized under this Act, title III of the Social Security Act, or the Wagner-Peyser Act.[25]

### Use of Certain Real Property for One-Stop Delivery System

As noted below, Sec. 192(a) of the Workforce Innovation and Opportunity Act, effective transfers existing equity in real property acquired or amortized with Unemployment Compensation (UC) and Wagner-Peyser grant funds to the states for use in carrying out WIOA, UC, and Wagner-Peyser activities.

*“Any Federal equity acquired in real property through grants to States awarded under Title III of the Social Security Act or under the Wagner-Peyser Act is transferred to the*

*States that used the grants for the acquisition of such equity. The portion of any real property that is attributable to the Federal equity transferred under this Section shall be used to carry out activities authorized under this Act, the Wagner-Peyser Act, or Title III of the Social Security Act.”*

### Limitations

WIOA does not permit grant funds to be used for buying real property, including purchases by means of amortization. This prohibition also included the acquisition of such property under capital leases. WIOA provides that a State shall not use funds awarded under this Act, title III of the Social Security Act, or the Wagner-Peyser Act to amortize the costs of real property that is purchased by any State on or after the date of enactment of the Revised Continuing Appropriations Resolution, 2007.[26]

### Supplies

Supplies means all tangible personal property other than equipment (as defined earlier in this policy).[34]

In terms of grant funds received on or after December 26, 2014, a computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the grantee or subgrantee/non-Federal entity for financial statement purposes or \$5,000, regardless of the length of its useful life.[35]

### *State and Other Governmental Grantees and Subgrantees*

Title to supplies acquired under a Federal grant or subgrant shall vest, upon acquisition, in the grantee or subgrantee/non-Federal entity respectively.[36]

If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate fair market value upon termination or completion of the award, and if the supplies are not needed for any other federally sponsored programs or projects, the grantee or subgrantee/non-Federal entity shall compensate the awarding agency for its share.[37]

In terms of grant funds received on or after, December 26, 2014, the grantee or subgrantee/non-Federal entity must retain the residual inventory of unused supplies for use on other activities or sell them, but must, in either case, compensate the Federal Government for its share. The amount of compensation must be computed in the same manner as for equipment.[38] As long as the Federal Government retains an interest in the supplies, the grantee or subgrantee/non-Federal entity must not use supplies acquired under a Federal award to provide services to other organizations for a fee that is less than private companies charge for equivalent services, unless specifically *authorized by Federal statute*.[39]

### *Non-Governmental Entities that Received Grant Funds on or before December 26, 2014*

Title to supplies and other expendable property shall vest in the recipient upon acquisition. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federally-sponsored project or program, the recipient shall retain the supplies for use on non-federal sponsored activities or sell them, but shall, in either case, compensate the federal government for its share.[40]

The recipient shall not use supplies acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by federal statute as long as the federal government retains an interest in the supplies.[41]

### Intangible Personal Property

#### *Copyrights*

- In terms of grants received prior to December 26, 2014, the federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government purposes:
- The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and
- Any rights of copyright to which a grantee or subgrantee/non-Federal entity, or a contractor purchases ownership with grant support.[42]

In terms of grants received on or after December 26, 2014, the grantee or subgrantee/non-Federal entity may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. The Federal awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.[43]

#### *Disclaimer*

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

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- [1] <http://doleta.gov/grants/UniformGuidance.cfm>
- [2] Ibid.
- [3] 2 CFR § 200.69
- [4] 2 CFR § 200.74, A-133 § \_\_\_\_ .105
- [5] 2 CFR § 200.93
- [6] 29 CFR § 97.3
- [7] 2 CFR § 200.33
- [8] 2 CFR § 200.313(a)
- [9] 2 CFR § 200.313(b), 29 CFR § 97.32
- [10] 29 CFR § 97.32(b) and (c)
- [11] 29 CFR § 95.34(a)
- [12] 2 CFR § 200.313(c)
- [13] 29 CFR § 97.32(d)
- [14] 29 CFR § 95.34(f)
- [15] 2 CFR § 200.313(d)
- [16] 29 CFR § 97.32(e)
- [17] 29 CFR § 95.34(g)
- [18] 2 CFR § 200.313(e)
- [19] 29 CFR § 95.33, 29 CFR § 97.32(f)
- [20] 29 CFR § 97.32(f)
- [21] 2 CFR § 200.312
- [22] 2 CFR § 200.85, 29 CFR § 97.3
- [23] 2 CFR § 200.311(a), 29 CFR § 95.32, 29 CFR § 97.31(a)
- [24] 2 CFR § 200.311(b),
- [25] WIOA Sec. 192(a)
- [26] WIOA Sec. 192(b)
- [27] 20 CFR § 683.240(a)(3)
- [28] 20 CFR § 683.240(b)
- [29] 20 CFR § 683.235
- [30] WIOA NPRM, Section-by-Section Discussion of Proposal
- [31] 2 CFR § 200.13
- [32] 2 CFR § 200.439(b)(3)
- [33] 2 CFR § 200.452
- [34] 2 CFR § 200.94, 29 CFR § 97.3
- [35] 2 CFR § 200.94
- [36] 2 CFR § 200.314, 29 CFR § 97.33
- [37] 2 CFR § 200.314, 29 CFR § 97.33
- [38] 2 CFR § 200.314(a)
- [39] 2 CFR § 200.314(b)
- [40] 29 CFR § 95.35(a) and (b)
- [41] 29 CFR § 95.35(b)
- [42] 29 CFR § 97.34
- [43] 2 CFR § 200.315(b)

## Interim Policy on Rapid Response

### *Reference*

Workforce Investment Act of 1998 (WIA); Workforce Innovation and Opportunity Act of 2014 (WIOA) Sections 3, 108, 129, 133, and 134; WIOA Notice of Proposed Rulemaking (NPRM) 20 CFR §§ 679.560, 681.500, 682.300 *et seq.*; TEGL 3-15; 29 USC § 2101 *et seq.*

### *Background*

Rapid Response is a required activity under WIOA[1] to be carried out in local areas by the Nebraska Department of Labor (NDOL) in conjunction with local workforce development boards (local boards), chief elected officials (CEOs), and other stakeholders. Rapid Response involves strategies and activities necessary to (i) plan for and quickly respond to announcements of business closures and layoffs and mass job dislocation resulting from natural or other disasters; (ii) deliver services that enable dislocated workers to transition to new employment as quickly as possible; and (iii) address the needs of businesses in transition to prevent or minimize the duration of unemployment. NDOL may reserve not more than twenty-five (25) percent of the total amount allotted for Dislocated Worker Employment and Training Activities for a fiscal year for statewide Rapid Response Activities.[2]

### *Action*

After a 10-day review period, this policy will be considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox: [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

Local area plans must include a description of how the local board will coordinate workforce development activities carried out in the local area with statewide Rapid Response activities.[3]

### *Policy*

#### Definitions

##### *Layoff Aversion[4]*

“Layoff aversion” refers to strategies and activities designed to address the needs of businesses in transition and prevent or minimize the duration of unemployment resulting from layoffs, including:

- assisting employers in managing layoffs;
- early identification of businesses that may experience layoffs and (i) assessing their needs and options and (ii) delivering services to address those needs;

- engagement, partnership and relationship-building activities with community businesses to support layoff aversion efforts and transition dislocated workers to new employment as quickly as possible;
- funding feasibility studies to determine if a business's operations may be continued through a buyout or other means to avoid or minimize layoffs;
- developing or managing incumbent worker training programs or other worker skill-upgrading activities;
- connecting business with:
  - short-time compensation or other programs available under Unemployment Insurance programs designed to prevent layoffs or to quickly reemploy dislocated workers,
  - employer loan programs for employee skill upgrading,
  - other Federal, state and local resources to address other business needs that cannot be funded with resources provided under title I of WIOA,
  - economic development activities at the Federal, state and local levels, and
  - available state and local business retention and expansion activities;
- partnering or contracting with organizations that assess risks to businesses, proposing strategies to address those risks, implementing services, and measuring the impact of services delivered;
- analyzing the suppliers of an affected business to assess their risks and vulnerabilities from a potential closing or shift in production of a major customer;
- identifying opportunities for economic training needs in growing industry sectors or expanding businesses; and
- connecting businesses and workers with short-term, on-the-job, or customized training programs and apprenticeships before or after layoff to support rapid reemployment.

#### *Rapid Response Activities[5]*

“Rapid Response Activities” are activities carried out by NDOL, or an entity designated by NDOL, involving reemployment assistance to workers affected by business closure, layoff, or natural or other disasters resulting in worker dislocation, including:

- onsite contact with employers and worker representatives after NDOL is:
  - notified of a current or projected permanent closure or mass layoff, or
  - made aware of mass job dislocation resulting from a natural or other disaster;
- providing information about and access to employment and training activities;
- assisting with the establishment of a labor-management committee (described below);
- providing emergency assistance customized to the closure, layoff, or disaster; and
- assisting affected local communities with:
  - development of coordinated responses, and
  - obtaining access to state economic development assistance.

### *Statewide Rapid Response Activities[6]*

“Statewide Rapid Response Activities” are activities carried out by NDOL, or an entity designated by NDOL, in local areas experiencing business closures, layoffs, or other mass job dislocation resulting from natural or other disasters. Statewide Rapid Response Activities are carried out as outlined in NDOL’s Rapid Response Manual, which is available on NDOL’s website at [dol.nebraska.gov](http://dol.nebraska.gov).

### *WARN Notice[7]*

The Worker Adjustment and Retraining Notification (WARN) Act offers protection to workers, their families, and communities by requiring covered employers to provide written notice (WARN Notice) sixty (60) days in advance of covered plant closings and covered mass layoffs. This notice must be provided to either affected covered workers or their representatives (e.g., a labor union), to NDOL’s Office of Employment and Training, and to the appropriate unit of local government.

Enforcement of WARN requirements is performed through the United States district courts. NDOL has no administrative or enforcement responsibility under WARN. Additional information on WARN is available on NDOL’s website at [dol.nebraska.gov](http://dol.nebraska.gov).

### Purpose of and Responsibility for Carrying Out Rapid Response[8]

#### *Purpose*

The purpose of Rapid Response is promoting economic recovery and strength by (i) identifying, planning for, and responding to layoffs and dislocations and (ii) preventing or minimizing the effect of layoffs and dislocations on workers, businesses, and communities.

#### *Responsibility*

NDOL manages Rapid Response activities through the Rapid Response Unit. The Rapid Response Unit is responsible for the planning and delivery of services to enable dislocated workers to transition to new employment as quickly as possible in the event of a permanent closure, mass layoff, natural or other disasters, or exceptional circumstances resulting in a mass job dislocation. Nebraska’s Rapid Response Program is a joint effort between NDOL, its office location staff and Virtual Service Unit staff, and Nebraska American Job Center (AJC) staff. Rapid Response activities are provided throughout the state in accordance with NDOL’s Rapid Response Manual in the event of a business closure or layoff, natural or other disaster, other exceptional circumstances resulting in substantial worker dislocation, and upon receipt of WARN Notices. NDOL’s Rapid Response Manual is available on NDOL’s website at [dol.nebraska.gov](http://dol.nebraska.gov).

## Required Rapid Response Activities[9]

Rapid Response activities must include, but are not limited to:

- layoff aversion, as applicable;
- immediate and on-site contact with the employer, representatives of the affected workers, and the local community including assessing and planning to address the:
  - employer's layoff plans and schedule,
  - experience and assistance needs of affected workers,
  - reemployment prospects for affected workers, and
  - available resources to meet short- and long-term assistance needs of affected workers;
- providing information about and access to unemployment compensation benefits and programs, such as short-time compensation, comprehensive AJC services, and employment and training activities, including information on the Trade Adjustment Assistance (TAA) Program, Pell Grants, the GI Bill, and other resources;
- delivering other necessary services and resources including workshops and classes, use of worker transition centers, and job fairs;
- partnering with local boards and CEOs ensuring coordinated response to dislocation events and access to state or local economic development assistance as needed; [10]
- providing emergency assistance customized to the particular layoff or disaster;
- developing systems and processes, as appropriate, for
  - identifying and gathering information for early warning of potential layoffs and opportunities for layoff aversion,
  - analyzing and acting on data and information on dislocations and other economic activity in the state, region, or local area, and
  - tracking outcome and performance data and information related to Rapid Response activities;
- developing and maintaining partnerships with Federal, other state, and local agencies and officials, employer associations, technical councils, other industry business councils, labor organizations, and other public and private organizations, as appropriate, to:
  - conduct strategic planning activities,
  - develop strategies for addressing dislocation events,
  - ensure timely access to necessary assistance, and
  - develop mechanisms for gathering and exchanging information and data relating to potential dislocations, resources available, and customization of layoff aversion or rapid response activities;
- delivering services to worker groups for which a petition for TAA has been filed;
- providing additional assistance (described below) to local areas experiencing closures, layoffs, disasters, or other dislocation events that exceed the capacity of the local area to respond with existing resources; and
- providing guidance and financial assistance, as appropriate, in establishing a labor management committee (described below).

### Trade Adjustment Assistance (TAA)

Rapid Response services are provided to every group of workers on whose behalf a TAA petition is filed.[11] Rapid Response staff will make affected workers aware of the services available after a layoff is announced, and if Rapid Response services are provided before a petition is filed, Rapid Response services will include information on the process of petitioning for certification under the TAA program. In the event that TAA petitions are no longer processed by the US Department of Labor due to expiration or termination of the TAA program, dislocated workers will continue to receive Rapid Response services as described in this policy and Nebraska's Rapid Response Manual.

### Additional Assistance to Local Areas[12]

Once NDOL has adequate funds reserved for statewide Rapid Response activities, NDOL may provide any remaining reserved funds to local areas experiencing layoffs, disasters, or other events leading to substantial increases in unemployment if adequate local funds are not available to assist dislocated workers. Funds provided to local areas as additional assistance must be used for provision of direct career services to the affected workers.

Local areas may request a portion of the remaining reserved funds by completing and submitting a "Request for Additional Assistance" form (attached to this policy as Attachment A).

### Labor-management Committees[13]

A labor-management committee may be established if voluntarily agreed to by management of the affected business and the bargaining representatives of the affected workers. Leadership of an established labor-management committee is determined by the involved parties. Establishment of labor-management committees is not required by WIOA; however, if management of the business and the bargaining representatives of the workers wish to establish the committee, NDOL must provide guidance and financial support.

The labor-management committee may devise and oversee strategies addressing the reemployment needs of the affected workers. Rapid Response assistance provided to the labor-management committee may include:

- providing training and technical assistance to committee members; and
- funding operating costs of the committee enabling the committee to provide advice and assistance in carrying out Rapid Response activities and in the design and delivery WIOA-authorized services to the affected workers.

### Community Transition Teams[14]

Circumstances permitting, Rapid Response activities may include providing guidance and/or financial assistance to establish community transition teams:

- to assist the affected community in organizing support for dislocated workers; and
- in meeting the basic needs of affected families, including heat, shelter, food, clothing and other necessities and services that are beyond the resources and ability of the one-stop delivery system to provide.

#### Use of Unobligated Rapid Response Funds[15]

Rapid Response funds reserved by NDOL under WIA or WIOA, and unobligated after the first program year such funds were allotted, may be used by NDOL to carry out allowable or required statewide activities under WIOA Sec. 134.

#### Recapture of Unspent Rapid Response Funds

WIOA allows NDOL to recapture unspent WIA and WIOA Rapid Response funds at the end of the program year of obligation and utilize them for allowable statewide activities. Allowable statewide activities include:[16]

- developing and implementing programs and strategies including:
  - incumbent worker, training programs, and customized training,
  - sectoral and industry cluster strategies,
  - industry or sector partnerships,
  - career pathway programs,
  - microenterprise and entrepreneurial training and support programs,
  - utilization of effective business intermediaries,
  - layoff aversion strategies,
  - activities to improve connections between the one-stop delivery system in the state and all employers in the state, and
  - other services and strategies that engage employers in workforce investment activities and make the workforce development system relevant to the needs of state and local businesses
- implementing programs and practices that:
  - increase the number of individuals training for and placed in non-traditional employment, and
  - provide support for education, training, skill upgrading, and statewide networking for employees to become and maintain proficiency as workplace learning advisors;
- developing strategies for serving individuals with barriers to employment and coordinating programs and services among one-stop partners;
- developing and disseminating common intake procedures;
- developing or identifying education and training programs that:
  - respond to real-time labor market analysis,
  - utilize direct assessment and prior learning assessment to measure and provide credit for prior knowledge, skills, competencies, and experiences,
  - evaluate skills and competencies for adaptability,
  - ensure credits are portable and stackable for more skilled employment, and
  - accelerate course or credential completion;

- conducting research and demonstrations related to employment and education needs of youth, adults and dislocated workers;
- supporting financial literacy activities and the provision of career services in the one-stop delivery system in the state;[17]
- providing incentive grants to local areas for performance by the local areas on local performance accountability measures;
- providing technical assistance to:
  - local boards, CEOs, one-stop operators, one-stop partners, and eligible providers in local areas on the development of programs and the provision of technology to enable remote access to one-stop delivery system services;
  - local areas implementing WIOA pay-for-performance contract strategies and conducting evaluations of those strategies;[18]
- activities enabling remote access to one-stop delivery system training services;
- activities that include:
  - improving coordination of workforce investment and economic development activities,
  - improving coordination of employment and training activities with child support services and activities, cooperative extension programs carried out by the Department of Agriculture, programs carried out by local areas for individuals with disabilities, adult education and literacy activities including those provided by public libraries, activities in the correction systems to assist ex-offenders in reentering the workforce and financial literacy activities, and
  - developing and disseminating workforce and labor market information;
- adopting, calculating, or commissioning for approval of an economic self-sufficiency standard for the state specifying the income needs of families, by family size, number and ages of children in the family, and geographical considerations; and
- coordinating activities with the child welfare system enabling provision of services for children and youth who are eligible for assistance under Section 477 of the Social Security Act.

### *Disclaimer*

This policy is based on NDOL's reading of the statute along with the NPRM. This policy is subject to change as additional Federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final Federal regulations are released in early 2016.

## Attachment A

### Request for Additional Assistance

Local Area Name:	
Local Area Representative Name: Address: Phone: Email:	

1. Describe in detail the circumstances leading to an increased rate of unemployment in your local area due to plant closings, mass layoffs, labor-force reductions, and/or natural or other disasters. This description should include past and projected dislocation events, timeframes of the events, names and locations of affected businesses, and the number of affected workers.
2. Has the local area obligated all of its current year base and advance dislocated worker funds?
3. Has the local area expended at least 50% and obligated at least 80% of its current year base and advance dislocated worker funds?
4. Enter the number of new dislocated worker enrollees resulting from use of the Additional Assistance funds.
5. Enter the amount of Additional Assistance funds requested.
6. Provide projected the date all requested Additional Assistance funds will be expended.
7. Attach an itemized budget detailing the planned use of the requested Additional Assistance funds.

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signature of Local Area Representative named above

date

Submit completed application with the itemized budget to:

- Joan Modrell at joan.modrell@nebraska.gov
- WIOA Policy Mailbox at ndol.wioa\_policy@nebraska.gov

- 
- [1] WIOA Sec. 134(a)(2); 20 CFR § 682.310(a)
- [2] WIOA Sec. 133(a)(2)
- [3] WIOA 108(b)(8); 20 CFR § 679.560(b)(7)
- [4] 20 CFR § 682.320(b)
- [5] WIOA Sec. 3(51)
- [6] WIOA Sec. 134(a)(2)(A)(i)(I)-(II)
- [7] 29 USC § 2101 *et seq.*
- [8] TEGL 3-15
- [9] 20 CFR § 682.330; TEGL 3-15
- [10] Coordinated response may include developing an application for a national dislocated worker grant as specified under WIOA Sections 101(38) and 134(a)(2)(A).
- [11] 20 CFR 682.330(i)
- [12] WIOA Sec. 134(a)(2)(i)(II); 20 CFR § 682.350
- [13] 20 CFR § 682.330(k)
- [14] 20 CFR § 682.340
- [15] WIOA Sec. 134(a)(2)(A)(ii) and (B); 20 CFR 682.370
- [16] 20 CFR § 682.370; WIOA Sections 129(b)(2) and 134(a)(3)
- [17] 20 CFR §§ 678.430 and 681.500; WIOA Sections 129(b)(2)(C) and (D) and 134(c)(2)
- [18] Technical assistance may include providing assistance with data collections, meeting data entry requirements, and identifying level of performance (see WIOA Sec. 134(a)(3)(A)(xiv)).

## Interim Policy on Record Retention

### *Reference*

Workforce Innovation and Opportunity Act, Section 185; 2 CFR § 200.37; 2 CFR § 200.69; 2 CFR § 200.74; 2 CFR § 200.92; 2 CFR § 200.93; 2 CFR § 200.333; 2 CFR § 200.336; 2 CFR § 200.337; Nebraska Records Management Act, Neb. Rev. Stat. 84-1201, et seq.; Nebraska Public Records Law, Neb. Rev. Stat. 84-712, et seq.; Interagency Workfare Contract between Nebraska Department of Labor and Nebraska Department of Health and Human Services.

### *Background*

Recipient and sub-recipients of Workforce Innovation and Opportunity Act (WIOA) funds are required to keep records that are sufficient to prepare required reports and to trace funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully.[1]

### *Action*

After a 10-day review period, this policy will be considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox: [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

### *Policy*

#### Record Keeping Generally

Recipients of WIOA funds must keep records sufficient to prepare the required reports by the Secretary of Labor and to trace funds to a level of expenditure adequate to ensure that the funds have been spent lawfully.

#### Definitions

Federal awarding agency means the Federal agency that provides a Federal award directly to a non-Federal entity.[2]

Non-Federal entity means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.[3]

Pass-through entity means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.[4]

Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It

does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.[5]

Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.[6]

#### Retention Period[7]

Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of 3 years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient.

Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:

1. If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
2. When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
3. Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.
4. When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity.
5. Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.

Pursuant to interagency contract between the Nebraska Department of Labor and the Nebraska Department of Health and Human services, all records related to the delivery of services under the Workfare program must be maintained for a period of 6 years from the date of final payment, or until all issues related to an audit, litigation, or other actions are resolved, whichever is longer.

All grantee's and sub-grantee's contracts must contain provisions that:

1. allow access by the grantee, the sub-grantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audits, examinations, excerpts, and transcriptions; and
2. mandate retention of all required records for 3 years after grantees or sub-grantees make final payments or for a period of not less than 3 years from the date of resolution of a complaint, whichever date is later.

#### Access to Records[8]

The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents.

Only under extraordinary and rare circumstances would such access include review of the true name of victims of a crime. Routine monitoring cannot be considered extraordinary and rare circumstances that would necessitate access to this information. When access to the true name of victims of a crime is necessary, appropriate steps to protect this sensitive information must be taken by both the non-Federal entity and the Federal awarding agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by the head of the Federal awarding agency.

The rights of access are not limited to the required retention period but last as long as the records are retained. Federal awarding agencies and pass-through entities must not impose any other access requirements upon non-Federal entities.

#### Public Access to Records[9]

No Federal awarding agency may place restrictions on the non-Federal entity that limits public access to the records of the non-Federal entity pertinent to a Federal award, except for protected personally identifiable information (PII) or when the Federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the Federal awarding agency. The Freedom of Information Act (5 U.S.C. 552) (FOIA) does not apply to those records that remain under a non-Federal entity's control except as required under 2 CFR § 200.315 Intangible property. Unless required by Federal, state, local, and tribal statute, non-Federal entities are not required to permit public access to their records. However, public access to certain types of records may fall under the Nebraska Public Records Law, Neb. Rev. STAT. 84-712 *et seq.*

The recipients and sub-recipients shall be responsible to establish information security procedures to safeguard confidential data in all records retained.

#### Destruction of Hard Copy Records

All request for the destruction of any records must comply with the record retention requirements found in this policy in addition to the requirements set forth in the Nebraska Records Management Act, Neb. Rev. Stat. 84-1201, et seq. and must be consistent with Nebraska Department of Labor Record Retention Schedules found on the Nebraska Secretary of State website at [www.sos.ne.gov](http://www.sos.ne.gov).

#### Enforceability and Legal Effect of Digital/Electronic Files

Electronic records will not be denied legal effect or enforceability as related to this policy. All records, regardless of the media on which they reside must be retained for the minimum retention period required by the nature of the record.

#### *Disclaimer*

This interim policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional Federal regulations and TEGs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final Federal regulations are released in early 2016.

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[1] WIOA Sec. 185 (a)(1)

[2] 2 CFR § 200.37

[3] 2 CFR § 200.69

[4] 2 CFR § 200.74

[5] 2 CFR § 200.92

[6] 2 CFR § 200.93

[7] 2 CFR § 200.333

[8] 2 CFR § 200.336

[9] 2 CFR § 200.337

## **Preliminary Policy on the Request for Local Board Certification**

### *Reference*

Workforce Innovation and Opportunity Act, Sec. 107; Training and Employment Guidance Letter (TEGL) 19-14; Preliminary Policy on Criteria for Local Workforce Development Boards.

### *Background*

Sec. 107(a) of the Workforce Innovation and Opportunity Act (WIOA) states: “There shall be established in each local area of a State, and certified by the Governor of the State, a local workforce development board, to set policy for the portion of the statewide workforce investment system within the local area...”

### *Action*

Initial certification of the local Workforce Development Board will be completed by June 30, 2015, with the certification request submitted to the State no later than May 29, 2015.

### *Policy*

#### Certification of the Local Board

The Governor shall, once every two years, certify one local board for each local area in the state.[1] Such certification shall be based on the composition criteria established under Sec. 107(b) and, for a second or subsequent certification, the extent to which the local board has ensured that workforce development activities carried out in the local area have enabled the local area to meet the local performance measures and achieve sustained fiscal integrity.[2] [Sustained fiscal integrity means that the Secretary has not made a formal determination, during either of the last two (2) consecutive years preceding the determination of such integrity, that either the grant recipient or the administrative entity of the area misexpended funds under WIOA or, if applicable, WIA, due to willful disregard of requirements, gross negligence, or failure to comply with accepted standards of administration.][3] For information on local board member qualifications, see NDOL’s “Preliminary Policy on Criteria for Local Workforce Development Boards.”

Failure of a local board to achieve certification shall result in appointment and certification of another local board for the local area pursuant to the process described in Sec. 107(c)(1) and Sec. 107(c)(2).[4]

Initial certification of the local Workforce Development Board will be completed by June 30, 2015, with the certification request submitted to the State no later than May 29, 2015.

NDOL highly recommends that local areas consult with the appropriate state leadership of the WIOA core programs when considering appointments of any potential board member representing WIOA core programs.

#### Request Submission

Local Workforce Development Boards are required to complete the attached Local Workforce Development Board Certification Request and Local Workforce Development Board Members List [Attachment B] and submit them to NDOL by 5:00 p.m. on May 29, 2015. Requests submitted after this deadline will not be accepted.

Submit such requests electronically to Joan Modrell at [joan.modrell@nebraska.gov](mailto:joan.modrell@nebraska.gov).

#### *Disclaimer*

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

## *Attachment A*

### Instructions for Filling out the Local Workforce Development Board Certification Request and Local Workforce Development Board Members List [Attachment B]

#### General

In accordance with WIOA Sec. 107(b)(5) and the NDOL Preliminary Policy on Criteria for Local Workforce Development Boards, members appointed to the board that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities. An individual with “optimum policy-making authority” means an individual who can reasonably be expected to speak affirmatively on behalf of the entity he/she represents and to commit that entity to a chosen course of action.[5]

All representatives of business must represent businesses, including small businesses, with employment opportunities that reflect the employment opportunities of the local area. At a minimum, the H3 (high-wage, high skill, high demand) criteria and occupations must be used to define a local area’s high quality, in-demand industry sectors and occupations.[6]

Additionally, representatives of the workforce and representatives of education and training may include representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment needs of individuals with barriers to employment. An individual with “demonstrated experience and expertise” means an individual who:

- Is a workplace learning advisor;
- Contributes to the field of workforce development, human resources, training and development, or a core program function; or
- The local board recognizes for valuable contributions in education or workforce development related fields.[7]

Documentation that board members meet these criteria (e.g., resumes, certifications, etc.) must be submitted along with this request for local board certification.

## Instructions

1. In accordance with WIOA Sec. 107(b)(3), the local board shall elect a chairperson from among the representatives of business on the local board. Enter the chairperson's information in the first line.
2. Indicate whether the action associated with the appointee is an appointment, a reappointment, or if the appointment is to a vacant position. Use the following abbreviations:
  - a. A: Appointment
  - b. R: Reappointment
  - c. V: Appointment to Vacant Position
3. Identify the appointee by name and title, and list the appointee's company name, address, and phone number
4. Identify the membership category ("Sector") the appointee represents. Use the following abbreviations:
  - a. Bus: Representatives of business in accordance with WIOA Sec. 107(b)(2)(A)
  - b. Lab: Representatives of the workforce within the local area in accordance with in accordance with WIOA Sec. 107(b)(2)(B)
  - c. Educ: Representatives of adult education and literacy/higher education in accordance with WIOA Sec. 107(b)(2)(C)
  - d. Econ: Representatives of governmental and economic community development entities in accordance with WIOA Sec. 107(b)(2)(D)
5. Verify that the appointee is an individual with optimum policymaking authority (or policymaking or hiring authority in the case of a business representative) by entering "Yes" in the appropriate cell. Documentation that supports this verification must be attached.
6. Verify that any appointee representing business is an individual that represents H-3 criteria and occupations by entering "Yes" in the appropriate cell. For all other categories of representatives, enter "Not applicable." Documentation that supports this verification must be attached.
7. Verify that any appointee representing the workforce and representatives or education and training who is a representative of a community-based organization that has demonstrated experience and expertise in addressing the employment needs of individuals with barriers to employment. If there is no such representative, enter "Not applicable." Documentation that supports this verification must be attached.
8. Identify the nominating organization by name. Documentation of the nominating organization must be attached.

## *Attachment B*

### Local Workforce Development Board Certification Request

Local Board Name:	
Contact Person:	
Telephone:	
Date:	

### Local Workforce Development Board Membership Certification

The Workforce Innovation and Opportunity Act (WIOA) Sec. 107(a)-(c) provides for the requirements for nominating and selecting members in each membership category. WIOA Sec. 107(b)(2)(A) requires that business members constitute the majority of the Workforce Development Board (local board). Per WIOA Sec. 107(b)(3), the chairperson of the local board shall be a business representative.

I certify that the below listed members of the [Named local area board] were appointed in a manner required by WIOA Sec. 107(b)(2), and that the local board chairperson was elected from among the representatives of business on the local board in accordance with WIOA Sec. 107(b)(3).

\_\_\_\_\_  
*Local Workforce Development Board Chair Signature*

\_\_\_\_\_  
*Date*

### Local Workforce Development Board Members List

[illegible]

- [1] WIOA Sec. 107(c)(2)(A)  
[2] WIOA Sec. 107(c)(2)(B)  
[3] WIOA Sec. 106(e)(2)  
[4] WIOA Sec. 107(c)(2)(C)

## **Preliminary Policy on the Role and Responsibilities of Chief Elected Officials**

### *Reference*

The Workforce Innovation and Opportunity Act, Section 3, 107, 108, and 121.

### *Background*

The chief elected official is the chief elected executive officer of a unit of general local government in a local area.[1] In a case in which a local area includes more than one (1) unit of general local government, the chief elected officials of such units may execute an agreement that specifies the respective roles of individual elected officials in the appointment of members of the local board from the individuals nominated or recommended to be such members in accordance with standards set forth in 107(b); and in carrying out any other responsibilities assigned to such officials under Title I.[2]

### *Action*

This policy is effective July 1, 2015; however, note that the request for certification of the local board is due to the State on May 29, 2015.

### *Policy*

#### Appointment of the Members of the Local Workforce Development Board

The chief elected official (CEO) in a local area is authorized to appoint the members of the local workforce development board in accordance with State criteria established by the Governor in partnership with the State board.[3]

The Workforce Innovation and Opportunity Act (WIOA) provides that a majority of the members of each local board shall include representatives of business in the local area who are owners of businesses, chief executive or operating officers of businesses, and other business executives or employees with optimum hiring or policymaking authority. These persons are to represent businesses, including small businesses, or organizations representing businesses, that provide employment opportunities that reflect the employment opportunities that, at a minimum, include high-quality, work-relevant training and development in in-demand industry sectors or occupations in the local area. They are to be appointed from among individuals nominated by local business organizations and business trade associations. [4]

WIOA also provides that the members of each local board shall include:

- Representatives of the workforce within the local area. The workforce members shall constitute not less than 20 percent of the members of the local board. This portion of the local board:

- Must include representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor federations, or (for a local area in which no employees are represented by such organizations), other representatives of employees.[5]
  - Must include a representative who shall be a member of a labor organization or a training director, from a joint-labor management apprenticeship program, or if no such program exists in the area, such a representative of an apprenticeship program in the area, if one exists.[6]
  - May include representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment needs of individuals with barriers to employment, including organizations that serve Veterans or that provide or support competitive integrated employment for individuals with disabilities.[7]
  - May include representatives of organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including representatives of organizations that serve out-of-school youth.[8]
- Representatives of entities administering education and training activities in the local area.
  - These persons must include a representative of eligible providers administering adult education and literacy activities, and a representative of institutions of higher education providing workforce investment activities (including community colleges). These persons may include representatives of local education agencies, and of community-based organizations with demonstrated experience and expertise in addressing the education or training needs of individuals with barriers to employment;[9]
  - If there are multiple eligible providers serving the local area by administering adult education and literacy services, or multiple institutions of higher education serving the local area by providing workforce investment activities, each representative from this category of local board composition shall be appointed from among individuals nominated by local providers representing such providers or institutions, respectively;[10]
- Representatives of governmental and economic and community development entities serving the local area. These persons must include a representative of economic and community development entities, a representative from the State employment office under the Wagner-Peyser Act serving the local area, and a representative of vocational rehabilitation programs serving the local area. These persons may also include representatives of agencies or entities administering programs serving the local area relating to transportation, housing, and public assistance, as well as representatives of philanthropic organizations serving the local area;[11] and
- May include such other individuals or representatives of entities as the CEO in the local area may determine to be appropriate.[12]

As with the representatives of business, each of the representatives of other sectors are to be individuals with optimum policymaking authority within the entities they represent.[13] A majority of the members of the local board are to be representatives of business in the local area.[14]

For further details on local board composition, see the Preliminary Policy on Criteria for Local Workforce Development Boards Policy.

The request for certification of the local board is due to the State May 29, 2015. The Governor will certify the local board by June 30, 2015.

#### Local Grant Recipient for Funds Allocated to the Local Area

The CEO in a local area shall serve as the local grant recipient for, and shall be liable for any misuse of, the grant funds allocated to the local area, unless the CEO reaches an agreement with the Governor for the Governor to act as the local recipient and bear such liability.[15]

In order to assist in the administration of the grant funds, the CEO or the Governor, where the Governor serves as the grant recipient for the local area, may designate an entity to serve as a local grant subrecipient for such funds or as a local fiscal agent. Such designation shall not relieve the CEO or the Governor of the liability for misuse of the funds.[16]

#### *The CEO Agreement*

Options available to the CEO may include, but are not limited to:

- Name one CEO (and their unit of general local government) to serve as grant recipient;
- Negotiate with the Governor for the Governor to serve as grant recipient or to appoint a grant subrecipient or fiscal agent;
- Appoint an entity to serve as the grant subrecipient or fiscal agent and document such appointment in the CEO agreement; or
- Other locally developed procedures consistent with the Act and described in the CEO agreement

Further, the CEO agreement should respond to the following:

- If a single CEO is appointed as grant recipient, will the unit of general local government of that CEO bear full liability for misuse of grant funds?
- Will the liability for misuse of grant funds be vested proportionately among the units of general local government based on population, number of participants, or other factors determined locally?

- If the CEOs appoint a grant subrecipient or fiscal agent, will there be a written agreement with that entity and is it understood that such designation shall not relieve the CEO or the Governor (where the Governor serves as the local grant recipient for a local area) of the liability for any misuse of grant funds?

### Submission of the Local Plan

For the first year of WIOA implementation, local areas will be asked to modify existing local plans and submit the modified plans to serve as “transitional” plans.

Each local board shall develop and submit to the Governor a 4-year local plan (beginning July 1, 2016), in partnership with the CEO. The local plan shall support the strategy described in the State plan in accordance with section 102(b)(1)(E), and otherwise be consistent with the State plan. If the local area is part of a planning region, the local board shall comply with section 106(c) in the preparation and submission of a regional plan. At the end of the first 2-year period of the 4-year local plan, each local board shall review the local plan and the local board, in partnership with the CEO, shall prepare and submit modifications to the local plan to reflect changes in labor market and economic conditions or in other factors affecting the implementation of the local plan.[17]

### *The CEO Agreement*

Options available to the CEO may include, but are not limited to:

- Review and approve, as a body, the plan as developed by the Local Workforce Development Board;
- Appointment of a committee of CEOs to develop the plan in conjunction with a similar committee of the local Workforce Development Board;
- Designate one or more CEOs to serve on the Local Workforce Development Board’s planning committee;
- Designate one or more CEOs to monitor the Local Workforce Development Board’s planning committee and report to the CEOs; or
- Other locally developed procedures consistent with the Act and described in the CEO agreement.

### Approval of the Designation and Certification of One-Stop Operators

Consistent with an approved State plan, the local board, with the agreement of the CEO, is authorized to designate or certify one-stop operators and to terminate for cause the eligibility of such operators.[18]

Required one-stop partners are entities that carry out the following:

- Programs carried out under Title I [Workforce Development Activities] of WIOA;
- Programs authorized under Wagner-Peyser;
- Adult education and literacy activities authorized under Title II of WIOA;

- Programs authorized under Title I of the Rehabilitation Act of 1973 (other than Sec. 112 [Client Assistance Program under Basic Vocational Rehabilitation Services] or part C [American Indian Vocational Rehabilitation Services] of Title I of such Act);
- Activities authorized under Title V [Community Service for Older Americans] of the Older American Act of 1965;
- Career and technical education programs at the postsecondary level authorized under the Carl D. Perkins Career and Technical Education Act of 2006;
- Activities authorized under chapter 2 [Adjustment Assistance for Workers] of Title II of the Trade Act of 1974;
- Activities authorized under chapter 41 of title 38, United States Code [Job Counseling, Training, and Placement Service for Veterans];
- Employment and training activities carried out under the Community Services Block Grant;
- Employment and training activities carried out by the Department of Housing and Urban Development;
- Programs authorized under State unemployment compensation laws;
- Programs authorized under section 212 [Responsible reintegration of offenders] of the Second Chance Act of 2007; and
- Programs authorized under part A [Block Grants to States for Temporary Assistance to Needy Families] of Title IV of the Social Security Act, unless the option to remove the entity carrying out such programs as a required partner is exercised by the Governor in accordance with WIOA Sec. 121(b)(1)(C).[19]

With the approval of the local board and CEO, other entities that carry out workforce development programs may be one-stop partners for the local area and carry out responsibilities described in Sec. 121(b)(1)(A).[20]

### *The CEO Agreement*

Options available to the CEO may include, but are not limited to:

- Review and approve, as a body, actions taken by the Local Workforce Development Board relating to the designation of one-stop operators and their termination for cause;
- Appointment of a committee of CEOs to review actions of the Local Workforce Development Board relating to designation of one-stop operators and their termination for cause; or
- Other locally developed procedures consistent with the Act and described in the CEO agreement.

### Memorandum of Understanding with One-Stop Partners

The local board, with the agreement of the CEO, shall develop and enter into a memorandum of understanding (between the local board and one-stop partners) concerning the operation of the one-stop delivery system in the local area.[21]

### *The CEO Agreement*

Options available to the CEO may include, but are not limited to:

- Review and approve, as a body, the memorandum of understanding developed by the Local Workforce Development Board;
- Appoint a committee of CEOs to assist the Local Workforce Development Board (or relevant committees thereof) in the development of the memorandum of understanding;
- Appoint a committee of CEOs to review and approve the memorandum of understanding; or
- Other locally developed procedures consistent with the Act and described in the CEO agreement.

### Oversight of the One-Stop Delivery System

Consistent with an approved State plan, the local board for a local area, with the agreement of the CEO, shall conduct oversight with respect to the one-stop delivery system in the local area.[22]

### *The CEO Agreement*

Options available to the CEO may include, but are not limited to:

- Review and approve, as a body, monitoring activities of the Local Workforce Development Board;
- Appoint CEOs from the local area to serve on a monitoring committee of the body of CEOs, which will review and approve monitoring activities of the Local Workforce Development Board;
- Appoint one or more CEOs from the local area to serve on the monitoring committee of the Local Workforce Development Board; or
- Other locally developed procedures consistent with the Act and described in the CEO agreement.

### Local Workforce Development Board Budget

The local board shall develop a budget for the activities of the local board, consistent with the local plan and the duties of the local board, subject to the approval of the CEO.[23]

### *The CEO Agreement*

Options available to the CEO may include, but are not limited to:

- Review and approve, as a body, the budget of the Local Workforce Development Board;

- Appoint CEOs to serve on a budget committee of the body of CEOs, which will review and approve monitoring activities of the Local Workforce Development Board, with or without further approval by the CEOs as a body;
- Appoint one or more CEOs to serve on the budget committee of the Local Workforce Development Board; or
- Other locally developed procedures consistent with the Act and described in the CEO agreement.

### *Disclaimer*

This policy is based on NDOL's initial reading of the statute without any interpretive guidance from USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released that are contrary to or otherwise different from NDOL's interpretation of WIOA. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations and guidelines are established.

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- [1] WIOA Sec. 3(9)
  - [2] WIOA Sec. 107(c)(1)(B)(i)
  - [3] WIOA Sec. 107(c)(1)(A)
  - [4] WIOA Sec. 107(b)(2)(A)
  - [5] WIOA Sec. 107(b)(2)(B)(i)
  - [6] WIOA Sec. 107(b)(2)(B)(ii)
  - [7] WIOA Sec. 107(b)(2)(B)(iii)
  - [8] WIOA Sec. 107(b)(2)(B)(iv)
  - [9] WIOA Sec. 107(b)(2)(C)
  - [10] WIOA Sec. 107(b)(6)
  - [11] WIOA Sec. 107(b)(2)(D)
  - [12] WIOA Sec. 107(b)(2)(E)
  - [13] WIOA Sec. 107 (b)(5)
  - [14] WIOA Sec. 107(b)(2)(A)
  - [15] WIOA Sec. 107(d)(12)(B)(i)(I)
  - [16] WIOA Sec. 107(d)(12)(B)(i)(I)
  - [17] WIOA Sec. 108(a)
  - [18] WIOA Sec. 121(d)(1)
  - [19] WIOA Sec. 121(b)(1)(A) and (B)
  - [20] WIOA Sec. 121(b)(2)(A)
  - [21] WIOA Sec. 121(c)(1)
  - [22] WIOA Sec. 121(a)(3)
  - [23] WIOA Sec. 107(d)(12)(A)

## **Preliminary Policy on Salary and Bonus Limitations**

### *Reference*

Workforce Innovation and Opportunity Act, Sections 101, 107, and 194; Workforce Innovation and Opportunity Act - Notice of Proposed Rulemaking, 20 CFR §683.290; 2 CFR Part 200 Uniform Requirements, Cost Principles, and Audit Requirements for Federal Awards Final Rule (Uniform Guidance)

### *Background*

WIOA provides limitations on the salaries and bonuses of recipients or subrecipients of Title I Workforce Development Activities and the Wagner-Peyser Act.

Although WIOA applies these limitations to WIOA Title I funding, the United States Department of Labor (USDOL) expanded application to Wagner-Peyser Act recipients and subrecipients. The appropriations acts for the last 9 years (Pub. L. 109-234 June 15, 2006) have applied to all Employment and Training Administration (ETA) funded programs; thus, interpreting the provision as applying to Wagner-Peyser funded activities is appropriate. Additionally, it is USDOL's policy to ensure that funding is directed to substantive workforce employment and training activities to the greatest extent possible, rather than to administrative costs.[1]

### *Action*

The provisions of this policy go into effect on July 1, 2015.

### *Policy*

#### General Requirements Concerning Salary and Bonus Limitations

None of the funds available under Title I Workforce Development Activities, or under the Wagner-Peyser Act, shall be used by a recipient or subrecipient of such funds to pay the salary and bonuses of an individual, either as direct or indirect costs, at a rate in excess of the annual rate of basic pay prescribed for level II of the Executive Schedule under Section 5313 of title 5, United States Code.[2] A salary table providing this rate is listed on the Federal Office of Personnel Management Web site ([www.opm.gov](http://www.opm.gov)) under Federal Salaries & Wages. These levels are adjusted annually and the Web site is updated annually. For FY 2015, the limit is set at \$183,300.[3]

In a case in which a State is a recipient of such funds, the State may establish a lower limit than is prescribed for level II of the Executive Schedule under Section 5313 of title 5, United States Code, taking into account factors including the relative cost of living in the State, the compensation levels for comparable State or local government employees, and the size of the organizations that administer the Federal program involved.[4]

## Contractors

This limitation does not apply to contractors providing goods and services as defined in in the OMB's Uniform Guidance (which supersedes OMB Circular A-133 cited in the statute).[5] USDOL has used the term "contractors" instead of the statutory term "vendor" to ensure consistency with the term as defined in §200.23 of the Uniform Guidance.[6] In accordance with §200.330 of the Uniform Guidance, characteristics indicative of a contractor are:

- Provides the goods and services within normal business operations;
- Provides similar goods or services to many different purchasers;
- Normally operates in a competitive environment;
- Provides goods or services that are ancillary to the operation of the Federal program; and
- Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.[7]

## Directors and Staff Hired by State or Local Boards

The State board may hire a director and other staff to assist in carrying out its functions described in Sec. 101(d) using funds available as described in 129(b)(3) (Statewide Youth Workforce Development Activities) or 134(a)(3)(B)(i) (Limitation on Allowable Statewide Adult and Dislocated Worker Employment and Training Activities).[8] The local board may also hire a director and other staff in order to assist in carrying out its functions described in 107(d) using funds available under 128(b) (Within State Allocations for Youth Workforce Development Activities) and 133(b) (Within State Allocations for Adult and Dislocated Worker Employment and Training Activities) as described in 128(b)(4) (Local Administrative Cost Limit).[9] In either case, the director and staff shall be subject to the limitations on the payment of salary and bonuses described in Sec. 194(15).[10]

## Employees Funded by More than One Program or Employed by More than One Office

In terms of an employee who is funded by more than one program or works for more than one office, if funds awarded under Title I of WIOA or the Wagner-Peyser Act pay only a portion of such an employee's salary or bonus, such funds may only be charged for the share of the employee's salary or bonus attributable to the work performed on the respective program's grant. That portion cannot exceed the proportional Executive level II rate. This restriction applies to the sum of salary and bonus payments made to an individual whether they are charged as direct costs or indirect costs under title I of WIOA and Wagner-Peyser.[11]

When an individual is working for the same recipient or subrecipient in multiple offices that are funded by title I of WIOA or the Wagner-Peyser Act, the recipient or subrecipient must ensure that the sum of the individual's salary and bonus payments does not exceed the prescribed level II of the Executive Schedule limitation.[12] This helps to ensure that

WIOA and Wagner-Peyser Act funds are not overcharged for salary and bonus payments and that there are no “loopholes” in applying the limitation.[13]

### *Disclaimer*

This policy is based on NDOL’s reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

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[1] WIOA NPRM

[2] WIOA Sec. 194(15)(A), 20 CFR §683.290(a)

[3] <http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2015/EX.pdf>

[4] WIOA Sec. 194(15)(B), 20 CFR §683.290(d)

[5] WIOA Sec. 194(15)(B), 20 CFR §683.290(c)

[6] WIOA NPRM

[7] 20 CFR §683.290(c)

[8] WIOA Sec. 101(h)(3)

[9] WIOA Sec. 107(f)

[10] WIOA Sections 101(h) and 107(f)

[11] 20 CFR §683.290(b)

[12] 20 CFR §683.290(e)

[13] WIOA NPRM

## **Preliminary Policy on Supportive Services**

### *Reference*

Workforce Innovation and Opportunity Act (WIOA) Sections 3, 129, 134, and 171; WIOA Notice of Proposed Rulemaking (NPRM), 20 CFR §§ 680.900, 680.910 through 680.970, 681.570, 688.120.

### *Background*

The Workforce Innovation and Opportunity Act (WIOA) provides supportive service program guidelines for WIOA eligible participants.

### *Action*

This policy takes effect July 1, 2015. Local boards, in consultation with the One-Stop partners and other community service providers, must develop a policy on supportive services that ensures resource and service coordination. This policy should address the criteria set forth in this policy.

### *Policy*

The State Plan must describe how NDOL will implement a strategy for aligning core programs, including a description of how the entities carrying out the respective core programs will coordinate activities and provide comprehensive high-quality services, including supportive services.[1]

### Definitions

“Supportive services” means services such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to enable an individual to participate in activities authorized under WIOA.[2]

In relation to youth participants and YouthBuild activities, supportive services also include, but are not limited to, linkages to community services; assistance with educational testing; reasonable accommodations for youth with disabilities; referrals to medical services; and assistance with uniforms and other appropriate work attire and work-related tools, including such items as eye glasses and protective eye gear.[3] Linkages to community services include, but are not limited to, free legal aid to help with the expungement of criminal records, securing government identification, and linkages to organizations that provide youth the opportunity to develop their leadership skills through service to their respective communities.[4]

## Local Policy on Supportive Services

Local boards, in consultation with the One-Stop partners and other community service providers, must develop a policy on supportive services that ensures resource and service coordination. Such policy should address procedures for referral to such services, including how such services will be funded when they are not otherwise available from other sources.[5] Such policy must include whether or not needs-related payments will be authorized and, if they are, establish the payment level for adults.

Local boards may establish limits on the provision of supportive services or provide the One-Stop operator with the authority to establish such limits, including a maximum amount of funding and maximum length of time for supportive services to be available to participants.[6]

Procedures may be established to allow One-Stop operators to grant exceptions to the limits established.[7] If the local policy allows for needs-related payment exceptions when there is a training delay (described below) beyond thirty days, the policy should address the special circumstances that would qualify for the exception basis.[8]

## Providing Supportive Services

### *Adults and Dislocated Workers Employment and Training Activities*

Supportive services may only be provided to individuals who are:

- Participating in career or training services; and
- Unable to obtain supportive services through other programs providing such services.[9]

Supportive services for adults and dislocated workers may only be provided when they are necessary to enable individuals to participate in career service or training activities.[10]

Funds provided for adult and dislocated worker employment and training activities shall be used to provide career services, which shall be available to adults and dislocated workers through the One-Stop delivery system and shall include the provision of information, in formats that are usable and understandable to One-Stop center customers, relating to the availability of supportive services, including child care, child support, medical or child health assistance under Title XIX or XXI of the Social Security Act, benefits under the Supplemental Nutrition Assistance Program (SNAP), assistance through the earned income tax credit, and assistance under a state program for Temporary Assistance for Needy Families (TANF), and other supportive services and transportation provided through funds made available through such programs, available in the local area.[11]

### *Youth Workforce Development Activities*

The provision of supportive services is one of fourteen program elements required by WIOA in order to support the attainment of a secondary school diploma or its recognized equivalent, entry into post-secondary education, and career readiness for youth participants.[12]

### *YouthBuild Program*

An entity that receives a YouthBuild grant shall use the funds to provide supportive services and provision of needs-based stipends necessary to enable individuals to participate in the program and to assist individuals, for a period not to exceed twelve months after the completion of training, in obtaining and retaining employment, or applying for and transitioning to post-secondary education or training.[13]

### Needs-Based Payments

Local boards must ensure that needs-based payments are made in a manner consistent with 20 CFR §§ 680.930 through 680.970.[14] Needs-related payments provide financial assistance to participants for the purpose of enabling them to participate in training and are one of the supportive services authorized by WIOA. Unlike other supportive services, in order to qualify for needs-related payments a participant must be enrolled in training.[15] The provision of needs-related payments is a discretionary local area activity.

Funds allocated to the local area may be used to provide needs-related payments to adults and dislocated workers, respectively, who meet eligibility requirements.

### *Eligibility*

Adults must meet all of the following conditions:

- be unemployed;
- not qualify for, or have ceased qualifying for, unemployment compensation; and
- be enrolled in a program of training services under Sec. 134(c)(3) of WIOA.[16]

Dislocated Workers must:

- Be unemployed, and:
  - Have ceased to qualify for unemployment compensation or trade readjustment allowance under Trade Adjustment Assistance (TAA); and
  - Be enrolled in a program of training services under Sec. 134(c)(3) of WIOA by the end of the 13th week after the most recent layoff that resulted in a determination of the worker's eligibility as a dislocated worker, or, if later by the end of the 8th week after the worker is informed that a short-term layoff will exceed 6 months;[17] or
- Be unemployed and did not qualify for unemployment compensation or trade readjustment assistance under TAA and be enrolled in a program of training services under Sec. 134(c)(3) of WIOA.[18]

### Payments

#### *Adults*

The payment level for adults must be established by the Local Board.[19]

#### *Dislocated Workers*

The payment level for dislocated workers must not exceed the greater of either of the following:

- The applicable weekly level of the unemployment compensation benefit for participants who were eligible for unemployment compensation as a result of the qualifying dislocation; or
- The poverty level for an equivalent period, for participants who did not qualify for unemployment compensation as a result of the qualifying layoff. The weekly payment level must be adjusted to reflect changes in total family income as determined by Local Board policies.[20]

#### *Training Delay*

Needs-related payments may be paid while a participant is waiting to start training classes provided the participant has been accepted in a training program that will begin within thirty (30) calendar days. Local areas may extend the 30 day period on an exception basis to address appropriate circumstances.[21] If local areas choose to do so, the availability of such extension must be noted in the local plan. Documentation for the extension should be kept in the participant's case file.

#### *Disclaimer*

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional

federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

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- [1] WIOA Sec. 102(b)(2)(B)(iii)
- [2] WIOA Sec. 3(59)
- [3] 20 CFR §§ 681.570 and 688.120
- [4] WIOA NPRM Section-by-Section Discussion of Proposal
- [5] 20 CFR § 680.900
- [6] 20 CFR § 680.920(a)
- [7] 20 CFR § 680.920(b)
- [8] Strategic Five-Year State Workforce Investment Plan, p. 75-76
- [9] WIOA Sec. 134(d)(2)(A) and (B), 20 CFR § 680.910(a)
- [10] 20 CFR § 680.910(b)
- [11] WIOA Sec. 134(c)(2)(A)(ix)(I)
- [12] WIOA Sec. 129(c)(2)(G)
- [13] WIOA Sec. 171(c)(2)(A)(vii)
- [14] 20 CFR § 680.900
- [15] 20 CFR § 680.930
- [16] 20 CFR § 680.940
- [17] 20 CFR § 680.950(a)
- [18] 20 CFR § 680.950(b)
- [19] 20 CFR § 680.970(a)
- [20] 20 CFR § 680.970(b)
- [21] 20 CFR § 680.960

## **Interim Policy on the Trade Adjustment Assistance Program under the Trade Act of 2002**

### *Reference*

The Trade Act of 2002; the Trade Act of 1974, as amended; the Workforce Innovation and Opportunity Act; Omnibus Trade Act of 2010; State Plan; 20 CFR part 617 and 618; 29 CFR part 90; 41 CFR part 301-11; Federal Register, Vol. 75, No.63/April 2, 2010; revised Trade Act Participant Report; TEGL 16-10, Ch. 2, TEGL 14-14, and TEGL 5-15, Attachment A.

### *Background*

In the One-Stop environment established by WIOA, multiple enrollments with a broad range of partners and programs shall take place in order to produce successful outcomes for trade-impacted workers. The Trade Adjustment Assistance Reform Act of 2002 amended and added provisions to the TAA program including a program of Health Coverage Tax Credits (HCTC) for certain trade-impacted workers and others. It also created the Alternative Trade Adjustment Assistance Program (ATAA) for Older Workers program and a separate TAA program for farmers. Workers covered by the 2002 Amendments before the 2009 Amendments went into effect on May 18, 2009 are identified by petition numbers ranging from 50,000 to 69,999. These workers are subject to the provisions of the 2002 Amendments. Due to the expiration of provisions under the Omnibus Trade Act, workers in the TAA program covered by petitions received after February 14, 2011, were also served under the provisions of the 2002 Amendments, as if the 2009 Amendments never existed. However, regulatory changes to program administration and funding codified at 29 CFR part 618 and reporting required through the revised Trade Act Participant Report (TAPR) continued to apply. Petitions and workers covered by petitions received on or after February 15, 2011 (identified by a petition number greater than or equal to 80,000) became subject to the provisions of the 2002 Amendments. Workers covered by those petitions may be eligible for TAA benefits provided under the 2002 Amendments, including but not limited to the ATAA wage subsidy for certain reemployed older workers. The Trade Adjustment Assistance Extension Act of 2011 (TAAEA) was signed into Law on October 21, 2011. Workers covered under certified petitions numbered 80,000 and above who are receiving TAA benefits and services have the option between December 20, 2011 and March 19, 2012 to choose to receive those benefits and services available under the new program established by the TAA Extension Act of 2011. These benefits are provided at no expense to employers. HCTC expired on January 1, 2014. Beginning January 1, 2014, every eligible TAA recipient became responsible for paying his/her full health coverage premiums without HCTC; and all individuals now have a range of options in Health Insurance Marketplaces and may be eligible for new tax credits for health insurance or expanded Medicaid options.

The authorization for the TAA program was set to expire on December 31, 2014. However, Congress took action on December 13, 2014, by passing the FY 2015 Omnibus

Appropriations Act, which was signed into law by President Obama on December 16, 2014. Termination provisions relating to the operation of the TAA program, as provided in TEGL 14-14, do not apply to the operation of TAA in FY 2015 (through September 30, 2015).

### *Action*

After a 10-day review period, this policy is considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox, [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

### *Policy*

As a required partner in the One-Stop service delivery system under WIOA, the TAA program is required to be accessible through American Job Centers.[1] Sec. 512(hh) of the Workforce Innovation and Opportunity Act (WIOA) substitutes WIOA for the Workforce Investment Act of 1998 in the Trade Act, and does not change the status of the Trade Adjustment Act (TAA) as a required partner.

### Purpose of TAA

American workers whose jobs (either primarily or secondarily affected) are lost as a result of increased imports or from a shift of production to certain countries may apply for Trade Adjustment Assistance TAA under the Trade Act of 2002. TAA is federal assistance for U.S. Workers who are significantly harmed by U.S. trade policies. TAA benefits are to help workers adjust to the employment problems resulting from increased foreign imports of products which directly compete with, or are like, those produced by the workers' company, causing a significant loss of U.S. jobs.

### Transition from the Reversion 2014 Program to the 2015 Program

Section 405 of the Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015) provides for the transition of workers certified under petitions filed on or after January 1, 2014, and before the date of enactment, from the Reversion 2014 Program to the 2015 Program beginning 90 days after the date of enactment. Since the TAARA 2015 was signed into law on June 29, 2015, the 90-day period will end on 11:59 P.M. EST, September 27, 2015. This means that, beginning on September 28, 2015, the Reversion 2014 Program will end and Reversion 2014 Program participants will be served under the 2015 Program. Reversion 2014 Program participants receiving benefits and services on September 27, 2015, will continue to receive those benefits after that date so long as they continue to meet the requirements for the benefit, as explained in TEGL 5-15, Attachment A (Operating Instructions). All benefits received before September 28, 2015, by a worker under the Reversion 2014 Program (covered by a certification of a petition in the series TA-W-85,000 -89,999) shall be included in any determination of the maximum benefits for which the worker is eligible under the 2015 Program beginning on September 28, 2015. The 2002 Program, 2009 Program, and 2011 Program will continue, and a worker

covered by a certification issued in response to a petition filed before January 1, 2014, will continue to be served under one of these programs based on the petition number associated with that certification.[2]

The Operating Instructions describe how Section 405 of the TAARA 2015 addresses three distinct cohorts of workers: workers covered by certifications of petitions issued before January 1, 2014 (numbered TA-W84,999 and below); workers covered by certifications of petitions, denials of petitions, or pending petitions filed on or after January 1, 2014, and before June 29, 2015 (numbered TAA-W-85,000-89,9999); and workers covered by certifications of petitions issued on or after June 30, 2015 (numbered TA-W-90,000 or above).[3] For more information, see the TAA Program 2015 Policy.

### Establishing Group Eligibility

#### *Who May File a Petition*

Petitions for TAA may be filed by a group of three workers from the same firm at the same job location, a union official, a state or local workforce agency representative in a local American Job Center, an employer official, or a legally authorized representative. Submission of a completed Petition Form signifies a desire to file for both the TAA and Alternative Trade Adjustment Assistance Program.

#### *Time Limit for Filing a Petition*

You must date and submit the Petition Form within 1 YEAR from the date on which the workers were separated or had their hours or wages reduced.

#### *Where to Get Petition Form*

The TAA form is available at all American Job Centers, at the Nebraska Department of Labor (NDOL), Office of Employment and Training (OE&T) in Lincoln at (402) 471-9883, from the Unemployment Insurance TRA benefit staff in Lincoln at (402) 471-9896, or direct from the U.S. Department of Labor (USDOL) Employment and Training web site at [www.doleta.gov](http://www.doleta.gov).

#### *Where the Petition Form Is Filed*

The state shall be prepared to assist petitioners in completing and filing petitions. The TAA petition must be filed simultaneously with both USDOL in Washington, DC and the TAA Coordinator of the state where the firm is located. If the Petition Form includes firms in different states, copies of the completed Petition Form must be filed in each state where firms are located.

Fax the completed Petition Form to 202-693-3585, OR

Mail the completed Petition Form to both:

U.S. Department of Labor  
Office of Trade Adjustment Assistance  
200 Constitution Avenue N.W.  
Room N-5428  
Washington, D.C. 20210

Nebraska Department of Labor  
Office of Employment and Training  
Attention: TAA Coordinator  
550 South 16<sup>th</sup> Street  
PO Box 94600  
Lincoln, Nebraska 68509-4600

If a petition is not received on the same day by both USDOL and NDOL, it will be considered to be filed on the date on which the petition was received by the Office of Trade Adjustment Assistance at USDOL.

#### *Criteria for Certification of Eligibility*

The petition must satisfy two criteria:

1. A significant number or proportion of the workers in the workers' firm, or an appropriate subdivision of such firm, must have become totally or partially separated or be threatened with total or partial separation.
2. The second criterion is satisfied if either A or B below are satisfied:
  - A. (i) sales or production, or both, at the petitioning workers' firm or subdivision must have decreased absolutely, and  
(ii) imports of articles like or directly competitive with articles produced by the petitioning workers' firm or subdivision have increased, and  
(iii) the increase in imports described in (ii) contributed importantly to the petitioning workers' separation or threat of separation and to the decline in sales or production at the firm or subdivision.
  - B. (i) there has been a shift of production by the petitioning workers' firm or subdivision to a foreign country of articles like or directly competitive with the articles which are produced by the firm or subdivision, and  
(ii) one of the following conditions applies:
    - a. the country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;  
or
    - b. the country to which the workers' firm has shifted production of the articles is a beneficiary country under the Andean Trade Preference

- Act, the African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or
- c. there has been or is likely to be an increase in imports of the articles that are like or directly competitive with articles which are or were produced by the firm or subdivision.[4]

The applicable countries are those included in three specific trade-promotion Acts and any others that are parties to free-trade agreements with the United States. The group of countries that are applicable for these purposes may change from time to time; a current list of such countries will be available on the TAA Web site. For shifts of production to countries that do not fall into either of those groups, there is a third criterion that covers actual or prospective increases of imports of like or directly competitive products. The latter criterion does not require that the actual or prospective increases in imports come from the country to which the shift of production occurred.

There are basically two groups of workers that can be certified as eligible to apply for adjustment assistance because the workers are secondarily affected -

- workers who supply components (upstream) to a firm whose workers are certified (primary), or
- workers who perform additional, value-added production and finishing operations (downstream) for a firm whose workers are certified (primary).

Upstream workers must directly supply the primary firm. The articles produced by upstream workers must be directly incorporated into the articles that were the basis for the certification of the primary firm's workers. Supplier chains are often categorized according to "tiers." Firms in the first tier supply components directly to the producer of the final product. Firms in the second tier supply components to firms in the first tier, and so forth. The secondary-worker coverage applies only to workers employed by firms in the first tier. The components supplied to the primary firm by the upstream workers must either account for at least 20% of the production or sales of the upstream firm, or the loss of business with the primary firm by the upstream firm must have contributed importantly to the upstream workers' separations or threat of separations. For upstream workers to be certified as secondarily affected, the import impact on the primary firm can come from increased imports from any country or a shift of production to any country that qualifies under the shift-of-production criteria.

Downstream workers must directly perform additional, value-added production processes, including final assembly or finishing, on the products of the primary firm. Downstream workers can only be certified as secondarily affected if the workers of the primary firm are certified based on increased imports from Canada or Mexico or a shift of production to Canada or Mexico. Also, the downstream workers' firm must have suffered a loss of business with the primary firm that contributed importantly to the workers' separations or threat of separations.

Under the 2002 Act, the TAA program will be responsible for benefits and services provided to workers who are certified as secondarily affected pursuant to petitions received on or after November 4, 2002. The benefits and services available to such workers, and the eligibility criteria applicable to them, are exactly the same as for workers who are certified as primarily impacted.

#### *Petition Fact-Finding Process:*

When the TAA petition is received, USDOL's Office of Trade Adjustment Assistance conducts a fact-finding investigation. The state shall assist the Secretary in the review of the petition by verifying such information and providing other assistance as the Secretary may request. This investigation determines whether increased imports "contributed importantly" to decreased production or sales and total or partial worker separations. It is USDOL's responsibility to investigate the facts. They are required to make an eligibility determination within 40 days after a petition is filed. If the petition is approved, a certification is issued. When a decision has been made by USDOL, the certification or denial is sent to the Nebraska Commissioner of Labor and the Administrative Trade Unit.

#### Establishing Individual Eligibility

The TAA Coordinator in NDOL's OE&T shall provide each affected worker with written certification, what TAA services are available, and how to apply for those services.

Each certification contains an "impact date," which identifies when layoffs or reduction in work schedules began. Certifications also contain a "termination date." Only workers whose last total or partial separation occurred on or after the impact date, and before the termination date, are eligible to apply for TAA services with the exception of instances referred to in 20 CFR § 617.10. Hours of work must have been reduced to 80% or less of their average weekly hours or 80% or less of their average weekly wage. For the purpose of calculating hours, the total hours employed each week will be rounded to the nearest 1/10 of an hour. For example, a worker who is employed between 35.9 and 35.94 hours per week would have his/her hours rounded down to 35.9 hours. Whereas a worker who is employed between 35.95 and 35.99 hours per week, would have his/her hours rounded up to 36 hours per week.

OE&T shall ensure a published notice of the certification is placed in the newspaper in the areas where the certified workers reside or issue written notices to each affected individual.

It is recommended that all dislocated workers go to their local American Job Center even if they are awaiting a decision on TAA certification. Core services are available and will be tracked on NEworks. Eligibility may be determined for the WIOA Title I Dislocated Worker program and, when participants begin receiving WIOA-funded intensive and training services, they shall be tracked on NEworks. Immediately beginning the process of needs assessment improves participation rates and allows individuals more time to consider all of the options available to them. This is particularly critical due to the time

lapse that could occur while awaiting TAA petition determinations. It is important the individual calls the Unemployment Insurance Claim Center where his/her parent claim resides to file an application for an eligibility determination to receive Unemployment Insurance benefits and/or Trade Readjustment Allowances (TRA) payments.

### *Adversely Affected Worker*

An adversely affected worker is an individual who, because of lack of work in adversely affected employment: has been totally or partially separated from such employment; or has been totally separated from employment with the firm in a subdivision of which such adversely affected employment exists.[5]

A voluntary quit can, under some circumstances, be a “lack of work” separation for purposes of qualifying as an adversely affected worker who may apply for Trade Adjustment Assistance.

### *Early Intervention Services*

#### Co-enrollment (Concurrent Participation)

Co-enrollment means enrollment in more than one program at a time, such as, concurrent enrollment in the WIOA Dislocated Worker program and the TAA program. Since most trade-impacted workers are by definition dislocated workers for the purposes of WIOA Title I, it is recommended these individuals enter the One-Stop service delivery system immediately following the announcement of a layoff. Once the certification has been issued, workers shall be informed they are covered by this certification and are eligible to apply for TAA benefits. If approved for a WIOA-funded intensive service or for any TAA training activity, they shall be co-enrolled in the TAA program and the WIOA Dislocated Worker program. Individuals receiving services solely funded by TAA and where no training services are provided (i.e. job search, relocation, waivers) shall not be co-enrolled. Since NEworks is an integrated Management Information System, one record is established for each participant and multiple program services (including Wagner-Peyser, WIOA, Rapid Response, WIOA Dislocated Worker, and Trade Adjustment Assistance) shall be attached to that record in an integrated manner, as needed. For co-enrolled individuals receiving WIOA-funded intensive services and training exclusively funded by TAA, there is no requirement to use providers certified as eligible providers. All partner staff shall continue to work together and use the systems and processes in place to serve the adult and dislocated worker populations, rather than using a parallel process that duplicates services available through the One-Stop system. Memoranda of Understanding between Local Boards and the Trade Act programs may serve as vehicles for articulating opportunities for coordination among programs. By concurrently enrolling these workers in multiple programs, a broader range of resources are available to the dislocated worker.

## Benefits and Services

### *Reemployment Services*

Reemployment services are available to assist unemployed or partially unemployed workers at the local American Job Center. These reemployment services may include counseling, vocational testing, labor market information, job seeking assistance, job placement and supportive services. TAA individuals must be co-enrolled in the WIOA or Wagner-Peyser programs, and receive these services from WIOA or Wagner-Peyser.

### *Job Search Allowances*

Job search allowances are payments made to enrolled TAA certified workers who are totally laid off and cannot obtain suitable employment within their commuting area. The allowance for reimbursement may equal 90% of necessary job search expenses, based on a per diem rate (transportation, hotel, meals), up to a maximum of \$1,250. This reimbursement to affected workers is paid for expenses incurred, while participating in a pre-approved job search program.

The cost allowable for lodging and meals shall not exceed the lesser of the actual cost to the individual of lodging and meals while engaged in the job search; or 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations (see 41 CFR part 101-7) for the locality where the job search is conducted.[6]

There are time limits for job search allowances. The application for the allowance needs to be filed before the later of the 365<sup>th</sup> day after the date of the certification or the 365<sup>th</sup> day after the date of the last total separation or the date that is the 182<sup>nd</sup> day after the date on which the worker concluded training. However, participants who receive a waiver are not eligible for job search eligibility for the 182 day period after training. The TAA certified worker must apply (file an application) and be approved before beginning his/her search for work outside the individual's normal commuting area. Authorization for the job search allowance is only for travel within the United States.

### *Relocation Allowances*

If the certified worker is successful in obtaining employment outside his/her normal commuting area, the TAA program offers financial assistance for the individual to relocate to the new area of employment. Outside the normal commuting area is defined as more than 25 miles one way using a web-based mapping service such as MapQuest from current address to new address.

When it is determined no suitable work is available in the certified worker's normal commuting area, a relocation allowance application may be approved if:

- the certified worker has obtained employment of long-term duration or a bona fide offer of such work in another area (must be in the United States); and

- the individual has not previously received a relocation allowance under the same certification; and
- the individual is totally separated from certified employment at the time of relocation. (Partially separated workers may apply in anticipation of total layoff.)

A relocation allowance pays 90% of the reasonable and necessary expenses of moving the certified worker, the worker's family, and household goods (not to exceed the weight limit authorized in Federal travel regulations) to the new location. Additionally, the certified worker will receive a lump sum payment equal to three times his/her average weekly wage, up to a maximum of \$1,250, to help them get settled.

An application for relocation allowance must be filed and approved by the Regional Manager before the individual moves.

There are time limits for filing an application for relocation allowances. The application for relocation allowance must be filed within 425 days after the date of certification or last total layoff, whichever is later or the date that is the 182<sup>nd</sup> day after the date on which the worker concluded training. However, participants who receive a waiver are not eligible for relocation eligibility for the 182 day period after training. The individual must begin to relocate within 182 days after applying for a relocation allowance, or within 182 days after completing approved training.

The cost allowable for lodging and meals for an individual or each member of the individual's family shall not exceed the lesser of the actual cost to the individual for lodging and meals while in travel status; or 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations (see 41 CFR part 101-7) for the locality to which the relocation is made.[7]

### *Waivers*

A TAA Waiver is a written statement to an adversely affected participant waiving the requirement to be enrolled in training and may be valid for a specified period of time between sixty days and no longer than six months at a time. The waiver must be reviewed every 28 days using the OET Waiver of Training Participation form (see Attachment A).

Waivers of training are a result of a finding that it is not feasible or appropriate to approve a training program for a worker because of one or more of the following reasons:

1. Recall - The worker has been notified in writing that he/she will be recalled by the firm from which the separation occurred.
2. Marketable Skills - The worker possesses marketable skills for suitable employment and there is a reasonable expectation of employment at equivalent wages in the foreseeable future.
3. Retirement - The worker is within 2 years of meeting all requirements for entitlement to either old-age insurance benefits under Title II of the Social Security Act or a private pension sponsored by an employer or labor organization.

4. Health - The worker is unable to participate in training due to his/her health. A waiver of training due to health reasons shall not be construed to exempt the worker from requirements relating to the availability for work, active search for work, or refusal to accept work under Federal or State unemployment compensation laws.
5. Enrollment Unavailable - The first available enrollment date for the approved training of the worker is within 60 days after the date of the "enrollment unavailable" determination, or, if later, there are extenuating circumstances for the delay in enrollment, as determined pursuant to guidelines issued by the Secretary.
6. Training Not Available - Training approved by the Secretary is not reasonably available to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in Section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998, and employers), no training suitable for the worker is available at a reasonable cost, or no training funds are available.

A preliminary assessment of each trade affected worker's skills must be carried out to identify workers for whom immediate enrollment in training is appropriate. The completed assessment of pre-training skills must be included in each worker's case file. Except where such an assessment of a worker clearly indicates a need to enroll in training immediately, it is generally appropriate to seek a waiver request under the marketable skills condition. This waiver would allow some period of job search and avoid removing some workers prematurely from the labor force and investing training resources that may not be necessary to helping a worker obtain reemployment. In Nebraska, all waivers shall be reevaluated every 28 days for the duration of the waiver period. If the waiver is issued on the basis of marketable skills, the reevaluation will take into account the reasons the individual has been unable to obtain employment during the job search. If the difficulty finding work is attributed to skill deficiencies, the waiver may need to be revoked with the worker immediately enrolled in training. Information related to waiver status shall be shared with the TRA benefit payment staff since changes may impact continued receipt of weekly benefits, if available.

Waivers are limited to a maximum duration of six months unless an extension is authorized by the State Trade Unit. This means a waiver issued during a worker's UI period often will not cover the worker's entire entitlement to basic TRA. In cases where it is necessary to cover the worker's full entitlement to basic TRA, the state may extend a worker's waiver beyond six months.

#### *Deadlines, Reviews, and Start Dates*

For TAA participants not enrolled in a TAA approved training program, a waiver must be approved using the OET Waiver of Training Participation form and must be completed by the last day of the 8th week after the week in which the Secretary issues a certification covering the participant or the last day of the 16th week after the participant's most recent total separation from adversely affected employment, whichever is later.

All waivers must be signed by both the TAA applicant and by State Merit Staff. The waiver must have final approval or denial from State Merit Staff after acknowledgement of the applicant's signature. Subsequent reviews must be documented in NEworks under comments every 28 days.

The start date for all waivers shall be the date signed by the participant. This date must match the start date of the NEworks waiver "activity" and "entry".

It is never appropriate to back date a waiver. This is strictly prohibited and creates a false eligibility for TRA.

### *Training*

If there are no suitable jobs in the area and training would improve the chances of getting a job, the dislocated worker may be eligible for a training program under TAA. Training may only be approved on a full-time basis. Certified workers may not begin approved training until they have been totally or partially separated from adversely affected employment. Training opportunities may include vocational, technical, employer-based training, on the job training (OJT), customized training and remedial classroom training. When available, OJT is presented to trade-affected workers as a first option.

### *Conditions*

When a petition has been certified, funded training may be approved using TAA resources if the following six conditions are met:

- There is no suitable employment available now or in the foreseeable future.
- The worker would benefit from appropriate training and has the capabilities to successfully complete the training.
- There is a reasonable expectation of training-related employment following training completion.
- Approved training is reasonably available within the worker's commuting area.
- The worker is qualified to start and complete training successfully considering the worker's overall financial resources.
- Training is suitable and available at a reasonable cost. Training may not be approved when the costs of the training are unreasonably high in comparison with the average costs of training other workers in similar occupations at other providers.

Each trade-affected worker must be provided the necessary information to enable them to make an informed choice among approvable training options, regardless of the worker's language or educational abilities. When a worker's education and language abilities are limited, careful case management at the training selection stage and during training is essential.

Workers who qualify for Trade Act training must be told of the 80% wage replacement goal and provided general information about available training programs, including access to labor market information, wage replacement information and web sites which may inform participants of the types of training available. Documentation to demonstrate that all of these requirements have been satisfied must be kept in the case file.

If the approved training meets all of the requirements of the Trade Act and regulations, including the requirement for the training to be available at a reasonable cost, a worker has a right to choose to enroll in higher cost training for an occupation that is more likely to meet the wage replacement goal of the Trade Act even when lower cost training in another occupation not meeting this goal is also available to the worker. The approved training program must be a program that provides the necessary skills to return the participant to work. Prior to training approval, each worker's case file must identify what occupation the worker is being trained to enter.

*Definition: Suitable Employment*

Suitable employment is work that is equal to or of a higher skill level than the worker's past adversely affected employment, and wages are not less than 80% of the worker's average weekly wage.

If training is approved, payment will be made through an Individual Training Accounts (ITA) voucher or directly to the school, unless training costs are paid or are reimbursable under another federal law. When individuals are enrolled in a TAA program, the maximum amount of funds expended for training costs shall not exceed \$14,000 per eligible participant. However, training options shall not be based solely on the state training cap. Exceptions to the limitation may be considered when the training requested is available at a reasonable cost and particularly suitable for the individual situation as demonstrated by back-up documentation provided by the local area. When an exception is being requested by the local area, the request and back-up documentation must be sent to the OE&T, Attention: Trade Coordinator. The final decision for either approval or disapproval of an exception is determined by the Nebraska Commissioner of Labor. This limitation also applies when co-enrollment is involved. Although through co-enrollment additional resources may be available, the total training costs shall not exceed \$14,000 per eligible participant. Local Boards have the option of determining what funding source to use to conduct allowable service activities. The cost of other services, i.e., allowable travel, relocation, job search assistance, etc. shall not be applied towards the training costs.

Locals are encouraged to select training providers that have met the qualifications necessary to be included in the statewide Eligible Training Provider List. Personal funds of the participant shall not be used to pay for any portion of his/her training program. Duplicate payment of training cost is prohibited. It is not appropriate to use Trade Act funds to pay for the development of a training provider or program, curriculum development, teacher training or physical plant needs.

If training is not within 25 miles of home [one way using map miles], supplemental assistance is available for transportation cost based on the prevailing federal per diem mileage rates, under the federal regulations. A printout from a web-based mapping service such as MapQuest of the route traveled by the participant must be included in his/her file to document the mileage. The mileage printout must be submitted every time a mileage request is made for supplemental assistance funds.

The cost allowable for lodging and meals for an individual attending training at a location exceeding 25 miles from his/her home, shall not exceed the lesser of the individual's actual per diem expenses for subsistence; or 50 percent of the prevailing per diem rate authorized under Federal travel regulations (see 41 CFR part 101-7) for the locale of the training.[8]

Trade Act funds may be used for a participant's "training consumables," i.e. paper, pens, calculators and other items that are training related and directly support the completion of the course. The participant will need to provide documentation of the need for the training consumables requested. This requirement may be completed by the submission of a course syllabus or email from a professor outlining needed items. The amount used to purchase training consumables may not exceed \$50 per training term and must be included in, and not in addition to, the \$14,000 training cap. Exceptions to the limitation may be considered with appropriate justification and documentation and must be approved by the Office/Regional Manager. For payment processing purposes all receipts must be kept and signed by the participant for all training consumables purchased.

### *Income Support and TRA Payments*

Individuals may be eligible for Trade Readjustment Assistance (TRA) payments which are additional weekly dollars, issued after the unemployment insurance weekly benefits are exhausted. In order to qualify for TRA, a worker must be enrolled in training (or have a waiver of training) within 16 weeks of his/her most recent total qualifying separation, or within 8 weeks of the issuance of the certification, whichever is later. This training enrollment deadline often referred to as the "8/16 week deadline" applies to eligibility for all TRA, both basic and additional TRA.

[Note: In determining a worker's TRA eligibility, the requirement that workers be either enrolled in approved training or covered by a training waiver in order to receive TRA does not apply for weeks that occur prior to the training enrollment deadline.]

### *Unemployment Insurance*

In many cases, the 8/16 week deadline for a worker will be reached while the worker is still receiving unemployment insurance (UI). Since some workers are not aware that this deadline may apply before they exhaust their UI, workers are to be informed of these requirements. Nebraska may grant an extension to the 8/16 week deadline for enrollment for up to 45 days if there are extenuating circumstances. "Extenuating circumstances" are situations that could arise when training programs are abruptly cancelled or where the

first available enrollment date is past the end of the 60-day period, as well as in cases where a worker suffers injury or illness that adversely affects the worker's ability to enroll in training, or other events where the state can justify and document the application of extenuating circumstances is warranted. An extension of 45 days for extenuating circumstances shall only be granted through the Office of Employment and Training at the Nebraska Department of Labor. Entitlement to unemployment insurance includes regular unemployment compensation and Extended Benefits (EB) and Temporary Extended Unemployment Compensation (TEUC). If an individual is eligible to receive EUC payments, this is received in lieu of Basic TRA benefits.

Before TRA can be paid, all UI benefits must have been exhausted. Since eligibility for TRA shall be determined by the TRA benefit staff, it is recommended the individual going into training apply for TRA when his/her UI claim is filed. If the certified worker (with a qualifying separation) is not approved for TRA, they still remain eligible to apply for other TAA services.

The Unemployment Insurance staff at the Claim Center in Lincoln at 402-458-2500 shall advise individuals from certified companies on how to apply for TRA benefits. The TRA payments are intended only for workers who are enrolled in approved full time training unless a waiver has been granted.

### *Requirements*

In order to receive payment of TRA for any week of unemployment, the worker must be adversely affected, be covered by a group certification, apply for TRA payments in a timely fashion; and meet all of the following requirements:

1. The worker's first qualifying separation from affected employment must have occurred after the impact date and before the termination date of the certification.
2. During the 52 week period ending with their qualifying week of separation, the worker must have been employed at least 26 weeks at wages of \$30 or more per week in an affected job.
3. The worker must have exhausted all UI benefits.
4. The worker must be enrolled in TAA approved training, be academically successful, and provide appropriate school documentation at regular intervals. "Enrolled in training" means the worker's application for training has been approved by the Regional Manager and the training institution has furnished written notice to the Regional Manager that the worker has been accepted into the approved program which is to begin within 30 days of such approval. A waiver of training may be granted if appropriate. [Note: In determining a worker's eligibility, the requirement that workers be either enrolled in approved training or covered by a training waiver in order to receive TRA does not apply for weeks that occur prior to the training enrollment deadline.]

For those who qualify for TRA benefits, their eligibility for Basic TRA benefits is the 104-week period (or, in the case of an adversely affected worker who requires a program of

remedial education in order to complete training approved for the worker, the 130-week period) beginning with the first week, which follows the week of their most recent total separation within the certification period. This does not mean the individual receives TRA benefits for 104 weeks. The maximum amount of TRA benefits an individual may receive during this period is limited to 52 times his/her weekly TRA amount minus all UI benefits the individual was entitled to receive. UI and TRA payments combined are limited to a maximum of 52 weeks. TRA is not payable to workers participating in on-the-job training.

Additional TRA are weekly benefits paid to eligible workers to help them complete their TAA approved training program. Under the TAA program, individuals may be eligible to receive up to 52\* additional weeks of TRA benefits if they apply for TAA approved training within 210-days (7 months) after the date of certification or the date of their most recent qualifying separation, whichever date is later. These dollars are only available if they are participating in a TAA approved training program. Since the 210-day deadline may pass if a worker has a long-term waiver of the training requirement, it is important to inform workers of this deadline. For example, if a worker receives a waiver 16 weeks after the worker's most recent qualifying separation and that waiver remains in effect for the maximum 26 weeks, then a total of 42 weeks (294 days) might pass without the worker being required to be enrolled in approved training. If the worker does not file a *bona fide* application for training during this 210-day period, the worker is ineligible for additional TRA.

\*For a worker who must undergo remedial education as part of the worker's retraining plan, the maximum number of weeks of additional TRA is 78, or 26 more than the maximum for workers who do not participate in remedial education. Remedial education is defined as training in the elementary skills that every worker must have in order to achieve basic reemployability. Remedial training should be considered pre-vocational; that is, it leads to occupational, on-the-job, or customized training that will equip the participant with specific job skills. Wherever practical, remedial training should be conducted concurrently with the early parts of occupational training. Examples of remedial education are basic writing and mathematical skills training, English as a Second Language (ESL), and courses leading to a G.E.D.

While participating in training, individuals may experience a break in their training and still receive basic and additional benefits if:

- the break from school does not exceed 30 days; and
- the individual was in training prior to the break and returned immediately after the break; and
- the break was part of the school/training schedule.

When individuals are on break from school, even though they are not receiving the weekly dollars, the weeks will be counted against the 52-week eligibility for Additional TRA.

TRA benefits may be denied, IF:

- The individual does not file an application within the specified time frame.
- The individual fails to make satisfactory progress in his/her training program.
- The individual no longer attends school and has not shown good cause, as defined by Trade regulations. The Trade Unit determines good cause and issues written approval or denial of the good cause.
- The individual fails to report wages for any week where benefits are claimed.

### *Supportive Services*

Supportive services include services such as transportation, child care, dependent care, housing, and needs-related payments that are necessary to enable an individual to participate in services authorized under WIOA Title I.[9] Local Boards, in consultation with the American Job Center partners and other community service providers, must develop a policy on supportive services that ensures resource and service coordination in the local area to ensure non-duplication of resources and services, as well as any limits on the amount and duration of such services.

### *Overpayments*

If an individual fails, with good cause, to complete training, a job search, or a relocation, any payment made from TAA funds to such individual or any person that is not properly and necessarily expended in attempting to complete such training, job search, or relocation, shall constitute an overpayment.

If an individual fails, without good cause, to complete training, a job search, or a relocation, any payment made from TAA funds to such individual or any person shall constitute an overpayment.

### Appeal Rights

#### *Regarding Petitions*

Any worker, group of workers, certified or recognized union, or authorized representative of such worker or group, whose petition for TAA has been denied by USDOL may file an application for reconsideration of the determination by USDOL within 30 days after publication of the determination in the Federal Register. The request must be in writing and include:

- Name(s), address(es), and telephone number of the applicant(s);
- Name or a description of the group of workers on whose behalf the application for reconsideration is filed;
- Name and case number of the determination complained of;
- A statement of reasons for believing the determination complained of is erroneous;

- If the application is based, in whole or in part, on facts not previously considered in the determination, such facts shall be specifically set forth;
- If the application is based, in whole or in part, on an allegation that the determination complained of was based on mistake of facts which were previously considered, such mistake of facts shall be specifically set forth; and
- If the application is based, in whole or in part, on an allegation as to a misinterpretation of facts or of the law, such misinterpretation shall be specifically set forth.

Mailing address is:

U.S. Department of Labor  
 Division of Trade Adjustment Assistance  
 Employment and Training Administration  
 200 Constitution Avenue, N.W., Room N-5428  
 Washington, DC 20210  
 For information call (202) 693-3560.

Not later than 15 days after receipt of the application for reconsideration, the certifying officer shall make and issue a determination granting or denying reconsideration. The determination regarding application for reconsideration shall be published in the Federal Register. If the determination is negative, it shall constitute a final determination for purposes of judicial review. If the determination is affirmative regarding application for reconsideration, the group of workers or other persons showing an interest in the proceedings may make written submissions within 10-days after publication of the notice to show why the determination under reconsideration should or should not be modified. Not later than 45 days after reaching an affirmative determination regarding application for reconsideration, the certifying officer shall make a determination on the reconsideration. The determination on the reconsideration shall be published in the Federal Register.

### *Regarding Individual Services*

When a petition has been certified but the individual is denied a specific TAA service, such as training, travel, relocation etc., the individual has the same appeal rights as those provided under the state unemployment compensation law. Appeal rights are described on each form signed by the participant. Those rights are: "If you feel this determination is incorrect, you have a right to a hearing before an Appeal Tribunal; provided you file a timely notice of appeal by letter which must clearly state (1) you are appealing and (2) the reasons why you believe this determination is incorrect. Your notice of appeal and such reasons must be received within 20 days after this determination is mailed." Whenever someone appeals a decision concerning his/her TAA benefits, the individual has a right to be represented by his/her union, lawyer, or other person to help present the facts.

## Program Evaluation

The Trade Coordinator shall monitor TAA program participants. The methodologies employed to place program participants shall be considered as a part of the overall program evaluation.

## Coordination

The State Trade Unit and Trade Readjustment Allowance benefit staff shall work together to meet data collection, storage, and reporting requirements. To reinforce the pursuit of the program performance goals and ensure clear and uniform procedures are followed, state performance management training or meetings shall be held and include participation of State Trade Coordinator and TRA benefit staff. The State Trade Unit shall capture and report information related to a participant's ongoing participation in training or waiver status to the TRA benefit payment staff.

## Merit Staffing

Under 20 CFR Part 618, USDOL “requires that personnel engaged in TAA-funded functions undertaken to carry out the worker adjustment assistance provisions must be state employees covered by a merit system of personnel administration.” In TEGL No. 01-10, USDOL instructed states to implement the TAA program according to “new merit staffing provisions which were to become applicable to TAA-funded positions effective December 15, 2010, as codified at 20 CFR 618.890(b).” On December 29, 2010, President Obama signed into law the Omnibus Trade Act. Section 102 of the Omnibus Trade Act retroactively extended the deadline for states to implement the merit-based state personnel staffing requirements contained in 20 CFR 618.890(a) from December 15, 2010, to no earlier than February 12, 2011. This requirement is now in effect. However, as clarified in the April 2, 2010 Federal Register, “there is nothing in this rule prohibiting the delivery, in appropriate circumstances, of employment and case management services to adversely-affected workers by staff funded by WIOA or other Federal programs through co-enrollment. As a partner in the One-Stop delivery system, the TAA program will continue to coordinate with the other partners in the system to ensure adversely-affected workers are provided access to a broad array of comprehensive services.”

## Reporting

The state shall submit quarterly Trade Act Participant Report (TAPR) data. The report shall include all active participants and all participants who have exited the program in the last 10 quarters. The “Program Exit” policy is applicable for participants co-enrolled in TAA and Dislocated Worker programs.

## Alternative Trade Adjustment Assistance for Older Workers

The Trade Adjustment Assistance Reform Act of 2002 establishes the Alternative Trade Adjustment Assistance (ATAA) Program as an alternative assistance program for older workers certified eligible for trade adjustment assistance. ATAA is designed to allow trade eligible workers for whom retraining may not be appropriate and who find reemployment, to receive supplemental payments to help bridge the salary gap between their old and new employment.

Under the ATAA program, workers in an eligible worker group who are at least 50 years of age and who obtain different, full-time employment within 26 weeks of separation from adversely-affected employment at wages less than those earned in the adversely-affected employment, may receive up to half of the difference between the workers' old wage and the new wage. The supplement may be paid up to a maximum of \$10,000 during a two-year eligibility period. To be eligible for the ATAA program, workers must be certified as eligible to apply for TAA benefits and may not earn more than \$50,000 per year in the new employment. Workers who begin receiving payments under the ATAA program cannot receive other TAA benefits and services except for relocation allowances and HCTC. They are not eligible to receive training, TRA payments, and job search allowance if they have chosen to receive payments under the Alternative Trade Adjustment Assistance program. Reimbursement amounts will be rounded up to the next whole dollar.

In order to establish that petitioning workers are eligible to apply for the ATAA program, USDOL must first determine that all of the criteria for a regular TAA certification are met. In addition, USDOL must find that three additional criteria are met for ATAA certification. These additional criteria are:

1. A significant number of adversely affected workers in the petitioning workers' firm are 50 years of age or older;
2. The adversely affected workers in the petitioning workers' firm possess job skills that are not easily transferable to other employment; and
3. The competitive conditions within the affected workers' industry are adverse. After the issuance of a certification of eligibility to apply for TAA and ATAA and when the adversely affected worker is fully informed of the benefits and services available under the TAA and ATAA programs, the worker must consider the choice of benefits and services under one program or the other. If the worker's preferred option is the ATAA program, the worker should be encouraged to take advantage of reemployment services and assistance available to him/her with the goal of returning to work within 26 weeks of his/her qualifying separation in order to be eligible for ATAA. If the worker anticipates not being able to obtain a job within 26 weeks of such qualifying separation, the worker should contact their local Career Center immediately and consider seeking the TAA benefits to which the worker is entitled. While an adversely affected worker is seeking employment to qualify for the ATAA program, actions must be taken to ensure regular TAA deadlines are met and options are preserved.

## Trade Adjustment Assistance for Farmers Program

The Trade Adjustment Assistance for Farmers program helps farmers and fishermen respond proactively to import competition through training, cash benefits, and employment services.

### *USDA Responsibilities*

When increased imports have contributed importantly to a price decline, the U.S. Department of Agriculture (USDA) provides technical assistance and cash benefits to eligible farmers and fishermen. Technical assistance to assist producers in exploring alternative crops and marketing techniques is accessed through the USDA's Cooperative State Research, Education, and Extension Service, in partnership with County Extension Services. To establish eligibility, a group of producers (three or more or an authorized representative) must first file a petition with the USDA's Foreign Agricultural Service. The Foreign Agricultural Service will certify producers' eligibility for adjustment assistance. Farm Service Agency county offices may help producers prepare and submit their applications.

### *Department of Labor and State Workforce Agency Responsibilities*

Individuals entitled to a cash payment from the USDA under the TAA for Farmers program are also entitled to receive training and reemployment services under the TAA for Workers program administered by NDOL and the State Workforce Agencies (SWAs). The reemployment services provided to these individuals are governed by the same federal regulations, and are provided in the same manner and to the same extent as services provided to individuals covered under TAA certifications issued by DOL. Although individuals entitled to receive a cash payment from USDA under the TAA for Farmers program are also entitled to receive training under the TAA for Workers program, the individual must provide documentation of entitlement to cash benefits by providing a copy of his/her Form FSA-229, "Application for Trade Adjustment Assistance (TAA) for Individual Producers" signed by the approving official at the Farm Service Agency.

There are limitations on the selection and approval of the training. The following conditions are applicable:

1. The worker shall benefit from the training.
2. There is a reasonable expectation of employment once the training is completed.
3. Training approved by the Secretary must be reasonably available to the worker from either governmental agencies or private sources.
4. The worker must be qualified to undertake and complete the training.
5. The training must be suitable for the worker and available at a reasonable cost.
6. The costs of the training are allowable.
7. Applications related to training must be filed appropriately using the correct forms.
8. All determinations shall be subject to §617.50 and §617.51.

9. The length of training and hours of attendance shall meet the requirements discussed in 20 CFR 617.22(f) including;
  - a. The trainings shall be of suitable duration to achieve the desired skill level in the shortest possible time.
  - b. The maximum duration for any approvable training program is 104 weeks (during which training is conducted) and no individual shall be entitled to more than one training program under a single certification. [Except that individuals who require remedial education as part of their approved training program may receive up to an additional 26 weeks of training for a maximum duration of 130 weeks.]
  - c. A training program may consist of a single course or group of courses which is designed and approved by the state agency for an individual to meet a specific occupational goal.
  - d. An individual's approved training program may be amended by the state to add a course designed to satisfy unforeseen needs of the individual, such as remedial education or specific occupational skills, as long as the length of the amended training program does not exceed the limits discussed above.
  - e. Individuals in TAA approved training shall attend training full time and when other training is combined with on-the-job training, attendance at both shall be not less than full-time.
  - f. Full-time or part-time status in an approved training program is based on the established full-time certification policy of the institution where the training is being offered

Individuals entitled to a cash benefit under the TAA for Farmers program are not eligible for Trade Readjustment Allowances, job search allowances, relocation allowances, or the ATAA program for older workers.

#### *Disclaimer*

This policy is based on NDOL's reading of WIOA and the WIOA Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

## Attachment A

### Waiver of Training Participation

Nebraska Department of Labor  
Office of Employment & Training Services  
**WAIVER OF TRAINING PARTICIPATION**

☐ **THE TRADE ADJUSTMENT ASSISTANCE REFORM ACT OF 2002 (TAARA)** (Petitions 50,000 - 69,000)

(The last day of the 8<sup>th</sup> week after the week in which the Secretary issues a certification covering the worker or the last day of the 16<sup>th</sup> week after the worker's most recent total separation from adversely affected employment, whichever is later.)

☐ **TRADE AND GLOBALIZATION ADJUSTMENT ASSISTANCE ACT OF 2009 (TGAAA)** (Petitions 70,000 - 79,000)

(The last day of the 26<sup>th</sup> week after the week in which the Secretary issues a certification covering the worker or the last day of the 26<sup>th</sup> week after the worker's most recent total separation from adversely affected employment, whichever is later.)

☐ **TRADE ADJUSTMENT ASSISTANCE EXTENSION ACT OF 2011 (TAAEA)** (Petitions 81,000 - 84,000)

(The last day of the 26<sup>th</sup> week after the week in which the Secretary issues a certification covering the worker or the last day of the 26<sup>th</sup> week after the worker's most recent total separation from adversely affected employment, whichever is later.)

Applicant's Name	Social Security Number (last 4) XXX-XX-	American Job Center or NDOL Location	Date
Petition Number	Impact Date	Certification Date	Expiration Date
<p>This Section to be completed for the Initial Waiver only. The worker has met the Qualifying Requirements for Trade Readjustment Allowances (TRA), and the Enrollment in Training or Waiver from Training Requirement of Section 231(a)(5)(A) of the Trade Act of 1974 (19 U.S.C. 229(a)(5)(A)) as amended, which states: "the enrollment...occurs no later than the latest of:</p> <p>(I) the last day of the 8<sup>th</sup> or 26<sup>th</sup> week after the week in which the Secretary issues a certification covering the worker,</p> <p>(II) the last day of the 16<sup>th</sup> or 26<sup>th</sup> week after the worker's most recent total separation from adversely affected employment, or</p> <p>(III) forty-five (45) days after the later of the dates specified in (I) or (II), if there are extenuating circumstances that justify an extension of the enrollment period."</p> <p>This waiver is issued for the following reason(s) for up to a period of 6 months and <u>must be reviewed every 28 days</u>:</p> <p style="text-align: center;">FROM _____ TO _____</p>			
Enrollment in training requirement may be waived for one or more of the following reasons apply:			
<input type="checkbox"/>	HEALTH	The applicant is unable to participate in training due to his/her health.	
<input type="checkbox"/>	ENROLLMENT UNAVAILABLE	The first available enrollment date for the applicant's approved training is within 60 days after the date of this waiver.	
<input type="checkbox"/>	TRAINING NOT AVAILABLE	Suitable training is not available: <input type="checkbox"/> at a reasonable cost <input type="checkbox"/> no training funds are available <input type="checkbox"/> not reasonably available from either governmental agencies or private sources	
<input type="checkbox"/>	RECALL (Not applicable for 2011)	Applicant has been notified that he/she will be recalled by the firm from which separation occurred. (File must contain written notice of recall from the company.)	
<input type="checkbox"/>	RETIREMENT (Not applicable for 2011)	Applicant is within two years of meeting all requirements for entitlement to: <input type="checkbox"/> Old-age insurance benefits under Title II of the Social Security Act <input type="checkbox"/> A private pension sponsored by an employer or labor organization	
<input type="checkbox"/>	MARKETABLE SKILLS (Not applicable for 2011)	Applicant has marketable skills for suitable employment. There is reasonable expectation of employment at equivalent wages in the foreseeable future.	
<p><b>REVOCATION:</b> This waiver shall be revoked when it is determined the reason specified above is no longer applicable. Failure to report may cause interruption of benefits or revocation of this waiver.</p>			
<p><b>CERTIFICATION:</b> I understand in order to receive weekly Basic Trade Readjustment Allowances (TRA) while on a waiver I must make a systematic and sustained search for work, which is a minimum of 3 contacts per week, and keep accurate records of such search. I further understand the law provides penalties for willful misrepresentation made to obtain benefits and allowances to which I am not entitled. Failure to follow instructions on the 28-day waiver reviews or appointments may result in loss of Basic TRA benefits.</p>			
<p><b>APPEAL RIGHTS:</b> If you feel this determination is incorrect, you have a right to a hearing before an Appeal Tribunal, providing you file a timely notice of appeal in writing, which must clearly state that you are appealing and the reasons why you believe this determination to be incorrect. Your notice of appeal and such reasons must be received at the office issuing this determination within twenty (20) days after the date this determination is mailed.</p>			
Applicant Signature			Date
Case Manager Signature			Date
State Merit Staff Management/State Trade Unit Signature			Date

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- [1] WIOA Sec. 121(b)(1)(B)(vii)
  - [2] TEGL 5-15, Attachment A
  - [3] Ibid.
  - [4] 19 U.S.C. 2272, Sec. 222
  - [5] 20 CFR 617.3(c)
  - [6] 20 CFR § 617.34(a)(2)
  - [7] 20 CFR § 617.46(a)(2)
  - [8] 20 CFR § 617.27(b)
  - [9] WIOA Sec. 3(58)

## **Interim Policy on the Trade Adjustment Assistance under the Trade Globalization Adjustment Assistance Act of 2009**

### *Reference*

The Trade and Globalization Adjustment Assistance Act of 2009; American Recovery and Reinvestment Act of 2009; the Trade Act of 1974, as amended; the Workforce Innovation and Opportunity Act; Nebraska's Employment Security Law; State Plan; 20 CFR part 617; 29 CFR parts 90.18 and 90.19; 41 CFR part 301-11; Federal Register, Vol. 75, No.63/April 2, 2010, TEGL 5-15, Attachment A.

### *Background*

The Trade and Globalization Adjustment Assistance Act of 2009 signed into law on February 17, 2009 as part of the American Recovery and Reinvestment Act of 2009 amended the Trade Adjustment Assistance (TAA) program. Workers covered by petitions filed on or after May 18, 2009, and on or before February 14, 2011, identified by petition numbers between 70,000 and 79,999, are subject to the provisions of the 2009 Amendments and this TAA policy. The Recovery Act added a provision to improve the affordability of the Health Coverage Tax Credit (HCTC) by raising the tax credit to 80% of health insurance premiums beginning May 2009, through December 2010. The Omnibus Trade Act of 2010 extended the effective dates of the HCTC provisions through February 12, 2011. In addition, a program called Reemployment Trade Adjustment Assistance became available to workers 50 years of age or older. The Trade Adjustment Assistance Extension Act of 2011 (TAAEA) was signed into Law on October 21, 2011. The TAAEA retroactively reinstated a number of HCTC enhancements that were available to workers under the 2009 Program, and increased the credit rate from 65% under the 2002 Program to 72.5% reimbursement of health insurance costs for eligible participants. This HCTC is retroactive to February 13, 2011 for workers who were eligible during that time period. These benefits are provided at no expense to employers. HCTC expired on January 1, 2014. Beginning January 1, 2014, every eligible TAA recipient became responsible for paying his/her full health coverage premiums without HCTC; and all individuals now have a range of options in Health Insurance Marketplaces and may be eligible for new tax credits for health insurance or expanded Medicaid options.

The authorization for the TAA program was set to expire on December 31, 2014. However, Congress took action on December 13, 2014, by passing the FY 2015 Omnibus Appropriations Act, which was signed into law by President Obama on December 16, 2014. Termination provisions relating to the operation of the TAA program, as provided in TEGL 14-14, do not apply to the operation of TAA in FY 2015 (through September 30, 2015).

## *Action*

After a 10-day review period, this policy will be considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox, [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

## *Policy*

As a required partner in the One-Stop service delivery system under WIOA, the TAA program is required to be accessible through American Job Centers.[1] Sec. 512(hh) of the Workforce Innovation and Opportunity Act (WIOA) substitutes WIOA for the Workforce Investment Act of 1998 in the Trade Act, and does not change the status of the Trade Adjustment Act (TAA) as a required partner.

## Purpose of TAA

American workers whose jobs are lost as a result of increased imports or from a shift of production or services to any foreign country may apply for Trade Adjustment Assistance (TAA) under the Trade Act of 1974, as amended. TAA is federal assistance for U.S. Workers who are significantly harmed by foreign trade. TAA benefits are to help workers adjust to the employment problems resulting from increased foreign imports of products or services which directly compete with, or are like, those produced by the workers' company, causing a significant loss of U.S. jobs.

## Transition from the Reversion 2014 Program to the 2015 Program

Section 405 of the Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015) provides for the transition of workers certified under petitions filed on or after January 1, 2014, and before the date of enactment, from the Reversion 2014 Program to the 2015 Program beginning 90 days after the date of enactment. Since the TAARA 2015 was signed into law on June 29, 2015, the 90-day period will end on 11:59 P.M. EST, September 27, 2015. This means that, beginning on September 28, 2015, the Reversion 2014 Program will end and Reversion 2014 Program participants will be served under the 2015 Program. Reversion 2014 Program participants receiving benefits and services on September 27, 2015, will continue to receive those benefits after that date so long as they continue to meet the requirements for the benefit, as explained in TEGL 5-15, Attachment A (Operating Instructions). All benefits received before September 28, 2015, by a worker under the Reversion 2014 Program (covered by a certification of a petition in the series TA-W-85,000 -89,999) shall be included in any determination of the maximum benefits for which the worker is eligible under the 2015 Program beginning on September 28, 2015. The 2002 Program, 2009 Program, and 2011 Program will continue, and a worker covered by a certification issued in response to a petition filed before January 1, 2014, will continue to be served under one of these programs based on the petition number associated with that certification.[2]

The Operating Instructions describe how Section 405 of the TAARA 2015 addresses three distinct cohorts of workers: workers covered by certifications of petitions issued before January 1, 2014 (numbered TA-W84,999 and below); workers covered by certifications of petitions, denials of petitions, or pending petitions filed on or after January 1, 2014, and before June 29, 2015 (numbered TAA-W-85,000-89,9999); and workers covered by certifications of petitions issued on or after June 30, 2015 (numbered TA-W-90,000 or above).[3] For more information, see the TAA Program 2015 Policy.

### Establishing Group Eligibility

#### *Who May File a Petition*

Petitions for TAA may be filed by a group of three workers from the same firm at the same job location, or a union official, or a state or local agency representative in a local American Job Center, or an employer official, or a legally authorized representative.

#### *Time Limit for Filing a Petition*

You must date and submit the Petition Form within 1 YEAR from the date on which the workers were separated or had their hours or wages reduced.

#### *Where to Get Petition Form*

The TAA form is available at all American Job Centers, at the Nebraska Department of Labor (NDOL) Office of Employment and Training (OE&T) in Lincoln at (402) 471-9883, from the Unemployment Insurance TRA benefit staff in Lincoln at (402) 471-9896, or direct from the U.S. Department of Labor (USDOL) Employment and Training web site at <http://www.doleta.gov/tradeact>.

#### *Where the Petition Form Is Filed*

The state shall be prepared to assist petitioners in completing and filing petitions. The TAA petition must be filed simultaneously with both the USDOL in Washington, DC and the TAA Coordinator of the state where the firm is located. If the Petition Form includes firms in different states, copies of the completed Petition Form must be filed in each state where firms are located.

Fax the completed Petition Form to 202-693-3585, OR

Mail the completed Petition Form to both USDOL and NDOL at:

U.S. Department of Labor  
Office of Trade Adjustment Assistance  
200 Constitution Avenue N.W.  
Room N-5428  
Washington, D.C. 20210

Nebraska Department of Labor  
Office of Employment and Training  
Attention: TAA Coordinator  
550 South 16th Street  
PO Box 94600  
Lincoln, Nebraska 68509-4600

If a petition is not received on the same day by both USDOL and NDOL, it will be considered to be filed on the date on which the petition was received by USDOL's Office of Trade Adjustment Assistance.

#### Criteria for Certification of Eligibility

The petition must satisfy three criteria:

1. A significant number or proportion of the workers in the workers' firm must have become totally or partially separated or be threatened with total or partial separation.
2. The second criterion is satisfied if either A or B below are satisfied:
  - A. (i) sales or production, or both, at the petitioning workers' firm must have decreased absolutely, and
  - (ii) (a) imports of articles or services like or directly competitive with articles produced or services supplied by the petitioning workers' firm have increased; or
  - (b) imports of articles like or directly competitive with articles into which the component part produced by the workers' firm was directly incorporated have increased; or
  - (c) imports of articles like or directly competitive with articles which are produced directly using the services supplied by the workers' firm have increased; or
  - (d) imports of articles directly incorporating component parts not produced in the U.S. that are like or directly competitive with the article into which the component part produced by the workers' firm was directly incorporated have increased.
- B. (i) (a) there has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm; or

(b) there has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm.

3. The increase in imports or shift/acquisition must have contributed importantly to the workers' separation or threat of separation.

#### *Adversely Affected Workers in Public Agencies*

A group of workers in a public agency shall be certified by the Secretary as eligible to apply for adjustment assistance pursuant to a petition filed under section 221 if the Secretary determines that:

1. a significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;
2. the public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and
3. the acquisition of services described in paragraph 2 contributed importantly to such workers' separation or threat of separation.

#### *Adversely Affected Secondary Workers*

Workers of a firm can be certified as eligible to apply for adjustment assistance because the workers are secondarily affected - workers who supply components parts for articles, or services, used in the production of articles or in the supply of services (upstream) to a firm whose workers are certified (primary); or workers who perform additional, value-added production processes or services including finishing operations (downstream) for a firm whose workers are certified (primary). The 2009 Amendments allow for secondary worker coverage based on certifications of workers in service sector firms. In all cases, there must have been a loss of sales to the certified firm.

Upstream workers must directly supply the primary firm. The articles produced by upstream workers must be directly incorporated into the articles that were the basis for the certification of the primary firm's workers. Supplier chains are often categorized according to "tiers." Firms in the first tier supply components directly to the producer of the final product. Firms in the second tier supply components to firms in the first tier, and so forth. The secondary-worker coverage applies only to workers employed by firms in the first tier. The component parts or services the supplier supplied to the primary firm must either account for at least 20% of the production or sales of the supplier, or the loss of business with the primary firm by the upstream firm must have contributed importantly to the upstream workers' separations or threat of separations.

The term "downstream producer" means a firm that performs additional, value-added production processes or services directly for another firm for articles or services with respect to which a group of workers in such other firm has been certified. Value-added production processes or services include final assembly, finishing, testing, packaging, or maintenance or transportation services. The term "supplier" means a firm that produces

and supplies directly to another firm component parts for articles, or services, used in the production of articles or in the supply of services that were the basis for a certification of eligibility of a group of workers employed by such other firm.

#### *Firms Identified by the International Trade Commission*

A group of workers covered by a petition filed under section 221 shall be certified as eligible to apply for adjustment assistance if:

1. The workers' firm is publicly identified by name by the International Trade Commission (ITC) as a member of a domestic industry in an investigation resulting in a finding of injury or market disruption under section 202(b)(1), section 421(b)(1), section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930.
2. The petition is filed within one year after the date on which a summary of the ITC's report to the President, or the ITC's affirmative finding, is published in the Federal Register.
3. The workers of the firm identified in 1 (above) have become totally or partially separated from the workers' firm no more than one year before the publication date of the Federal Register notice described in 2 (above) and no later than one year after that date.

#### Petition Fact-Finding Process

When the TAA petition is received, the USDOL Trade Adjustment Assistance Program conducts a fact-finding investigation. OE&T shall assist the Secretary in the review of the petition by verifying such information and providing other assistance as the Secretary may request. This investigation determines whether a significant number or proportion of the workers of the firm have become totally or partially separated or are threatened to become totally or partially separated, and whether imports or a shift in production or services to a foreign country contributed importantly to these actual or threatened separations and to a decline in sales or in production of articles or supply of services. Workers in public agencies may also qualify for assistance where an agency has acquired from a foreign country services like or directly competitive with the services the agency supplies. It is USDOL's responsibility to investigate the facts. They are required to make an eligibility determination within 40 days after a petition is filed. If the petition is approved and the workers are certified as eligible to participate in the TAA program, workers covered by a certification may contact their state workforce agency to apply for individual services and benefits. These benefits are provided at no expense to employers.

When a decision has been made by USDOL, the certification or denial is sent to the Nebraska Commissioner of Labor and the Trade Unit. The Secretary of Labor publishes a summary of the determination in the Federal Register and on USDOL's website at [www.doleta.gov](http://www.doleta.gov) together with the Secretary's reasons for making such determination.

### *Establishing Individual Eligibility*

The Trade Unit in OE&T upon notice of a certification shall provide each affected worker covered by a TAA certification with written notice of the certification, what TAA program benefits and services are available, and how to apply for those services as soon as possible. The state shall obtain from the firm, or other reliable source, the names and addresses of all workers who were or became totally or partially separated before the state received the certification and within the certification period, as well as workers subsequently separated during the certification period. Because of the statutory expansion of the TAA training benefit to adversely affected incumbent workers, the new Secretary/Governor Agreement requires NOE&T to notify these workers of their possible entitlement to TAA-training as soon as possible before their partial or total separations. Thus, OE&T must identify, through the firm or other reliable source, the names and addresses of all adversely affected incumbent workers to permit the determination of whether a worker is individually threatened with separation. Accordingly, OE&T must request a separate list of workers who are threatened with separation at the same time they request the list of adversely affected workers from the employer.

A certification shall not apply to any worker whose last total or partial separation from the firm before the workers' application for trade readjustment allowance occurred more than one year before the date of the petition on which such certification was granted.

Each certification contains an "impact date," which identifies when layoffs or reduction in work schedules began. Certifications also contain a "termination date." Generally, the certification covers all members of the worker group who are laid off or threatened with layoff during the three-year period beginning one year before the petition was filed and ending two years after the date of the certification.

OE&T shall ensure a published notice of the certification is placed in the newspaper in the areas where the certified workers reside or issue written notices to each affected individual.

### *Special Rule regarding Military Service*

There is a special rule with respect to military service. Under the Amendments, the new section 233(i) makes returning service members "whole," as if the period of military service had not occurred. The provision allows workers called up for active duty military or full-time National Guard service to restart the TAA enrollment process after completion of military service. This provision will apply to any returning service member who either: (1) served on active duty in the Armed Forces for a period of more than 30 days under a call or order to active duty of more than 30 days; or (2) in the case of a member of the Army National Guard of the United States or Air National Guard of the United States, performed full-time National Guard duty under 32 U.S.C. 502(f) (regarding required drills and field exercises) for 30 consecutive days or more when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds. Under section 233(i)(2), this

“make-whole” provision applies only if the worker’s period of duty occurs before the worker completes a training program approved under section 236. However, the worker need not have already enrolled in or in fact have begun training before the worker’s period of duty began for this provision to apply. Upon separation, these individuals are eligible to receive TRA, training, and other benefits in the same manner and to the same extent as if the worker had not served the period of duty.

Under section 1137(d) of the Social Security Act, states are required to initially verify the immigration status of self-reporting aliens who apply for UI through the Systematic Alien Verification for Entitlement (SAVE) program maintained by the U.S. Customs and Immigration Service. All users of the SAVE program must verify the immigration status of all non-citizen applicants in order to avoid discrimination. Participants obtain immigration status information through the SAVE program’s Verification Information System (VIS). This VIS is a Web-based application that queries an immigration database containing information on more than 60 million non-citizens. When a user agency submits a status verification request, the system provides the applicant’s immigration status within seconds. The system also gives the user a way to submit additional information electronically to an Immigration Status Verifier (ISV) when further research is necessary. Under section 1137(d)(2), an alien is required to provide an alien registration document with an alien registration number, or provide “such other documents as the state determines constitutes reasonable evidence indicating a satisfactory immigration status.” A system must be in place for alerting staff of the expiration of satisfactory immigration status during the time the individual is potentially eligible for benefits. This may be done by modifying case management systems for TAA recipients to track the immigration status of a worker receiving TAA who is not a citizen or national of the United States. It is important to note, this requirement applies to all benefits under the TAA program, and not just TRA benefits. It is necessary to re-verify an individual’s immigration status if the documentation provided by the individual during initial verification will expire during the period in which that worker is potentially eligible to receive Trade benefits. Additionally, one of the six conditions for approval of training is that there be “a reasonable expectation of employment following completion of... training.” At the time of application, a training program is not approvable if the individual is not eligible to work at least one day following completion of training.

It is recommended that all dislocated workers go to their local American Job Center even if they are awaiting a decision on TAA certification. Core services are available and will be tracked on NEworks. Eligibility may be determined for the Workforce Innovation and Opportunity Act (WIOA) Title I Dislocated Worker program and when participants begin receiving WIOA-funded career services, they shall be tracked on NEworks. Immediately beginning the process of needs assessment improves participation rates and allows individuals more time to consider all of the options available to them. This is particularly critical due to the time lapse that could occur while awaiting TAA petition determinations. It is important the individual calls his/her Unemployment Insurance Claim Center where the individual’s parent claim resides to file an application for an eligibility determination to receive Unemployment Insurance benefits and/or Trade Readjustment Allowances (TRA) payments.

### *Adversely Affected Worker*

An adversely affected worker is an individual who, because of lack of work in adversely affected employment, has been totally or partially separated from such employment.[4]

A voluntary quit can, under some circumstances, be a “lack of work” separation for purposes of qualifying as an adversely affected worker who may apply for Trade Adjustment Assistance.

### Adversely Affected Incumbent Worker

The 2009 Amendments provide that training may be approved before separation for adversely affected incumbent workers. This provision defines an adversely affected incumbent worker as a worker who: (1) is a member of a group of workers that has been certified as eligible to apply for TAA benefits, (2) has not been totally or partially separated from employment and thus does not have a qualifying separation, and (3) is determined to be individually threatened with total or partial separation. This includes individuals who have received a notice of termination or layoff from employment as a result of any permanent closure or any substantial layoff at a plant, facility or enterprise. Nebraska’s “Eligibility for Dislocated Workers” policy defines “substantial layoff” as any reduction in force which is not the result of a plant closure, and which results in an employment loss at a single site of employment during any 30 day period for at least 50 employees (excluding employees regularly working less than 20 hours per week). Nebraska’s “Eligibility for Dislocated Workers” policy defines a general announcement of a planned closure as any document or statement, released by an official of the company, which specifies intent to close any employment site. A general announcement can be substantiated by a copy of the company document, a confirmed news/press release, or confirmed newspaper/magazine article. Confirmation must include the name and title of the company official, location of the facility, and the planned closure date. A WARN notice of planned closure may be considered a general announcement. This documentation of a threat of total separation from the firm is useful in making a determination that a worker is an adversely affected incumbent worker entitled to pre-separation training.

Workers threatened with total or partial separation from adversely affected employment may begin TAA-approved training before the date of that separation. TAA pre-separation training is intended to allow earlier intervention where layoffs are planned in advance and the employer can specifically identify which workers will be affected. Adversely affected incumbent workers may begin training prior to layoff, thereby lessening the amount of time needed to complete the training program after the separation occurs, and lessening the worker’s overall length of unemployment. The criteria and limitations for approval of training for adversely affected incumbent workers are the same as they are for adversely affected workers; except for on-the-job training or customized training (unless such training is for a position other than the worker’s adversely affected employment.) Adversely affected incumbent workers, like adversely affected workers, are entitled to employment and case management services to ensure they have the same assistance in developing a reemployment plan and choosing training. OE&T must ensure the training

being provided is for a different position than the worker's current position if the training is being provided under agreement with the worker's current employer. An incumbent worker may receive pre-separation training for another position with the worker's current employer, but only if the position is not similarly threatened by trade, i.e. the new position is outside of a subdivision with a trade-certified worker group.

OE&T must evaluate whether the threat of total or partial separation continues to exist for the duration of the pre-layoff training. This can be accomplished by verifying with the employer that the threat of separation still exists before each subsequent portion of the training is funded. If the threat of separation is removed during a training program, funding of the training must cease. The worker would be eligible to complete any portion of the training program where TAA funds have already been expended, but would not be eligible for further TAA funding of the training program in the absence of a threatened or actual separation from the adversely affected employment. The worker may resume the approved training program upon the resumption of the threat or in the event of a total qualifying separation, if the six criteria for approval of the training under Section 236(a)(1) are still met.

In accordance with 20 CFR Section 617.22(f)(2), a worker is permitted to have approval of one training program per certification. A training program begun prior to separation counts as the one training program, and the training plan should be designed to meet the long-term needs of the worker based on the expectation they will be laid off. The training program should also take into account the availability of up to 156 weeks of training. Thus, while a pre-separation training program may be resumed, a worker who has participated in pre-separation training will not be eligible for a new and different training program.

### Early Intervention Services

Early intervention services including rapid response assistance and appropriate core and intensive services, as described in Section 134 of WIOA, shall be made available to the workers covered by the petition to the extent authorized under the WIOA and other Federal laws. Early intervention services that will be beneficial to potential trade-affected workers continue to be a priority and may include, but are not limited to, orientation, surveying the workers, initial assessment of skill levels, aptitudes, and abilities, the provision of labor market information, job search assistance, stress management, and financial management workshops. Reemployment Services (RES) should also be utilized when appropriate. Trade Adjustment Assistance staff are encouraged to work with WIOA staff to align resources and develop clear plans for coordination. In most instances, the Rapid Response informational meeting(s) shall be held in the city where the affected workers worked. These meetings outline the TAA services available.

### Co-enrollment

Co-enrollment means enrollment in more than one program at a time, such as, concurrent enrollment in the WIOA Dislocated Worker program and the TAA program. Since most trade-impacted workers are by definition dislocated workers for the purposes of WIOA

Title I, it is recommended that these individuals enter the One-Stop service delivery system immediately following the announcement of a layoff. Once the certification has been issued, workers shall be informed that they are covered by this certification and are eligible to apply for TAA benefits. Since NEworks is an integrated Management Information System, one record is established for each participant and multiple program services (including Wagner-Peyser, WIOA, Rapid Response, WIOA Dislocated Worker, and Trade Adjustment Assistance) shall be attached to that record in an integrated manner, as needed. For co-enrolled individuals receiving WIOA-funded intensive services and training exclusively funded by TAA, there is no requirement to use providers certified as eligible providers. All partner staff shall continue to work together and use the systems and processes in place to serve the adult and dislocated worker populations, rather than using a parallel process that duplicates services available through the One-Stop system. Memoranda of understanding between Local Boards and the Trade Act programs may serve as vehicles for articulating opportunities for coordination among programs. By concurrently enrolling these workers in multiple programs, a broader range of resources are available to the dislocated worker.

### *Supportive Services*

Participants may be co-enrolled if they would benefit from WIOA supportive services. Supportive services include services such as transportation, child care, dependent care, housing, and needs-related payments, necessary to enable an individual to participate in services authorized under WIOA Title I.[5] Local Boards, in consultation with the American Job Center partners and other community service providers, must develop a policy on supportive services that ensures resource and service coordination in the local area.

### *Coordination*

If the TAA program funding sources for provision of employment and case management services to workers in the TAA program are insufficient to meet the requirement that these services be offered to all adversely affected workers and adversely affected incumbent workers, OE&T must make arrangements to assure that funding under the WIOA or another program is available to provide those services. In the event local WIOA funds are exhausted, OE&T will apply for a National Emergency Grant to replenish funds. Multiple enrollment resources may include Wagner-Peyser activities, faith-based and community-based programs, vocational rehabilitation services, and Veterans' programs.

The Trade Unit and Trade Readjustment Allowance benefit staff shall work together to meet data collection, storage, and reporting requirements. To reinforce pursuit of the program performance goals and ensure clear and uniform procedures are followed, state performance management training or meetings shall be held and include participation of State Trade Coordinator and TRA benefit staff. The State Trade Unit shall capture and report information related to a participant's ongoing participation in training or waiver status to the TRA benefit payment staff.

## Benefits and Services

### *Reemployment Services*

Reemployment services are available to assist unemployed or partially unemployed workers at the local American Job Center. These reemployment services may include counseling, vocational testing, labor market information, job seeking assistance, job placement and supportive services. TAA individuals may be co-enrolled in the WIOA or Wagner-Peyser (WP) programs, and receive these services from WIOA or WP.

### *Employment and Case Management*

The following employment and case management services must be offered to all adversely affected workers and adversely affected incumbent workers covered by a certification:

- Comprehensive and specialized assessment of skill levels and service needs, including diagnostic testing and use of other assessment tools and in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals.
- Development of an individual employment plan (IEP) to identify employment goals and objectives, and appropriate training to achieve these goals and objectives.
- Information on training available in local and regional areas, information on individual counseling to determine which training is suitable training, and information on how to apply for such training.
- Information on how to apply for financial aid, including referring workers to educational opportunity centers described in section 402F of the Higher Education Act of 1965, where applicable, and notifying workers that they may request financial aid administrators at institutions of higher education to use the administrators' discretion under section 479A of such Act to use current year income data, rather than preceding year income data, for determining the amount of need of the workers for federal financial assistance under Title IV of such Act.
- Short-term prevocational services, including development of learning skills, communications skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct to prepare individuals for employment or training.
- Individual career counseling, including job search and placement counseling, during the period in which the individual is receiving a trade adjustment allowance or training, and for purposes of job placement after receiving such training.
- Provision of employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including: job vacancy listings in such labor market areas; information on jobs skills necessary to obtain jobs identified in job vacancy listings; information relating to local occupations that are in demand and earnings potential of such occupations; and skills requirements for local occupations in demand.
- Information relating to the availability of supportive services, including services relating to child care, transportation, dependent care, housing assistance, and

need-related payments that are necessary to enable an individual to participate in training.

These services must be made available to workers over the course of their participation in the TAA program, in an integrated manner that suits their individual needs at a particular time. OE&T should minimize the extent to which they establish new or standalone employment and case management structures for TAA program participants where these services are available within the workforce development system. Rather, OE&T should fully integrate TAA participants and resources into the One-Stop system, thereby maximizing and enhancing existing employment and case management structures. OE&T must demonstrate it has provided or offered these services either in a paper-based case file or in an electronic case management system, which must be available for review. Additionally, the case management file of each participant must demonstrate that the OE&T notified each worker of his/her enrollment in training deadlines.

### *Job Search Allowances*

- Job search allowances are payments made to TAA certified workers who are totally laid off and cannot obtain suitable employment within their commuting area. The allowance for reimbursement may equal 100% of necessary job search expenses, based on a per diem rate (transportation, hotel, meals), up to a maximum of \$1,500. This reimbursement to affected workers is paid for expenses incurred, while participating in a pre-approved job search program.
- The cost allowable for lodging and meals shall not exceed the lesser of the actual cost to the individual of lodging and meals while engaged in the job search; or 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations (see 41 CFR part 101-7) for the locality where the job search is conducted.[6]
- There are time limits for job search allowances. The application for the allowance is the later of (1) the 365<sup>th</sup> day after the date of certification OR (2) the 365<sup>th</sup> day after the date of the worker's last total separation OR (3) the date that is the 182<sup>nd</sup> date on which the worker concluded training. The TAA certified worker must apply (file an application) before beginning his/her search for work. The participant must supply a printout from a web-based mapping service such as MapQuest of the route traveled to the TAA case manager because travel must be outside the commuting distance of 25 map miles (one way) to be reimbursed. Authorization for the job search allowance is only for travel within the United States.

### *Relocation Allowances*

If the certified worker is successful in obtaining employment outside his/her normal commuting area, the TAA program offers financial assistance for the individual to relocate to such new area of employment. Outside the normal commuting area is defined as more than 50 miles one way using a web-based mapping service such as MapQuest from current address to new address.

When it is determined no suitable work is available in the certified worker's normal commuting area, a relocation allowance application may be approved if:

- the certified worker has obtained "suitable employment" affording a reasonable expectation of long-term duration or a bona fide offer of such work in another area (must be in the United States); and
- the individual has not previously received a relocation allowance under the same certification; and
- the individual is totally separated from certified employment at the time of relocation. (Partially separated workers may apply in anticipation of total layoff.)

A relocation allowance pays 100% of the reasonable and necessary expenses of moving the certified worker, his/her family, and household goods (not to exceed the weight limit authorized in Federal travel regulations) to the new location. Additionally, the certified worker will receive a lump sum payment equal to three times his/her average weekly wage, up to a maximum of \$1,500, to help get settled. An application for relocation allowance must be filed and approved by the Regional Manager before the individual moves.

A bona fide offer must be verified by a letter from the new employer.

There are time limits for filing an application for relocation allowances. The application for relocation allowance must be filed within 425 days after the date of certification or last total layoff, whichever is later; and the individual must begin to relocate within 182 days after applying for a relocation allowance, or within 182 days after completing approved training.

The cost allowable for lodging and meals for an individual or each member of the individual's family shall not exceed the lesser of the actual cost to the individual for lodging and meals while in travel status; or 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations (see 41 CFR part 101-7) for the locality to which the relocation is made.[7]

### *Waivers of Training*

A TAA Waiver is a written statement to an adversely affected participant waiving the requirement to be enrolled in training and may be valid for a specified period of time between sixty days and no longer than six months at a time. The waiver must be reviewed every 28 days using the OET Waiver of Training Participation form (see Attachment A).

Waivers of training are a result of a finding that it is not feasible or appropriate to approve a training program for a worker because of one or more of the following reasons:

1. Recall - The worker has been notified that he/she will be recalled by the firm from which the separation occurred.

2. **Marketable Skills** - The worker possesses marketable skills for suitable employment and there is a reasonable expectation of employment at equivalent wages in the foreseeable future. The term "marketable skills" may include the possession of a postgraduate degree.
3. **Retirement** - The worker is within 2 years of meeting all requirements for entitlement to either old-age insurance benefits under Title II of the Social Security Act or a private pension sponsored by an employer or labor organization.
4. **Health** - The worker is unable to participate in training due to his/her health. A waiver of training due to health reasons shall not be construed to exempt the worker from requirements relating to the availability for work, active search for work, or refusal to accept work under Federal or State unemployment compensation laws.
5. **Enrollment Unavailable** - The first available enrollment date for the approved training of the worker is within 60 days after the date of the "enrollment unavailable" determination, or, if later, there are extenuating circumstances for the delay in enrollment, as determined pursuant to guidelines issued by the Secretary.
6. **Training Not Available** - Training approved by the Secretary is not reasonably available to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in Section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998, and employers), no training that is suitable for the worker is available at a reasonable cost, or no training funds are available.

A preliminary assessment of each trade affected worker's skills must be carried out to identify workers for whom immediate enrollment in training is appropriate. The completed assessment of pre-training skills must be included in each worker's case file. Except where such an assessment of a worker clearly indicates a need to enroll in training immediately, it is generally appropriate to seek a waiver request under the marketable skills condition. This waiver would allow some period of job search and avoid removing some workers prematurely from the labor force and investing training resources that may not be necessary to helping a worker obtain reemployment. All waivers (except for Retirement) must be reevaluated 3 months after the date issued and every 28 days for the duration of the waiver period. If the waiver is issued on the basis of marketable skills, the reevaluation will take into account the reasons the individual has been unable to obtain employment during the job search. If the difficulty finding work is attributed to skill deficiencies, the waiver may need to be revoked with the worker immediately enrolled in training. It is important the individual continue to receive appropriate case management services during the waiver period to ensure progress continues to be made toward meeting the individual's reemployment plan. Information related to waiver status shall be shared with the TRA benefit payment staff since changes may impact continued receipt of weekly benefits, if available.

Waivers are limited to a maximum duration of six months unless an extension is authorized by the State Trade Unit. This means a waiver issued during a worker's UI period often will not cover the worker's entire entitlement to basic TRA. In cases where it

is necessary to cover the worker's full entitlement to basic TRA, the state may extend a worker's waiver beyond six months.

### *Deadlines, Reviews, and Start Dates*

For TAA participants not enrolled in a TAA approved training program, a waiver must be approved using the OET Waiver of Training Participation form and must be completed by the last day of the 26th week after the week in which the Secretary issues a certification covering the participant or the last day of the 26th week after the participant's most recent total separation from adversely affected employment, whichever is later.

All waivers must be signed by both the TAA applicant and by State Merit Staff. The waiver must have final approval or denial from State Merit Staff after acknowledgement of the applicant's signature. Subsequent reviews must be documented in NEworks under comments every 28 days.

The start date for all waivers shall be the date signed by the participant. This date must match the start date of the NEworks waiver "activity" and "entry".

It is never appropriate to back date a waiver. This is strictly prohibited and creates a false eligibility for TRA.

### *Training*

If there are no suitable jobs in the area and training would improve the chances of getting a job, the adversely affected worker or an adversely affected incumbent worker may be eligible for full-time or part-time TAA funded training, although full-time training is required for TRA eligibility. Training opportunities may include: employer-based training including on the job training (OJT), customized training (except that OJT and customized training may not be approved for affected incumbent workers unless such training is for a position other than the worker's adversely affected employment), and registered apprenticeship programs; any training program provided by a state pursuant to Title I of WIOA; any local board approved training; any program of remedial education or program of prerequisite education or coursework required to enroll in training; any federal or state funded training program; any training program or coursework at an accredited institution of higher education (including training to obtain or complete a degree or certificate program); and any other training program approved by the Secretary.

### *Conditions*

When a petition has been certified, funded training may be approved using TAA resources if the following six conditions are met:

1. There is no suitable employment available now or in the foreseeable future.
2. The worker would benefit from training and has the capabilities to successfully complete the training.

3. There is a reasonable expectation of employment following training completion.
4. Approved training is reasonably available within the worker's commuting area.
5. The worker is qualified to start and complete training successfully considering the worker's overall financial resources.
6. Training is suitable and available at a reasonable cost. Training may not be approved when the costs of the training are unreasonably high in comparison with the average costs of training other workers in similar occupations at other providers. If the worker volunteers to use other funds to supplement the TAA training funds when the cost of training is otherwise not reasonable, the training program will be approved, if the other training approval criteria are met. However, personal funds of the participant shall not be used to pay for any portion of his/her training program.

*Definition: Suitable Employment*

Suitable employment is defined for this criterion as work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work at not less than 80% of the worker's average weekly wage.

*Information Requirements*

Each trade-affected worker must be provided the necessary information to enable them to make an informed choice among approvable training options, regardless of the worker's language or educational abilities. When a worker's education and language abilities are limited, careful case management at the training selection stage and during training is essential.

Workers who qualify for Trade Act training must be provided general information about available training programs, including access to labor market information, wage information and web sites which may inform participants of the types of training available. Documentation to demonstrate all of these requirements have been satisfied must be kept in the case file.

*Timeframes*

20 CFR 617.22(f)(2) limits the maximum length of approvable training to 104 weeks (during which training is conducted) so that a training program would not extend too far beyond the worker's TRA. The 2009 Act provides up to 26 more weeks of additional TRA to workers for a potential total of 130 weeks of income support for most workers, as well as up to 26 more weeks for workers who require either remedial education or prerequisite training for a total of up to 156 weeks of available income support. Training may extend beyond the weeks of TRA available to the individual worker, if the worker demonstrates a financial ability to complete the training after the expiration of the worker's TRA eligibility period. Most workers will not have 156 or 130 weeks of income support available at the beginning of training; rather most workers will have used some weeks of income support, such as 26 weeks or more of UI.

If the approved training meets all of the requirements of the Trade Act and regulations, including the requirement for the training to be available at a reasonable cost, a worker has a right to choose to enroll in more expensive training that is of demonstrably higher quality or that may be expected to produce better results for the worker in quickly returning to suitable employment even when lower cost training is available to the worker. The approved training program must be a program that provides the necessary skills to return the participant to work. Prior to training approval, each worker's case file must identify what occupation the worker is being trained to enter.

In approving training, the OE&T must consider cost, suitability for the worker, and quality and results. If training is approved, payment will be made through an Individual Training Accounts (ITA) voucher or directly to the school, unless training costs are paid or are reimbursable under another federal law. Locals are encouraged to select training providers that have met the qualifications necessary to be included in the statewide Eligible Training Provider List. However, the amendment of Section 236(a)(5) of the 2002 Act expressly provides that training options available under the TAA program are not limited to training programs available under Title I of WIOA.[8] Personal funds of the participant shall not be used to pay for any portion of his/her training program. Duplicate payment of training cost is prohibited.

When individuals are enrolled in a TAA program, the maximum amount of funds expended for training costs shall not exceed \$14,000 per eligible participant. However, training options shall not be based solely on the state training cap. Exceptions to the limitation may be considered when the training requested is available at a reasonable cost and particularly suitable for the individual situation as demonstrated by back-up documentation provided by the case manager. When an exception is being requested by the local area, the request and back-up documentation must be sent to the OE&T, Attention: Trade Unit, 550 S. 16<sup>th</sup>, Lincoln, NE 68509. The final decision for either approval or disapproval of an exception is determined by the Nebraska Commissioner of Labor. This limitation also applies when co-enrollment is involved. Although through co-enrollment additional resources may be available, the total training costs shall not exceed \$14,000 per eligible participant. The cost of other services, i.e., allowable travel, relocation, job search assistance, etc. shall not be applied towards the training costs.

It is not appropriate to use Trade Act funds to pay for the development of a training provider or program, curriculum development, teacher training or physical plant needs.

If training is not within 25 miles of home [one way using map miles], supplemental assistance is available for transportation cost based on the prevailing federal per diem mileage rates, under the federal regulations. A printout from a web-based mapping service such as MapQuest of the route traveled by the participant must be included in his/her file to document the mileage. The mileage printout must be submitted every time a mileage request is made for supplemental assistance funds.

The cost allowable for lodging and meals for an individual attending training at a location exceeding 25 miles from the individual's home, shall not exceed the lesser of the

individual's actual per diem expenses for subsistence; or 50 percent of the prevailing per diem rate authorized under Federal travel regulations (see 41 CFR part 101-7) for the locale of the training.[9]

Trade Act funds may be used for a participant's "training consumables," i.e. paper, pens, calculators and other items that are training related and directly support the completion of the course. The participant will need to provide documentation of the need for the training consumables requested. This requirement may be completed by the submission of a course syllabus or email from a professor outlining needed items. The amount used to purchase training consumables may not exceed \$50 per training term and must be included in, and not in addition to, the \$14,000 training cap. Exceptions to the limitation may be considered with appropriate justification and documentation and must be approved by the Office/Regional Manager. For payment processing purposes all receipts must be kept and signed by the participant for all training consumables purchased.

### *Unemployment Insurance and TAA Benefits While in Training*

The 2009 Amendments amended Section 236(d) of the 2002 Act to clarify that an adversely affected worker may not be determined to be ineligible or disqualified for unemployment insurance or program benefits under TAA because:

1. the worker:
  - a. is enrolled in TAA approved training;
  - b. left work that was not suitable employment in order to enroll in such training; or the worker engaged in on a temporary basis during a break in such training or a delay in the commencement of such training; or
  - c. left on-the-job training not later than 30 days after commencing such training because the training did not meet the requirements of Section 236(c)(1)(B). That section provides for the approval of OJT where the NOE&T determines it can reasonably be expected to lead to suitable employment with the employer offering the OJT; is compatible with the skills of the worker; includes a curriculum through which the worker will gain the knowledge or skills to become proficient in the job for which the worker is being trained; and can be measured by benchmarks that indicate the worker is gaining the knowledge or skills; or
2. because of the application to any such week in training of the provisions of state law or Federal unemployment insurance law relating to availability for work, active search for work, or refusal to accept work.

### *Income Support and TRA Payments*

Individuals may be eligible for Trade Readjustment Allowances (TRA). In order to qualify for TRA, a worker must be enrolled in training (or have a waiver of training) within 26 weeks after certification or layoff, whichever is later. In determining a worker's eligibility, the requirement that workers be either enrolled in approved training or covered by a training waiver in order to receive TRA does not apply for weeks that occur prior to the

training enrollment deadline. In many cases, the 26 week deadline for a worker will be reached while the worker is still receiving unemployment insurance (UI). Since some workers are not aware this deadline may apply before they exhaust their UI, workers are to be informed of these requirements and the OE&T must document its efforts to notify workers of the enrollment deadlines. [There is an exception allowed to the enrollment deadlines where the worker did not enroll by the deadlines because the OE&T failed to provide the worker with timely information regarding the training enrollment deadlines. In that event, the Secretary of Labor has determined the worker must be enrolled in training or receive a waiver by the Monday of the first week occurring 60 days after the date on which the worker was properly notified of both his/her eligibility to apply for TAA and the requirement to enroll in training absent a waiver of the training requirement.] States may grant an extension to the deadline for enrollment for up to 45 days if there are extenuating circumstances. "Extenuating circumstances" are circumstances beyond the control of the worker that could arise when training programs are abruptly cancelled, as well as in cases where a worker suffers injury or illness preventing participation in training, or other events where the state can justify and document that the application of extenuating circumstances is warranted. An extension of 45 days for extenuating circumstances shall only be granted through the EO&T at NDOL. Workers who have received a training waiver must be enrolled in training by the Monday of the first week occurring 30 days after the date on which the waiver terminated, whether by revocation or expiration. "Enrolled in training" means the worker's application for training has been approved by the Regional Manager and the training institution has furnished written notice to the Regional Manager that the worker has been accepted into the approved program which is to begin within 30 days of such approval. Entitlement to unemployment insurance includes regular unemployment compensation and Extended Benefits (EB) and Temporary Extended Unemployment Compensation (TEUC). If an individual is eligible to receive EUC payments, this is received in lieu of Basic TRA benefits.

### *Unemployment Insurance*

Since eligibility for TRA shall be determined by the TRA benefit staff, it is recommended the individual going into training apply for TRA when his/her UI claim is filed. If the certified worker (with a qualifying separation) is not approved for TRA, they still remain eligible to apply for other TAA services.

The Unemployment Insurance staff at the Claim Center (402-458-2500, or for TDD service 402-471-0016) shall advise individuals from certified companies on how to apply for TRA benefits. The TRA payments are intended only for workers who are enrolled in approved full time training unless a waiver has been granted.

### *Timeframes*

In order to receive payment of TRA for any week of unemployment, the worker must be adversely affected, be covered by a group certification, apply for TRA payments in a timely fashion; and meet all of the following requirements:

1. The worker's first qualifying separation from affected employment must have occurred on or after the impact date and before the expiration of the 2-year period beginning on the date of the certification.
2. During the 52 week period ending with the total or partial separation, they must have been employed at least 26 weeks at wages of \$30 or more per week in an affected job.
3. The individual must have been entitled to and exhausted all UI benefits, except additional compensation that is funded by a state and is not reimbursed from any federal funds, and that the worker would not be disqualified for extended compensation payable under the Federal-State Compensation Act of 1970 by reason of its work search and job search requirements. [Note: Section 232(d) allows the worker to elect to receive TRA instead of UI for any week where the worker meets two conditions: The worker is entitled to receive UI as a result of a new benefit year based in whole or in part upon part-time or short-term employment in which the worker engaged after the worker's most recent total separation from adversely affected employment; and the worker is otherwise entitled to TRA.]
4. The individual must be enrolled in TAA approved training, be academically successful, and provide appropriate school documentation at regular intervals. A waiver of training may be granted if appropriate. [Note: In determining a worker's eligibility, the requirement that workers be either enrolled in approved training or covered by a training waiver in order to receive TRA does not apply for weeks that occur prior to the training enrollment deadline.]

For those who qualify for TRA benefits, their eligibility for Basic TRA benefits is the 104-week period (or, in the case of an adversely affected worker who requires a program of prerequisite education or remedial education in order to complete training approved for the worker, the 130-week period) beginning with the first week, which follows the week of their most recent total separation within the certification period. This does not mean the individual receives TRA benefits for 104 weeks. The maximum amount of TRA benefits an individual may receive during this period is limited to 52 times his/her weekly TRA amount minus all UI benefits (including federal extended unemployment compensation) which they were entitled to receive.

Prerequisite education is coursework the training institution requires for entry into the approved training program. Remedial education is defined as training in the elementary skills that every worker must have in order to achieve basic reemployability. Remedial training should be considered pre-vocational; that is, it leads to occupational, on-the-job, or customized training that will equip the participant with specific job skills. Wherever practical, remedial training should be conducted concurrently with the early parts of occupational training. Examples of remedial education are basic writing and mathematical skills training, English as a Second Language (ESL), and courses leading to a G.E.D.

TRA is not payable to workers participating in on-the-job training.

Additional TRA are weekly benefits paid to eligible workers to help them complete their TAA approved training program. Under the Trade Adjustment Assistance (TAA) program, individuals may be eligible to receive TRA for up to 78 additional weeks in the 91 week eligibility period that follows the last week of (basic) TRA entitlement; or begins with the first week of such training. Under the 2009 Amendments, the worker is allowed to not claim benefits during up to 13 weeks without losing any weeks of benefits. These dollars are only available if they are participating in a TAA approved training program.

### *Extension of Timeframes*

The 2009 Amendments amended Section 233(h) to allow for an extension of these periods for “justifiable cause,” meaning circumstances determined to be beyond the worker’s control by the OE&T. In making this determination, the OE&T will apply Nebraska’s “good cause” law applicable to the administration of the State’s UI laws. These extensions may only be made by the OE&T and the circumstances for making these decisions must be documented.

Section 48-628.01 of Nebraska's Employment Security Law states: “Good cause for voluntarily leaving employment, defined. Good cause for voluntarily leaving employment shall include, but not be limited to, the following reasons:

1. An individual has made all reasonable efforts to preserve the employment but voluntarily leaves his or her work for the necessary purpose of escaping abuse at the place of employment or abuse as defined in section 42-903 between household members;
2. An individual left his or her employment voluntarily due to a bona fide non-work-connected illness or injury that prevented him or her from continuing the employment or from continuing the employment without undue risk of harm to the individual;
3. An individual left his or her employment to accompany his or her spouse to the spouse’s employment in a different city or new military duty station;
4. An individual left his or her employment because his or her employer required the employee to relocate;
5. (a) An individual is a construction worker and left his or her employment voluntarily for the purpose of accepting previously secured insured work in the construction industry if the commissioner finds that:
  - (i) (A) the quit occurred within 30 days immediately prior to the established termination date of the job which the individual voluntarily leaves,
  - (B) the specific starting date of the new job is prior to the established termination date of the job which the worker quits,
  - (C) the new job offered employment for a longer period of time than remained available on the job which the construction worker voluntarily quit, and
  - (D) the worker had worked at least 20 days or more at the new job after the established termination date of the previous job unless the new job was terminated by a contract cancellation; or

- (ii) (A) The construction worksite of the job which the worker quit was more than 50 miles from his or her place of residence,
- (B) the new construction job was 50 or more miles closer to his or her residence than the job which he or she quit, and
- (C) the worker actually worked 20 days or more at the new job unless the new job was terminated by a contract cancellation.
- (b) The provisions of this subdivision (5) shall not apply if the individual is separated from the new job under conditions resulting in a disqualification from benefits under subdivision (1) or (2) of section 48-628;
- 6. An individual accepted a voluntary layoff to avoid bumping another worker;
- 7. An individual left his or her employment as a result of being directed to perform an illegal act;
- 8. An individual left his or her employment because of unlawful discrimination or workplace harassment on the basis of race, sex, or age;
- 9. An individual left his or her employment because of unsafe working conditions; or
- 10. Equity and good conscience demand a finding of good cause."

While participating in training, individuals may experience a break in their training and still receive basic and additional benefits if:

- the break from school does not exceed 30 days; and
- they were in training prior to the break and returned immediately after the break; and
- the break was part of the school/training schedule.

TRA benefits may be denied, IF:

- The individual does not file an application within the specified time frame.
- The individual fails to make satisfactory progress in his/her training program.
- The individual no longer attends school and has not shown good cause, as defined by Trade regulations. OE&T determines good cause and issues written approval or denial of the good cause.
- The individual fails to report wages for any week where benefits are claimed.

### *Overpayments*

If the OE&T, the U.S. Secretary of Labor, or a court of competent jurisdiction determines any person has received any payment under Trade to which the person was not entitled, including a payment referred to in Sec. 243(b), such person shall be liable to repay such amount to the state agency or the Secretary, as the case may be, except the state agency or the Secretary shall waive such repayment if such agency or the Secretary determines that:

- The payment was made without fault on the part of such individual, and
- Requiring such repayment would cause a financial hardship for the individual (or the individual's household, if applicable) when taking into consideration the income

and resources reasonably available to the individual (or household) and other ordinary living expenses of the individual (or household).

OE&T will document whether the payment was made with or without fault on the part of the individual when making decisions related to overpayments.

### Appeal Rights

#### *Regarding Petitions*

Any worker, group of workers, certified or recognized union, or authorized representative of such worker or group, whose petition for TAA has been denied by USDOL may file an application for reconsideration of the determination by USDOL within 30 days after publication of the determination in the Federal Register. The request must be in writing and include:

- Name(s), address(es), and telephone number of the applicant(s);
- Name or a description of the group of workers on whose behalf the application for reconsideration is filed;
- Name and case number of the determination complained of;
- A statement of reasons for believing the determination complained of is erroneous;
- If the application is based, in whole or in part, on facts not previously considered in the determination, such facts shall be specifically set forth.
- If the application is based, in whole or in part, on an allegation that the determination complained of was based on mistake of facts which were previously considered, such mistake of facts shall be specifically set forth; and
- If the application is based, in whole or in part, on an allegation as to a misinterpretation of facts or of the law, such misinterpretation shall be specifically set forth.[10]

Mailing address is:

U.S. Department of Labor  
Division of Trade Adjustment Assistance  
Employment and Training Administration  
200 Constitution Avenue, N.W., Room N-5428  
Washington, DC 20210

For information call (202) 693-3560.

Not later than 15 days after receipt of the application for reconsideration, the certifying officer shall make and issue a determination granting or denying reconsideration.[11] The determination regarding application for reconsideration shall be published in the Federal Register.[12] If the determination is negative, it shall constitute a final determination for purposes of judicial review.[13] If the determination is affirmative regarding application for reconsideration, then the group of workers or other persons showing an interest in the

proceedings may make written submissions within 10-days after publication of the notice to show why the determination under reconsideration should or should not be modified.[14] Not later than 45 days after reaching an affirmative determination regarding application for reconsideration, the certifying officer shall make a determination on the reconsideration. The determination on the reconsideration shall be published in the Federal Register.[15]

### *Regarding Individual Services*

When a petition has been certified, but the individual is denied a specific TAA service such as training, travel, relocation etc., the individual has the same appeal rights as those provided under the state unemployment compensation law. Appeal rights are described on each form signed by the participant. Those rights are: “If you feel this determination is incorrect, you have a right to a hearing before an Appeal Tribunal; provided you file a timely notice of appeal by letter which must clearly state (1) that you are appealing and (2) the reasons why you believe this determination is incorrect. Your notice of appeal and such reasons must be received within twenty (20) days after this determination is mailed.” Whenever someone appeals a decision concerning his/her TAA benefits, the individual has a right to be represented by his/her union, lawyer, or other person to help present the facts.

### Performance Measures

The core indicators of performance are:

- The percentage of workers receiving benefits who are employed during the second calendar quarter following the calendar quarter in which the workers cease receiving such benefits;
- The percentage of such workers who are employed in each of the third and fourth calendar quarters following the calendar quarter in which the workers cease receiving such benefits; and
- The earnings of such workers in each of the third and fourth calendar quarters following the calendar quarter in which the workers cease receiving such benefits.

### *Program Evaluation and Monitoring*

Nebraska will self-monitor by a file review for process improvement. Each file review will identify best practices, process deficiencies, and training needs. By creating a process improvement plan, each case manager will have the ability to correct any deficiencies before coming under a formal Federal review. Reviewing files will ensure effective and efficient operation and administration of the program. At a minimum, a purposive random file sample of 25% of the total number of active Nebraska TAA cases (not to exceed 20 total case files) will be reviewed quarterly. Reviews will be based on a proportion of total active case files for each of the Greater Nebraska Regions and the Omaha and Lincoln local areas. For each review period, a sample will be based on the last digit of the State Identification Number, alternating between using 0-5 and 6-9 every other review. The

review must include files from at least two certifications when possible and include participants that are in training, receiving ATAA or RTAA funds and those that have been relocated, if such files are available.

### Merit Staffing

Under 20 CFR Part 618, the USDOL “requires that personnel engaged in TAA-funded functions undertaken to carry out the worker adjustment assistance provisions must be state employees covered by a merit system of personnel administration.” The USDOL instructed states to implement the TAA program according to “new merit staffing provisions which were to become applicable to TAA-funded positions effective December 15, 2010, as codified at 20 CFR § 618.890(b).” On December 29, 2010, President Obama signed into law the Omnibus Trade Act. Section 102 of the Omnibus Trade Act retroactively extended the deadline for states to implement the merit-based state personnel staffing requirements contained in 20 CFR § 618.890(a) from December 15, 2010, to no earlier than February 12, 2011. This requirement is now in effect.

### Reporting

The state shall submit quarterly Trade Act Participant Report (TAPR) data. The report shall include all active participants and all participants who have exited the program in the last 10 quarters. The “Program Exit” policy is applicable for participants co-enrolled in TAA and Dislocated Worker programs.

### Reemployment Trade Adjustment Assistance

The 2009 Amendments established Reemployment Trade Adjustment Assistance (RTAA) as a wage supplement option available to older workers under the TAA program. It replaced Alternative Trade Adjustment Assistance (ATAA) which provided wage supplements as an option for reemployed older workers as a demonstration project under the 2002 Act. [The ATAA program remains available to workers certified for ATAA under petitions filed prior to May 18, 2009, and after February 14, 2011.]

All TAA certifications filed between May 18, 2009, and on or before February 14, 2011, include eligibility to apply for RTAA, as well as other TAA benefits. Workers opting to participate in the wage supplement program do not surrender their eligibility for TAA-approved training. RTAA may be paid to participants working part-time, if they are enrolled in approved training. The maximum benefit the worker may receive over the course of the eligibility period is \$12,000. [Note: This is a maximum and may be reduced if the worker has received TRA.] An individual receiving RTAA may also receive TAA training, employment and case management services and job search and relocation allowances under certain conditions. However, once a worker elects RTAA, the worker cannot return to TRA.

## Eligibility

To be eligible for RTAA, an individual must meet the following conditions at the time of reemployment:

1. Be at least age 50 at time of reemployment or effective November 20, 2009, if the worker has become employed prior to reaching the age of 50, and meets all other RTAA requirements, the worker may be determined eligible for RTAA upon the worker's 50<sup>th</sup> birthday. However if the worker received TRA, each week in which TRA was paid reduces the duration of RTAA eligibility accordingly. The individual's age can be verified with a driver's license or other appropriate documentation.
2. Must not be expected to earn more than \$55,000 annually in gross wages, excluding overtime pay, from the reemployment. If a paycheck has not been issued at the time of application, the employer must submit a supporting statement documenting the worker's annual wages. [Note: This is a projection, but if later (absent fraud) it is determined the wages exceed more than \$55,000, it does not create an overpayment. However, RTAA would be stopped at that point.]
3. Reemployment:
  - a. Be reemployed full-time and not enrolled in a TAA-approved training program. [For RTAA purposes, Nebraska accepts the definition of the employer in determining full-time as long as it is 36 hours a week or more.] The OE&T will verify reemployment in the same manner as it uses for ATAA eligibility;
  - b. Be reemployed less than full-time, but at least 20 hours a week, and be enrolled in a TAA-approved training program. Similar to the requirement that TRA benefits may only be paid when enrolled in a full time training program, eligibility for RTAA benefits based on part-time employment and participation in training requires enrollment in a full time training program as well. This requirement helps ensure workers will not exhaust their limited RTAA benefit before returning to full-time employment, which is the true goal of the TAA program. The verification will be conducted in the same manner as is used for verifying employment for ATAA eligibility and for verifying participation in training; or
  - c. Be reemployed full-time and enrolled in a full-time TAA-approved program.
5. The worker cannot return to employment at the "firm" from which the worker was separated. However, the 2009 Act defines "firm" as either the entire firm or the appropriate subdivision. Accordingly, this requirement means that if the certification is issued for a worker group in an appropriate subdivision of a firm, the worker may not return to employment with that subdivision, but may return to work at another subdivision of the firm. If, however, the certification is issued for workers in the entire firm, the worker may not return to employment in any subdivision of that firm.
6. Reimbursement amounts will be rounded up to the next whole dollar.
7. For the purpose of calculating hours, the total hours employed each week will be rounded to the nearest 1/10 of an hour. For example, a worker who is employed

between 35.9 and 35.94 hours per week would have his/her hours rounded down to 35.9 hours. Whereas a worker who is employed between 35.95 and 35.99 hours per week, would have his/her hours rounded up to 36 hours per week.

8. Full-time or part-time status in an approved training program is based on the established full-time certification policy of the institution where the training is being offered.

### Eligibility Periods

The 2009 Act provides two separate eligibility periods for RTAA, the first for workers who have not received TRA, and the second for workers who have received TRA.

1. Worker Who Has Not Received TRA. The eligibility period for workers who have not received TRA is a two-year period beginning the earlier of “the date on which the worker exhausts all rights to unemployment insurance based on the separation of the worker from the adversely affected employment that is the basis of the certification” or the date on which the worker obtains reemployment.
2. Worker Who Has Received TRA. When a worker has received a trade readjustment allowance pursuant to the certification, the worker may receive RTAA benefits for a period of 104 weeks beginning on the date on which the worker obtains reemployment (as described above for RTAA eligibility) reduced by the total number of weeks for which the worker received such trade readjustment allowance.

Section 247(12) defines “unemployment insurance” as “the unemployment compensation payable to an individual under any State law or Federal unemployment compensation law,” which includes EUC.

The statutory phrase “worker exhausts all rights to unemployment insurance based on the separation of the worker from . . . adversely affected employment...” requires some interpretation. The first point to make is that a worker may have more than one separation from adversely affected employment. Where there is more than one such separation, the relevant separation is the worker’s last separation from adversely affected employment that qualifies the worker as an adversely affected worker. The last separation was chosen because that separation is the one that triggers the worker’s application for RTAA. A separation that qualifies a worker as an adversely affected worker is a lack-of-work separation from adversely affected employment. The OE&T must determine the worker’s last separation for lack of work from adversely affected employment before the RTAA application. This principle applies only to the determination of the eligibility period, and does not apply to the calculation of RTAA payments. Further, a separation may trigger a benefit year, occur during a benefit year, or not result in any entitlement to UI. If the worker’s last separation from adversely affected employment, which qualifies the worker as an adversely affected worker, either triggers a benefit year or occurs within a benefit year, the eligibility period will begin (if earlier than the reemployment) when the worker exhausts that UI eligibility, either by collecting all benefits available on the benefit year or by the expiration of the benefit year. If the worker has no UI entitlement for his/her last

separation from adversely affected employment that qualifies him/her as an adversely affected worker, then the two-year period begins on the date on which the worker obtains reemployment.

The individual's application for RTAA must be filed within the applicable eligibility period as described above. Retroactive payment may be made where appropriate. RTAA benefits are not payable during periods of unemployment, but payment is allowable when the worker is on employer allowed release time, such as sick leave.

Where a worker seeks to establish RTAA eligibility based upon more than one job, the employment hours will be combined in order to determine whether the worker has the number of hours needed to qualify for RTAA. If the worker obtains additional job(s), the wages from this employment will be included in the calculation to determine whether the worker is expected to reach the \$55,000 annual limit for reemployment wages.

Qualifying employment that was commenced prior to separation from adversely affected employment may be considered RTAA qualifying employment.

The OE&T will issue a written determination on an RTAA application within five working days of its receipt. If approved, the State Trade Unit will also notify the Trade Readjustment Allowance benefit staff. The RTAA applicant has the right to appeal a state determination which denies RTAA benefits in the same manner as provided for in State UI law for all TAA determinations.

The OE&T must maintain a manual or automated benefit history for each RTAA recipient for a period of no less than three years for audit purposes. The three years begins from the most recent determination of eligibility, benefits paid or appeal decisions.

### *Disclaimer*

This policy is based on NDOL's reading of WIOA and the WIOA Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

## Attachment A

### Waiver of Training Participation

Nebraska Department of Labor  
Office of Employment & Training Services  
**WAIVER OF TRAINING PARTICIPATION**

- ☐ **THE TRADE ADJUSTMENT ASSISTANCE REFORM ACT OF 2002 (TAARA)** (Petitions 50,000 - 69,000)  
(The last day of the 8<sup>th</sup> week after the week in which the Secretary issues a certification covering the worker or the last day of the 16<sup>th</sup> week after the worker's most recent total separation from adversely affected employment, whichever is later.)
- ☐ **TRADE AND GLOBALIZATION ADJUSTMENT ASSISTANCE ACT OF 2009 (TGAAA)** (Petitions 70,000 - 79,000)  
(The last day of the 26<sup>th</sup> week after the week in which the Secretary issues a certification covering the worker or the last day of the 26<sup>th</sup> week after the worker's most recent total separation from adversely affected employment, whichever is later.)
- ☐ **TRADE ADJUSTMENT ASSISTANCE EXTENSION ACT OF 2011 (TAAEA)** (Petitions 81,000 - 84,000)  
(The last day of the 26<sup>th</sup> week after the week in which the Secretary issues a certification covering the worker or the last day of the 26<sup>th</sup> week after the worker's most recent total separation from adversely affected employment, whichever is later.)

Applicant's Name	Social Security Number (last 4) XXX-XX-	American Job Center or NDOL Location	Date
Petition Number	Impact Date	Certification Date	Expiration Date
<p>This Section to be completed for the Initial Waiver only. The worker has met the Qualifying Requirements for Trade Readjustment Allowances (TRA), and the Enrollment in Training or Waiver from Training Requirement of Section 231(a)(5)(A) of the Trade Act of 1974 (19 U.S.C. 229(a)(5)(A)) as amended, which states: "the enrollment...occurs no later than the latest of:</p> <p>(I) the last day of the 8<sup>th</sup> or 26<sup>th</sup> week after the week in which the Secretary issues a certification covering the worker,</p> <p>(II) the last day of the 16<sup>th</sup> or 26<sup>th</sup> week after the worker's most recent total separation from adversely affected employment, or</p> <p>(III) forty-five (45) days after the later of the dates specified in (I) or (II), if there are extenuating circumstances that justify an extension of the enrollment period."</p> <p>This waiver is issued for the following reason(s) for up to a period of 6 months and <u>must be reviewed every 28 days</u>:</p> <p style="text-align: center;">FROM _____ TO _____</p>			
Enrollment in training requirement may be waived for one or more of the following reasons apply:			
<input type="checkbox"/>	HEALTH	The applicant is unable to participate in training due to his/her health.	
<input type="checkbox"/>	ENROLLMENT UNAVAILABLE	The first available enrollment date for the applicant's approved training is within 60 days after the date of this waiver.	
<input type="checkbox"/>	TRAINING NOT AVAILABLE	Suitable training is not available: <input type="checkbox"/> at a reasonable cost <input type="checkbox"/> no training funds are available <input type="checkbox"/> not reasonably available from either governmental agencies or private sources	
<input type="checkbox"/>	RECALL (Not applicable for 2011)	Applicant has been notified that he/she will be recalled by the firm from which separation occurred. (File must contain written notice of recall from the company.)	
<input type="checkbox"/>	RETIREMENT (Not applicable for 2011)	Applicant is within two years of meeting all requirements for entitlement to: <input type="checkbox"/> Old-age insurance benefits under Title II of the Social Security Act <input type="checkbox"/> A private pension sponsored by an employer or labor organization	
<input type="checkbox"/>	MARKETABLE SKILLS (Not applicable for 2011)	Applicant has marketable skills for suitable employment. There is reasonable expectation of employment at equivalent wages in the foreseeable future.	
<b>REVOCATION:</b> This waiver shall be revoked when it is determined the reason specified above is no longer applicable. Failure to report may cause interruption of benefits or revocation of this waiver.			
<b>CERTIFICATION:</b> I understand in order to receive weekly Basic Trade Readjustment Allowances (TRA) while on a waiver I must make a systematic and sustained search for work, which is a minimum of 3 contacts per week, and keep accurate records of such search. I further understand the law provides penalties for willful misrepresentation made to obtain benefits and allowances to which I am not entitled. Failure to follow instructions on the 28-day waiver reviews or appointments may result in loss of Basic TRA benefits.			
<b>APPEAL RIGHTS:</b> If you feel this determination is incorrect, you have a right to a hearing before an Appeal Tribunal, providing you file a timely notice of appeal in writing, which must clearly state that you are appealing and the reasons why you believe this determination to be incorrect. Your notice of appeal and such reasons must be received at the office issuing this determination within twenty (20) days after the date this determination is mailed.			
Applicant Signature			Date
Case Manager Signature			Date
State Merit Staff Management/State Trade Unit Signature			Date

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- [1] WIOA Sec. 121(b)(1)(B)(vii)
  - [2] TEGL 5-15, Attachment A
  - [3] Ibid.
  - [4] 20 CFR § 617.3(c)
  - [5] WIOA Sec. 3(58)
  - [6] 20 CFR § 617.34(a)(2)
  - [7] 20 CFR § 617.46(a)(2)
  - [8] WIOA Sec. 512(hh)(3)
  - [9] 20 CFR § 617.27(b)
  - [10] 29 CFR 90.18(a) and (b)
  - [11] 29 CFR 90.18(c)
  - [12] 29 CFR 90.18(d)
  - [13] 29 CFR 90.18(e)
  - [14] 29 CFR 90.18(f)
  - [15] 29 CFR 90.18(g)

## **Interim Policy on the Trade Adjustment Assistance Program under the Trade Adjustment Assistance Extension Act of 2011**

### *Reference*

The Trade Adjustment Assistance Extension Act of 2011; Trade and Globalization Assistance Act of 2009; The Trade Act of 2002; the Trade Act of 1974, as amended; the Workforce Innovation and Opportunity Act; Omnibus Trade Act of 2010; State Plan; 20 CFR part 617 and 618; 29 CFR part 90; 41 CFR part 301-11; TEGL 10-11, TEGL 7-13, and TEGL 5-15, Attachment A.

### *Background*

The Trade Adjustment Assistance Extension Act of 2011 (TAAEA) was signed into Law on October 21, 2011. It amends the Trade Adjustment Assistance (TAA) program restoring (with some exceptions) the expanded certification criteria and benefits and services provided under the Trade and Globalization Adjustment Assistance Act of 2009 (TGAAA). The TAA program was first established at the U.S. Department of Labor (USDOL) under Title II of the Trade Act of 1974. The TAA program has a two-step process for workers to obtain program benefits. First, a group of workers, or other specified entities, must file a petition for certification of eligibility to apply for TAA benefits and services with Office of Trade Adjustment Assistance (OTAA) in the Department's Employment and Training Administration (ETA) and the state in which the workers' firm is located. A petition will be certified by a Certifying Officer in OTAA after finding the statutory criteria that test whether the group of workers was adversely affected by international trade have been met. Second, workers who are part of a group covered under a certified petition may apply individually to a state for TAA benefits and services. States administer the TAA program as agents of the Secretary of Labor through a state agency or agencies designated as the CSA in an agreement between the Governor and the Secretary. In Nebraska, the Nebraska Office of Employment and Training (OE&T) of the Nebraska Department of Labor (NDOL) is responsible for the determination of worker eligibility to receive TAA services, and the Office of Unemployment Insurance determines the eligibility for Trade Readjustment Allowances (TRA) to TAA-eligible workers.

The 1974 Act has been amended numerous times. The Trade Adjustment Assistance Reform Act of 2002 reauthorized and expanded the scope of the TAA program and increased benefit amounts, repealed the North American Free Trade Agreement Transitional Adjustment Assistance (NAFTA-TAA) program, added to the TAA program in 1993 to provide benefits to workers who lost their jobs because of trade with Mexico and Canada after NAFTA, created the Health Coverage Tax Credit (HCTC), and initiated a pilot program for Alternative Trade Adjustment Assistance for older workers (ATAA program). The TGAAA reauthorized the TAA program through December 31, 2010, and expanded its scope to cover additional categories of Trade-Affected Workers, increased benefit amounts, and added employment and case management services to the categories of TAA benefits. The Omnibus Trade Act amended the TGAAA to provide a six-week extension of the December 31, 2010 termination date of the program in effect

under the 2009 Amendments, and the resumption of the program in effect before the 2009 Amendments (the 2002 Program). HCTC expired on January 1, 2014. Beginning January 1, 2014, every eligible TAA recipient became responsible for paying his/her full health coverage premiums without HCTC; and all individuals have a range of options in Health Insurance Marketplaces and may be eligible for new tax credits for health insurance or expanded Medicaid options.

The authorization for the TAA program was set to expire on December 31, 2014. However, Congress took action on December 13, 2014, by passing the FY 2015 Omnibus Appropriations Act, which was signed into law by President Obama on December 16, 2014. Termination provisions relating to the operation of the TAA program, as provided in TEGL 14-14, do not apply to the operation of TAA in FY 2015 (through September 30, 2015).

#### Application of the 2011 Amendments:

The sections below describe how the 2011 Amendments apply to three distinct cohorts of workers:

#### Workers covered by petitions filed before February 13, 2011, with petition numbers below TA-W-80,000:

The TAAEA does not change the benefits and services available to workers covered by certifications of petitions filed before February 13, 2011 (interpreted in TEGL 16-10, Change 1, to mean petitions received on or before February 14, 2011). These workers are and will continue to be served as described below:

1. Workers covered by certifications of petitions filed on or before May 17, 2009, identified by a petition number lower than TA-W-70,000. These workers are subject to the provisions of the 2002 Amendments.
2. Workers covered by petitions filed on or after May 18, 2009, and on or before February 14, 2011, identified by petition numbers between TA-W-70,000 and TA-W-79,999. These workers are subject to the provisions of the 2009 Amendments.

#### Workers covered by petitions filed after February 13, 2011 and before October 21, 2011, with petition numbers ranging from TA-W-80,000-80,999:

Several provisions of the TAAEA address workers covered by certifications of petitions filed after February 13, 2011 (actually, February 14, 2011), and before the Enactment Date, October 21, 2011. These workers are covered by petitions with numbers ranging from TA-W-80,000-80,999.

The 2011 Amendments provide that, for any petition filed after February 13, 2011 (February 14, 2011) and on or before October 21, 2011 (petitions with numbers ranging from TA-W-80,000-80,999), for which an investigation is still pending, a determination will be issued based on the group eligibility provisions of the 2011 Act. OTAA's investigation

of these petitions under the provisions of the 2011 Act does not require any action on the part of the petitioners or the state.

The 2011 Amendments require OTAA to reopen investigations of any petitions filed after February 13, 2011 (February 14, 2011) and on or before October 21, 2011, identified by a petition number between TA-W-80,000 and 80,999, that resulted in a denial of a certification by OTAA before October 21, 2011. This includes petitions that were denied after reconsideration before October 21, 2011 or were under a reconsideration investigation on or before October 21, 2011. This action is necessary to determine worker group eligibility under the new provisions of the 2011 Act. Neither states nor petitioners need take any action to reopen these investigations. OTAA will investigate and decide these petitions based on the group eligibility criteria of the 2011 Amendments. Workers covered under certifications of these petitions will be eligible for benefits and services under either the 2002 Program or the 2011 Program if they are receiving benefits under the 2002 Program before December 19, 2011. There are no changes to the appeal procedures applicable to determinations denying certification of these petitions.

No separate group eligibility certification is required for a worker to apply for Reemployment Trade Adjustment Assistance (RTAA) under the 2011 Amendments. Therefore, OTAA does not need to reopen investigations of petitions in the range of TA-W-80,000-80,999 where the worker group was certified for TAA, but denied group eligibility to apply for ATAA. In these cases, workers covered under certifications of petitions numbered TA-W-80,000-80,999 who are eligible for benefits under the 2011 Program will automatically be eligible to apply for RTAA beginning on December 20, 2011.

In general, the benefits and services available under the 2011 Amendments will be available beginning December 20, 2011, the date that is 60 days after October 21, 2011, to workers covered under certifications of petitions numbered TA-W-80,000-80,999.

#### Program Benefits Available Between October 21, 2011 and December 20, 2011

Until December 20, 2011, workers covered under certifications of petitions numbered TA-W-80,000-80,999 will be eligible to apply for only the benefits and services available under the 2002 Program. The state must notify these workers that if they begin receiving benefits services available under the 2002 Program before that date, they will be given a choice to switch to the 2011 Program after December 20, 2011.

#### Program Benefits Available On or After December 20, 2011

Workers covered under certifications of petitions numbered TA-W-80,000-80,999 who first apply for benefits and services on or after December 20, 2011 (the end of the 60-day period following enactment of the 2011 Amendments), are only eligible to apply for the benefits and services available under the 2011 Program. States must provide these workers timely notice that they are eligible to apply for the 2011 Program benefits and services.

### Notice of 2011 Program Benefits Available on or After December 20, 2011 to Adversely Affected Incumbent Workers

Training is a benefit available to “adversely affected incumbent workers” under both the 2009 Program and the 2011 Program. Certifications of petitions numbered TA-W- 80,000-80,999 issued before October 21, 2011, do not include adversely affected incumbent workers because those certifications were made under the 2002 Amendments that were in effect at the time of certification. Under the 2011 Amendments, adversely affected incumbent workers become eligible for training as provided under the 2009 Amendments, beginning 60 days after enactment. OTAA will not amend these certifications issued before October 21, 2011, to expressly include adversely affected incumbent workers. However, states must contact the employers of workers covered by certifications of petitions in the 80,000-80,999 series, obtain an expanded list of workers in the worker group who are threatened with separation but have not been separated from employment, determine which workers are adversely affected incumbent workers, and provide information to them about the availability of the training benefit under the 2011 Amendments beginning on December 20, 2011.

### Notice of 2011 Program Benefits Available After December 20, 2011 to Older Workers

RTAA is a benefit available to older workers under the 2011 Program. States must automatically review determinations denying a worker covered under a certification of a petition numbered TA-W-80,000-80,999 individual eligibility for ATAA. If the denial was based on an eligibility criterion that does not apply to eligibility for RTAA (e.g., did not obtain full time employment by the 26th week after separation), then the state must notify the worker that the option to apply for benefits under the RTAA program may be available. States may provide information to the worker in a separate notice.

### Workers Receiving Benefits under the 2002 Program Continue to Receive Benefits under the 2002 Program Unless They Elect to Change

#### *Workers Eligible to Choose the 2002 Program or the 2011 Program*

Beginning December 20, 2011, workers who are covered under the certification of a petition numbered TA-W-80,000-80,999 and have not received benefits or services under the 2002 program as of this date will automatically become eligible for the 2011 Program. These workers will not be eligible for the 2002 Program.

For the 90-day period beginning December 20, 2011, workers who are covered under the certification of a petition filed after February 13, 2011 (February 14, 2011) and on or before October 21, 2011, and are “receiving TAA benefits” (as defined below) on December 20, 2011, are eligible to choose to continue in the 2002 Program, or move to the 2011 Program. These workers have a one-time opportunity, beginning on day 60 (December 20, 2011) and continuing through day 150 (March 19, 2011) after the Enactment Date (October 21, 2011), to choose coverage under either the 2002 Program or the 2011 Program. Therefore, workers eligible to choose must make this choice on or after December 20, 2011 and no later than March 19, 2012. [Although Nebraska has no

workers covered under certifications of petitions numbered TA-W-80,000-80,999 at this time, case workers must be prepared under Agent Liable situations to serve these individuals and document the appropriate choices if an individual from another state seeks services in Nebraska.] Unless they make the choice discussed in this paragraph within the statutory time period, workers who are covered by petitions numbered TA-W-80,000-80,999 who have received benefits under the 2002 Program will continue to receive benefits under the 2002 Program.

The requirement that such workers must be offered a choice between the 2002 Program and the 2011 Program means states must offer workers who have received a first TAA-funded benefit or service before the 60th day after the Enactment Date the choice of continuing with their existing 2002 Program benefits and services, or changing to the 2011 Program level of benefits and services. States must determine whether a worker “is receiving benefits under chapter 2 of title II of the Trade Act of 1974 as of the 60th day after enactment,” which is December 20, 2011.

A worker is “receiving TAA benefits” under one or more of the following circumstances:

1. Training Waiver: A training waiver is in effect for the worker on December 20, 2011; or
2. Training: The worker has an approved training plan and is enrolled in training, participating in training, or has completed training by December 20, 2011; or
3. Job Search and Relocation Allowances: The worker has been approved for a job search or relocation allowance, even if the payment has not yet occurred on or before December 20, 2011; or
4. Trade Readjustment Allowances (TRA) and ATAA: The worker has received a payment of either TRA or ATAA for a week before, or for the week that includes, December 20, 2011. Workers who fall into this category will be allowed to exercise a one-time election to either continue to receive benefits and services under the 2002 Program; or choose to apply for benefits and services available under the 2011 Program. States are required to notify eligible TAA enrollees of this one time election option and document their choice of program in a document, which must be retained in the worker’s case file. States must provide workers with information on the benefits and services available under the 2002 Program and the 2011 Program and make available counseling services to discuss the pros and cons of each option as it applies to the worker’s individual situation. States must develop an internal process to track under which program the worker is being served. This may include adding a suffix to the certification number in state case management systems to identify a worker who originally began receiving benefits and services under the 2002 Amendments, and later elected to begin receiving benefits and services under the 2011 Amendments.

Note that, HCTC is not a TAA-funded benefit and, under the 2002 Program, neither were employment and case management services. Therefore, workers who have received only HCTC or initial employment and case management services through the One-Stop system, and who have not received one or more of the benefits and services listed above,

will not be eligible to choose to receive benefits and services under the 2002 Program. These workers will automatically receive benefits under the 2011 Program.

#### *Workers Who Elect to Receive Benefits under the 2011 Program- Computation of Maximum Benefits*

Workers who elect to receive benefits under the 2011 Program on or after December 20, 2011 and before March 20, 2012, will transition from the 2002 Program to the 2011 Program beginning with the first week following the date on which the state documents that the worker made the choice. Any benefits or services received by the worker before the choice apply toward the maximum benefits the worker may receive under the 2011 Amendments. In particular, this includes both weeks of TRA and weeks of training received. In general, for workers receiving benefits under the 2002 Program who have not enrolled in training and choose to move to the 2011 Program, the applicable training enrollment deadlines will be those described in this policy. Such workers who were approved for a waiver of the training requirement under the 2002 Act based on Recall, Marketable Skills, or Retirement, who choose to move to the 2011 Program will no longer be eligible for that waiver. States must revoke those waivers, after the choice is made and the worker must be enrolled in training to continue to be eligible for TRA (or the state must issue a waiver under one of the reasons allowable under the 2011 Amendments). For workers whose waiver was revoked, the applicable deadline for training enrollment is the later of: the last day of the 26th weeks after the worker's most recent total separation or the last day of the 26th week after the date of the certification, or the Monday of the first week occurring 30 days after the date on which the state revoked the waiver. When applicable, training plans must be amended for workers who have enrolled in training and choose to move to the 2011 Program. This allows for the establishment of benchmarks necessary for states to determine whether those workers are eligible for Completion TRA.

#### *Eligible Workers Who Fail to Make an Election between December 20, 2011 and Before March 19, 2012*

The window for exercising this one-time choice option closes on March 19, 2012, the date that is 150 days after enactment, and eligible workers who fail to make this choice will continue to receive benefits and services under the provisions in the 2002 Amendments. As appropriate, a worker who appeals the denial of a benefit under the 2011 Program based on a state's alleged failure to provide timely or complete notice of the choice option and deadline, may assert that equitable tolling applies to that deadline. This policy provides guidance on the application of the equitable tolling principle to TAA deadlines.

#### Workers covered by petitions filed on or after October 21, 2011, with petition numbers beginning with TA-W-81,000.

#### *2011 Program Benefits Available to Workers Covered by Certifications of Petitions filed on or after October 21, 2011*

Workers covered by certifications of petitions filed on or after October 21, 2011 are subject only to the provisions of the 2011 Amendments. OTAA has begun a new TA-W numbering

series for petitions filed under the 2011 Amendments, beginning with TA-W-81,000. Workers covered by petitions filed on or after October 21, 2011, identified by a petition number greater than TA-W-81,000 are subject to the provisions of the 2011 Amendments, as well as regulations codified at 20 CFR parts 617 and 618, and 29 CFR part 90, to the extent that those regulations have not been superseded by the 2011 Amendments.

#### *Extended Impact Date for Certifications of Petitions Filed Within 90 Days of October 21, 2011*

In general, certifications cover workers separated from employment up to one year before the date of the petition. This date is known as the “impact date” of the certification. The 2011 Amendments provide that all certifications of petitions filed within 90 days of the date of enactment of the 2011 Amendments, which is January 19, 2012, include workers separated on or after February 13, 2010, instead of the one-year impact date that applies to certifications of all other petitions. For example, since the date of enactment is October 21, 2011, if the date of the petition is January 1, 2012, which is fewer than 90 days after October 21, 2011, a certification of that petition will cover workers separated on or after February 13, 2010. When a petition dated more than 90 days after the date of enactment (January 19, 2012) is certified, the one-year impact date will apply, and the certification will no longer cover workers separated more than one year before the petition date. The determination documents certifying petitions clearly identify the impact date and expiration date for each certification, and will use the impact date of February 13, 2010, where appropriate. This means that workers covered by certifications of petitions filed between October 21, 2011 and January 19, 2012 will have an earlier impact date than certifications of petitions dated between February 14, 2011 and October 20, 2011. This could cause confusion and complaints when workers who were denied eligibility for TAA because they were laid off more than a year before the date of the petition, learn there are other workers who were laid off more than a year before the date of the petition, who were determined to be eligible. This difference in treatment was directed by the statute.

#### *Action*

After a 10-day review period, this policy is considered final. Questions and comments should be submitted in writing to the WIOA Policy Mailbox, [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

#### *Policy*

As a required partner in the One-Stop service delivery system under WIOA, the TAA program is required to be accessible through American Job Centers.[1] Sec. 512(hh) of the Workforce Innovation and Opportunity Act (WIOA) substitutes WIOA for the Workforce Investment Act of 1998 in the Trade Act, and does not change the status of the Trade Adjustment Act (TAA) as a required partner.

## Purpose of TAA Funding Source

American workers whose jobs are lost as a result of increased imports or from a shift of production or services to any foreign country may apply for Trade Adjustment Assistance (TAA) under the Trade Act of 1974, as amended. TAA is federal assistance for U.S. Workers who are significantly harmed by foreign trade. TAA benefits are to help workers adjust to the employment problems resulting from increased foreign imports of products or services which directly compete with, or are like, those produced by the workers' company, causing a significant loss of U.S. jobs.

## Transition from the Reversion 2014 Program to the 2015 Program

Section 405 of the Trade Adjustment Assistance Reauthorization Act of 2015 (TAARA 2015) provides for the transition of workers certified under petitions filed on or after January 1, 2014, and before the date of enactment, from the Reversion 2014 Program to the 2015 Program beginning 90 days after the date of enactment. Since the TAARA 2015 was signed into law on June 29, 2015, the 90-day period will end on 11:59 P.M. EST, September 27, 2015. This means that, beginning on September 28, 2015, the Reversion 2014 Program will end and Reversion 2014 Program participants will be served under the 2015 Program. Reversion 2014 Program participants receiving benefits and services on September 27, 2015, will continue to receive those benefits after that date so long as they continue to meet the requirements for the benefit, as explained in TEGL 5-15, Attachment A (Operating Instructions). All benefits received before September 28, 2015, by a worker under the Reversion 2014 Program (covered by a certification of a petition in the series TA-W-85,000 -89,999) shall be included in any determination of the maximum benefits for which the worker is eligible under the 2015 Program beginning on September 28, 2015. The 2002 Program, 2009 Program, and 2011 Program will continue, and a worker covered by a certification issued in response to a petition filed before January 1, 2014, will continue to be served under one of these programs based on the petition number associated with that certification.[2]

The Operating Instructions describe how Section 405 of the TAARA 2015 addresses three distinct cohorts of workers: workers covered by certifications of petitions issued before January 1, 2014 (numbered TA-W84,999 and below); workers covered by certifications of petitions, denials of petitions, or pending petitions filed on or after January 1, 2014, and before June 29, 2015 (numbered TAA-W-85,000-89,9999); and workers covered by certifications of petitions issued on or after June 30, 2015 (numbered TA-W-90,000 or above).[3] For more information, see the TAA Program 2015 Policy.

## Establishing Group Eligibility

### *Who May File a Petition*

Petitions for TAA may be filed by a group of three or more workers from the same firm at the same job location, a company official, a union or other duly authorized representative, or an American Job Center Operator or American Job Center partner. Contact information should be provided for each petitioner. The contact information should include the home

address of each petitioner. This will allow the USDOL to contact each petitioner even if the facility is closed or the petitioner is no longer working there. Submission of a completed Petition Form signifies a desire to file for both the TAA and Reemployment Trade Adjustment Assistance Program.

If three workers complete the petition, they must all work at the same location. Additionally, all three workers must be sure to sign the petition form. If workers who complete the form are not from the same location, or if they do not all sign the form, the petition will be considered invalid and returned to petitioners.

#### *Time Limit for Filing a Petition*

You must date and submit the Petition Form within 1 YEAR from the date on which the workers were separated or had their hours or wages reduced.

#### *Where to Get Petition Form*

The TAA form is available at all American Job Centers, at the Nebraska Department of Labor (NDOL), Office of Employment and Training (OE&T) in Lincoln at (402) 471-9883, from the Unemployment Insurance TRA benefit staff in Lincoln at (402) 471-9896, or direct from the Employment and Training web site at <http://www.doleta.gov/tradeact>.

#### *Where the Petition Form Is Filed*

The state shall be prepared to assist petitioners in completing and filing petitions. The TAA petition must be filed simultaneously with both the USDOL in Washington, DC and the TAA Coordinator of the state where the firm is located. If the Petition Form includes firms in different states, copies of the completed Petition Form must be filed in each state where firms are located.

Fax the completed Petition Form to 202-693-3585, OR mail the completed Petition Form to both USDOL and NDOL at:

U.S. Department of Labor  
Office of Trade Adjustment Assistance  
200 Constitution Avenue N.W.  
Room N-5428  
Washington, D.C. 20210

Nebraska Department of Labor  
Office of Employment and Training  
Attention: TAA Coordinator  
550 South 16th Street  
PO Box 94600  
Lincoln, Nebraska 68509-4600

If a petition is not received on the same day by both the USDOL and the NDOL, it will be considered to be filed on the date on which the petition was received by the Office of Trade Adjustment Assistance at the USDOL.

### *Criteria for Certification of Eligibility*

The petition must satisfy three criteria:

1. A significant number or proportion of the workers in the workers' firm must have become totally or partially separated or be threatened with total or partial separation.
  2. The second criterion is satisfied if either A or B below are satisfied:
    - A. (i) sales or production, or both, at the petitioning workers' firm must have decreased absolutely, and
    - (ii) (a) imports of articles or services like or directly competitive with articles produced or services supplied by the petitioning workers' firm have increased; or
    - (b) imports of articles like or directly competitive with articles into which the component part produced by the workers' firm was directly incorporated have increased; or
    - (c) imports of articles like or directly competitive with articles which are produced directly using the services supplied by the workers' firm have increased; or (d) imports of articles directly incorporating component parts not produced in the U.S. that are like or directly competitive with the article into which the component part produced by the workers' firm was directly incorporated have increased.
  - B. (i) (a) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm; or
  - (b) there has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm.
3. The increase in imports or shift/acquisition must have contributed importantly to the workers' separation or threat of separation.

### *Adversely Affected Secondary Workers*

Workers of a firm can be certified as eligible to apply for adjustment assistance because the workers are secondarily affected - workers who supply components parts for articles, or services, used in the production of articles or in the supply of services (upstream) to a firm whose workers are certified (primary) or workers who perform additional, value-added production processes or services including finishing operations (downstream) for a firm whose workers are certified (primary). The 2009 Amendments allow for secondary worker coverage based on certifications of workers in service sector firms. In all cases, there must have been a loss of sales to the certified firm.

Upstream workers must directly supply the primary firm. The articles produced by upstream workers must be directly incorporated into the articles that were the basis for the certification of the primary firm's workers. Supplier chains are often categorized according to "tiers." Firms in the first tier supply components directly to the producer of the final product. Firms in the second tier supply components to firms in the first tier, and so forth. The secondary-worker coverage applies only to workers employed by firms in the first tier. The component parts or services the supplier supplied to the primary firm must either account for at least 20% of the production or sales of the supplier or the loss of business with the primary firm by the upstream firm must have contributed importantly to the upstream workers' separations or threat of separations.

The term "downstream producer" means a firm that performs additional, value-added production processes or services directly for another firm for articles or services with respect to which a group of workers in such other firm has been certified. Value-added production processes or services include final assembly, finishing, testing, packaging, or maintenance or transportation services. The term "supplier" means a firm that produces and supplies directly to another firm component parts for articles, or services, used in the production of articles or in the supply of services that were the basis for a certification of eligibility of a group of workers employed by such other firm.

#### *Firms Identified by the International Trade Commission*

A group of workers covered by a petition filed under the Trade Act shall be certified as eligible to apply for adjustment assistance if:

1. The workers' firm is publicly identified by name by the International Trade Commission (ITC) as a member of a domestic industry in an investigation resulting in a finding of injury or market disruption under section 202(b)(1), section 421(b)(1), section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930.
2. The petition is filed within one year after the date on which a summary of the ITC's report to the President, or the ITC's affirmative finding, is published in the Federal Register.
3. The workers of the firm identified in 1 (above) have become totally or partially separated from the workers' firm no more than one year before the publication date of the Federal Register notice described in 2 (above) and no later than one year after that date.

#### *Petition Fact-Finding Process*

When the TAA petition is received, the USDOL's Trade Adjustment Assistance Program conducts a fact-finding investigation. The OE&T shall assist the Secretary in the review of the petition by verifying such information and providing other assistance as the Secretary may request. This investigation determines whether a significant number or proportion of the workers of the firm have become totally or partially separated or are threatened to become totally or partially separated, and whether imports or a shift in production or services to a foreign country contributed importantly to these actual or

threatened separations and to a decline in sales or in production of articles or supply of services. It is USDOL's responsibility to investigate the facts. They are required to make an eligibility determination within 40 days after a petition is filed. If the petition is approved and the workers are certified as eligible to participate in the TAA program, workers covered by a certification may contact their state workforce agency to apply for individual services and benefits. These benefits are provided at no expense to employers.

When a decision has been made by USDOL, the certification or denial is sent to the Nebraska Commissioner of Labor and the Trade Unit. The Secretary of Labor publishes a summary of the determination in the Federal Register and on the USDOL website ([http://www.doleta.gov/tradeact/taa/taa\\_search\\_form.cfm](http://www.doleta.gov/tradeact/taa/taa_search_form.cfm)) together with the Secretary's reasons for making such determination.

#### Establishing Individual Eligibility

The Trade Unit in the OE&T upon notice of a certification shall provide each affected worker covered by a TAA certification with written notice of the certification, what TAA program benefits and services are available, and how to apply for those services as soon as possible. The state shall obtain from the firm, or other reliable source, the names and addresses of all workers who were or became totally or partially separated before the state received the certification and within the certification period, as well as workers subsequently separated during the certification period. Because of the statutory expansion of the TAA training benefit to adversely affected incumbent workers, the Secretary/Governor Agreement requires the OE&T to notify these workers of their possible entitlement to TAA-training as soon as possible before their partial or total separations. Thus, the OE&T must identify, through the firm or other reliable source, the names and addresses of all adversely affected incumbent workers to permit the OE&T to determine whether a worker is individually threatened with separation. Accordingly, OE&T must request a separate list of workers who are threatened with separation at the same time they request the list of adversely affected workers from the employer.

In most cases, a certification shall not apply to any worker whose last total or partial separation from the firm before the workers' application for trade readjustment allowance occurred more than one year before the date of the petition on which such certification was granted. Each certification contains an "impact date," which identifies when layoffs or reduction in work schedules began. Certifications also contain a "termination date." Generally, the certification covers all members of the worker group who are laid off or threatened with layoff during the three-year period beginning one year before the petition was filed and ending two years after the date of the certification. However, the 2011 Amendments extend the impact date for all certifications of petitions filed between October 21, 2011 and January 19, 2012 to February 13, 2010 to determine if the worker is eligible for TAA.

The OE&T shall ensure a published notice of the certification is placed in the newspaper in the areas where the certified workers reside or issue written notices to each affected individual.

### *Special Rule regarding Military Service*

There is a special rule with respect to military service. Section 233(i) makes returning service members “whole,” as if the period of military service had not occurred. The provision allows workers called up for active duty military or full-time National Guard service to restart the TAA enrollment process after completion of military service. This provision will apply to any returning service member who either: (1) served on active duty in the Armed Forces for a period of more than 30 days under a call or order to active duty of more than 30 days; or (2) in the case of a member of the Army National Guard of the United States or Air National Guard of the United States, performed full-time National Guard duty under 32 U.S.C. 502(f) (regarding required drills and field exercises) for 30 consecutive days or more when authorized by the President or the Secretary of Defense for the purpose of responding to a national emergency declared by the President and supported by Federal funds. Under section 233(i)(2), this “make-whole” provision applies only if the worker’s period of duty occurs before the worker completes a training program approved under section 236. However, the worker need not have already enrolled in or in fact have begun training before the worker’s period of duty began for this provision to apply. Upon separation, these individuals are eligible to receive TRA, training, and other benefits in the same manner and to the same extent as if the worker had not served the period of duty.

Under section 1137(d) of the Social Security Act, states are required to initially verify the immigration status of self-reporting aliens who apply for UI through the Systematic Alien Verification for Entitlement (SAVE) program maintained by the U.S. Customs and Immigration Service. All users of the SAVE program must verify the immigration status of all non-citizen applicants in order to avoid discrimination. Participants obtain immigration status information through the SAVE program’s Verification Information System (VIS). This VIS is a Web-based application that queries an immigration database containing information on more than 60 million non-citizens. When a user agency submits a status verification request, the system provides the applicant’s immigration status within seconds. The system also gives the user a way to submit additional information electronically to an Immigration Status Verifier (ISV) when further research is necessary. Under section 1137(d)(2), an alien is required to provide an alien registration document with an alien registration number, or provide “such other documents as the state determines constitutes reasonable evidence indicating a satisfactory immigration status.” A system must be in place for alerting staff of the expiration of satisfactory immigration status during the time the individual is potentially eligible for benefits. This may be done by modifying case management systems for TAA recipients to track the immigration status of a worker receiving TAA who is not a citizen or national of the United States. It is important to note that this requirement applies to all benefits under the TAA program, and not just TRA benefits. It is necessary to re-verify an individual’s immigration status if the documentation provided by the individual during initial verification will expire during the period in which that worker is potentially eligible to receive Trade benefits. Additionally, one of the six conditions for approval of training is that there be “a reasonable expectation of employment following completion of... training.” At the time of application, a training

program is not approvable if the individual is not eligible to work at least one day following completion of training.

It is recommended that all dislocated workers go to their local American Job Center even if they are awaiting a decision on TAA certification. Core services are available and will be tracked on NEworks. Eligibility may be determined for the WIOA Title I Dislocated Worker program and when participants begin receiving WIOA-funded intensive and training services, they shall be tracked on NEworks. Immediately beginning the process of needs assessment improves participation rates and allows individuals more time to consider all of the options available to them. This is particularly critical due to the time lapse that could occur while awaiting TAA petition determinations. It is important the individual calls the Unemployment Insurance Claim Center where the individual's parent claim resides to file an application for an eligibility determination to receive Unemployment Insurance benefits and/or Trade Readjustment Allowances (TRA) payments.

#### *Adversely Affected Worker*

An adversely affected worker is an individual who, because of lack of work in adversely affected employment, has been totally or partially separated from such employment.

A voluntary quit can, under some circumstances, be a "lack of work" separation for purposes of qualifying as an adversely affected worker who may apply for Trade Adjustment Assistance.

#### *Adversely Affected Incumbent Worker*

Under TAAEA, training may be approved before separation for adversely affected incumbent workers. [Note: Incumbent workers with petitions numbered 80,000-80,999 are also eligible to apply for these benefits.] This provision defines an adversely affected incumbent worker as a worker who: (1) is a member of a group of workers that has been certified as eligible to apply for TAA benefits, (2) has not been totally or partially separated from employment and thus does not have a qualifying separation, and (3) is determined to be individually threatened with total or partial separation. This includes individuals who have received a notice of termination or layoff from employment as a result of any permanent closure or any substantial layoff at a plant, facility or enterprise. Nebraska's "Eligibility for Dislocated Workers" policy defines "substantial layoff" as any reduction in force which is not the result of a plant closure, and which results in an employment loss at a single site of employment during any 30 day period for at least 50 employees (excluding employees regularly working less than 20 hours per week). Nebraska's "Eligibility for Dislocated Workers" policy defines a general announcement of a planned closure as any document or statement, released by an official of the company, which specifies intent to close any employment site. A general announcement can be substantiated by a copy of the company document, a confirmed news/press release, or confirmed newspaper/magazine article. Confirmation must include the name and title of the company official, location of the facility, and the planned closure date. A WARN notice of planned closure may be considered a general announcement. This documentation of

a threat of total separation from the firm is useful in making a determination that a worker is an adversely affected incumbent worker entitled to pre-separation training.

Workers threatened with total or partial separation from adversely affected employment may begin TAA-approved training before the date of that separation. TAA pre-separation training is intended to allow earlier intervention where layoffs are planned in advance and the employer can specifically identify which workers will be affected. Adversely affected incumbent workers may begin training prior to layoff, thereby lessening the amount of time needed to complete the training program after the separation occurs, and lessening the worker's overall length of unemployment. The criteria and limitations for approval of training for adversely affected incumbent workers are the same as they are for adversely affected workers, except for on-the-job training or customized training (unless such training is for a position other than the worker's adversely affected employment.) Adversely affected incumbent workers, like adversely affected workers, are entitled to employment and case management services to ensure they have the same assistance in developing a reemployment plan and choosing training. OE&T will ensure the training being provided is for a different position than the worker's current position if the training is being provided under agreement with the worker's current employer. An incumbent worker may receive pre-separation training for another position with the worker's current employer, but only if the position is not similarly threatened by trade, i.e. the new position is outside of a subdivision with a trade-certified worker group.

The OE&T must evaluate whether the threat of total or partial separation continues to exist for the duration of the pre-layoff training. This can be accomplished by verifying with the employer the threat of separation still exists before each subsequent portion of the training is funded. If the threat of separation is removed during a training program, funding of the training must cease. The worker would be eligible to complete any portion of the training program where TAA funds have already been expended, but would not be eligible for further TAA funding of the training program in the absence of a threatened or actual separation from the adversely affected employment. The worker may resume the approved training program upon the resumption of the threat or in the event of a total qualifying separation, if the six criteria for approval of the training under Section 236(a)(1) are still met.

In accordance with 20 CFR Section 617.22(f)(2), a worker is permitted to have approval of one training program per certification. A training program begun prior to separation counts as that one training program, and the training plan should be designed to meet the long-term needs of the worker based on the expectation he/she will be laid off. The training program should also take into account the availability of up to 130 weeks of training. Thus, while a pre-separation training program may be resumed, a worker who has participated in pre-separation training will not be eligible for a new and different training program.

## Early Intervention Services

Early intervention services including rapid response assistance and appropriate core and intensive services, as described in Section 134 of WIOA, shall be made available to the workers covered by the petition to the extent authorized under the WIOA and other Federal laws. Early intervention services that will be beneficial to potential trade-affected workers may include, but are not limited to, orientation, surveying the workers, initial assessment of skill levels, aptitudes, and abilities, the provision of labor market information, job search assistance, stress management, and financial management workshops. The staff that provides these services may come from a variety of funding sources, particularly Wagner-Peyser or WIOA Title I. In most instances, the Rapid Response informational meeting(s) shall be held in the city where the affected workers worked. These meetings outline the TAA services available.

## Co-enrollment (Concurrent Participation)

Co-enrollment means enrollment in more than one program at a time, such as, concurrent enrollment in the WIOA Dislocated Worker program and the TAA program. Since most trade-impacted workers are by definition dislocated workers for the purposes of WIOA Title I, it is recommended these individuals enter the One-Stop service delivery system immediately following the announcement of a layoff. Once the certification has been issued, workers shall be informed that they are covered by this certification and they are eligible to apply for TAA benefits. Since NEworks is an integrated Management Information System, one record is established for each participant and multiple program services (including Wagner-Peyser, WIOA, Rapid Response, WIOA Dislocated Worker, and Trade Adjustment Assistance) shall be attached to that record in an integrated manner, as needed. For co-enrolled individuals receiving WIOA-funded intensive services and training exclusively funded by TAA, there is no requirement to use providers certified as eligible providers. All partner staff shall continue to work together and use the systems and processes in place to serve the adult and dislocated worker populations, rather than using a parallel process that duplicates services available through the One-Stop system. Memoranda of Understanding between Local Boards and the Trade Act programs may serve as vehicles for articulating opportunities for coordination among programs. By concurrently enrolling these workers in multiple programs, a broader range of resources are available to the dislocated worker.

## Benefits and Services

### *Reemployment Services*

Reemployment services are available to assist unemployed or partially unemployed workers at the local American Job Center. These reemployment services may include counseling, vocational testing, labor market information, job seeking assistance, job placement and supportive services.

## *Employment and Case Management*

The Trade Adjustment Assistance Extension Act of 2011 requires that not more than 10% of a state's allocation may be used for administration of the TAA program (including processing waivers of training requirement; collecting, validating, and reporting data; and providing RTAA), and at least 5% must be used to provide case management and employment services.

The following employment and case management services must be offered to all adversely affected workers and adversely affected incumbent workers covered by a certification:

- Comprehensive and specialized assessment of skill levels and service needs, including diagnostic testing and use of other assessment tools and in-depth interviewing and evaluation to identify employment barriers and appropriate employment goals.
- Development of an individual employment plan (IEP) to identify employment goals and objectives, and appropriate training to achieve these goals and objectives.
- Information on training available in local and regional areas, information on individual counseling to determine which training is suitable training, and information on how to apply for such training.
- Information on how to apply for financial aid, including referring workers to educational opportunity centers described in section 402F of the Higher Education Act of 1965, where applicable, and notifying workers they may request financial aid administrators at institutions of higher education to use the administrators' discretion under section 479A of such Act to use current year income data, rather than preceding year income data, for determining the amount of need of the workers for federal financial assistance under Title IV of such Act.
- Short-term prevocational services, including development of learning skills, communications skills, interviewing skills, punctuality, personal maintenance skills, and professional conduct to prepare individuals for employment or training.
- Individual career counseling, including job search and placement counseling, during the period in which the individual is receiving a trade adjustment allowance or training, and for purposes of job placement after receiving such training.
- Provision of employment statistics information, including the provision of accurate information relating to local, regional, and national labor market areas, including: job vacancy listings in such labor market areas; information on jobs skills necessary to obtain jobs identified in job vacancy listings; information relating to local occupations that are in demand and earnings potential of such occupations; and skills requirements for local occupations in demand.
- Information relating to the availability of supportive services, including services relating to child care, transportation, dependent care, housing assistance, and need-related payments that are necessary to enable an individual to participate in training.

These services must be made available to workers over the course of their participation in the TAA program, in an integrated manner that suits their individual needs at a particular time. The OE&T should minimize the extent to which it establish new or stand-alone employment and case management structures for TAA program participants where these services are available within the workforce development system. Rather, OE&T should fully integrate TAA participants and resources into the One-Stop system, thereby maximizing and enhancing existing employment and case management structures. OE&T must demonstrate it has provided or offered these services either in a paper-based case file or in an electronic case management system, which must be available for review. Additionally, the case management file of each participant must demonstrate the OE&T notified each worker of his/her enrollment in training deadlines.

### *Job Search Allowances*

Job search allowances are payments made to TAA certified workers who are totally laid off and cannot obtain suitable employment within their commuting area. Under TAAEA, states are allowed to use their discretion to determine whether to offer workers the opportunity to apply for Job Search. At this time, Nebraska has enough funding to provide this benefit. The allowance for reimbursement may equal not more than 90% of necessary job search expenses, based on a per diem rate (transportation, hotel, meals), up to a maximum of \$1,250. This reimbursement to affected workers is paid for expenses incurred, while participating in a pre-approved job search program.

The cost allowable for lodging and meals shall not exceed the lesser of the actual cost to the individual of lodging and meals while engaged in the job search; or 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations (see 41 CFR part 101-7) for the locality where the job search is conducted. [4]

There are time limits for job search allowances. The application for the allowance must be filed before the later of the 365<sup>th</sup> day after the date of the certification or the 365<sup>th</sup> day after the date of the last total separation or the date that is the 182<sup>nd</sup> day after the date on which the worker concluded training. The TAA certified worker must apply (file an application) before beginning his/her search for work. The participant must supply a mapquest.com printout from a web-based mapping service such as MapQuest of the route traveled to the TAA case manager because travel must be outside the commuting distance of 25 map miles (one way) to be reimbursed. Authorization for the job search allowance is only for travel within the United States.

### *Relocation Allowances*

If the certified worker is successful in obtaining employment outside his/her normal commuting area, the TAA program offers financial assistance for the individual to relocate to the new area of employment. Outside the normal commuting area is defined as more than 25 miles one way using a web-based mapping service such as MapQuest from current address to new address. Under TAAEA, states are allowed to use their discretion

to determine whether to offer workers the opportunity to apply for relocation allowances. At this time, Nebraska has enough funding to provide this benefit.

When it is determined no suitable work is available in the certified worker's normal commuting area, a relocation allowance application may be approved if:

- the certified worker has obtained employment of long-term duration or a bona fide offer of such work in another area (must be in the United States); and
- the individual has not previously received a relocation allowance under the same certification; and
- the individual is totally separated from certified employment at the time of relocation. (Partially separated workers may apply in anticipation of total layoff.)

A relocation allowance pays not more than 90% of the reasonable and necessary expenses of moving the certified worker, his/her family, and household goods (not to exceed the weight limit authorized in Federal travel regulations) to the new location. Additionally, the certified worker will receive a lump sum payment equal to three times his/her average weekly wage, up to a maximum of \$1,250, to help them get settled.

A bona fide offer must be verified by a letter from the new employer.

There are time limits for filing an application for relocation allowances. The application for relocation allowance must be filed within 425 days after the date of certification or last total layoff, whichever is later or the date that is the 182<sup>nd</sup> day after the date on which the worker concluded training. The individual must relocate within 182 days after applying for a relocation allowance, or within 182 days after completing approved training.

The cost allowable for lodging and meals for an individual or each member of the individual's family shall not exceed the lesser of the actual cost to the individual for lodging and meals while in travel status; or 50 percent of the prevailing per diem allowance rate authorized under the Federal travel regulations (see 41 CFR part 101-7) for the locality to which the relocation is made.[5]

### *Waivers*

A TAA Waiver is a written statement to an adversely affected participant waiving the requirement to be enrolled in training and may be valid for a specified period of time between sixty days and no longer than six months at a time. The waiver must be reviewed every 28 days using the OET Waiver of Training Participation form (see Attachment A).

Waivers of training are a result of a finding that it is not feasible or appropriate to approve a training program for a worker because of one or more of the following reasons:

1. Health - The worker is unable to participate in training due to his/her health. A waiver of training due to health reasons shall not be construed to exempt the worker from requirements relating to the availability for work, active search for

work, or refusal to accept work under Federal or State unemployment compensation laws.

2. Enrollment Unavailable - The first available enrollment date for the approved training of the worker is within 60 days after the date of the "enrollment unavailable" determination, or, if later, there are extenuating circumstances for the delay in enrollment, as determined under guidelines issued by the Secretary.
3. Training Not Available - Training approved by the Secretary is not reasonably available to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in Section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998, and employers), no training suitable for the worker is available at a reasonable cost, or no training funds are available.

A preliminary assessment of each trade affected worker's skills must be carried out to identify workers for whom immediate enrollment in training is appropriate. The completed assessment of pre-training skills must be included in each worker's case file. The IEP must be developed before a waiver is issued. In Nebraska, all waivers shall be reevaluated every 28 days for the duration of the waiver period. Information related to waiver status shall be shared with the TRA benefit payment staff since changes may impact continued receipt of weekly benefits, if available.

Waivers are limited to a maximum duration of six months unless an extension is authorized by the State Trade Unit. This means a waiver issued during a worker's UI period often will not cover the worker's entire entitlement to basic TRA. In cases where it is necessary to cover the worker's full entitlement to basic TRA, the state may extend a worker's waiver beyond six months.

TAAEA eliminated the waivers for recall, marketable skills, and retirement.

#### *Deadlines, Reviews, and Start Dates*

For TAAEA participants not enrolled in a TAA approved training program, a waiver must be approved using the OET Waiver of Training Participation form and must be completed by the last day of the 26th week after the week in which the Secretary issues a certification covering the participant or the last day of the 26th week after the participant's most recent total separation from adversely affected employment, whichever is later.

All waivers must be signed by both the TAA applicant and by State Merit Staff. The waiver must have final approval or denial from State Merit Staff after acknowledgement of the applicant's signature. Subsequent reviews must be documented in NEworks under comments every 28 days.

The start date for all waivers shall be the date signed by the participant. This date must match the start date of the NEworks waiver "activity" and "entry."

It is never appropriate to back date a waiver. This is strictly prohibited and creates a false eligibility for TRA.

### *Training*

If there are no suitable jobs in the area and training would improve the chances of getting a job, the adversely affected worker or an adversely affected incumbent worker may be eligible for full-time or part-time TAA funded training, although full-time training is required for TRA eligibility. Training opportunities may include: employer-based training including on the job training (OJT), customized training (except OJT and customized training may not be approved for affected incumbent workers unless such training is for a position other than the worker's adversely affected employment), and registered apprenticeship programs; any training program provided by a state pursuant to Title I of WIOA; any local board approved training; any program of remedial education or program of prerequisite education or coursework required to enroll in training; any federal or state funded training program; any training program or coursework at an accredited institution of higher education (including training to obtain or complete a degree or certificate program); and any other training program approved by the Secretary.

### *Conditions*

When a petition has been certified, funded training may be approved using TAA resources if the following six conditions are met:

- There is no suitable employment available.
- The worker would benefit from training and has the capabilities to successfully complete the training.
- There is a reasonable expectation of employment following training completion.
- Approved training is reasonably available within the worker's commuting area.
- The worker is qualified to start and complete training successfully considering the worker's overall financial resources.
- Training is suitable and available at a reasonable cost. Training may not be approved when the costs of the training are unreasonably high in comparison with the average costs of training other workers in similar occupations at other providers. If the worker volunteers to use other funds to supplement the TAA training funds when the cost of training is otherwise not reasonable, the training program will be approved, if the other training approval criteria are met. However, personal funds of the participant shall not be used to pay for any portion of his/her training program.

### *Definition: Suitable Employment*

Suitable employment is defined for this criterion as work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work at not less than 80% of the worker's average weekly wage.

### *Information Requirements*

Each trade-affected worker must be provided the necessary information to enable them to make an informed choice among approvable training options, regardless of the worker's language or educational abilities. When a worker's education and language abilities are limited, careful case management at the training selection stage and during training is essential.

Workers who qualify for Trade Act training must be provided general information about available training programs, including access to labor market information, wage information and web sites which may inform participants of the types of training available. Documentation to demonstrate all of these requirements have been satisfied must be kept in the case file.

### *Timeframes*

20 CFR § 617.22(f)(2) limits the maximum length of approvable training to 104 weeks (during which training is conducted) so a training program would not extend too far beyond the worker's TRA. The 2011 Act provides up to 130 weeks of income support for workers enrolled in full-time training, the last 13 of which are only available if needed for completion of a training program and training benchmarks are met. Training may extend beyond the weeks of TRA available to the individual worker, if the worker demonstrates a financial ability to complete the training after the expiration of the worker's TRA eligibility period. Most workers will not have 130 weeks of income support available at the beginning of training; rather most workers will have used some weeks of income support, such as 26 weeks or more of UI.

### *Types of Training*

If the approved training meets all of the requirements of the Trade Act and regulations, including the requirement for the training to be available at a reasonable cost, a worker has a right to choose to enroll in more expensive training that is of demonstrably higher quality or that may be expected to produce better results for the worker in quickly returning to suitable employment even when lower cost training is available to the worker. The approved training program must be a program that provides the necessary skills to return the participant to work. Prior to training approval, each worker's case file must identify what occupation the worker is being trained to enter.

In approving training, the OE&T must consider cost, suitability for the worker, and quality and results. If training is approved, payment will be made through an Individual Training Accounts (ITA) voucher or directly to the school, unless training costs are paid or are reimbursable under another federal law. Locals are encouraged to select training providers that have met the qualifications necessary to be included in the statewide Eligible Training Provider List. However, the amendment of Section 236(a)(5) of the 2002 Act expressly provides that training options available under the TAA program are not limited to training programs available under Title I of WIOA. Personal funds of the

participant shall not be used to pay for any portion of his/her training program. Duplicate payment of training cost is prohibited.

When individuals are enrolled in a TAA program, the maximum amount of funds expended for training costs shall not exceed \$14,000 per eligible participant. However, training options shall not be based solely on the state training cap. Exceptions to the limitation may be considered when the training requested is available at a reasonable cost and particularly suitable for the individual situation as demonstrated by back-up documentation provided by the case manager. When an exception is being requested by the local area, the request and back-up documentation should be sent to the OE&T, Attention: Trade Unit, 550 S. 16<sup>th</sup>, Lincoln, NE 68509. The final decision for either approval or disapproval of an exception is determined by the Nebraska Commissioner of Labor. This limitation also applies when co-enrollment is involved. Although through co-enrollment additional resources may be available, the total training costs shall not exceed \$14,000 per eligible participant. The cost of other services, i.e., allowable travel, relocation, job search assistance, etc., shall not be applied to the training costs.

It is not appropriate to use Trade Act funds to pay for the development of a training provider or program, curriculum development, teacher training or physical plant needs.

If training is not within 25 miles of home [one way using map miles], supplemental assistance is available for transportation cost based on the prevailing federal per diem mileage rates, under the federal regulations. A printout from a web-based mapping service such as MapQuest of the route traveled by the participant must be included in his/her file to document the mileage. The mileage printout must be submitted every time a mileage request is made for supplemental assistance funds.

The cost allowable for lodging and meals for an individual attending training at a location exceeding 25 miles from his/her home, shall not exceed the lesser of the individual's actual per diem expenses for subsistence; or 50 percent of the prevailing per diem rate authorized under Federal travel regulations (see 41 CFR part 101-7) for the locale of the training. [6]

Trade Act funds may be used for a participant's "training consumables," i.e. paper, pens, calculators and other items that are training related and directly support the completion of the course. The participant will need to provide documentation of the need for the training consumables requested. This requirement may be completed by the submission of a course syllabus or email from a professor outlining needed items. The amount used to purchase training consumables may not exceed \$50 per training term and must be included in, and not in addition to, the \$14,000 training cap. Exceptions to the limitation may be considered with appropriate justification and documentation and must be approved by the Office/Regional Manager. For payment processing purposes all receipts must be kept and signed by the participant for all training consumables purchased.

TAAEA eliminates Remedial TRA as a "category" of TRA, although remedial and prerequisite training may continue to be part of an approved training plan where

appropriate. Prerequisite education is coursework the training institution requires for entry into the approved training program. Remedial education is defined as training in the elementary skills every worker must have in order to achieve basic re-employability. Remedial training should be considered pre-vocational; that is, it leads to occupational, on-the-job, or customized training that will equip the participant with specific job skills. Wherever practical, remedial training should be conducted concurrently with the early parts of occupational training. Examples of remedial education are basic writing and mathematical skills training, English as a Second Language (ESL), and courses leading to a G.E.D.

### *Unemployment Insurance and TAA Benefits While in Training*

The 2009 Amendments amended Section 236(d) of the 2002 Act to clarify that an adversely affected worker may not be determined to be ineligible or disqualified for unemployment insurance or program benefits under TAA because:

1. the worker:
  - a. is enrolled in TAA approved training;
  - b. left work that was not suitable employment in order to enroll in such training; or the worker engaged in on a temporary basis during a break in such training or a delay in the commencement of such training; or
  - c. left on-the-job training not later than 30 days after commencing such training because the training did not meet the requirements of Section 236(c)(1)(B). That section provides for the approval of OJT where the OE&T determines it can reasonably be expected to lead to suitable employment with the employer offering the OJT; is compatible with the skills of the worker; includes a curriculum through which the worker will gain the knowledge or skills to become proficient in the job for which the worker is being trained; and can be measured by benchmarks that indicate the worker is gaining the knowledge or skills; or
2. because of the application to any such week in training of the provisions of State law or Federal unemployment insurance law relating to availability for work, active search for work, or refusal to accept work.

### *Income Support and TRA Payments*

The maximum number of weeks of TRA for which a worker may be eligible includes the maximum number of weeks payable for Basic TRA, Additional TRA and Completion TRA, or 130 weeks. Basic TRA is payable for up to 52 weeks following separation, minus any weeks of unemployment insurance (UI) to which the worker was entitled (or would have been entitled if the worker had applied) in the first benefit period, to workers who completed or are enrolled in or participating in TAA-approved training, or are covered under one of the remaining training waivers. Following Basic TRA eligibility, up to 65 weeks of Additional TRA is payable in the 78-week period that follows the last week of

entitlement to Basic TRA or beginning with the first week of approved training if the training begins after the last week of entitlement to Basic TRA. Additional TRA remains payable to only those trade-affected workers actually participating in TAA-approved training. With the addition of Completion TRA, workers who meet eligibility requirements and who are actually participating in TAA-approved training may receive up to another 13 weeks of TRA, bringing the total maximum number of weeks of TRA payable to 130 weeks.

Additional TRA is only payable if a worker is enrolled in TAA-approved training, is participating in TAA-approved training, has received a waiver of the requirement to participate in TAA-approved training, or has completed TAA-approved training.

### *TRA Eligibility*

Individuals may be eligible for Trade Readjustment Allowances (TRA). In order to qualify for TRA, a worker must be enrolled in training (or have a waiver of training) within 26 weeks after certification or layoff, whichever is later. In determining a worker's eligibility, the requirement that workers be either enrolled in approved training or covered by a training waiver in order to receive TRA does not apply for weeks that occur prior to the training enrollment deadline. In many cases, the 26 week deadline for a worker will be reached while the worker is still receiving unemployment insurance (UI). Since some workers are not aware this deadline may apply before they exhaust their UI, workers are to be informed of these requirements and the OE&T must document its efforts to notify workers of the enrollment deadlines. [There is an exception allowed to the enrollment deadlines where the worker did not enroll by the deadlines because the OE&T failed to provide the worker with timely information regarding the training enrollment deadlines. In that event, the Secretary of Labor has determined the worker must be enrolled in training or receive a waiver by the Monday of the first week occurring 60 days after the date on which the worker was properly notified of both his/her eligibility to apply for TAA and the requirement to enroll in training absent a waiver of the training requirement.]

States may grant an extension to the deadline for enrollment for up to 45 days if there are extenuating circumstances. "Extenuating circumstances" are circumstances beyond the control of the worker that could arise when training programs are abruptly cancelled, as well as in cases where a worker suffers injury or illness preventing participation in training, or other events where the state can justify and document the application of extenuating circumstances is warranted. An extension of 45 days for extenuating circumstances shall only be granted through the OE&T. Workers who have received a training waiver must be enrolled in training by the Monday of the first week occurring 30 days after the date on which the waiver terminated, whether by revocation or expiration. "Enrolled in training" means the worker's application for training has been approved by the Regional Manager and that the training institution has furnished written notice to the Regional Manager that the worker has been accepted into the approved program which is to begin within 30 days of such approval. Entitlement to unemployment insurance includes regular unemployment compensation and Extended Benefits (EB) and Temporary Extended

Unemployment Compensation (TEUC). If an individual is eligible to receive EUC payments, this is received in lieu of Basic TRA benefits.

### *Unemployment Insurance*

Since eligibility for TRA shall be determined by the TRA benefit staff, it is recommended that the individual going into training apply for TRA when his/her UI claim is filed. If the certified worker (with a qualifying separation) is not approved for TRA, he/she still remains eligible to apply for other TAA services.

The Unemployment Insurance staff at the Claim Center in Lincoln 402-458-2500 shall advise individuals from certified companies on how to apply for TRA benefits. The TRA payments are intended only for workers who are enrolled in approved full time training unless a waiver has been granted.

In order to receive payment of TRA for any week of unemployment, the worker must be adversely affected, be covered by a group certification, apply for TRA payments in a timely fashion; and meet all of the following requirements:

1. The worker's first qualifying separation from affected employment must have occurred on or after the impact date and before the expiration of the 2-year period beginning on the date of the certification.
2. During the 52 week period ending with the total or partial separation, the worker must have been employed at least 26 weeks at wages of \$30 or more per week in an affected job.
3. The individual must have been entitled to and exhausted all UI benefits, except additional compensation that is funded by a state and is not reimbursed from any federal funds, and that the worker would not be disqualified for extended compensation payable under the Federal-State Compensation Act of 1970 by reason of its work search and job search requirements. [Note: Section 232(d) allows the worker to elect to receive TRA instead of UI for any week where the worker meets two conditions: The worker is entitled to receive UI as a result of a new benefit year based in whole or in part upon part-time or short-term employment in which the worker engaged after the worker's most recent total separation from adversely affected employment; and the worker is otherwise entitled to TRA.]
4. The individual must be enrolled in TAA approved training, be academically successful, and provide appropriate school documentation at regular intervals. A waiver of training may be granted if appropriate. [Note: In determining a worker's eligibility, the requirement that workers be either enrolled in approved training or covered by a training waiver in order to receive TRA does not apply for weeks that occur prior to the training enrollment deadline.]

For those who qualify for TRA benefits, their eligibility for Basic TRA benefits is the 104-week period beginning with the first week, which follows the week of their most recent total separation within the certification period. This does not mean the individual receives

TRA benefits for 104 weeks. The maximum amount of TRA benefits an individual may receive during this period, is limited to 52 times his/her weekly TRA amount minus all UI benefits (including federal extended unemployment compensation), which he/she were entitled to receive.

TRA is not payable to workers participating in on-the-job training.

Additional TRA are weekly benefits paid to eligible workers to help them complete their TAA approved training program. Under the Trade Adjustment Assistance (TAA) program, individuals may be eligible to receive TRA for up to 65 additional weeks in the 78 week eligibility period that follows the last week of (basic) TRA entitlement; or begins with the first week of such training. Under the 2009 Amendments, the worker is allowed to not claim benefits during up to 13 weeks without losing any weeks of benefits. These dollars are only available if the worker is participating in a TAA approved training program. The 2009 Amendments amended Section 233(h) to allow for an extension of these periods for “justifiable cause,” discussed below.

### *Completion TRA*

Completion TRA is a new category of TRA that aligns with the USDOL’s larger aim to increase the completion of recognized credentials. In order to account for breaks in training, the Secretary has determined the eligibility period for Completion TRA will be the 20-week period beginning with the first week in which a worker files a claim for Completion TRA. The conditions of Completion TRA include:

- The requested weeks are necessary for the worker to complete a training program that leads to completion of a degree or industry-recognized credential; and
- The worker is participating in training in each such week; and
- The worker has substantially met the performance benchmarks established in the approved training plan; and
- The worker is expected to continue to make progress toward the completion of the approved training; and
- The worker will be able to complete the training during the period authorized for receipt of Completion TRA.

If the participant receives these additional 13 weeks of cash assistance beyond the general eligibility period, the participant shall receive a total of 130 weeks of training and cash assistance.

“Justifiable cause,” as used in section 233(f) of the Trade Act, is interpreted as having the same meaning as used in section 233(h) of the Act. That section provides for the extension of the eligibility periods for basic and additional TRA when the Secretary determines there is “justifiable cause.” “Justifiable cause” means circumstances beyond the worker’s control. Examples of justifiable cause for extending the Completion TRA eligibility period include situations where the provider changes the requirements of a training program while the program is in progress, where a course or courses are

cancelled, and where required courses are not offered in accordance with the originally anticipated schedule, and the state is unable to identify an alternative that will allow for completion of the training program within the 20 week period. However, an extension will not increase the maximum number of payable Completion TRA weeks above 13.

Workers covered under certifications of petitions filed after February 13, 2011 (February 14, 2011), and on or before October 21, 2011, who receive benefits and services under the 2002 program until December 20, 2011, may choose to change to the 2011 Program. The same requirements for Completion TRA that apply to workers covered under certifications of petitions filed after the date of enactment will apply to these workers. Accordingly, where a worker changes to the 2011 Program, prompt action must be taken to review the training plan already in place for that worker. Unless the approved plan is for very short-term training, such as a 3-month certificate program, the plan must be amended to establish benchmarks to determine the worker's satisfactory progress towards meeting those benchmarks in order for the worker to receive the maximum 13 weeks of Completion TRA.

#### Extending/Waiving Time Limits and Deadlines

##### *Federal Good Cause Provision for Waiving Certain Time Limits*

The TAAEA establishes a new Federal "good cause" provision that allows for a waiver for good cause of deadlines relating to time limitations on filing an application for TRA or enrolling in training. This provision supersedes the state good cause provision applicable to these deadlines under the 2009 Amendments.

Under the 2011 Amendments, states must waive the time limitations with respect to an application for a trade readjustment allowance or enrollment in training at any time after making a determination there is good cause for issuing a waiver, in accordance with the federal standard. The federal standard requires states to consider the following factors, if relevant, before waiving these time limitations. These factors are:

1. Whether the worker acted in the manner a reasonably prudent person would have acted under the same or similar circumstances.
2. Whether the worker received timely notice of the need to act before the deadline passed.
3. Whether there were factors outside the control of the worker that prevented the worker from taking timely action to meet the deadline.
4. Whether the worker's efforts to seek an extension of time by promptly notifying the state were sufficient.
5. Whether the worker was physically unable to take timely action to meet the deadline.
6. Whether the worker's failure to meet the deadline was because of the employer warning, instructing or coercing the worker in any way that prevented the worker's timely filing of an application for TRA or to enroll in training.

7. Whether the worker's failure to meet the deadline was because the worker reasonably relied on misleading, incomplete, or erroneous advice provided by the state.
8. Whether the worker's failure to meet the deadline was because the state failed to perform its affirmative duty to provide advice reasonably necessary for the protection of the worker's entitlement to TRA.
9. Whether there were other compelling reasons or circumstances which would prevent a reasonable person under the circumstances presented from meeting a deadline for filing an application for TRA or enrolling in training including:
  - a. neglect, a mistake, or an administrative error by the state;
  - b. illness or injury of the worker or any member of the worker's immediate family;
  - c. the unavailability of mail service for a worker in a remote area;
  - d. a natural catastrophe such as an earthquake or a fire or flood;
  - e. an employer's failure or undue delay in providing documentation, including instructions, a determination or notice or pertinent and important information;
  - f. compelling personal affairs or problems that could not reasonably be postponed such as an appearance in court or an administrative hearing or proceeding, substantial business matters, attending a funeral, or relocation to another residence or area;
  - g. the state failed to effectively communicate in the worker's native language and the worker has limited understanding of English;
  - h. loss or unavailability of records due to a fire, flood, theft or similar reason. Adequate documentation of the availability of the records includes a police, fire or insurance report, containing the date of the occurrence and the extent of the loss or damage.

In cases where the cause of the worker's failure to meet the deadline for applying for TRA or enrolling in training was the worker's own negligence, carelessness, or procrastination, a state may not find that good cause exists to allow the state to waive these time limitations.

#### *Justifiable Cause*

As previously stated, the 2009 Amendments amended Section 233(h) to allow for an extension of additional TRA periods for "justifiable cause," meaning circumstances determined to be beyond the worker's control by the OE&T. In making this determination, the OE&T will apply Federal good cause. These extensions may only be made by the OE&T and the circumstances for making these decisions must be documented. Federal Good Cause is effective with the 2011 program and it supersedes the use of Nebraska's Employment Security Law provisions for good cause. Federal good cause is applicable only for waiving missed deadlines, with respect to: application for TRA, and enrollment in training.

While participating in training, individuals may experience a break in their training and still receive basic and additional benefits if:

- the break from school does not exceed 30 days; and
- the individual was in training prior to the break and returned immediately after the break; and
- the break was part of the school/training schedule.
- TRA benefits may be denied, IF:
  - The individual does not file an application within the specified time frame.
  - The individual fails to make satisfactory progress in his/her training program.
  - The individual no longer attends school and has not shown Federal good cause. The OE&T determines whether the Federal “good cause” provision is applicable and issues written approval or denial.
- The individual fails to report wages for any week where benefits are claimed.

“Justifiable cause,” as used in section 233(f) of the Trade Act, is interpreted as having the same meaning as used in section 233(h) of the Act. That section provides for the extension of the eligibility periods for basic and additional TRA when the Secretary determines there is “justifiable cause.” “Justifiable cause” means circumstances beyond the worker’s control. Examples of justifiable cause for extending the Completion TRA eligibility period include situations where the provider changes the requirements of a training program while the program is in progress, where a course or courses are cancelled, and where required courses are not offered in accordance with the originally anticipated schedule, and the state is unable to identify an alternative that will allow for completion of the training program within the 20 week period. However, an extension will not increase the maximum number of payable Completion TRA weeks above 13.

### *Equitable Tolling*

Equitable tolling is a doctrine that permits the suspension of statutory and administrative deadlines where equity demands; it is not a statutory provision requiring a waiver of deadlines for “good cause”. Unlike many statutory provisions allowing for “good cause” waiver of time limits, or for late filing of any claim, equitable tolling of a deadline may only apply in egregious circumstances where an individual acted with due diligence to meet that deadline. Federal courts have found this well-established doctrine may provide relief with respect to TAA time limits.

Equitable tolling will be applied in situations where it would be manifestly unfair to deny a worker TRA eligibility based on the worker’s failure to meet the statutory deadline for enrolling in training, or to deny other TAA benefits such as Additional TRA, job search allowances or relocation allowances, based on a missed deadline. To apply equitable tolling in a particular situation, the state must determine that, whether or not the USDOL or the state was at fault, the worker exercised due diligence in meeting these TAA benefit eligibility deadlines.

	Origins	Source	Applicable to what TAA benefits?	Participant's efforts/actions to meet deadlines and time limits
State's Good Cause	Statutory Provision	TAA Reform Act 2002 TGAAA 2009 TAAEA 2011 TEGL 22- 8 TEGL 8-11	<i>Deadlines</i> for TRA Application & Enrollment in training	<i>"reasonably prudent"</i>
Justifiable Cause	Statutory Provision	TGAAA 2009 TAAEA 2011 TEGL 22- 8	<i>Eligibility</i> periods for Basic and Additional TRA, RTAA	<i>"circumstances beyond the worker's control"</i>
Equitable Tolling	Legal Doctrine - <i>could</i> apply	TEGL 8-11	Any & all TAA benefits	<i>"egregious circumstances"</i> <i>"due diligence"</i>

### Training Benchmarks

As mentioned above, Completion TRA will provide up to 13 extra weeks of income support, within a 20-week time period, after all other Unemployment and TRA funds have been exhausted, if the TAA participant is still in an approved TAA training program at that time.

Benchmarks have been established for TAA participants. As a result, at a minimum every 60 days participants in training programs must meet established benchmarks. These benchmarks assist in monitoring the progress of participants to ensure the participant remains in satisfactory academic standing and on track to complete training within the agreed upon timeframe.

In order for Completion TRA to be collected, the Benchmark Agreement must be signed (see Attachment B), and performance benchmarks must be established using the OET Training Benchmark Progress Report (see Attachment C). The benchmark criteria must be outlined in detail in the participant's Individual Employment Plan (IEP). In order to determine that the participant has substantially met the performance benchmarks established in the approved training plan, the student's progress is evaluated, at a minimum, every 60 days on the OET Training Benchmark Progress Report. This determination is part of case management. During each benchmark period (60 days) the following two Benchmarks must be met:

1. Participant is maintaining satisfactory academic standing (i.e. not on probation or determined to be "at risk" by the instructor or training institution); and
2. Participant is on schedule to complete training within the timeframe identified in the approved training plan.[7]

It is the responsibility of the TAA participant to obtain the information and signatures required for the OET Training Benchmark Progress Report, and to ensure the Report is received by his/her Case Manager in the time required. Except when a representative of

the institution where the training participant is attending has access to updated grade information for all classes being attended by the participant, a participant will be required to have one Progress Report completed for each class.

At the end of each Benchmark Period, the Case Manager will scan all completed/uncompleted benchmark progress report forms into ECM and email the State Trade Unit and UI/TRA with the following information:

1. Participant's Name
2. State ID/SSN
3. Training Dates
4. Benchmark Period

All supporting documentation used to determine if a participant has met required training benchmarks, shall be kept in the participant's file either electronically or at the local office. All participant records should be kept in accordance with the OET Record Retention Policy.

#### *Failure to Meet Benchmarks:*

Case Managers must verify benchmarks have been met a minimum of every 60 days for Trade 2011. Case Managers are required to notify the State Trade Unit and UI/TRA regarding any failed benchmarks, modifications to training plans, and if a participant will no longer be eligible for Completion TRA.

For this review, the training vendor may be requested to provide documentation of the worker's satisfactory progress. The case manager may attest to the worker's satisfactory progress after consultation with the vendor and the worker. The worker may be asked to provide documentation from the vendor of his/her satisfactory progress towards meeting the training benchmarks, such as through instructor attestations.

Regardless of the mechanisms used, the training benchmarks must be described in the worker's Individual Employment Plan that is signed by the participant.

If a TAA participant fails to meet a benchmark, a first warning (see Attachment D) will be issued requiring the participant's signature acknowledging why the benchmark was failed and the action plan to ensure future benchmarks will be met. If a second benchmark is failed, a second warning (see Attachment E) will be issued requiring the participant's signature acknowledging why the benchmark was failed. A modification to the training plan must be issued for a second failed benchmark or the participant will no longer be eligible for Completion TRA.

In cases where payment of Completion TRA is denied because the worker has not made satisfactory progress towards completing benchmarks, a worker may appeal the determination through the same appeal process available when other claims for TRA are denied.

Note: The verification training benchmarks is required for 2011 Trade petitions. It is highly recommended practice for all Trade participants no matter their Trade certification year. The progress of all Trade participants should be verified and monitored by their case manager to help ensure long-term success.

### *Supportive Services*

Supportive services include services such as transportation, child care, dependent care, housing, and needs-related payments that are necessary to enable an individual to participate in services authorized under WIOA Title I.[8] Local Boards, in consultation with the American Job Center partners and other community service providers, must develop a policy on supportive services that ensures resource and service coordination in the local area to ensure non-duplication of resources and services, as well as any limits on the amount and duration of such services.

### *Overpayments*

If the OE&T, the U.S. Secretary of Labor, or a court of competent jurisdiction determines any person has received any payment under Trade to which the person was not entitled, including a payment referred to in Sec. 243(b), such person shall be liable to repay such amount to the state agency or the Secretary, as the case may be, except the state agency or the Secretary shall waive such repayment if such agency or the Secretary determines that:

- The payment was made without fault on the part of such individual, and
- Requiring such repayment would cause a financial hardship for the individual (or the individual's household, if applicable) when taking into consideration the income and resources reasonably available to the individual (or household) and other ordinary living expenses of the individual (or household).

OE&T should document whether the payment was made with or without fault on the part of the individual when making decisions related to overpayments.

## TAA under 2011

### Benchmark Requirements

Requirements	Verifications	Required Action
Benchmarks must be verified every 60 days. Required benchmarks are: <ul style="list-style-type: none"><li>• Maintain satisfactory academic standing</li><li>• On track to finish within negotiated timeframe identified in the approved training individualized employment plan.</li></ul>	NDOL OET Training and Benchmark Progress Report.	<ul style="list-style-type: none"><li>• Review the required documentations.</li><li>• Narrate in NEworks if the benchmark is satisfied</li><li>• Put signed OET Training and Progress Report into ECM</li></ul>
1 <sup>st</sup> Missed Benchmark		<ul style="list-style-type: none"><li>• Review any and all documentation received</li><li>• Send correspondence indicated missed benchmark, give warning</li><li>• Narrate actions in NEworks</li></ul>
2 <sup>nd</sup> Missed Benchmark		<ul style="list-style-type: none"><li>• Review and all documentation</li><li>• Meet with customer to modify plan</li><li>• Plan must be modified to qualify for completion TRA</li><li>• Narrate all actions in NEworks</li></ul>

### Appeal Rights

#### *Regarding Petitions*

Any worker, group of workers, certified or recognized union, or authorized representative of such worker or group, whose petition for TAA has been denied by the USDOL may file an application for reconsideration of the determination by USDOL within 30 days after publication of the determination in the Federal Register. The request must be in writing and include:

- Name(s), address(es), and telephone number of the applicant(s);
- Name or a description of the group of workers on whose behalf the application for reconsideration is filed;

- Name and case number of the determination complained of;
- A statement of reasons for believing the determination complained of is erroneous;
- If the application is based, in whole or in part, on facts not previously considered in the determination, such facts shall be specifically set forth.
- If the application is based, in whole or in part, on an allegation the determination complained of was based on mistake of facts which were previously considered, such mistake of facts shall be specifically set forth; and
- If the application is based, in whole or in part, on an allegation as to a misinterpretation of facts or of the law, such misinterpretation shall be specifically set forth.

Mailing address is:

U.S. Department of Labor  
 Division of Trade Adjustment Assistance  
 Employment and Training Administration  
 200 Constitution Avenue, N.W., Room N-5428  
 Washington, DC 20210

For information call (202) 693-3560.

Not later than 15 days after receipt of the application for reconsideration, the certifying officer shall make and issue a determination granting or denying reconsideration. The determination regarding application for reconsideration shall be published in the Federal Register. If the determination is negative, it shall constitute a final determination for purposes of judicial review. If the determination is affirmative regarding application for reconsideration, the group of workers or other persons showing an interest in the proceedings may make written submissions within 10-days after publication of the notice to show why the determination under reconsideration should or should not be modified. Not later than 45 days after reaching an affirmative determination regarding application for reconsideration, the certifying officer shall make a determination on the reconsideration. The determination on the reconsideration shall be published in the Federal Register.

### *Regarding Individual Services*

When a petition has been certified, but the individual is denied a specific TAA service, such as training, travel, relocation etc., the individual has the same appeal rights as those provided under the state unemployment compensation law. Appeal rights are described on each form signed by the participant. Those rights are: "If you feel this determination is incorrect, you have a right to a hearing before an Appeal Tribunal; provided you file a timely notice of appeal by letter which must clearly state (1) that you are appealing and (2) the reasons why you believe this determination is incorrect. Your notice of appeal and such reasons must be received within 20 days after this determination is mailed." Whenever someone appeals a decision concerning his/her TAA benefits, the individual

has a right to be represented by his/her union, lawyer, or other person to help present the facts.

### Performance Measures

TAAEA provides four core indicators of performance, which take effect on October 1, 2011:

1. The percentage of workers who are employed during the first or second calendar quarters following the calendar quarter in which workers cease receiving TAA benefits;
2. The percentage of such workers who are employed during the two calendar quarters following the earliest calendar quarter during which the worker was employed under clause (i);
3. The average earnings of such workers who are employed during the two calendar quarters under clause (ii); and
4. The percentage of such workers who obtain a recognized postsecondary credential, including an industry-recognized credential, or a secondary school diploma or its recognized equivalent (if combined with employment under clause (i)), while receiving benefits or during the 1-year period after such workers cease receiving benefits.

### Program Evaluation and Monitoring

Nebraska will self-monitor by a file review for process improvement. Each file review will identify best practices, process deficiencies, and training needs. By creating a process improvement plan, each case manager will have the ability to correct any deficiencies before coming under a formal Federal review. Reviewing files will ensure effective and efficient operation and administration of the program. At a minimum, a purposive random file sample of 25% of the total number of active Nebraska TAA cases (not to exceed 20 total case files) will be reviewed quarterly. Reviews will be based on a proportion of total active case files for each of the Greater Nebraska Regions and the Omaha and Lincoln local areas. For each review period, a sample will be based on the last digit of the State Identification Number, alternating between using 0-5 and 6-9 every other review. The review must include files from at least two certifications when possible and include participants that are in training, receiving ATAA or RTAA funds and those that have been relocated, if such files are available.

### Coordination

If the TAA program funding sources for provision of employment and case management services to workers in the TAA program are insufficient to meet the requirement that these services be offered to all adversely affected workers and adversely affected incumbent workers, the OE&T must make arrangements to assure that funding under the WIOA or another program is available to provide those services. In the event local WIOA funds are exhausted, OE&T will apply for a National Emergency Grant to replenish funds. Multiple

enrollment resources may include Wagner-Peyser activities, faith-based and community-based programs, vocational rehabilitation services, and Veterans' programs.

The State Trade Unit and Trade Readjustment Allowance benefit staff shall work together to meet data collection, storage, and reporting requirements. To reinforce the pursuit of the program performance goals and ensure clear and uniform procedures are followed, state performance management training or meetings shall be held and include participation of State Trade Coordinator and TRA benefit staff. The State Trade Unit shall capture and report information related to a participant's ongoing participation in training or waiver status to the TRA benefit payment staff.

### Merit Staffing

Under 20 CFR Part 618, the USDOL "requires that personnel engaged in TAA-funded functions undertaken to carry out the worker adjustment assistance provisions must be state employees covered by a merit system of personnel administration." In TEGL No. 01-10, the USDOL instructed states to implement the TAA program according to "new merit staffing provisions which were to become applicable to TAA-funded positions effective December 15, 2010, as codified at 20 CFR 618.890(b)." On December 29, 2010, President Obama signed into law the Omnibus Trade Act. Section 102 of the Omnibus Trade Act retroactively extended the deadline for states to implement the merit-based state personnel staffing requirements contained in 20 CFR 618.890(a) from December 15, 2010, to no earlier than February 12, 2011. This requirement is now in effect. However, as clarified in the April 2, 2010 Federal Register, "there is nothing in this rule prohibiting the delivery, in appropriate circumstances, of employment and case management services to adversely-affected workers by staff funded by WIOA or other Federal programs through co-enrollment. As a partner in the One-Stop delivery system, the TAA program will continue to coordinate with the other partners in the system to ensure adversely-affected workers are provided access to a broad array of comprehensive services."

### Reporting

The state shall submit quarterly Trade Act Participant Report (TAPR). The report shall include all active participants and all participants who have exited the program in the last 10 quarters. The "Program Exit" policy is applicable for participants co-enrolled in TAA and Dislocated Worker programs.

### Reallotment of Funds

States may expend funds received in any fiscal year for employment and case management services, training, and job search and relocation allowances during that fiscal year and the two succeeding fiscal years. However, under TAAEA a new provision has been added allowing the Secretary of Labor to reallot any funds that remain unobligated by a state during the second or third fiscal year, according to procedures established by the Secretary.

## Reemployment Trade Adjustment Assistance

The 2009 Amendments established Reemployment Trade Adjustment Assistance (RTAA) as a wage supplement option available to older workers under the TAA program. It replaced Alternative Trade Adjustment Assistance (ATAA) which provided wage supplements as an option for reemployed older workers as a demonstration project under the 2002 Act. [The state must automatically review denial determinations of individual eligibility for ATAA for petitions, numbered 80,000-80,999, where a worker group was certified for TAA, but denied group eligibility to apply for ATAA, since these workers will be eligible to apply for RTAA under the 2011 program.]

All TAA certifications filed between May 18, 2009, and on or before February 14, 2011, include eligibility to apply for RTAA, as well as other TAA benefits. Workers opting to participate in the wage supplement program do not surrender their eligibility for TAA-approved training. RTAA may be paid to participants working part-time, if they are enrolled in approved training. The maximum benefit the worker may receive over two years is \$10,000. [Note: This is a maximum and may be reduced if the worker has received TRA.] An individual receiving RTAA may also receive TAA training (including OJT), employment and case management services, and job search and relocation allowances under certain conditions. However, once a worker elects RTAA, the worker cannot return to TRA.

### Eligibility

To be eligible for RTAA, an individual must meet the following conditions at the time of reemployment:

1. Be at least age 50 at time of reemployment or effective November 20, 2009, if the worker has become employed prior to reaching the age of 50, and meets all other RTAA requirements, the worker may be determined eligible for RTAA upon the worker's 50<sup>th</sup> birthday. However if the worker received TRA, each week in which TRA was paid reduces the duration of RTAA eligibility accordingly. [TEGL No. 22-08, Change 1, Section A]. The individual's age can be verified with a driver's license or other appropriate documentation.
2. Must not be expected to earn more than \$50,000 annually in gross wages, excluding overtime pay, from the reemployment. If a paycheck has not been issued at the time of application, the employer must submit a supporting statement documenting the worker's annual wages. [Note: This is a projection, but if later (absent fraud) it is determined the wages exceed more than \$50,000, it does not create an overpayment. However, RTAA would be stopped at that point.]
3. Reemployment:
  - a. Be reemployed full-time and not enrolled in a TAA-approved training program. [For RTAA purposes, Nebraska accepts the definition of the employer in determining full-time as long as it is 36 hours a week or more.] The NOE&T will verify reemployment in the same manner as it uses for ATAA eligibility;

- b. Be reemployed less than full-time, but at least 20 hours a week, and be enrolled in a TAA-approved training program. [In Nebraska, OJT is an acceptable training program for consideration of RTAA.] Similar to the requirement that TRA benefits may only be paid when enrolled in a full time training program, eligibility for RTAA benefits based on part-time employment and participation in training requires enrollment in a full time training program as well. This requirement helps ensure workers will not exhaust their limited RTAA benefit before returning to full-time employment, which is the true goal of the TAA program. The verification will be conducted in the same manner as is used for verifying employment for ATAA eligibility and for verifying participation in training; or
  - c. Be reemployed full-time and enrolled in a full-time TAA-approved program.
- 5. The worker cannot return to employment at the “firm” from which the worker was separated. However, the 2009 Act defines “firm” as either the entire firm or the appropriate subdivision. Accordingly, this requirement means that if the certification is issued for a worker group in an appropriate subdivision of a firm, the worker may not return to employment with that subdivision, but may return to work at another subdivision of the firm. If, however, the certification is issued for workers in the entire firm, the worker may not return to employment in any subdivision of that firm.
- 6. Reimbursement amounts will be rounded up to the next whole dollar.
- 7. For the purpose of calculating hours, the total hours employed each week will be rounded to the nearest 1/10 of an hour. For example, a worker who is employed between 35.9 and 35.94 hours per week would have his/her hours rounded down to 35.9 hours. Whereas a worker who is employed between 35.95 and 35.99 hours per week, would have his/her hours rounded up to 36 hours per week.
- 8. Full-time or part-time status in an approved training program is based on the established full-time certification policy of the institution where the training is being offered.

### Eligibility Periods

The 2009 Act provides two separate eligibility periods for RTAA, the first for workers who have not received TRA, and the second for workers who have received TRA.

- 1. Worker Who Has Not Received TRA. The eligibility period for workers who have not received TRA is a two-year period beginning the earlier of “the date on which the worker exhausts all rights to unemployment insurance based on the separation of the worker from the adversely affected employment that is the basis of the certification” or the date on which the worker obtains reemployment.
- 2. Worker Who Has Received TRA. When a worker has received a trade readjustment allowance pursuant to the certification, the worker may receive RTAA benefits for a period of 104 weeks beginning on the date on which the worker obtains reemployment (as described above for RTAA eligibility) reduced by the total number of weeks for which the worker received such trade readjustment allowance.

### Definition: Unemployment Insurance

Section 247(12) defines “unemployment insurance” as “the unemployment compensation payable to an individual under any State law or Federal unemployment compensation law,” which includes EUC.

The statutory phrase “worker exhausts all rights to unemployment insurance based on the separation of the worker from...adversely affected employment...” requires some interpretation. The first point to make is that a worker may have more than one separation from adversely affected employment. Where there is more than one such separation, the relevant separation is the worker’s last separation from adversely affected employment that qualifies the worker as an adversely affected worker. The last separation was chosen because that separation is the one that triggers the worker’s application for RTAA. A separation that qualifies a worker as an adversely affected worker is a lack-of-work separation from adversely affected employment. The OE&T must determine the worker’s last separation for lack of work from adversely affected employment before the RTAA application. This principle applies only to the determination of the eligibility period, and does not apply to the calculation of RTAA payments. Further, a separation may trigger a benefit year, occur during a benefit year, or not result in any entitlement to UI. If the worker’s last separation from adversely affected employment, which qualifies the worker as an adversely affected worker, either triggers a benefit year or occurs within a benefit year, the eligibility period will begin (if earlier than the reemployment) when the worker exhausts that UI eligibility, either by collecting all benefits available on the benefit year or by the expiration of the benefit year. If the worker has no UI entitlement for his/her last separation from adversely affected employment that qualifies him/her as an adversely affected worker, the two-year period begins on the date on which the worker obtains reemployment.

The individual’s application for RTAA must be filed within the applicable eligibility period as described above. Retroactive payment may be made where appropriate. RTAA benefits are not payable during periods of unemployment, but payment is allowable when the worker is on employer allowed release time, such as sick leave.

Where a worker seeks to establish RTAA eligibility based upon more than one job, the employment hours will be combined in order to determine whether the worker has the number of hours needed to qualify for RTAA. If the worker obtains additional job(s), the wages from this employment will be included in the calculation to determine whether the worker is expected to reach the \$50,000 annual limit for reemployment wages.

Qualifying employment that was commenced prior to separation from adversely affected employment may be considered RTAA qualifying employment.

The OE&T will issue a written determination on an RTAA application within five working days of its receipt. If approved, the State Trade Unit will also notify the Trade Readjustment Allowance benefit staff. The RTAA applicant has the right to appeal a state

determination which denies RTAA benefits in the same manner as provided for in state UI law for all TAA determinations.

The OE&T must maintain a manual or automated benefit history for each RTAA recipient for a period of no less than three years for audit purposes. The three years begins from the most recent determination of eligibility, benefits paid or appeal decisions - whichever is later.

#### *Disclaimer*

This policy is based on NDOL's reading of WIOA and the WIOA Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

## Attachment A

### Waiver of Training Participation

Nebraska Department of Labor  
Office of Employment & Training Services  
**WAIVER OF TRAINING PARTICIPATION**

☐ **THE TRADE ADJUSTMENT ASSISTANCE REFORM ACT OF 2002 (TAARA)** (Petitions 50,000 - 69,000)

(The last day of the 8<sup>th</sup> week after the week in which the Secretary issues a certification covering the worker or the last day of the 16<sup>th</sup> week after the worker's most recent total separation from adversely affected employment, whichever is later.)

☐ **TRADE AND GLOBALIZATION ADJUSTMENT ASSISTANCE ACT OF 2009 (TGAAA)** (Petitions 70,000 - 79,000)

(The last day of the 26<sup>th</sup> week after the week in which the Secretary issues a certification covering the worker or the last day of the 26<sup>th</sup> week after the worker's most recent total separation from adversely affected employment, whichever is later.)

☐ **TRADE ADJUSTMENT ASSISTANCE EXTENSION ACT OF 2011 (TAAEA)** (Petitions 81,000 - 84,000)

(The last day of the 26<sup>th</sup> week after the week in which the Secretary issues a certification covering the worker or the last day of the 26<sup>th</sup> week after the worker's most recent total separation from adversely affected employment, whichever is later.)

Applicant's Name		Social Security Number(last 4) XXX-XX-	American Job Center or NDOL Location	Date
Petition Number	Impact Date	Certification Date	Expiration Date	
<p>This Section to be completed for the Initial Waiver only. The worker has met the Qualifying Requirements for Trade Readjustment Allowances (TRA), and the Enrollment in Training or Waiver from Training Requirement of Section 231(a)(5)(A) of the Trade Act of 1974 (19U.S.C. 229(a)(5)(A)) as amended, which states: "the enrollment...occurs no later than the latest of:</p> <p>(I) the last day of the 8<sup>th</sup> or 26<sup>th</sup> week after the week in which the Secretary issues a certification covering the worker,</p> <p>(II) the last day of the 16<sup>th</sup> or 26<sup>th</sup> week after the worker's most recent total separation from adversely affected employment, or</p> <p>(III) forty-five (45) days after the later of the dates specified in (I) or (II), if there are extenuating circumstances that justify an extension of the enrollment period."</p> <p>This waiver is issued for the following reason(s) for up to a period of 6 months and <u>must be reviewed every 28 days</u>:</p> <p style="text-align: center;">FROM _____ TO _____</p>				
Enrollment in training requirement may be waived for one or more of the following reasons apply:				
<input type="checkbox"/>	HEALTH	The applicant is unable to participate in training due to his/her health.		
<input type="checkbox"/>	ENROLLMENT UNAVAILABLE	The first available enrollment date for the applicant's approved training is within 60 days after the date of this waiver.		
<input type="checkbox"/>	TRAINING NOT AVAILABLE	Suitable training is not available: <input type="checkbox"/> at a reasonable cost <input type="checkbox"/> no training funds are available <input type="checkbox"/> not reasonably available from either governmental agencies or private sources		
<input type="checkbox"/>	RECALL (Not applicable for 2011)	Applicant has been notified that he/she will be recalled by the firm from which separation occurred. (File must contain written notice of recall from the company.)		
<input type="checkbox"/>	RETIREMENT (Not applicable for 2011)	Applicant is within two years of meeting all requirements for entitlement to: <input type="checkbox"/> Old-age insurance benefits under Title II of the Social Security Act <input type="checkbox"/> A private pension sponsored by an employer or labor organization		
<input type="checkbox"/>	MARKETABLE SKILLS (Not applicable for 2011)	Applicant has marketable skills for suitable employment. There is reasonable expectation of employment at equivalent wages in the foreseeable future.		
<p><b>REVOCATION:</b> This waiver shall be revoked when it is determined the reason specified above is no longer applicable. Failure to report may cause interruption of benefits or revocation of this waiver.</p>				
<p><b>CERTIFICATION:</b> I understand in order to receive weekly Basic Trade Readjustment Allowances (TRA) while on a waiver I must make a systematic and sustained search for work, which is a minimum of 3 contacts per week, and keep accurate records of such search. I further understand the law provides penalties for willful misrepresentation made to obtain benefits and allowances to which I am not entitled. Failure to follow instructions on the 28-day waiver reviews or appointments may result in loss of Basic TRA benefits.</p>				
<p><b>APPEAL RIGHTS:</b> If you feel this determination is incorrect, you have a right to a hearing before an Appeal Tribunal, providing you file a timely notice of appeal in writing, which must clearly state that you are appealing and the reasons why you believe this determination to be incorrect. Your notice of appeal and such reasons must be received at the office issuing this determination within twenty (20) days after the date this determination is mailed.</p>				
Applicant Signature				Date
Case Manager Signature				Date
State Merit Staff Management/State Trade Unit Signature				Date

## Attachment B

### Trade Training Plan

#### Nebraska Department of Labor

550 S 16<sup>th</sup> Street, P.O. Box 94600  
Lincoln, Nebraska 68509-4600

#### Trade Training Plan TAA Approved Training Benchmark Agreement

Name: \_\_\_\_\_ Social Security Number: XXX-XX-\_\_\_\_\_  
Trade Employer Name: \_\_\_\_\_ Petition Number: \_\_\_\_\_  
Trade Training Dates: Start Date: \_\_\_\_\_ End Date: \_\_\_\_\_  
Waiver Dates (if applicable): Issue Date: \_\_\_\_\_ End Date: \_\_\_\_\_

In order to meet eligibility requirements to receive 13 weeks of Completion TRA, the following Benchmarks must be met and verified every \_\_\_\_\_ days:

- Maintain a cumulative 2.0 GPA or the grade required by the school for your individual course/degree.
- Complete your TAA approved training by the expected graduation date on your training application.
- Meet all attendance requirements for academic courses you enroll in.

By signing below, I agree to:

- Contact my instructors or the academic institution to obtain verification of benchmarks by the method requested every \_\_\_\_\_ days. I understand that it is my responsibility to ensure my Case Manager receives/returns those verifications.
- Notify my Case Manager and the TRA Program Coordinator if I am not making satisfactory progress in my classes or if I will not graduate by my agreed upon graduation date.
- Authorize Nebraska Department of Labor to provide a copy of this agreement to the following training institution: \_\_\_\_\_
- Contact my Case Manager before withdrawing from any course(s) or before making changes in my TAA approved training program.
- I understand that if I fail to achieve benchmarks twice, or I fail to provide the required verification of Training Benchmarks while enrolled in TAA approved training, I could lose eligibility to receive Completion TRA.
- Completion TRA (TEGL 10-11 Section C.3) provides up to 13 more weeks of TRA in order to complete a training plan only if participating in TAA (Trade) approved training and Basic and Additional TRA have exhausted. You may qualify for up to 13 weeks of Completion TRA where all of the following five additional criteria are met:

Please Initial next to each item

\_\_\_\_\_ The requested weeks are necessary for you to complete a training program that leads to completion of a degree or industry-recognized credential; and  
\_\_\_\_\_ You are participating in training in each such week; and  
\_\_\_\_\_ You have substantially met the performance benchmarks established in your approved training plan (you have maintained satisfactory academic standing and are scheduled to complete training within your training plan's specified timeframe); and  
\_\_\_\_\_ You are expected to continue to make progress toward the completion of the approved training; and  
\_\_\_\_\_ You will be able to complete the training during the period authorized for receipt of Completion TRA.

Participant Signature \_\_\_\_\_ Date \_\_\_\_\_  
Case Manager Signature \_\_\_\_\_ Date \_\_\_\_\_

cc: client file/ecm  
State TRA Coordinator  
State Trade Coordinator

## Attachment C

### Training Benchmark Progress Report

**NEBRASKA DEPARTMENT OF LABOR  
OFFICE OF EMPLOYMENT & TRAINING SERVICES  
TRAINING BENCHMARK PROGRESS REPORT**

Participant's Name	Petition Number	Issue Date
Training Facility:	Benchmark Period	
	Return to:	
	Phone: (     )     -	
	Fax:    (     )     -	

**IMPORTANT INFORMATION – DEADLINE FOR REPLY**

Training Start Date:                      Training End Date:                      Name of Program:

In accordance with your Trade Adjustment Assistance Training Contract, you are required to maintain satisfactory academic standing and complete your training by the end date specified above. Please have a designated representative from the training facility (i.e. Trainer/Guidance Counselor/Teacher) sign and complete the required section below. Please return this form to your American Job Center or Nebraska Department of Labor representative by the date listed above.

Q1:    Student is maintaining satisfactory academic standing (e.g. not on probation or determined to be "at risk" by the instructor or training institution)                      ☐ Yes                      ☐ No

Q2:    Student is on schedule to complete training within the timeframe identified in the approved training plan (dates specified above)                      ☐ Yes                      ☐ No

If "No" was selected for any of the above please explain:


\_\_\_\_\_  
Training Representative Signature

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Student Signature

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Case Manager Signature

\_\_\_\_\_  
Date Signed

## Attachment D

### Failed TAA Benchmark: First Warning

#### Nebraska Department of Labor

550 S 16<sup>th</sup> Street, P.O. Box 94600  
Lincoln, Nebraska 68509-4600

Reset Form Fields

#### Failed TAA Benchmark: First Warning

Name: \_\_\_\_\_ Social Security Number: XXX-XX- \_\_\_\_\_

From: \_\_\_\_\_ to: \_\_\_\_\_ you failed to meet the following TAA Benchmark(s).

- ☐ Failure to maintain a cumulative 2.0 GPA or the grade required by the school for your individual course/degree.
- ☐ Failure to maintain a 2.0 GPA or the grade required by the school for your individual course/degree for the most recent academic term
- ☐ You are no longer on track to complete training by the expected graduation date of \_\_\_\_\_.
- ☐ Failure to meet attendance requirements for 1 or more of my academic courses.
- ☐ Failure to submit Benchmark Verification form(s) as required.

Explanation of how/why the benchmark was failed:

Action plan to ensure that Benchmark(s) will be met in the future:

#### Statement of Understanding

Completion TRA is a type of TRA that pays 13 weeks of benefits during my last semester of training. I understand that if I fail a second Benchmark, I will have to modify my training plan and pass all of future Benchmarks to receive Completion TRA.

Even if I change my training plan, I could still lose Completion TRA if I fail any Benchmarks on my new training plan.

If I fail a second Benchmark, I understand that I may not be allowed to complete my current training program, and I will lose eligibility to receive the Completion TRA.

Participant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Case Manager Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Appeal Rights** If you disagree with the determination indicated above, you have the right to a hearing before an appeal tribunal. You have the right to appeal all TAA determinations. You must file an appeal by mail and it must be postmarked within 20 days after the date in item 8 which is shown above. The appeal must be in writing and state: (1) that you are appealing and, (2) the reason(s) why you believe this determination is incorrect. Mail to Office of Employment & Training, Attn: Trade Coordinator, 550 S. 16th Street, Lincoln, Nebraska 68509.

cc: client file/ecm  
State TRA Coordinator  
State Trade Coordinator

## Attachment E

### Failed TAA Benchmark: Second Warning

#### Nebraska Department of Labor

550 S 16<sup>th</sup> Street, P.O. Box 94600  
Lincoln, Nebraska 68509-4600

#### Failed TAA Benchmark: Second Warning

Name: \_\_\_\_\_ Social Security Number: XXX-XX- \_\_\_\_\_

From: \_\_\_\_\_ to: \_\_\_\_\_ you failed to meet the following TAA Benchmark(s).

- ☐ Failure to maintain a cumulative 2.0 GPA or the grade required by the school for your individual course/degree.
- ☐ Failure to maintain a 2.0 GPA or the grade required by the school for your individual course/degree for the most recent academic term
- ☐ You are no longer on track to complete training by the expected graduation date of \_\_\_\_\_.
- ☐ Failure to meet attendance requirements for 1 or more of my academic courses.
- ☐ Failure to submit Benchmark Verification form(s) as required.

Explanation of how/why the benchmark was failed:

#### *Statement of Understanding*

Check the box below that reflects your election:

- ☐ I have elected to change my training plan and the change request is attached. I understand that I must pass all Training Benchmarks and that failing to do so may make me ineligible to receive Completion TRA.
- ☐ I have elected to change my training plan and submit the change request within 60 days or at least 30 days prior to the start of the next semester, *whichever occurs first*. I understand that I must pass all Training Benchmarks and that failing to do so may make me ineligible to receive Completion TRA.
- ☐ I have elected to continue with my current plan. I understand that by making this election, I am no longer eligible to receive Completion TRA.

Participant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Case Manager Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Appeal Rights** If you disagree with the determination indicated above, you have the right to a hearing before an appeal tribunal. You have the right to appeal all TAA determinations. You must file an appeal by mail and it must be postmarked within 20 days after the date in item 8 which is shown above. The appeal must be in writing and state: (1) that you are appealing and, (2) the reason(s) why you believe this determination is incorrect. Mail to Office of Employment & Training, Attn: Trade Coordinator, 550 S. 16th Street, Lincoln, Nebraska 68509.

cc: client file  
State TRA Coordinator  
State Trade Coordinator

- 
- [1] WIOA Sec. 121(b)(1)(B)(vii)
  - [2] TEGL 5-15, Attachment A
  - [3] Ibid.
  - [4] 20 CFR § 617.34(a)(2)
  - [5] 20 CFR § 617.46(a)(2)
  - [6] 20 CFR § 617.27(b)
  - [7] TEGL 10-11 and TEGL 7-13
  - [8] WIOA Sec. 3(58)

## **Preliminary Policy on Work Experiences for Youth, Adults, and Dislocated Workers**

### *Reference*

Workforce Innovation and Opportunity Act (WIOA) Sections 3, 107, 122, 123, 129, 134, 181, 194; Notice of Proposed Rulemaking (NPRM) §§ 680.170, 681.400, 681.600, 681.610; TEGL 23-14; Neb. Rev. Stat. § 48-1203.

### *Background*

WIOA acknowledges the critical role work experiences and internships play in helping individuals obtain the skills they need to succeed in the workplace. Internships and work experiences provide a helpful means of an individual to gain experience that leads to unsubsidized employment.

Work experiences help youth understand proper workplace behavior and what is necessary in order to attain and retain employment. Work experience can serve as a stepping stone to unsubsidized employment and is an important step in the process of developing a career pathway for youth. Research shows work experience is correlated with higher high school graduation rates and success in the labor market. This is particularly important for youth with disabilities.[1]

This policy explains the requirements of the Youth, Adult and Dislocated Worker programs to provide work experiences for eligible individuals. Additionally, it provides information about the qualification of providers and describes some of the restrictions on work experiences.

### *Action*

This policy becomes effective immediately.

### *Policy*

#### Adult and Dislocated Worker Work Experiences

For the purposes of internships and work experiences for adults and dislocated workers under WIOA Sec. 134(c)(2)(A)(xii)(VII), an internship or work experience is a planned, structured, time-limited learning experience that takes place in a workplace.[2] Work experiences are not training services. Work experience may be paid or unpaid, as appropriate. An internship or work experience may be arranged within the private for profit sector, the non-profit sector, or the public sector.

An internship or work experience is classified as an individualized career service and must be linked to careers.[3] Because it is a career service, there are no eligibility requirements for adults to participate in work experiences beyond the initial assessment of their employment needs. However, priority must be given to recipients of public

assistance, other low-income individuals, and individuals who are basic skills deficient. The local board and the Governor will direct the one-stop operators in the local area with regard to making determinations related to such priority.[4]

Unlike the youth program, there are no spending restrictions or requirements for work experiences for adult and dislocated workers.

#### Provider Eligibility for Adult and Dislocated Worker Work Experiences

Providers of paid and unpaid work experience opportunities for adults and dislocated workers are *not* subject to the normal requirements of eligible providers of training services under WIOA Sec. 122(a) through (f) regarding the eligibility criteria established by the Governor and local areas, the application and renewal procedures, and enforcement provisions.[5]

The Governor may establish performance criteria for providers of work experience opportunities. Providers that meet the criteria are considered eligible providers of services. A one-stop operator in a local area must collect such performance information from the providers to determine which providers are meeting the criteria. The one-stop operator must then disseminate performance information through the one-stop delivery system, identifying providers that meet the criteria. Providers determined to meet the criteria shall be considered eligible providers of work experience opportunities.[6]

#### Youth Work Experience Opportunities

Pursuant to WIOA Sec. 129(c)(2)(C), local areas are required to offer youth programs that involve paid and unpaid work experiences that have as a component academic and occupational education. Work experiences are a planned, structured learning experience that takes place in a workplace for a limited period of time. Work experience may be paid or unpaid, as appropriate. A work experience may take place in the private for-profit sector, the non-profit sector, or the public sector. Work experiences provide the youth participant with opportunities for career exploration and skill development.[7]

These experiences may include:

- Summer employment opportunities and other employment opportunities available throughout the school year;
- Pre-apprenticeship programs;
- Internships and job shadowing; and
- On-the-job training opportunities as defined in WIOA Sec. 3(44) and 20 CFR § 680.700.[8]

### Youth Work Experience Priority - 20% Spending Requirement

Local youth programs must expend not less than 20 percent of the funds allocated to them to provide in-school youth and out-of-school youth with paid and unpaid work experiences.[9]

Local WIOA youth programs must track program funds spent on paid and unpaid work experiences, including wages and staff costs for the development and management of work experiences, and report such expenditures as part of the local WIOA youth financial reporting. The percentage of funds spent on work experience is calculated based on the total local area youth funds expended for work experience rather than calculated separately for in-school and out-of-school youth.[10] The 20 percent spending requirement is calculated AFTER administrative costs have been subtracted from the total amount of youth funds.[11]

### Provider Eligibility for Youth Work Experiences

The local board must identify eligible providers of youth work experiences by awarding grants or contracts on a competitive basis based on the recommendations of the youth standing committee, if it chooses to establish the standing committee and assign it that function.[12] Local areas must include the criteria used to identify youth providers in the State Plan taking into consideration the ability of the provider to meet the performance accountability measures based on primary indicators of performance for youth programs.[13]

Where the local board determines there is an insufficient number of eligible providers of youth services in the local area, such as a rural area, the local board may award grants or contracts on a sole source basis.[14]

### Wages

Individuals participating in a work experience opportunity must be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills. The rates may not be lower than the higher of the federal or state minimum wage.[15] Currently, the minimum wage is \$8.00 per hour in Nebraska until January 1, 2016.[16]

### General Restrictions and Guidelines

Labor standards apply in any work experience setting where an employee/employer relationship exists, as defined by the Fair Labor Standards Act.[17]

Each program under WIOA shall provide employment and training opportunities to those who can benefit from, and who are most in need of, such opportunities.[18]

## *Disclaimer*

This policy is based on NDOL's reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.

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- [1] 20 CFR § 681.590 section-by-section discussion in NPRM
- [2] 20 CFR § 680.170
- [3] WIOA Sec. 134(c)(2)(A)(xii)(VII)
- [4] WIOA Sec. 134(c)(3)(E)
- [5] WIOA Sec. 122(h)(1).
- [6] WIOA Sec. 122(h)(2).
- [7] 20 CFR § 681.600(a)
- [8] WIOA Sec. 129(c)(2)(C) and 20 CFR § 681.600
- [9] 20 CFR § 681.590 and WIOA Sec. 129(c)(4)
- [10] 20 CFR § 681.610
- [11] TEGL 23-14
- [12] WIOA Sec. 107(d)(10)(B) and 20 § CFR 681.400
- [13] WIOA Sec. 123(a) and 20 CFR § 681.400(a)(2)
- [14] WIOA Sec. 123(b) and 20 CFR § 681.400(a)(3)
- [15] WIOA Sec. 181(a)(1)
- [16] Neb. Rev. Stat. § 48-1203.
- [17] 20 CFR § 681.600(a)
- [18] WIOA Sec. 194(1)

## Preliminary Policy on Youth Program Design

### *Reference*

Workforce Innovation and Opportunity Act (WIOA) sections 116, and 129.

### *Background*

The Workforce Innovation and Opportunity Act (WIOA) places an emphasis on serving youth within a comprehensive youth development approach that focuses on long-term services that provide the education, skills, work experience, and support that youth need to successfully transition to careers and productive adulthood. The program design framework is an essential ingredient in helping local areas develop comprehensive service strategies based on individual needs. WIOA encourages local decision making in the area of youth policy, youth program design, the allocation of funds for each program element, and the determination of appropriate program offerings for each individual youth. It is essential that established policies help to achieve program quality and successful outcomes for youth. This policy defines criteria for the design, elements and parameters of youth programs in the local areas as prescribed by WIOA.

### *Action*

This policy becomes effective on April 1, 2015.

### *Policy*

#### Local Program Elements and Requirements

There are 14 required youth program elements which local youth programs must make *available* to all eligible youth participants, throughout the entire age range of 14-24. The 14 required youth program elements are:

1. Tutoring, study skills training, and instruction, and evidence-based dropout preventions and recovery strategies that lead to completion of the requirements for a secondary school diploma or its recognized equivalent (including a recognized certificate of attendance or similar document for individuals with disabilities) or for a recognized postsecondary credential;
2. Alternative secondary school services, or dropout recovery services, as appropriate;
3. Paid and unpaid work experiences that have as a component academic and occupational education, which may include
  - a. Summer employment opportunities and other employment opportunities available throughout the school year;
  - b. Pre-apprenticeship programs;
  - c. Internships and job shadowing; and
  - d. On-the-job training opportunities;

#### *20% Spending Requirement*

At least 20% of the total youth funds must be spent on paid and unpaid work experiences that have as an academic and occupational education component.

4. Occupational skill training, which shall include priority consideration for training programs that lead to recognized postsecondary credentials that are aligned with in-demand industry sectors or occupations in the local area involved, if the local board determines that the programs meet the quality criteria established by the Governor in the State plan;
5. Education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;
6. Leadership development opportunities, which may include community service and peer-centered activities encouraging responsibility and other positive social and civic behaviors, as appropriate;
7. Supportive services;

#### *Supportive Services*

Supportive services for youth, as defined in WIOA Sec. 101(59), means services that are necessary to enable an individual to participate in WIOA programs and may include the following:

- a. a. assistance with transportation costs;
  - b. b. assistance with child care and dependent care costs;
  - c. c. assistance with housing costs; and
  - d. d. assistance with needs-related payments;
8. Adult mentoring for a minimum duration of 12 months that may occur both during and after program participation;
  9. Follow-up services for a minimum duration of 12 months after the completion of participation, as appropriate;

#### *Follow-Up Services for Youth*

All youth participants must receive some form of follow-up services for a minimum duration of 12 months after the completion of participation, and may be provided beyond 12 months at the Local Board's discretion.[1]

10. Comprehensive guidance and counseling, which may include drug and alcohol abuse counseling and referral, as appropriate;
11. Financial literacy education;
12. Entrepreneurial skills training;
13. Services that provide labor market and employment information about in-demand industry sectors or occupations available in the local area, such as
  - a. career awareness;
  - b. career counseling;
  - c. career exploration services; and
14. Activities that help youth prepare for and transition to postsecondary education and training.[2]

### *Rule of Construction*

This policy does *not* require that *each* provider of youth services must provide all 14 required elements. Rather, the local program must provide access to all the required elements.[3]

### Program Design

#### *Objective Assessment*

Pursuant to WIOA Sec. 129(c)(1)(A), the program should provide an objective assessment of the academic levels, skill levels, and service needs of each participant, which assessment must include a review of:

1. Basic skills;
2. Occupational skills;
3. Prior work experience;
4. Employability;
5. Interests;
6. Aptitudes (including interests and aptitudes for nontraditional jobs);
7. Supportive service needs; and
8. Developmental needs.

The review of these factors are made for the purpose of identifying appropriate services and career pathways for participants.

A new assessment of a participant is not required if the provider carrying out such a program determines it is appropriate to use a recent assessment of the participant conduct pursuant to another education or training program.[4]

#### *Individual Service Strategy*

The program should also develop individual service strategies (ISS) for each participant that are directly linked to one or more indicators of performance described in WIOA Sec. 116(b)(2)(A)(ii), and that identify career pathways that include education and employment goals (including, in appropriate circumstances, nontraditional employment), appropriate achievement objectives, and appropriate services for the participant, taking into account the objective assessment.

A new ISS is not required if the provider carrying out the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program.[5]

The individual service strategy plan must also provide:

1. Activities leading to the attainment of a secondary school diploma or its recognized equivalent, or a recognized postsecondary credential;
2. Preparation for postsecondary educational and training opportunities;
3. Strong linkages between academic instruction and occupational education that lead to the attainment of recognized postsecondary credentials;
4. Preparation for unsubsidized employment opportunities, in appropriate cases; and
5. Effective connections to employers, including small employers, in in-demand industry sectors and occupations of local and regional labor markets.[6]

### Information and Referrals

Under WIOA Sec. 129(c)(3)(A), local board must ensure that each participant shall be provided:

- Information regarding the full array of applicable or appropriate services available through the local board, providers found eligible by the board, or American Job Center partners
- Referral to appropriate training and educational programs that have the capacity to serve the participant either on a sequential or concurrent basis.[7]

### Linkages

Local boards must establish linkages with local educational agencies responsible for services to participants as appropriate.[8]

### Applicants Not Meeting Enrollment Requirements

In order to meet the basic skills and training needs of eligible applicants who do not meet the enrollment requirements of a particular program or who cannot be served by the program, each eligible youth provider must ensure these youth are referred:

- for further assessment, as necessary and
- to appropriate programs that have the capacity to serve them[9]

All referrals must be document in NEworks.

### Involvement in Design and Implementation

Local boards must ensure that parents, youth participants, and other members of the community with experience relating to youth programs are involved in both the design and implementation of its youth programs.[10] Evidence of this involvement in the design and implementation of the youth program shall be outlined in the local area plan.

## Volunteers

Local boards must ensure that successful youth program participants have opportunities to volunteer to help other youth participants through mentoring, tutoring, and other activities.[11] Local area plans shall describe how volunteer opportunities are afforded to successful youth program participants.

## Prohibitions

1. Prohibition Against Federal Control Of Education - WIOA does *not* grant any department, agency, officer, or employee of the United States authority to exercise any direction, supervision, or control over any educational institution, school, or school system; its curriculum, program of instruction, administration, or personnel; or the selection of library resources, textbooks, or other printed or published instructional materials.[12]
2. Noninterference and Non-Replacement of Regular Academic Requirements - WIOA funds may not be used to provide an activity for eligible youth who are not school dropouts if participation in the activity would interfere with or replace the regular academic requirements of the youth.[13]

## *Disclaimer*

This policy is based on NDOL's initial reading of the statute without any interpretive guidance from USDOL. This policy may be subject to change as additional federal regulations and TEGLs are released that are contrary to or otherwise different from NDOL's interpretation of WIOA. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations and guidelines are established.

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[1] WIOA Sec. 129(c)(2)(I)

[2] WIOA Sec. 129(c)(2)

[3] WIOA Sec. 129(c)(5)

[4] WIOA 129(c)(1)(A)

[5] WIOA 129(c)(1)(B)

[6] WIOA 129(c)(1)(C)

[7] WIOA Sec. 129(c)(3)(A)

[8] WIOA Sec. 129(c)(7)

[9] WIOA Sec. 129(c)(3)(B)

[10] WIOA Sec. 129(c)(3)(C)

[11] WIOA Sec. 129(c)(8)

[12] WIOA Sec. 129(c)(6)(A)

[13] WIOA Sec. 129(c)(6)(B)

## Interim Financial Request and Reporting System Policy

### Reference

Workforce Innovation and Opportunity Act (WIOA) Sections 128, 129, 134, 184, 185; 2 CFR Part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, including 2 CFR §§ 200.29, 200.71, 200.306; 20 CFR §§ 680.720, 683.300, 683.410, 683.650; TEGL 2-16

### Background

As the recipient for WIOA Title I Youth, Adult, and Dislocated Worker Program allotments for the State of Nebraska, the Nebraska Department of Labor (NDOL):

- has financial reporting and oversight responsibility of WIOA Title I Youth, Adult, and Dislocated Worker Program funds (collectively WIOA funds) awarded to its subrecipients;[1] and
- is responsible for ensuring its subrecipients comply with the requirements of 2 CFR Part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.[2]

For purposes of this policy, *subrecipients* means the following local workforce development boards (local boards):

- Greater Lincoln Workforce Development Board;
- Greater Nebraska Workforce Development Board; and
- Greater Omaha Workforce Development Board.

Under WIOA, NDOL is permitted to establish a financial reporting system and financial reporting timelines and reporting requirements for the local boards.[3] NDOL makes the Request and Reporting System (RRS) available to the local boards.[4] As an online database, RRS is the mechanism by which the local boards:

- request WIOA funds from NDOL; and
- track the obligations for non-participant-specific and participant-specific WIOA funds.

NDOL and the local boards are required to track the use and obligation of WIOA funds in order to meet Federal financial reporting and compliance requirements.[5]

### Action

This policy will be considered final after a 10-day review period. Questions and comments must be submitted in writing to the WIOA policy mailbox at [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

Each local board must:

- establish a policy on financial reporting that addresses the provisions of this policy; and
- ensure their local workforce development area (local area) WIOA plan addresses the requirements of this policy.

### *Policy*

The purpose of this policy is to:

- ensure NDOL's ability to provide effective oversight of the use of WIOA funds by local boards;
- describe financial reporting requirements;
- outline procedures for financial reporting requirements through RRS; and
- explain the process for appealing imposed sanctions and requesting an administrative hearing.

#### 1. WIOA Expenditure and Cap Requirements (Limits, Minimums, and Maximums)

Under WIOA, NDOL is required to ensure that local boards utilize WIOA funds in line with the required limits and minimum and maximum thresholds detailed in Table 1.

*Table 1. WIOA Expenditure and Reservation Requirements (Limits, Minimums, and Maximums)*

Program	Expenditure and Reservation Description	Threshold
Youth, Adult, Dislocated Worker	Limit on use of program funds for local area administration costs	not more than 10 percent[6]
Youth, Adult, Dislocated Worker	Limit on unobligated local area allocations per program year	not more than 20 percent[7]
Youth, Adult, Dislocated Worker	Limit of use of program funds for pay-for-performance programs	not more than 10 percent[8]
Youth, Adult, Dislocated Worker	Limit on employer reimbursement for on-the-job training	not more than 50 percent[9]
Youth	Minimum spending requirement for youth work experiences	not less than 20 percent[10]
Youth - out-of-school	Minimum spending requirement for out-of-school youth	not less than 75 percent[11]
Youth - in-school	Limit on use of program funds for in-school youth who are not low income but otherwise eligible	not more than 5 percent[12]
Adult, Dislocated Worker	Limit on use of program funds for incumbent worker program	not more than 20 percent[13]
Adult, Dislocated Worker	Limit on use of program funds for transitional jobs program	not more than 10 percent[14]

Program	Expenditure and Reservation Description	Threshold
Adult, Dislocated Worker	Maximum transfer of program funds between programs	up to 100 percent[15]

## 2. Financial Reporting Requirements

### A. *Submission of Financial Information and Supporting Documentation*

Effective October 1, 2016, local boards must submit financial information and supporting documentation through RRS at least once per month on local area:[16]

- expenditures; and
- obligations.

Submission is achieved by direct entry of local area expenditures and obligations into RRS.

*Obligations* means the financial commitments described in Table 2.[17]

*Table 2. Definition of Obligations*

Type of obligation	Description
non-participant-specific	<ul style="list-style-type: none"> <li>▪ orders placed for property and services</li> <li>▪ contracts and subawards made</li> <li>▪ similar transactions during a given period that require payment during that same or future period</li> </ul>
participant-specific	a financial commitment or "promise" to provide financial support to aid an individual in the participation of a training program

**For the initial submission, designated local area staff must submit the following financial information and supporting documentation no later than November 1, 2016:**

- **expenditures for the months of July through September of Program Years 2015 and 2016; and**
- **all obligations for Program Years 2015 and 2016.**

Subsequent submissions of financial information and supporting documentation must be performed as described below.

#### (i) Expenditures

##### (a) Submission of Expenditure Information and Supporting Documentation

Following the initial submission for Program Years 2015 and 2016 (due November 1, 2016), submission of expenditure information and supporting documentation must occur

no less frequently than one calendar month after the end of the reporting month's expenditures.

Local boards may submit expenditure information and documentation more frequently than monthly.

Table 3 details due dates for local boards that submit expenditure information and supporting documentation only on a monthly basis.

*Table 3. Due dates for monthly submission of expenditure information and documentation*

Reporting month	Due date	Reporting month	Due date
July	September 1	January	March 1
August	October 1	February	April 1
September	November 1	March	May 1
October	December 1	April	June 1
November	January 1	May	July 1
December	February 1	June	August 1

#### (b) Requesting WIOA Funds from NDOL for Expenditures

NDOL requires the submission of a completed RRS fiscal report and supporting documentation before any payment can be made. The RRS fiscal report must be submitted to NDOL at least monthly as stated above. However, submissions can be made more frequently by a local board to request funds to cover:

- expenses previously incurred and paid; or
- expenses that will be incurred and paid in the next week.

NOTE: Submission of a completed RRS fiscal report and supporting documentation satisfies the requirement for submitting expenditure information and supporting documentation described above.

#### (c) Procedure

1. Designated local area staff access the RRS website and complete a report for the appropriate program type (Youth, Adult, or Dislocated Worker). Detailed user instructions for submission are provided on the website.
2. Designated local area staff enter the current period expenditures, prior period accrued expenses, if any, and current period accrued expenses, if any, for each type of expenditure, *i.e.*, program or administrative.
3. RRS calculates all subtotals and the total amount of funds requested for disbursement.
4. Designated local area staff upload supporting documentation detailing the expenses submitted for reimbursement to ensure accurate reporting.

5. Designated local area staff certify the online report for submission which notifies NDOL Financial Services Division staff (via email) that an RRS fiscal report has been submitted for review and payment.

(ii) Obligations

Following the initial submission for Program Years 2015 and 2016 (due November 1, 2016), obligations must be entered into RRS on a real-time basis, meaning as the commitments are made.

(a) Tracking of obligations for non-participant-specific and participant-specific WIOA funds

Tracking of obligations is achieved by direct entry of each obligation into RRS by designated local area staff.

(b) Procedure

1. Designated local area staff access the RRS website and complete a record for the obligation. Detailed user instructions for submission are provided on the website.
2. Designated local area staff certify the record.

(c) Oversight

NDOL will run monthly and quarterly obligation reports for oversight purposes. Local boards and local area staff are encouraged to do likewise.

*B. Submission of Quarterly Financial Reports*

Effective October 1, 2016, local boards must submit quarterly financial reports to:[18]

- Joan Modrell, Director, Office of Employment and Training, NDOL, joan.modrell@nebraska.gov; and
- Kim Schreiner, Controller, Financial Services Division, NDOL, kim.schreiner@nebraska.gov.

(i) Content

Quarterly financial reports must include details on:[19]

- cash on hand;
- matching funds;
- any income or profits earned; and
- indirect costs.

Reported matching funds and program income, including any profits earned, must be:

- reported on the accrual basis of accounting;
- program and activity costs must be reported by cost category in accordance with generally accepted accounting principles; and
- cumulative by fiscal year of appropriation.[20]

Under WIOA, *matching funds* (or *matching*) means the portion of costs not paid by Federal funds (unless otherwise authorized by Federal statute), including: [21]

- any shared costs or matching funds and all contributions, including cash and third party in-kind contributions, when the contributions meet all of the following seven (7) criteria:
  1. are verifiable from the non-Federal entity's records;
  2. are not included as contributions for any other Federal award;
  3. are necessary and reasonable for accomplishment of project or program objectives;
  4. are allowable costs as defined and described in 2 CFR §§ 200.402 and 200.403;
  5. are not paid by the Federal government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs;
  6. are provided for in the approved budget when required by the Federal awarding agency; and
  7. conform to other applicable provisions of Part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

(ii) Deadlines

**Effective October 1, 2016, quarterly financial reports are due no later than thirty (30) days after the end of each quarter. Due dates for submission of quarterly financial reports are detailed in Table 4.**

*Table 4. Due dates for submission of quarterly financial reports*

Reporting quarter	Due date	Reporting quarter	Due date
Quarter 1 (July - September)	October 31	Quarter 3 (January - March)	May 1
Quarter 2 (October - December)	January 31	Quarter 4 (April - June)	July 31

### 3. Accessing RRS

Requests for access to RRS must be made by local area management and submitted to Joan Modrell, Director, Office of Employment and Training, NDOL, at

joan.modrell@nebraska.gov. The *Request and Reporting System: User Access Request Form* is included with this policy as Attachment A.

Definitions of terms used in the *Request and Reporting System: User Access Request Form* are include with this policy as Attachment B.

#### 4. Technical Assistance

User guides are available for download within RRS.

NDOL will provide technical assistance upon written request. Requests for technical assistance must submitted by email to [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

#### 5. Corrective Action and Sanctions

If NDOL identifies any substantial violation of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200) by a local board as a result of financial and compliance audits or otherwise, NDOL must require prompt correction action by the local board.[22]

If a local board fails to take the required corrective action, NDOL must impose the following sanctions:[23]

- issue a notice of intent to revoke approval of all or part of the local plan affected; or
- impose a reorganization plan, which may include:
  - decertifying the local board involved;
  - prohibiting the use of eligible training providers;
  - selecting an alternative entity to administer the program for the local area;
  - merging the local area into one or more other local areas; or
  - making other changes as the U.S. Department of Labor's Secretary of Labor (the Secretary) or NDOL determines to be necessary to secure compliance.

#### 6. Appeals and Administrative Hearings

A local board found in substantial violation and notified by NDOL that either all or part of the local plan will be revoked or that a reorganization will occur may appeal the sanction(s) to the Secretary.[24] The sanctions will not become effective until:

- the time for appeal has expired; or
- the Secretary has issued a decision.

### *A. Appeal Procedure*

The appeal must be filed no later than thirty (30) days after receipt of written notification of the revoked plan or imposed reorganization.[25] The appeal must be submitted by certified mail, return receipt requested to:[26]

Secretary  
U.S. Department of Labor  
200 Constitution Avenue NW  
Washington, DC 20210  
Attention: ASET

A copy of the appeal must be provided to NDOL simultaneously.

The Secretary must notify NDOL and the local board 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 NDOL in response to the appeal.

### *B. Administrative Hearing Procedure*

If the local board is dissatisfied with the Secretary's determination, the local board may request a hearing before an administrative law judge of the U.S. Department of Labor.

The hearing request must be filed in accordance with the requirements of 29 CFR - Part 18, Rules of Practice and Procedure for Administrative Hearing before the Office of Administration Law Judges.

The decision of the administrative law judge constitutes final action by the Secretary unless, within twenty (20) days after receipt of the decision of the administrative law judge, the local board has filed exceptions with the Secretary specifically identifying the procedure, fact, law, or policy to which exception is taken. Any exception not specifically filed during the twenty (20) day period is deemed to have been waived.

After the twenty (20) day period, the decision of the administrative law judge becomes the final decision of the Secretary, unless the Secretary notifies the parties that the case involved has been accepted for review within thirty (30) days after the filing of exceptions. Any case accepted for review by the Secretary must be decided within one-hundred eighty (180) days after acceptance. If the case is not decided within the one-hundred eighty (180) day period, the decision of the administrative law judge becomes the final decision of the Secretary at the end of the one-hundred eighty (180) day period.

### *Disclaimer*

This policy is based on NDOL's reading of the applicable statutes, regulations, rules and guidance released by the U.S. Government and the State of Nebraska. This policy is

subject to change as revised or additional statutes, regulations, rules and guidance are issued.

Attachments:

Attachment A - Request and Reporting System: User Access Request Form

Attachment B - Request and Reporting System: Definitions

## Attachment A

### Request and Reporting System: User Account Access and Deletion Request

The Nebraska Department of Labor (NDOL) has established the Request and Reporting System (RRS) to support local area subrecipient funding requests and tracking of use of WIOA funds. Completion and submission of this form is required to gain access to RRS as well as to delete a user from RRS. Completed forms must be submitted to Joan Modrell by email at joan.modrell@nebraska.gov.

#### Requested for:

First name \_\_\_\_\_  
Last name \_\_\_\_\_  
Title \_\_\_\_\_  
Email address \_\_\_\_\_

#### Access for funding requests:

*Select grantee(s) or subrecipient(s) category (mark all that apply with an X):*

State	<input type="checkbox"/>	Greater Lincoln	<input type="checkbox"/>
Statewide	<input type="checkbox"/>	Greater Nebraska	<input type="checkbox"/>
Rapid Response	<input type="checkbox"/>	Greater Omaha	<input type="checkbox"/>

*Select role (mark one with an X):*

System Administrator	<input type="checkbox"/>	System End User – Certify	<input type="checkbox"/>
System Power Users	<input type="checkbox"/>	System End User – Entry	<input type="checkbox"/>

*Select Access Level (mark one with an X):*

Level 1 Approval (final)	<input type="checkbox"/>	Level 2 Approval	<input type="checkbox"/>
End User – Inquiry Only	<input type="checkbox"/>	End User – Create, Edit, and Submit	<input type="checkbox"/>
End User – Delete	<input type="checkbox"/>		<input type="checkbox"/>

#### Access for tracking or entering obligations:

*Select grantee(s) or subrecipient(s) category (mark all that apply with an X):*

State	<input type="checkbox"/>	Greater Lincoln	<input type="checkbox"/>
Statewide	<input type="checkbox"/>	Greater Nebraska	<input type="checkbox"/>
Rapid Response	<input type="checkbox"/>	Greater Omaha	<input type="checkbox"/>

*Select role (mark one with an X):*

System Administrator	<input type="checkbox"/>	System End User – Entry	<input type="checkbox"/>
System Power Users	<input type="checkbox"/>		

*Select Access Level (mark one with an X):*

End User – Inquiry Only	<input type="checkbox"/>	End User – Create, Edit, and Submit	<input type="checkbox"/>
End User – Delete	<input type="checkbox"/>		<input type="checkbox"/>

#### Requestor Signature

\_\_\_\_\_  
Name Title Date

## Request and Reporting System: Definitions

### Roles

- System Administrator: This role is reserved for NDOL IT staff members who will provide technical assistance on the RRS. This role has the ability to view all of the screens available within the system.
- System End User: The roles below will primarily be utilized by the local area representatives.
  - Certify: This role allows the user to approve or reject documents uploaded in the system by an end user that has “entry” access.
  - Entry: This role enables the user to create, edit, or view documents within the system for the local area. This information is reviewed and approved by the individual designated as a *System End User – Certify*.
- System Power Users: This role allows individuals to access reference screens, but not system configurations. This role is reserved for NDOL IT staff members.

### Obligation Approval Level

- System End User – Certify
  - Level 1 Approval (final): Allows the user to approve submissions; this is the final approval level at the local area level. This user cannot edit or create documents.
  - Level 2 Approval: Allows the user to approve documents. Once approved the documents will be directed to the *System End User – Certify, Level 1 Approval* user level. This level cannot edit or create documents.
- System End User – Entry
  - Edit, Create, and Submit: Allows the user to create, edit, and submit entries for approval. This level does not have approval abilities.
  - Inquiry Only: Provides access to the reporting features of the system only.
  - Delete: Deletes user from RRS.

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- [1] 20 CFR § 683.300(a)
  - [2] 20 CFR § 683.410
  - [3] 20 CFR § 683.300(b)(2)
  - [4] All references within RRS to the Workforce Investment Act or WIA now refer to the Workforce Innovation and Opportunity Act or WIOA, respectively.
  - [5] 20 CFR § 683.300(a) - (c)
  - [6] WIOA Sec. 128(b)(4)(A)
  - [7] WIOA Secs. 128(c)(2) and 133(c)(2)(A)
  - [8] WIOA Secs. 129(c)(1)(D) and 134(d)(1)(A)(iii)
  - [9] 20 CFR § 680.720. Local boards may increase the reimbursement rate to 75% under certain conditions. Please refer to NDOL's On-the-Job Training Policy.
  - [10] WIOA Secs. 129(c)(2)(C) and 129(c)(4)
  - [11] WIOA Sec. 129(a)(4)(A) - (B)
  - [12] WIOA Sec. 129(a)(1)(C)(3)(A)(ii)
  - [13] WIOA Sec. 134(d)(4)
  - [14] WIOA Sec. 134(d)(5)
  - [15] WIOA Sec. 133(b)(4)
  - [16] 20 CFR § 683.300(b)(2)
  - [17] 2 CFR § 200.71
  - [18] WIOA Sec. 185(e); 20 CFR § 683.300(b)(2);
  - [19] 20 CFR § 683.300(c)(4)
  - [20] WIOA Sec. 185(e)(1); 20 CFR § 683.300(c)(5)
  - [21] TEGL 2-16; 2 CFR § 200.29; 2 CFR § 200.306
  - [22] 20 CFR § 683.410(b)(4)
  - [23] WIOA Sec. 184(b)(1)(A) - (B)
  - [24] 20 CFR § 683.650(a)
  - [25] 20 CFR § 683.650(a)
  - [26] 20 CFR § 683.550(d)

## **Preliminary Policy on Memorandums of Understanding and Allocation of Infrastructure and Shared Costs**

### *Reference*

Workforce Innovation and Opportunity Act (WIOA), Sec. 121 and 134; Workforce Innovation and Opportunity Act; Joint Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions, Final Rule, including 20 CFR §§ 678.400, 678.500, 678.505, 678.510, 678.700, 678.730, 678.750, 678.760; 2 CFR Part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Neb. Rev. Stat. § 48.617

### *Background*

Under WIOA, chief elected officials (CEOs) and local workforce development boards (local boards) must seek to establish Memorandums of Understanding (MOUs) with required one-stop partners in their respective local workforce development areas (local areas).[1]

MOUs must include a description of how local boards and required one-stop partners will fund the infrastructure costs and other shared costs of local area one-stop delivery systems.[2]

### *Action*

This policy will be considered final after a 10-day review period. Questions and comments must be submitted in writing to the WIOA Policy Mailbox at [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov).

Each local board must:

- establish a policy on MOUs and infrastructure and shared costs that addresses the provisions of this policy; and
- ensure their local workforce development area (local area) WIOA plan addresses the requirements of this policy.

### *Policy*

The purpose of this policy is to:

- provide CEOs and local boards with general, preliminary guidance on MOUs and allocation of infrastructure and shared costs; and
- describe the process the Nebraska Department of Labor (NDOL) has established to develop guidelines for:
  - establishment of MOUs with required one-stop partners; and
  - allocation of infrastructure and shared costs.

## Development of Guidelines on MOUs and Allocation of Infrastructure and Shared Costs

Each local board must:

- collaborate with *required one-stop partners* in its local area to determine projected *infrastructure costs* and *shared costs* for its local area one-stop delivery system; and
- using the template provided as Attachment A (Local Area Infrastructure & Career Services Cost Proposal), provide an analysis of projected infrastructure costs and shared costs for its local area one-stop delivery system by September 2016 to NDOL.

Following the provision of the analyses of projected infrastructure costs and shared costs, NDOL will:

- consult with the Nebraska Workforce Development Board (NWDB), CEOs, and local area boards to determine equitable and stable methods of funding infrastructure and shared costs at local area one-stop centers based on proportionate use and relative benefit received; and
- issue further guidance by early 2017, including:
  - defining the methods of funding infrastructure and shared costs at local area one-stop centers under MOUs and under the state infrastructure funding mechanism (state mechanism);
  - providing an MOU template.

### Definition: required one-stop partners

Under WIOA, *required one-stop partners* means the following partners and program:[3]

1. Programs authorized under Title I of WIOA, including:
  - a. Adult, dislocated worker, and youth programs
  - b. Job Corps
  - c. YouthBuild
  - d. Native American programs
  - e. Migrant and seasonal farmworker programs
2. Employment services authorized under the Wagner-Peyser Act
3. Adult education and literacy activities authorized under Title II of WIOA
4. The Vocational Rehabilitation program authorized under Title I of the Rehabilitation Act of 1973
5. The Senior Community Service Employment Program authorized under title V of the Older Americans Act of 1965
6. Career and technical education programs at the post-secondary level authorized under the Carl D. Perkins Career and Technical Education Act of 2006
7. Trade Adjustment Assistance activities authorized under Chapter 2 of Title II of the Trade Act of 1974

8. Jobs for Veterans State Grants programs authorized under Chapter 41 of Title 38 U.S.C.
9. Employment and training activities carried out under the Community Services Block Grant
10. Employment and training activities carried by the Department of Housing and Urban Development
11. Programs authorized under Nebraska's Unemployment Compensation law (in accordance with applicable Federal law)[4]
12. Programs authorized under Sec. 212 of the Second Chance Act of 2007[5]
13. Temporary Assistance for Needy Families (TANF) authorized under Part A of Title IV of the Social Security Act

Definition: infrastructure costs

Under WIOA, *infrastructure costs* means:[6]

1. one-stop center non-personnel costs that are necessary for the general operation of the one-stop center, including:
  - a. rental of the facilities;
  - b. utilities and maintenance;
  - c. equipment (including assessment-related products and assistive technology for individuals with disabilities); and
  - d. technology to facilitate access to the one-stop center, including technology used for the center's planning and outreach activities; and
2. common identifier costs (signage, etc.).

Definition: shared costs

Under WIOA, *shared costs* means:[7]

1. additional costs relating to the operation of the one-stop delivery system, which:
  - a. must include applicable career services; and
  - b. may include other costs, including shared services, such as:
    - i. services that are authorized for and may be commonly provided through the one-stop partner programs to any individual, such as:
2. initial intake;
3. assessment of needs;
4. appraisal of basic skills;
5. identification of appropriate services to meet these needs; and
6. referrals to other one-stop partners, and business services; and
7. may include shared costs of the local board's functions.

## Memorandums of Understanding

### *Content[8]*

The MOU is developed and executed between the local board, with the agreement of the CEO and the one-stop partners.

The MOU must include:

- a description of services to be provided through the one-stop delivery system, including how the services will be coordinated and delivered through the system;
- agreement on funding the costs of the services and the operating costs of the system, including funding of infrastructure and shared costs;
- methods for referring individuals between the one-stop operators and partners for appropriate services and activities;
- methods to ensure that the needs of workers, youth, and individuals with barriers to employment, including individuals with disabilities, are addressed in providing access to services, including access to technology and materials that are available through the one-stop delivery system;
- the duration of the MOU and procedures for amending it;
- assurances that each MOU will be reviewed, and if substantial changes have occurred, renewed, not less than once every 3-year period to ensure appropriate funding and delivery of services; and
- the signatures of the local board, one-stop partners, the CEO and the time period during which the agreement is effective

The MOU may contain any other provisions agreed to by the parties that are consistent with WIOA title I, the authorizing statutes and regulations of one-stop partner programs, and the WIOA regulations.

The MOU must be updated:

- not less than every three (3) years to reflect any changes in the signatory official of the local board, one-stop partners, and CEOs, or one-stop infrastructure funding; and
- if a one-stop partner appeals to NDOL regarding infrastructure costs, using the process described in this policy, and the appeal results in a change to the one-stop partner's infrastructure cost contributions.

### *Single- and multiple-party MOUs*

The local board, CEO, and one-stop partners may decide to enter into separate agreements between the local board (with the agreement of the CEO) and one or more one-stop partners.[9]

A local board and one-stop partners may develop a single “umbrella” MOU concerning the operation of the one-stop delivery system that applies to all partners.[10]

Two or more local areas in a region may develop a single joint MOU, if they are in a region that has submitted a regional plan under WIOA.[11]

### *Negotiation Process*

WIOA emphasizes full and effective partnerships between local boards, CEOs, and one-stop partners. Under WIOA, requirements for the negotiation process are as follows:[12]

1. Local boards must enter into good-faith negotiations with required one-stop partners.
2. Local boards, CEOs, and one-stop partners may also request assistance from NDOL, from the state agency responsible for administering the partner program, or from other appropriate parties on other aspects of the MOU.
3. Local boards and one-stop partners must establish, in the MOU, how they will fund the infrastructure costs and other shared costs of the one-stop centers.
4. If agreement regarding infrastructure costs is not reached when other sections of the MOU are ready, an interim infrastructure funding agreement may be included instead.
5. If an MOU includes an interim infrastructure funding agreement, the local board and one-stop partners must amend the MOU to include the agreed upon infrastructure funding of the one-stop centers.
6. If local board and one-stop partners reach an impasse during MOU negotiations, the local board must report in writing to the Nebraska Workforce Development Board (NWDB), NDOL, and each relevant State agency, as follows:
  - a. The local board and one-stop partners must document the negotiations and efforts that have taken place in the MOU.
    1. NWDB, one-stop partner programs, and NDOL may consult with the appropriate Federal agencies to address impasse situations related to issues other than infrastructure funding after attempting to address the impasse.
  - b. The local board must report failure to execute an MOU with a required partner to NWDB, NDOL, and the relevant state agency responsible for administering the one-stop partner’s program.
  - c. If NDOL cannot assist the local board in resolving the impasse, NDOL or the NWDB must report the failure to the Secretary of Labor and to the head of any other Federal agency with responsibility for oversight of the one-stop partner’s program.

NDOL will provide the local boards with an MOU template.

## State Infrastructure Funding Mechanism

Impasses related to infrastructure cost funding must be resolved using the state infrastructure cost funding mechanism.<sup>[13]</sup> The state funding mechanism is applicable to the local area for that program year.

Under the state funding mechanism, NDOL determines one-stop partner contributions after consultation with the chief elected officials, local boards, and NWDB. This determination involves:<sup>[14]</sup>

- The application of a budget for one-stop infrastructure costs, based on either agreement reached in the local area negotiations or the allocation formula determined by NWDB;
- The determination of each local one-stop partner program's proportionate use of the one-stop delivery system and relative benefit received; and
- The calculation of required statewide program caps on contributions to infrastructure costs from one-stop partner programs in areas operating under the State funding mechanism.

### *Indian and Native American (INA) Programs*

The Governor will not determine the contribution amounts for infrastructure funds for Native American program grantees.<sup>[15]</sup> The appropriate portion of funds to be provided by Native American program grantees to pay for one-stop infrastructure must be determined as part of the development of the MOU and specified in that MOU.

### *WIOA Titles II and IV and Carl D. Perkins Programs*

The determination of the amount each of the following partners must contribute to assist in paying the infrastructure costs of one-stop centers must be made by the Commissioner of Education of the Nebraska Department of Education, in consultation with NDOL:

- WIOA Title II programs (adult education and literacy activities);
- postsecondary career and technical education activities authorized under the Carl D. Perkins Career and Technical Education Act; and
- WIOA Title IV programs (Vocational Rehabilitation services authorized under title I of the Rehabilitation Act of 1973 (other than sec. 112 or part C)).

## Requirements for Allocation of Infrastructure and Shared Costs

Allocation of infrastructure and shared costs among local boards and one-stop partners under MOUs must be consistent with the requirements of:

- 2 CFR Part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, including the Federal cost principles;
- partner programs' authorizing laws and regulations and
- other applicable legal requirements.

This requirement also applies to allocations made under the state funding mechanism.

## Appeal Process

Under WIOA, NDOL is required to establish a process for a one-stop partner to appeal a determination regarding a one-stop partner's portion of funds to be provided for one-stop infrastructure costs under the state funding mechanism.[16]

Appeals must be made on the ground that the determination is inconsistent with proportionate share requirements, cost contribution limitations, and cost contribution caps as described in this policy. Appeals made on other grounds will not be accepted.

The appeal process is as follows:

### *Appeals*

1. Appeals must be submitted in writing and directed to the Director of the Office of Employment & Training (OET): Joan Modrell, Nebraska Department of Labor, 550 South 16<sup>th</sup> Street, Lincoln, NE 68509.
2. The appeal must:
  - a. reference the portion of funds determined by NDOL;
  - b. include specific issues to be addressed; and
  - c. provide name and mailing address for the one-stop partner's point-of-contact.
3. All appeals must be received within ten (10) business days of the date the one-stop partner receives notice of the determination to be considered a valid appeal.
4. NDOL will provide a written response to the one-stop partner's point-of-contact, generally within ten (10) business days of receipt of the appeal by the OET Director.

### *Requests for meetings*

1. If the response from the OET Director has not satisfied the appeal of the one-stop partner, the one-stop partner may request a meeting with the NDOL Commissioner of Labor.
2. The request for a meeting must be submitted in writing and directed to: John Albin, Commissioner of Labor, Nebraska Department of Labor, PO Box 94600, Lincoln, NE 68509-4600.
3. The request must:
  - a. reference the portion of funds determined by NDOL;
  - b. include specific issues to be addressed; and
  - c. provide name and mailing address for the one-stop partner's point-of-contact.
4. All requests for meetings must be received within ten (10) business days of the determination by the OET Director to be considered a valid request.
5. A meeting will be scheduled with the one-stop partner, OET Director, and the Commissioner of Labor for the one-stop partner to present the issues.
6. A written response of the final decision of the Commissioner of Labor will be sent to the one-stop partner's point-of-contact, generally within ten (10) business days, unless additional time is necessary to fully examine the issues presented.

A one-stop partner may opt to skip steps 1 and 2 and appeal simultaneously to the OET Director and the Commissioner of Labor (begin with Step 3).

### *Disclaimer*

This policy is based on NDOL's reading of the applicable statutes, regulations, rules and guidance released by the U.S. Government and the State of Nebraska. This policy is subject to change as revised or additional statutes, regulations, rules and guidance are issued.

## Attachment A

### Local Area Infrastructure & Career Services Cost Proposal

#### SECTION A. LOCAL AREA INFORMATION

Name of Local Area:	
Address of Local One-Stop or AJC:	Street City/Town State Zip Code
Contact Person & Title:	
Email:	
Phone:	

#### SECTION B. ONE-STOP INFRASTRUCTURE EXPENSES

Items included below must meet cost principals outlined in 2 CFR Part 225 – Cost Principals for State, Local, and Indian Tribal Governments (OMB Circular A-87). (Calculate cost on an annual basis.)

Rent:	
Utilities:	
Communication:	
Maintenance:	
Equipment:	
Other (List):	
Total	

#### SECTION C. ONE-STOP CAREER SERVICES EXPENSES

Services that are authorized for and may be commonly provided through the One-Stop Partner Programs CFR 20 678.760. (Calculate cost on an annual basis.)

Initial Intake:	
Assessment of Needs:	
Appraisal of Basic Skills:	
Identification of Appropriate Services:	
Referrals to Other One-Stop Partners:	
Business Services:	
Other (List):	
Total	

## SECTION D. LOCAL WORKFORCE DEVELOPMENT BOARD COSTS

Operating expenses may include shared costs of the local board functions *CFR 20 678.760*. (Calculate cost on an annual basis.)

List local board functions and items considered a shared cost:

1. Function:
  - a. Item:
  - b. Cost:
2. Function:
  - a. Item:
  - b. Cost:

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[1] 20 CFR § 678.510(a)

[2] 20 CFR § 678.510(b)

[3] WIOA Sec. 121(b)(1); 20 CFR § 678.400

[4] Neb. Rev. Stat. § 48-617

[5] This program was not a required one-stop partner under WIA.

[6] 20 CFR § 678.700(a)

[7] 20 CFR § 678.760(a)-(b)

[8] 20 CFR § 678.500(b)

[9] 20 CFR § 678.505 (a)

[10] 20 CFR § 678.505 (a)

[11] 20 CFR § 678.500(a)

[12] 20 CFR § 678.510

[13] 20 CFR § 678.510(c)(1)

[14] 20 CFR § 678.730(b)

[15] 20 CFR § 678.730(c)(1)

[16] 20 CFR § 678.750

## **B. Governor's set aside funding**

Describe how the State intends to use Governor's set aside funding. Describe how the State will utilize Rapid Response funds to respond to layoffs and plant closings and coordinate services to quickly aid companies and their affected workers. States also should describe any layoff aversion strategies they have implemented to address at risk companies and workers

### **Governor's Set Aside Funding**

Nebraska will use the Governor's set aside funding for any required or allowable activity described in 20 CFR 370 or WIOA Sections 129(b)(2) and 134(a)(3). The State's priority workforce activities for set aside funding are:

1. Utilize 5% for state administration of the adult, youth, and dislocated worker workforce investment activities.
2. Continue to develop and strengthen the framework for industry sector partnerships at the local or regional level to greatly increase the alignment of high demand, high wage and high skill jobs with the workforce system making the system relevant to the needs of regional and local businesses;
3. Implement a public sector partnership that represents Nebraska's Workforce System by growing the current Nebraska Partnership Council into an entity that serves as a catalyst for serving individuals with barriers to employment by aligning terminology, career services, intake processes and technology across one-stop partners;
4. Re-engineering the Eligible Training Provider List application process, eligibility determination, and technology platform to meeting the requirements of WIOA performance reporting;
5. Supporting the case management system (NEworks) for the purpose of eligibility determination, service delivery, and reporting to meet WIOA performance requirements;
6. Operation of the State's fiscal management and accountability system including the Requesting and Reporting System (RRS) used for WIOA financial management of expenditures and obligations
7. Develop strategies to assist Nebraska's local and regional areas related to capacity building, career pathways, industry sector strategies, and regional planning;
8. Conduct state-level program oversight to include monitoring, technical assistance, grant fund management; and
9. Conduct evaluation on Nebraska's Workforce System and Core Partner Program Services.

Pursuant to WIOA Sec. 134(a)(2)(A)(ii), up to 25 percent of Nebraska's dislocated worker funds may be reserved for Rapid Response activities. These funds will be used to provide Rapid Response services and/or information to employees being affected by a layoff or closure.

The Rapid Response Unit will work with plan partners and other partner agencies to provide information to dislocated workers regarding reemployment and training opportunities:

- Virtual Service Unit (to provide individual follow up and reemployment services);
- Unemployment Insurance (to provide information on UI eligibility and processes);
- Trade Adjustment Assistance (TAA) Program (to provide information regarding TAA petitions);
- Wagner-Peyser (to provide reemployment services information);
- Adult and Dislocated Worker programs (to provide information regarding reemployment and training opportunities); and
- American Job Centers (to provide information regarding reemployment and training opportunities).

After a Rapid Response event has occurred, funds will also be allocated to following up with individuals affected by the event. The Rapid Response Workforce Coordinator will provide individual follow up services to dislocated workers identified by the employer. This follow up serves the dual purpose of measuring the success of the Rapid Response event and assuring that each individual impacted by the event is aware of resources available to them.

Once Nebraska has reserved sufficient funding for Rapid Response activities, any of the remaining funds reserved may be provided to local areas experiencing increases in unemployment due to natural disasters, layoffs, or other events for provision of direct career services to WIOA participants if there are not adequate local funds available to assist the dislocated workers.

### Rapid Response Program

In order for the Rapid Response Unit to provide accurate and timely information on all programs available to dislocated workers, the unit collaborates extensively with the following agencies:

- Local one-stop center and operator;
- local boards and chief elected officials;
- Employment Services;
- Economic Development;
- Education;
- Local Community Organizations;
- Adult and Dislocated Worker programs;
- Unemployment Insurance;
- Health and Human Services;
- Veterans Services;
- consumer credit counseling;

- chambers of commerce;
- Trade Adjustment Assistance Program; and
- Office of Labor Market Information.

Many facets of the workforce system are brought to employees before their dislocation including services of the local American Job Center, allowing employees access to information regarding early intervention and career services of the workforce system. For example, Employment Services staff provides information regarding NEworks and how to search for job openings and information on assessment tools. These early efforts enable the local American Job Center staff to begin immediately identifying barriers to employment and training and determining re-employment strategies.

Ongoing conversations with employers help to determine special needs and barriers of employees. Local American Job Center staff are kept informed of Rapid Response activities and consulted on a regular basis concerning the need and applicability for early intervention services and the appropriate action to take for each Rapid Response event. The Rapid Response Process is outlined below.

### Rapid Response Process

#### *Notification*

Notification is the process by which an individual is made aware of a possible layoff or closing. The knowledge of a layoff or closing can be prompted by both the formal and/or informal information received by any member or the Rapid Response Mandatory Partners. The following sources can be used to find out about a potential closing or downsizing:

- employer files a WARN (Worker Adjustment and Retraining Notification) Notice;
- employer notifies the local workforce system;
- media (written, television, radio);
- chamber of commerce;
- local workforce agencies;
- local elected officials;
- local government and community agencies;
- union officials;
- individual workers; or
- the general public.

#### *Initial Employer Contact*

Contacting the employer directly allows the Rapid Response Unit to provide speedy service and allows mandated partner members to be properly aligned. During this step, the State Rapid Response Coordinator will attempt to gather and provide the below information:

- Available programs, services, and resources in the local area such as Unemployment Insurance, reemployment services, job training programs, Trade Adjustment Assistance, and financial counseling to meet the short and long-term assistance needs of the affected workers;
- Rapid Response format, content, and benefits to the employer and employees;
- An assessment of the employer's layoff plans and schedule;
- Identification of the employees affected by the layoff, their current wage scale, occupations, skill levels, and length of service;
- Company benefits available to employees, i.e. severance pay, job development/job search activities, relocation or reemployment opportunities;
- Probable assistance needs of the affected workers;
- Re-employment prospects for workers in the local community;
- Potential for averting the layoff or closure may be discussed in consultation with state or local economic development agencies, including private sector entities such as the local chamber of commerce;
- Survey on employee demographics, future plans, and interest in services available.
- A list of the employees affected by the layoff, which will be provided to the Rapid Response Mandated Partners.

#### *Announcing the Layoff/Closure/WARN*

Once the layoff or closure is verified and if the employer has indicated that the information is confidential, the following individuals will be notified.

- Virtual Service Unit (VSU) Rapid Response Coordinators;
- Unemployment Insurance representative;
- Trade Program Coordinator;
- Wagner-Peyser representative for the designated area;
- Adult and Dislocated Work Program representatives for the designated area;
- Director of the Office of Employment & Training; and
- Labor Law Program Manager.

The following representatives will be notified electronically of *public* layoffs or closures that affect 25 or more employees, in addition to the Rapid Response Mandatory Partners:

- Commissioner of Labor, NDOL;
- Public Information Officer, NDOL;
- Director of Employment & Training, NDOL;
- Administrators of Employment & Training, NDOL;
- Director of Administrative Services, State of Nebraska;
- Director of Unemployment Insurance, NDOL;
- Nebraska Department of Economic Development representative;
- Nebraska Department of Education representative;
- Nebraska Community College Association;
- Chair, Nebraska Workforce Development Board;

- Veterans Program Coordinator;
- Trade Program Coordinator, NDOL;
- Director of the Office of Labor Market Information, NDOL;
- Field Managers, NDOL; and
- Depending on the employer's location, the following partners will be contacted: local area chief elected official and chair of the local workforce development board; Greater Lincoln Workforce Development Area One-Stop Operator; Local chamber of commerce representatives (Metropolitan areas); and Greater Omaha Workforce Development Area One-Stop Operator.

### *Rapid Response Program Options*

Based on the response and willingness of the employer, the State Rapid Response Coordinator determines the best options for Rapid Response services.

- Information. The Rapid Response Unit will provide information to the employer and their employees regarding services and programs available in Nebraska and in their community. Information will automatically be provided to any employer where 10 or fewer workers are impacted. Information will also be provided to any employer upon request.
- Onsite Meeting. The Rapid Response Unit will offer every employer who has over 10 employees impacted by the layoff the option of an on-site meeting. This option is detailed below.

### Rapid Response Orientation

The Rapid Response Orientation session is the first opportunity to inform the affected workers about the benefits, services, and resources available to assist them during their layoff and transition to new employment. Workers receive information during these sessions and are able to ask questions directly of the subject matter experts on available benefits and services relating to UI benefits, employment services, adult and dislocated worker programs, and other relevant programs.

*Onsite*. The Rapid Response Orientation session(s) are conducted as far in advance of the projected layoffs as possible. This allows the workers time to absorb the information presented, and begin to make informed decisions based on their individual circumstances, interests, and needs. In order to maximize worker attendance at the Rapid Response Orientation sessions, the meeting is held on-site whenever possible and while the workers are on the clock. This requires the cooperation and concurrence of the employer and is discussed during the Employer Meeting. When an employer is unwilling or unable to allow the workers to be paid to attend the sessions or for the sessions to be held on-site, the Rapid Response Orientation should be scheduled at a time and place most convenient for the affected workers.

Workers attending the Rapid Response Orientation will receive information on the following agenda items:

- Event Overview;
- Employment Services and NEworks;
- Workforce Innovation & Opportunities Act and One-Stop Office Information;
- Unemployment Insurance Benefits;
- Trade Adjustment Assistance, if Trade certified; and
- Completing the Rapid Response Survey (if applicable).

Other informational items presented include:

- Labor Market Information and related training on in-demand occupations;
- Financial counseling programs;
- Resume and interview guidance;
- Veterans Program assistance;
- Local Health and Human Services programs; and
- Supportive services available from one-stop partners.

Contact information and information methods of accessing benefits, resources, and services are provided to the workers during the Rapid Response Orientation, in order for the workers to be able to follow-up individually with the appropriate entities after the session has been completed. The VSU Rapid Response Coordinator will ensure that contact information for representatives of the programs, services, and resources are identified in the agenda for Rapid Response Orientation session.

## Post Rapid Response Services

The purpose of follow-up is to ensure each laid off worker is aware of the programs, services, and resources available to them during their transition to reemployment.

### *VSU Rapid Response Coordinator Follow-Up Services*

VSU Rapid Response Coordinators will review the list of employees provided by the employer or from the Rapid Response Orientation sign-in sheet, and provide follow-up services that include, but are not limited to:

- Encourage individuals to complete the initial registration of NEworks; and
- Referring the client to the appropriate partner resources to assist the individual with writing a resume, utilizing NEworks, unemployment Insurance; and training opportunities.

VSU Rapid Response Coordinators will attempt to contact the laid off worker at least three (3) times via phone, email, or mailing. Contact with the laid off worker is completed three (3) business days after the Rapid Response Orientation or three (3) business days after receiving the employee list.

Once the follow-up services described above have been completed by the VSU Rapid Response Coordinators, the following information will be provided to the Rapid Response Mandatory Partners:

- finalized service plan;
- survey results;
- employee list; and
- Rapid Response Orientation sign-in sheet.

### *Mandated Partner Services*

Depending on the needs of the employees impacted by a dislocation, the Rapid Response Mandatory Partners may coordinate appropriate and necessary services, programs, and activities including:

- workshops based on identified affected workforce needs
- on-site job placement assistance service
- marketing of the workforce talent (VSU Rapid Response Coordinators and the Mandated Rapid Response Partners, such as Economic Development or Wagner-Peyser, market the workforce to potential employers. When the workers are ready to compete for new jobs, the Rapid Response Mandatory Partners can focus on broadcasting the worker skills to potential employers. This effort will help ensure that the maximum numbers of workers become re-employed.)
- career planning and counseling
- job fairs

## Future Delivery of Rapid Response Services

During this four-year plan, the Rapid Response Unit will focus on the following items of concern:

1. *Streamlining Communication:* Nebraska has multiple areas where information concerning Rapid Response can be found. The Rapid Response Unit intends to consolidate this information into one area to eliminate duplication and ensure it is up-to-date and current. The consolidation of information will allow other agencies, local workforce development boards, and chief elected officials to focus communication efforts in order to be effective and efficient.
2. *Developing a Layoff Aversion System:* Based upon the self-assessment tool provided through the Training and Employment Guidance Letter No. 32-11, Nebraska found that one way to enhance its Rapid Response Program is to develop a Layoff Aversion System. Currently, the Rapid Response program focuses on assisting employers who are in the final stages of closing or laying off individuals. With the development of the layoff aversion system, the Rapid Response Program will be able to assist employers who are in the early stages of possibly either laying off individuals or closing; partnering with Nebraska's Department of Economic Development, will assist in early identification of businesses with downsizing or layoff plans. The layoff aversion system will be similar to how the Rapid Response program is currently organized, but instead of presenting the employees with available programs that may assist them, it will focus on connecting employers with other programs or organizations that may assist in keeping their doors open and not laying off workers, which will include programs to assist with skills upgrading, English as a Second Language (ESL) classes, and basic skills training. When appropriate, Rapid Response funds will be coupled with Worker Training Board funds for incumbent worker training. The Rapid Response Unit will build up a local and state contact list of agencies and organizations that are able to assist employers who are struggling. The unit will also conduct outreach and educate local chambers of commerce, financial institutions, and industry associations to encourage employers to connect with the Rapid Response Unit. The initial steps to create this system are currently underway. The goal is to begin this system by targeting specific industries, and then expand to include all industries. Manufacturing is the first industry to receive focus. Representatives from the Rapid Response Program and the Nebraska Manufacturing Extension Partnership have been reviewing other state systems and identifying Nebraska resources to be utilized.

### **C. State Rapid Response Policies and Procedures**

In addition, describe the State policies and procedures to provide Rapid Responses in cases of natural disasters including coordination with FEMA and other entities.

In response to a layoff or closure as the result of a natural disaster, the Rapid Response Unit will be able and available to host an event. The State Rapid Response Coordinator

(SRRC) will contact the Federal Emergency Management Agency (FEMA) and the Nebraska Emergency Management Agency (NEMA):

- FEMA: Region VII contact is 816-283-7061 or [FEMARegion7info@fema.dhs.gov](mailto:FEMARegion7info@fema.dhs.gov).
- NEMA: Emergency Management Program Specialist at 402-471-7426.

Through this contact, the SRRC will determine the following information:

- FEMA: Will a Disaster Recovery Center (DRC) be available in the area to all impacted employees? What services are available through your organization and how can workers access them? It will be pertinent to discuss logistics of internet availability, space restrictions, and capacity limitations.
- NEMA: Has an individual assistance declaration been requested/approved? Was a request for disaster unemployment also requested? What services are available through your organization and how can workers access them?

The SRRC will also coordinate with Unemployment Insurance (UI) during this time. When coordinating with UI, the SRRC will make sure that UI knows the event is being planned as a response to a natural disaster. This information will be provided in the notification. If there is a Presidential declaration for Disaster Unemployment Assistance (DUA), it may impact the information UI provides at a Rapid Response event.

Options for meeting places across Nebraska will depend on the type and severity of the natural disaster along with the location of the affected workers. If there is a Presidential declaration for Individual Assistance (IA), FEMA will open Disaster Recovery Centers (DRCs). These centers may not be ideal for holding a formal presentation but will likely be a gathering place for those affected by the natural disaster. Other location options where the Rapid Response event may take place include Red Cross Stations, community buildings not affected by the disaster, and the nearest American Job Center.

A Rapid Response event for a natural disaster will include more than the traditional Mandated Partners in order to coordinate and inform local and national disaster relief efforts and include services above and beyond a traditional Rapid Response event. Information will be exchanged with agencies and contacts that can meet the needs of the impacted individuals, based on the type and severity of the natural disaster, to include emergency housing, clothing and nutritional needs. The list of invited partners may include, but is not limited to:

- FEMA;
- NEMA;
- Red Cross;
- faith-based organizations; and
- community-based organizations.

#### **D. Rapid Response Earlier Intervention**

Describe how the State provides early intervention (e.g., Rapid Response) to worker groups on whose behalf a Trade Adjustment Assistance (TAA) petition has been filed. (Section 134(a)(2)(A).) This description must include how the State disseminates benefit information to provide trade-affected workers in the groups identified in the TAA petitions with an accurate understanding of the provision of TAA benefits and services in such a way that they are transparent to the trade-affected dislocated worker applying for them (Trade Act Sec. 221(a)(2)(A) and Sec. 225; Governor-Secretary Agreement). Describe how the State will use funds that have been reserved for Rapid Response to provide services for every worker group that files a TAA petition.

Nebraska provides early intervention (Rapid Response) to all worker groups when notified of a possible layoff or closure including those identified in a TAA petition filing. Other sources of notification that prompt Rapid Response activities are: Worker Adjustment and Retraining Notification (WARN), media coverage, Chambers of Commerce, local elected officials, government and community agencies, union officials, individual workers or the general public. Upon receipt of a closure or layoff notice, the Rapid Response coordinator contacts the employer to confirm and gather information related to impact dates, number of employees affected along with their current wage, occupation, skill levels and length of service; information pertaining to company benefits available to the employees, such as severance pay, job search activities, relocation or reemployment opportunities is also documented.

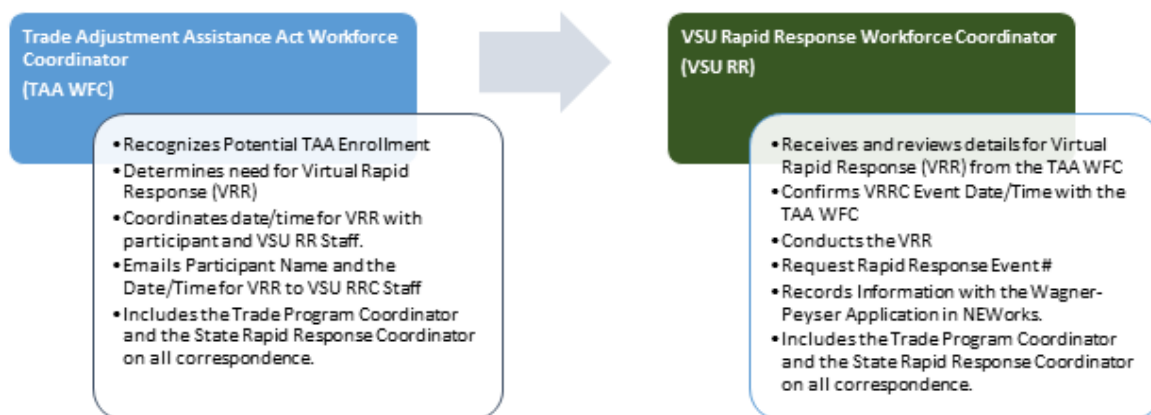
All layoffs and closures identified by the Rapid Response unit are investigated to determine if a TAA petition should be filed on behalf of the workers; a Trade petition is filed if documented research indicates that foreign trade may have contributed to the downsizing or closure.

In the event that a trade petition is certified, the TAA Program Coordinator notifies the company and requests a listing of the displaced workers to begin coordinating services to them including Trade Orientation events hosted with Rapid Response partners; petition notice letters are sent to the affected workers and public notices are placed in local and regional newspapers to make separated workers aware of the additional benefits they may be eligible to receive under the TAA program. To broaden outreach efforts beyond in-person orientations and to ensure all individuals who are Trade-eligible are aware of all services available to them, the Rapid Response Unit representatives will partner with the Trade Program representatives to conduct a Virtual Rapid Response (VRR). Through the VRR, Rapid Response staff and TAA Program staff will disseminate benefits information to provide Trade-affected workers in the groups identified in the TAA petitions with an accurate understanding of the provision of TAA benefits and services.

- Through the use of videoconferencing technology at local American Job Centers or NDOL locations, the VSU Rapid Response Coordinator will present information regarding all available services to the individual through a PowerPoint presentation. If the Live Meeting software is not working, a conference call will occur.
- This videoconferencing/conference call will occur individually with each Trade-eligible individual who was unable to attend or unaware of the previous Rapid Response event.

This partnership will require the following responsibilities, as outlined in Illustration 5 and below.

### Illustration 5: TAA and Rapid Response Partnership



The Trade Adjustment Assistance Workforce Coordinator (TAA WFC) will have the following responsibilities:

- recognize potential TAA enrollment;
- determine need for Virtual Rapid Response (VRR);
- coordinate dates/times for VRR with participant and VSU Rapid Response staff;
- email participant name and the date/time for VRR to VSU Rapid Response staff; and
- include the trade program coordinator and the State Rapid Response Coordinator on all correspondence.

This partnership will also require the following responsibilities for the Virtual Services Unit Rapid Response Staff (VSU RR):

- receive and review details for VRR from the TAA WFC;
- confirm VRR Event date/time with the TAA WFC;

- conduct the VRR;
- request Rapid Response Event number;
- record information with the Wagner-Peyser Application in NEworks; and
- include the TAA WFC and the State Rapid Response Coordinator on all correspondence.

## **2. Adult and Dislocated Workers Program Requirements**

### ***1. Work-based training***

If the State is utilizing work-based training models (e.g. On-the-job training, Incumbent Worker training, Transitional Jobs, and Customized Training) as part of its training strategy and these strategies are not already discussed in other sections of the plan, describe the State's strategies for how these models ensure high quality training for both the participant and the employer.

Work-based learning in Nebraska's one-stop delivery system will be employer driven with education being a supporting component. Work-based learning activities will provide access to training services aligned with regional sector strategies, including customized occupational skills training, on-the-job training, incumbent worker training, internships and Registered Apprenticeships.

Employer driven work-based learning activities will be focused in industries that provide H3 (high wage, high skill, high demand) job opportunities. Focusing on occupations that meet Nebraska's H3 definition will insure high quality training for employers and participants.

Additionally, in April 2016, Nebraska's State Legislature passed Nebraska's Sector Partnership Program Act LB 1110. The purpose of the Act is to support local sector partnerships that will close skill gaps in high-demand sectors of business and industry. By conducting labor availability and skills gap studies, the Sector Partnership Program will identify work-based training opportunities to ensure that the state's workforce and economic development activities align with the needs of employers in the state's key industries.

## 2. *Registered Apprenticeship*

Describe how the State will incorporate Registered Apprenticeship into its strategy and services.

Nebraska, through the recent acceptance of the Apprenticeship USA grant, will take assertive steps to promote and expand Registered Apprenticeships in the state.

Identified expansion activities include incorporating Registered Apprenticeships (RA) in Nebraska's workforce strategies as follows:

- Include a RA representative on the Nebraska Partner Council (public sector strategy) to build partnership with combined state plan partners
- Include a RA representative on the Regional Industry Sector Strategy team to build partnership with local employers and economic development entities
- Include Apprenticeship, both pre and registered, in the development of Nebraska Career Pathways to expand partnerships with secondary education and post-secondary education
- Utilize apprenticeship trainings to target and promote high skill, high wage, high demand jobs to increase partnerships with employers
- Include RAs as a program to expand work-based learning opportunities to increase partnerships with employers and secondary and post-secondary schools

To incorporate Registered Apprenticeships in Nebraska's workforce services NDOL will:

- Plan and implement trainings for WIOA Adult and Dislocated Worker Programs and TAA Program case managers, so staff are versed in sharing basic information about the RA program, including apprenticeable occupations, apprenticeship sponsors in the area, and the application process.
- Plan and implement trainings for business services staff so they will be in a better position to help promote the development of new RA programs to employers and refer interested employers to the Nebraska State Apprenticeship Director.
- Ensuring updated sponsor lists and outreach materials are maintained at the One-Stop Centers and are made available to WIOA Adult & Dislocated Worker Program and TAA Program case managers as well as business services staff.
- Providing guidance to the WDBs and their service providers as well as TAA case managers on ways that participants' IEPs can incorporate preparation for RA programs, including utilization of occupational classroom, OJT, and supportive services. Guidance will address how WIOA funds may be used to cover pre-apprenticeship readiness programs, completion of which will help participants compete for registered apprenticeships. Guidance will also address how WIOA funds can cover RA programs.
- Facilitating communication and collaboration between case management/business services staff the Nebraska State Apprenticeship Director.

### 3. *Eligible Training Provider Program*

Provide the procedure, eligibility criteria, and information requirements for determining training provider initial and continued eligibility, including Registered Apprenticeship programs (WIOA Sec. 122).

#### Overview

NDOL, after consultation with the Nebraska Workforce Development Board, established information requirements, eligibility criteria, performance reporting requirements and standards, and procedures on provider and program eligibility to receive funds for providing training services in local areas through ITAs.

Providers on Nebraska's eligible training provider list (ETPL) are the only entities eligible to receive funding through ITAs.

#### Provider Eligibility

A provider must meet the following criteria for inclusion and retention on the ETPL:

*Table 1. Provider Eligibility*

	Criteria	Federal Criteria under WIOA	State Criteria under WIOA	State Criteria under NDOL policy
1	a provider must be one of the following types of entities: <ul style="list-style-type: none"><li>▪ postsecondary education institution</li><li>▪ other public or private provider of training, including<ul style="list-style-type: none"><li>○ community-based organization</li><li>○ joint labor-management organization</li><li>○ providers of WIOA adult education and literacy activities as long as the activities are provided in combination with work-based training services</li></ul></li><li>▪ Registered Apprenticeship program</li></ul>	yes yes yes yes yes	no no no no no	yes yes yes yes yes
2	a provider must be authorized or licensed to provide training services by applicable accrediting or governing authorities	yes	no	yes
3	a provider and its programs must comply with the nondiscrimination requirements of WIOA, which include prohibitions against: <ul style="list-style-type: none"><li>▪ discrimination on the basis of age, disability, sex, race, color, national origin, or political affiliation or belief, or student status</li><li>▪ discrimination against certain noncitizens</li><li>▪ assistance for facilities used for religious instruction or religious worship</li></ul>	yes yes yes	no no no	yes yes yes

	Criteria	Federal Criteria under WIOA	State Criteria under WIOA	State Criteria under NDOL policy
4	a provider's facilities must be compliant with the requirements of the Americans with Disabilities Act, as amended (ADA)	yes	no	yes
5	a provider must have been in operation at least twelve (12) months at the time of application for eligibility	no	no	yes
6	a provider must provide information on its participation (or non-participation) in the Federal Pell Grant program	no	no	yes
7	a provider must enter into a data-exchange agreement with NDOL in order for NDOL to verify program-performance data as required under WIOA	no	no	yes
8	a provider must provide information on: <ul style="list-style-type: none"> <li>▪ provider partnerships with businesses relating to the program</li> <li>▪ how the program relates to high-demand industry sectors and occupations in Nebraska</li> <li>▪ how the program relates to high-wage and high-skill industry sectors and occupations in Nebraska</li> <li>▪ whether the program includes an employability-skills course or component<sup>6</sup></li> <li>▪ the minimum qualifications of program instructors</li> </ul>	yes yes no no no	no yes no no no	yes yes yes yes yes
9	a provider must submit a complete eligible training provider application that includes: <ul style="list-style-type: none"> <li>▪ provider demographics</li> <li>▪ information regarding regulatory compliance</li> <li>▪ verifiable program-specific information, including but not limited to: <ul style="list-style-type: none"> <li>○ a program description</li> <li>○ the programs minimum enrollment requirements</li> <li>○ program costs and expenses</li> <li>○ methods of instruction used during the program</li> <li>○ program length</li> <li>○ program schedule</li> </ul> </li> </ul>	yes yes yes yes yes yes yes yes	yes yes yes yes yes yes yes yes	yes yes yes yes yes yes yes yes

A provider that has been debarred by the Federal government will not be added to or permitted to remain on the ETPL.

<sup>6</sup> Employability skills, commonly referred to as "soft skills," are the non-technical skills, knowledge, and abilities necessary to obtain employment and effectively participate in the workplace, including communication, self-management, planning, decision-making and problem-solving skills.

## Program Eligibility

A program must meet the following criteria for inclusion and retention on the ETPL:

*Table 2. Program Eligibility*

Criteria		Federal Criteria under WIOA	State Criteria under WIOA	State Criteria under NDOL policy
1	provide one or more courses or classes, or a structured regimen that provides training services leading to one or more of the following: <sup>7</sup>			
	▪ an industry-recognized certificate or certification	yes	yes	yes
	▪ a certificate of completion of a Registered Apprenticeship	yes	yes	yes
	▪ a license recognized by the state or Federal government	yes	yes	yes
	▪ an associate or baccalaureate degree	yes	yes	yes
	▪ a secondary-school diploma or its equivalent earned in conjunction with:	yes	yes	yes
	○ occupational skills training	yes	yes	yes
	○ on-the-job training	yes	yes	yes
	○ incumbent worker training	yes	yes	yes
	○ workplace training	yes	yes	yes
	▪ employment	yes	yes	yes
	▪ measurable skill gains toward a credential described above in this row	yes	yes	yes
1				
2	a program must meet or exceed the minimum program performance standards established by NDOL, except as stated in the section titled "Exception to Minimum Program Performance Standards" directly below this table:	yes	yes	yes
	• ≥50% of all students who enrolled in the program are in unsubsidized employment during the second (2nd) quarter after exit from the program based on the latest-available verifiable wage data	no	yes	yes
	• ≥65% of all students who enrolled in the program are in unsubsidized employment during the fourth (4th) quarter after exit from the program based on the latest-available verifiable wage data	no	yes	yes
	• ≥\$7,020 median quarterly earnings, based on the latest-available verifiable wage data, for all students who enrolled in the program and are in unsubsidized employment during the fourth (4th) quarter after exit from the program, regardless of whether the students completed the program	no	yes	yes

Programs associated solely with occupations resulting in commission-only earnings or self-employment are not eligible.

<sup>7</sup> 20 CFR § 680.420(a)-(d)

## Limited Exceptions to Meeting Minimum Program Performance Standards

There are two (2) exceptions to the minimum program performance standards requirement:

1. Due to the lack of complete data, the provision of federally required program-performance data will be waived during a provider's first twelve (12) months of eligibility. During this timeframe, NDOL will work with and provide technical assistance (as described below in the section titled "Technical Assistance") to the provider to ensure access to program-performance data within twelve (12) months of the provider's first determination of eligibility.
2. At least five (5) students must be enrolled in a program for the minimum program performance standards to be used in determining eligibility.

The Nebraska Workforce Development Board will review minimum program performance standards for providers and/or programs on a biennial basis.

## Additional Eligibility Criteria

NDOL also considers the following criteria when determining eligibility:

*Table 3. Additional Eligibility Criteria*

Criteria	Federal Criteria under WIOA	State Criteria under WIOA	State Criteria under NDOL policy
1 provider and program performance	yes	yes	yes
2 ensuring access to training services throughout Nebraska and through the use of technology	yes	yes	yes
3 information reported to state agencies on Federal and state training programs other than programs authorized by WIOA Title I-B	yes	yes	yes
4 encouraging the use of industry-recognized certificates and credentials	yes	yes	yes
5 the quality of programs and ability of providers to provide programs to individuals who are employed and to individuals with barriers to employment	yes	yes	yes
6 whether providers timely and accurately submit performance reports	yes	yes	yes
7 other factors NDOL may determine are appropriate	yes	yes	yes

## Registered Apprenticeship Programs

Registered Apprenticeship programs are automatically qualified for inclusion on the ETPL. On an annual basis, NDOL notifies Nebraska sponsors of Registered Apprenticeship programs by email of their programs' automatic eligibility for inclusion on the ETPL. If interested, the sponsor must provide the following information to NDOL by email at [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov):

- sponsor's name, and
- name of the Registered Apprenticeship program.

Once included, a Registered Apprenticeship program will be maintained on the ETPL:

- for as long as the program remains registered with the U.S. Department of Labor Office of Apprenticeship;
- until the program sponsor contacts NDOL by email at [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov) and requests the program be removed from the ETPL; or
- unless the program's eligibility is denied or terminated for the reasons described in the section of this policy titled "Denial or Termination of Eligibility."

## Procedures

To receive ITA funds for the provision of training services, a provider must establish eligibility as a training provider with NDOL prior to the enrollment of any WIOA participant in the provider's program.

**Use of ITA funds for training services with providers that are not on the ETPL is not permitted. For more information on ITAs, please refer to NDOL's policy on ITAs.**

The application process is the same for all providers, except for WIA-eligible providers seeking to establish continued eligibility.

### *Continued Eligibility for WIA-eligible Providers*

Any provider eligible under WIA as of July 21, 2014 (WIA-eligible Provider) must apply for continued eligibility for each of its WIA-eligible programs in order to continue receiving ITA funds after June 30, 2016 for the provision of training services for those programs. Eligibility is determined on a program-by-program basis. Continued eligibility is limited to a period of two (2) years for each NDOL-approved program commencing on the date of determination of continued eligibility. The provider must renew its continued eligibility for each NDOL-approved program in order to continue receiving ITA funds after the program's two-year period of continued eligibility ends.

Continued eligibility for a provider and each of its NDOL-approved programs during the first year of eligibility is conditional and dependent upon the provider's accurate

submission of program-performance data within twelve (12) months of the date of determination of continued eligibility. Over the next twelve (12) months, NDOL will provide technical assistance, as described below, to assist providers in collecting and supplying this required data.

Any WIA-eligible Provider that has not submitted an application and established continued eligibility by April 1, 2016 is subject to initial eligibility procedures described in this policy and Attachment A.

#### *Initial Eligibility for New Providers*

Any provider not previously eligible under WIA, as described directly above, must apply for initial eligibility for each program it intends to offer as an NDOL-approved program in order to receive ITA funds for the provision of training services. Eligibility is determined on a program-by-program basis. Initial eligibility is limited to a period of one (1) year for each NDOL-approved program. The provider must renew its eligibility and establish continued eligibility for each NDOL-approved program in order to continue receiving ITA funds after the program's one-year period of initial eligibility ends. Continued eligibility is limited to a period of two (2) years commencing on the date of determination of continued eligibility.

To be considered for continued eligibility following the one-year period of initial eligibility for a provider and each of its NDOL-approved programs, the provider must submit accurate program-performance data within twelve (12) months of the date of determination of initial eligibility. Over the next twelve (12) months, NDOL will provide technical assistance, as described below, to assist providers in collecting and supplying this required data.

#### *Initial Eligibility for New Programs*

For providers that have established continued eligibility as a provider, subject to the conditions described above, and are applying for eligibility for a new program for which program-performance data is not available, the new program will receive initial approval for a period of one (1) year. At the end of the one-year period, the provider must renew the program's eligibility and establish continued eligibility for that program in order to continue receiving ITA funds.

To be considered for continued eligibility following a new program's one-year period of initial eligibility, the provider must submit accurate program-performance data within twelve (12) months of each new program's date of determination of initial eligibility. Over the next twelve (12) months, NDOL will provide technical assistance, as described below, to assist providers in collecting and supplying this required data.

## Technical Assistance

As stated above, a determination of continued or initial eligibility is conditional and dependent upon the provider's timely and accurate submission of program-performance data on all students. NDOL will provide technical assistance to assist providers in collecting and supplying the required program-performance data. Technical assistance is available to each provider during the provider's first 12-month period of eligibility. NDOL will reach out to all approved providers to ensure efforts to secure program-performance data move forward during this first year of eligibility. Additionally, providers may request technical assistance by emailing [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov). Application Process.

To apply for eligibility and inclusion on the ETPL, providers must follow the process outlined below.

1. A provider must accurately complete a Word version of the application, a sample of which is provided as Appendix 1 to this guide. The application has two (2) parts:
  - a. Section A. Training Provider Information - to be completed once per application
  - b. Section B. Program Information - to be completed once for each program the provider intends to offer as a NDOL-approved program
2. A provider must submit the completed application by email to [ndol.wioa\\_policy@nebraska.gov](mailto:ndol.wioa_policy@nebraska.gov) for review and determination of eligibility.
3. Except as described above for WIA-eligible Providers seeking continued eligibility under WIOA, applications may be submitted at any time.

## Review and Determination of Eligibility

### *For WIA-eligible Providers*

1. Applications submitted by WIA-eligible providers on or before April 1, 2016 will receive priority review and notification of determination in April 2016.
2. NDOL will notify providers by email of NDOL's determination of eligibility. Notice of determination will be issued as soon as reasonably practical, provided that the application is complete upon receipt by NDOL.
3. Review of incomplete applications will be delayed until all information required in the application is provided in accordance with this guide and NDOL's Interim Policy on Eligible Training Provider Initial and Continued Eligibility, Change 2.

### *For Providers following Traditional Training/Academic Calendars*

1. Except as described above for WIA-eligible Providers seeking continued eligibility under WIOA, applications submitted by providers offering programs that follow a traditional quarter or semester calendar are reviewed on a quarterly basis by NDOL during the following timeframes:
  - a. October 1 through October 31
  - b. January 1 through January 31
  - c. April 1 through April 30
  - d. July 1 through July 31
2. Applications must be received by NDOL on or before the last day of the month preceding the scheduled quarterly review period (example: on or before September 30 for consideration during the October 1 through October 31 quarterly review period). Applications received after the last day of the month preceding the scheduled quarterly review will be reviewed during the next scheduled quarterly review period.
3. NDOL will notify providers by email of NDOL's determination of eligibility. Notice of determination will be issued no later than the 31<sup>st</sup> day after the end of the quarterly review period, provided that the application is complete upon receipt by NDOL.
4. Review of incomplete applications will be delayed until all information required in the application is provided in accordance with this guide and NDOL's Interim Policy on Eligible Training Provider Initial and Continued Eligibility, Change 2.

### *For Providers following Non-traditional Training/Academic Calendars*

1. Except as described above for WIA-eligible Providers seeking continued eligibility under WIOA, applications submitted by providers offering programs that follow a non-traditional calendar are reviewed on an as-needed basis.
2. NDOL will notify providers by email of NDOL's determination of eligibility. Notice of determination will be issued no later than the 61<sup>st</sup> day after the date of submission of the application, provided that that application is complete upon receipt by NDOL.
3. Review of incomplete applications will be delayed until all information required in the application is provided in accordance with this guide and NDOL's Interim Policy on Eligible Training Provider Initial and Continued Eligibility, Change 2.

## **Application Review**

Applications are reviewed and scored based on an assessment of the sixteen (16) key eligibility factors for Federal and State Criteria established in this policy and listed below. Providers and programs are assessed separately. Each factor listed below carries a value of one (1) point during the application-review process.

### *Provider Score*

A provider's eligibility is based on an assessment of the provider information stated in Section A of the Eligible Training Provider Application:

- A provider must score five (5) out of five (5) on Federal Criteria.
- A provider must score at least one (1) of three (3) on State Criteria, specifically the criteria requiring a provider to have been in operation for at least twelve (12) months.

Provider Review		Possible Federal Criteria Score	Possible State Criteria Score
1	Provider meets the eligibility criteria for organization type under WIOA Sec. 122.	1	
2	Provider is authorized or licensed to provide training services by the applicable accrediting or governing authority.	1	
3	Provider agrees to comply with the nondiscrimination requirements of WIOA Sec. 188.	1	
4	Provider represents its facilities are ADA compliant.	1	
5	Provider does not appear on Federal debarment, suspension or exclusion lists.	1	
6	Provider has been in operation at least 12 months.		1
7	Provider participates in Federal Pell Grant Program.		1
8	Provider has entered into a data-exchange agreement with NDOL.		1

If a provider's Federal Criteria Score is less than five (5) out of five (5), the provider and its programs are not eligible to receive WIOA Title I funds for providing training services in local areas.

### *Program Score*

A program's eligibility is based on an assessment of the program information stated in Section B of the Eligible Training Provider Application:

- A program must score six (6) out of eight (8) for Federal and State Criteria.

Provider Review		Possible Federal Criteria Score	Possible State Criteria Score
1	Program completion results: <ul style="list-style-type: none"><li>▪ an industry-recognized certificate or certification;</li><li>▪ a certificate of completion of a Registered Apprenticeship;</li><li>▪ a license recognized by the state or Federal government;</li><li>▪ an associate or baccalaureate degree;</li><li>▪ a secondary-school diploma or its equivalent earned in conjunction with:<ul style="list-style-type: none"><li>○ occupational skills training;</li><li>○ on-the-job training;</li><li>○ incumbent worker training; or</li></ul></li></ul>	1	

	<ul style="list-style-type: none"> <li>o workplace training;</li> <li>▪ employment; or</li> <li>▪ measurable skill gains toward a credential described above in this row</li> </ul>		
2	Provider has business partnerships relating to the program.	1	
3	Program relates to a high-demand occupation in Nebraska.	1	
4	Program relates to a high-skill occupation in Nebraska.		1
5	Program relates to a high-wage occupation in Nebraska.		1
6	Program includes an employability-skills course or component.		1
7	Credentials for instructors are standard for type of program.		1
8	Program application is complete.		1

If a provider's total program score on Federal Criteria and State Criteria is less than six (6) out of eight (8), the program is not eligible to receive WIOA Title I funds for providing training services in local areas.

NDOL reserves the right to revise this application-review process and the scoring system described above.

#### 4. *Priority Populations*

Describe how the State will implement and monitor the priority for public assistance recipients, other low-income individuals, and individuals who are basic skills deficient in accordance with the requirements of WIOA sec. 134(c)(3)(E), which applies to individualized career services and training services funding by the Adult Formula program.

In developing the Combined State Plan, Nebraska has incorporated several measures that will assist in ensuring that all Nebraskans have equal opportunities within the workforce delivery system. Nebraska's plan partners have worked closely to develop policies, procedures, and system designs to ensure this access to individuals receiving public assistance recipients, other low-income individuals, or individuals who are basic skills deficient.

NDOL has several policies that address the priority of service provisions, including the Eligibility for Adult policy. This policy requires local areas to give priority of service to public assistance recipients, other low-income individuals, or individuals who are basic skills deficient in the provision of individualized career and training services. NDOL has required that local plans clearly identify priority of service provision. Local and regional planning instructions for Program Year 2017 will require the local areas to identify:

1. Process for determining priority of service and
2. Method for monitoring priority of service. NDOL will provide technical assistance to the local areas for the implementation of the provision and a quarterly review will be conducted to insure priority of service to adults who are public assistance recipients, low-income, or basic skills deficient; any issues discovered in the review will be provided to the local area, board chair and CEO. Additionally, the State will

add the provision to the WIOA program monitoring and priority of service reports will be used by the State and local areas to monitor program delivery.

## **5. *Transfer Authority***

Describe the State's criteria regarding local area transfer of funds between the adult and dislocated worker programs.

Nebraska's criteria regarding local area transfer of funds between adult and dislocated worker programs are established in NDOL's Local Area Plan Modifications and Revisions policy which is consistent with WIOA Sec. 133(b)(4) as it applies to transfer of funds between adult and dislocated worker programs. The policy permits a local area board to transfer funds between both programs, up to and including 100 percent of the funds allocated for adult employment and training activities and dislocated worker employment and training activities for a fiscal year. The policy requires all proposed local area plan modifications and revisions be submitted electronically to NDOL's Office of Employment and Training, which must include documentation that the local area board provided adequate opportunity for public comment on plan modifications or revisions, including:

- Making copies of the proposed changes available to the public through electronic and other means, such as public hearings and local news media including an opportunity for comment by members of the public, including representatives of business, labor organizations, and education;
- providing no more than a 30-day period for comment on the proposed changes before submission to NDOL, beginning on the date on which the proposed changes are made available to the public; and
- submission of any comments to NDOL that express disagreement with the proposed changes.

## 4. Youth Program Requirements

With respect to youth workforce investment activities authorized in section 129 of WIOA,—

### ***1. Grants for youth workforce investment activities and provider accountability***

Identify the state-developed criteria to be used by local boards in awarding grants for youth workforce investment activities and describe how the local boards will take into consideration the ability of the providers to meet performance accountability measures based on primary indicators of performance for the youth program as described in section 116(b)(2)(A)(ii) of WIOA in awarding such grants.\*

\* Sec. 102(b)(2)(D)(i)(V)

#### **Overview**

The criteria to be used by local boards in awarding grants for youth workforce investment activities is provided in NDOL's Policy on Procurement Standards (see also Section VI.a.2.A of this Combined State Plan):

#### **Youth Workforce Development Activities: Competitive Selection Requirements**

##### *Competitive Selection Requirements*

A local board shall award grants or contracts on a competitive basis to providers of youth workforce development activities identified based on the State Plan (including such quality criteria as the governor shall establish for a training program that leads to a recognized post-secondary credential) and taking into consideration the ability of the providers to meet performance accountability measures established in Sec. 116.

##### *Competitive Proposals*

The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
- Proposals will be solicited from an adequate number of qualified sources;
- The grantee or subgrantee/non-Federal entity will have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

- The grantee or subgrantee/non-Federal entity may use competitive proposal procedures for qualifications-based procurement of A/E professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

### *Exception*

A local board may award grants or contracts on a sole-source basis (i.e., through a noncompetitive process) if it determines that there is an insufficient number of eligible providers in the local area involved (such as a rural area) to accommodate competitive selection requirements.

### *Criteria in the State Plan*

The State will expect the local areas to include criteria to be used by the local boards in awarding grants for youth workforce development activities and describing how the local boards will take into consideration the ability of the providers to meet performance accountability measures as described in Sec. 116(b)(2)(A)(ii). Such criteria will be determined by the local Workforce Development Board and standing committees, if appropriate, but should include, but not be limited to:

- Success rates based on enrollments and completions;
- Provisions of accommodations for special needs populations;
- Involvement of local employers, business, and community resources;
- Consideration of assessed needs;
- Attainment of employment and academic credentials;
- Leading to credentials, diplomas, and equivalents;
- Improving educational and skill competencies;
- Ensuring youth of opportunities for positive mentoring experiences;
- Providing training opportunities to eligible youth;
- Strengthening leadership, youth developments, decision-making, citizenship, and community service.

In addition, the local Workforce Development Boards shall identify eligible providers of youth workforce development activities by awarding grants or contracts on a competitive basis (subject to the exception above). The primary consideration in selecting agencies or organizations shall be the effectiveness of the agency or organization in delivering comparable or related services based on demonstrated performance. This determination shall be in writing and take into consideration such matters as whether the organization has:

- The ability to meet the program design specifications at a reasonable cost, as well as the ability to meet performance goals;
- Adequate financial resources or the ability to obtain them;
- A satisfactory record of past performance (in job training, basic skills training, youth activities), including demonstrated quality of training and reasonable dropout rates;
- The ability to provide, or arrange for, appropriate supportive services as specified in the individual employment plan;
- The ability to provide services that can lead to the achievement of competency standards for participants with identified deficiencies;
- A satisfactory record of integrity, business ethics, and fiscal accountability;
- The necessary organization, experience, accounting, and operation controls, and
- The technical skills to perform the work.

#### *Waiver Authority for In-House Programs*

Except under waiver authority no local board (or its staff) may provide training services. However, local boards may submit a proposed request for a waiver of training prohibition to the governor to become an eligible provider of training services. The local board's request must include:

- Satisfactory evidence that there is an insufficient number of eligible providers of such training services to meet the demand in the local area;
- Information demonstrating that the board meets the requirements as an eligible provider of training services; and
- Information demonstrating that the program of training services prepares participants for an occupation that is in demand in the local area.

The local board must also make the proposed request available to eligible providers of training services and other interested member of the public for a public comment period of not less than 30 days. The local board must then submit the request with the information and evidence listed above, as well as information from the public comments received. Local boards may apply for a waiver that does not exceed the duration of the local plan if they meet the requirements listed above.

The waiver may be revoked if the Governor determines that the waiver is no longer needed or that the local board involved has engaged in a pattern of inappropriate referrals to training services operated by the local board.

## ***2. Improved outcomes for out-of-school youth***

Describe the strategies the State will use to achieve improved outcomes for out-of-school youth as described in 129(a)(1)(B), including how it will leverage and align the core programs, and Combined State Plan partner programs included in this Plan, required and optional one-stop partner programs, and any other resources available.

Under WIOA, the shift in focus from in-school youth to out-of-school youth, especially disconnected youth and youth facing barriers to employment, local workforce development boards are required to develop stronger year round programs, work-based learning activities, occupational skills training, and other opportunities for youth who are most in need of services. Development of collaborative relationships among local workforce development boards, plan partners and other service providers is essential to improved outcomes for out-of-school youth. Plan partners will leverage the resources of Nebraska's workforce system in their effective implementation of the workforce investment activities described in Subsection c1 above.

Nebraska will improve the outcomes for out-of-school youth by ensuring the 14 program elements required under WIOA are delivered either through the Youth provider or a partner. The 14 program elements will be available to OSY participants, and will be funded with WIOA Title I youth funds or leveraged partner resources. The State will require the local areas to establish an agreement with the partner offering a program element outside of those offered by the Youth provider; this will ensure that the program element is connected and coordinated with the WIOA Youth program and part of the youth's individual service strategy.

Nebraska will co-enroll youth participants with VR, Adult Basic Education, and other program partners as appropriate to leverage each program's strengths and resources to best serve each participant. An example of aligning and leveraging combined plan partners and other one-stop partner programs is the YRTC Community Partner pilot which centers around providing highly coordinated services to youth who have been ordered by the Nebraska Juvenile Courts to reside in one of the State's two youth rehabilitation and treatment centers (YRTC). The community partners in this pilot include: Wagner-Peyser, WIOA, VR, Probation, Health and Human Services, and the community colleges. The partners have designed specific career pathway services that begin while the youth is still a resident of the YRTC and continue upon release. The community partner's pilot approach is holistic in nature and provides consistent continuity of services that are supported.

### 3. *Youth Program Elements*

Describe how the State will ensure that all 14 program elements described in WIOA Sec. 129(c)(2) are made available and effectively implemented.\*

\* Sec. 102(b)(2)(D)(i)(I)

Nebraska will ensure that the fourteen (14) youth program elements required under WIOA Sec. 129(c) are made available to all eligible youth participants through NDOL's Youth Program Design policy; the program design framework is an essential ingredient in helping local areas develop comprehensive service strategies based on individual needs. The policy requires that local areas establish youth program policies that define criteria for the design, elements, and parameters of youth programs which include the availability of the required youth elements:

- Tutoring, study skills training, instruction, and evidence-based dropout prevention and recovery strategies;
- Alternative secondary school services, or dropout recovery services;
- Paid and unpaid work experiences that have an academic and occupational education component;
- Occupational skill training which shall include priority consideration for training programs that lead to recognized postsecondary credentials that are aligned with in-demand industry sectors/occupations;
- Education offered concurrently with workforce preparation activities;
- Leadership development opportunities;
- Supportive services;
- Adult mentoring;
- Follow-up services for a minimum duration of 12 months after completion of participation, and may be provided beyond 12 months at the Local Board's discretion;
- Comprehensive guidance and counseling;
- Financial literacy education;
- Entrepreneurial skills training;
- Labor market and employment information for in-demand industry sectors or occupations available in the local area; and
- Activities that help youth prepare for and transition to postsecondary education and training.

*Availability.* Consistent with WIOA Sec. 129(c)(5), the policy does not require that each local area provider of youth services must provide all fourteen (14) required elements. Instead, the policy requires that the local area provide access to all of the fourteen (14) required elements. Delivery of or referral to youth services by the local areas is documented in the state MIS which includes a reporting component for monitoring and program management. Annually, through the State's monitoring process, the availability of the fourteen required elements in each local area will be reviewed.

*Implementation.* Local area boards must ensure that parents, youth participants, and other members of the community with experience relating to youth programs are involved in both the design and implementation of its youth programs. Evidence of this involvement in the design and implementation of the youth program must be outlined in each local area plan.

The State plans to utilize statewide funds to evaluate the availability and effectiveness of youth programs upon full implementation of WIOA.

#### **4. *Additional Assistance for Out-of-School Youth***

Provide the language contained in the State policy for “requiring additional assistance to enter or complete an educational program, or to secure and hold employment” criterion for out-of-school youth specified in WIOA Sec. 129(a)(1)(B)(iii)(VIII) and for “requiring additional assistance to complete an education program, or to secure and hold employment” criterion for in-school youth specified in WIOA Sec. 129(a)(1)(C)(iv)(VII).

Definitions and eligibility documentation requirements regarding this criterion must be established at the local level. Local areas are required to create a local policy that includes these designations and eligibility documentation requirements as well as include this language in their local area plan.

#### **5. *Definitions for Attending School and Not Attending School***

Include the State definition, as defined in law, for not attending school and attending school as specified in WIOA Sec. 129(a)(1)(B)(i) and Section 129(a)(1)(C)(i). If state law does not define “not attending school” or “attending school” indicate that is the case.

**Neb. Rev. Stat. § 79-201. Compulsory education; attendance required; exceptions; reports required.**

- (1) For purposes of this section, a child is of mandatory attendance age if the child (a) will reach six years of age prior to January 1 of the then-current school year and (b) has not reached eighteen years of age.
- (2) Except as provided in subsection (3) of this section, every person residing in a school district within the State of Nebraska who has legal or actual charge or control of any child who is of mandatory attendance age or is enrolled in a public school shall cause such child to enroll in, if such child is not enrolled, and attend regularly a public, private, denominational, or parochial day school which meets the requirements for legal operation prescribed in Chapter 79, or a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements, each day that such school is open and in session, except when excused by school authorities or when illness or severe weather conditions make attendance impossible or impracticable.

(3) Subsection (2) of this section does not apply in the case of any child who:

- (a) Has obtained a high school diploma by meeting the graduation requirements established in section 79-729;
  - (b) Has completed the program of instruction offered by a school which elects pursuant to section 79-1601 not to meet accreditation or approval requirements;
  - (c) Has reached sixteen years of age and has been withdrawn from school pursuant to section 79-202;
  - (d)
    - (i) Will reach six years of age prior to January 1 of the then-current school year, but will not reach seven years of age prior to January 1 of such school year,
    - (ii) such child's parent or guardian has signed an affidavit stating that the child is participating in an education program that the parent or guardian believes will prepare the child to enter grade one for the following school year, and (iii) such affidavit has been filed by the parent or guardian with the school district in which the child resides;
  - (e)
    - (i) Will reach six years of age prior to January 1 of the then-current school year but has not reached seven years of age,
    - (ii) such child's parent or guardian has signed an affidavit stating that the parent or guardian intends for the child to participate in a school which has elected or will elect pursuant to section 79-1601 not to meet accreditation or approval requirements and the parent or guardian intends to provide the Commissioner of Education with a statement pursuant to subsection (3) of section 79-1601 on or before the child's seventh birthday, and
    - (iii) such affidavit has been filed by the parent or guardian with the school district in which the child resides; or
  - (f) Will not reach six years of age prior to January 1 of the then-current school year and such child was enrolled in a public school and has discontinued the enrollment according to the policy of the school board adopted pursuant to subsection (4) of this section.
- (4) The board shall adopt policies allowing discontinuation of the enrollment of students who will not reach six years of age prior to January 1 of the then-current school year and specifying the procedures therefor.
- (a) Each school district that is a member of a learning community shall report to the learning community coordinating council on or before September 1 of each year for the immediately preceding school year the following information:
  - (b) All reports of violations of this section made to the attendance officer of any school in the district pursuant to section 79-209;
  - (c) The results of all investigations conducted pursuant to section 79-209, including the attendance record that is the subject of the investigation and a list of services rendered in the case;
  - (d) The district's policy on excessive absenteeism; and

- (e) Records of all notices served and reports filed pursuant to section 79-209 and the district's policy on habitual truancy.

## 6. *Basic Skills Deficient*

If not using the basic skills deficient definition contained in WIOA Sec. 3(5)(B), include the specific State definition.

**Basic Skills Deficient:** The state defines basic skills deficient (per WIOA Sec. 3(5)) as an individual:

- Who is a youth that has English reading, writing, or computing skills at or below the 8<sup>th</sup> grade level on a generally accepted standardized test; or
- Who is a youth or adult that is unable to compute or solve problems, or read, write, or speak English, at a level necessary to function on the job, in the individual's family, or in society.

## 5. **Single-area State Requirements**

In States where there is only one local workforce investment area, the governor serves as both the State and local chief elected official. In such cases, the State must submit any information required in the local plan (WIOA Sec. 106(d)(2)). States with a single workforce area must also include:

This section is not applicable to Nebraska's Combined State Plan.

## 6. **Waiver Requests (optional)**

States wanting to request waivers as part of their Title I-B Operational Plan must include a waiver plan that includes the following information for each waiver requested:

Nebraska is not seeking waivers at this time; however, as Nebraska fully implements the Workforce Innovation and Opportunity Act, Nebraska will seek waivers as needed and appropriate.

## Title I-B Assurances

The State Plan must include assurances that:

1. The State has implemented a policy to ensure Adult program funds provide a priority in the delivery of training services and individualized career services to individuals who are low income, public assistance recipients and basic skills deficient; **Yes**
2. The state has implemented a policy to ensure local areas have a process in place for referring Veterans with significant barriers to employment to career services provided by the JVSG program's Disabled Veterans' Outreach Program (DVOP) specialist; **Yes**
3. The state established a written policy and procedure that set forth criteria to be used by chief elected officials for the appointment of local workforce investment board members. **Yes**
4. The state established written policy and procedures to ensure local workforce investment boards are certified by the governor every two years in accordance with WIOA Sec. 107(c)(2). **Yes**
5. Where an alternative entity takes the place of a State Board, the State has written policy and procedures to ensure the alternative entity meets the definition under WIOA Sec. 101(e) and the legal requirements for membership. **Yes**
6. The State established a written policy and procedure for how the individuals and entities represented on the State Workforce Development Board help to determine the methods and factors of distribution, and how the state consults with chief elected officials in local areas throughout the state in determining the distributions. **Yes**
7. The State will not use funds received under WIOA Title I to assist, promote, or deter union organizing in accordance with WIOA Sec. 181(b)(7). **Yes**
8. The State distributes adult and youth funds received under WIOA equitably throughout the State, and no local area suffers significant shifts in funding from year-to-year during the period covered by this plan. **Yes**
9. If a State Workforce Development Board, department, or agency administers state laws for vocational rehabilitation of persons with disabilities, that board, department, or agency cooperates with the agency that administers Wagner-Peyser services, Adult and Dislocated Worker programs and Youth Programs under Title I. **Yes**
10. The State agrees to report on the impact and outcomes of its approved waivers in its WIOA Annual Report. **Yes**
11. The State has taken appropriate action to secure compliance with the Uniform Guidance at 2 CFR 200 and 2 CFR 2900, including that the State will annually monitor local areas to ensure compliance and otherwise take appropriate action to secure compliance with the Uniform Guidance under section WIOA 184(a)(3); **Yes**

## **Program-Specific Requirements for Wagner-Peyser Program (Employment Services)**

All program-specific requirements provided for the WIOA core programs in this section must be addressed for either a Unified or Combined State Plan.

### **a. Employment Service Professional Staff Development.**

#### ***1. Professional Development***

Describe how the State will utilize professional development activities for Employment Service staff to ensure staff is able to provide high quality services to both jobseekers and employers.

Professional development opportunities will be made available to Employment Services staff via a variety of methods, including but not limited to:

- Wagner-Peyser in-service trainings provided by the Program Administration, focused on specific topics/agenda items that will provide insight and guidance to assist job in performing Wagner-Peyser duties
- State of Nebraska's Employee Development Center (EDC), which provides training opportunities in-person and via technology (webinars, recorded trainings, live streaming, etc.) on a variety of topics ranging from technical skills to customer service for government employees
- WIOA, workforce and community partner trainings and conference opportunities
- National webinars hosted by US Department of Labor webinars, Wofkorce3One, etc.
- Equal Employment Opportunity (EEO) training
- Limited English Proficiency (LEP) Plan training

The Wagner-Peyser program will create staff development opportunities based on Wagner-Peyser business needs, special projects and areas identified for technical assistance. Staff development opportunities identified out of technical assistance need will be mandatory to Wagner-Peyser staff responsible for the duties identified.

Staff development will focus on assessing and reinforcing the core responsibilities and functions of the Wagner-Peyser program, while also addressing new opportunities for Wagner-Peyser to expand its role with special projects or initiatives. To the greatest extent possible, Wagner-Peyser will leverage existing resources that have proven effective for staff professional development. Limited resources and staff located across the state create a challenge for face-to-face staff development opportunities. Technology is one strategy that will be leveraged to overcome these barriers. An additional strategy will be to utilize peer-to-peer mentoring and training opportunities. Staff development opportunities will be provided to staff based on a variety of identified needs, skills and assets. Staff participating in staff development will return to their home offices and regions

and will share the information they received in order to maximize the staff development outcomes for as many staff as possible.

A primary focus for Wagner-Peyser professional development will center on the NEres program. As Nebraska's Re-Employment Services program, NEres serves job seekers from all facets of life in their reemployment journey. The varied circumstances that NEres customers face will require Wagner-Peyser staff to be finely attuned to the resources available, and communication skills needed to actively engage this audience.

Professional development activities, whether leveraging internal or external resources, will be evaluated to determine the effectiveness of the information provided. This evaluation may include, but is not limited to:

- Evaluations of staff participating in the training
- Follow-up with direct Managers on the progress and enhancements to staff performance
- Quality assurance information obtained from the program to determine progress towards technical assistance needs

## ***2. Training and Awareness***

Describe strategies developed to support training and awareness across core programs and the Unemployment Insurance program, and the training provided for Employment Services and WIOA staff on identification of UI eligibility issues and referral to UI staff for adjudication.

Wagner-Peyser partners closely with the Unemployment Insurance (UI) partner to create NEres, Nebraska's Re-Employment Services program. NEres is an integrated reemployment program focused on connecting unemployed individuals with the full range of re-employment services available through the Nebraska Department of Labor (NDOL). NEres seeks to accelerate opportunities for individuals to obtain gainful employment after separation from their job. NEres efficiently utilizes financial and human resources by consolidating re-employment programs to provide high quality employment services to assist unemployed individuals on their path to re-employment. The NEres program meets the federal requirements of the UI funded Reemployment Services and Eligibility Assessment (RESEA) program. The use of high quality, effective re-employment tools is the cornerstone of the NEres program and provides a key strategy to developing an available workforce for Nebraska. The offices of Employment and Training (E&T) and Unemployment Insurance (UI) collaborate and continue to strengthen partnerships to provide employment services and re-employment assistance to Nebraskans impacted by job loss.

Employment Services views individuals as job seekers, with potentially additional target population status: UI claimant, dislocated worker, TANF recipient, Veteran, etc. Because ES staff work with customers served by other workforce programs, a key strategy for Employment Services is to be trained in the basic content/information of partner

programs, so as to have a basic understanding of the experience and needs of the shared job seeker and UI customer.

NEres is a critical piece of the training strategy between UI and Employment Services. The NEres program manual outlines the program rules and procedures. The program manual and operating procedures were developed in partnership with UI supervisors and program administration to ensure that information impacting UI customers is accurately communicated to Employment Services staff. Beyond UI's contribution to the NEres program manual, Employment Services staff is trained directly by UI Supervisors in UI program language and information that relates to UI claimants, who are also Employment Services customers. UI training topics include, but are not limited to:

- UI Claimant Guide Information
- UI Work Search Requirements
- UI Work Search Logs
- UI Approved Training
- UI Eligibility Review Form
- UI Eligibility Issues
- RESEA Profiling Criteria
- Benefit Payment System (BPS)

These training topics are covered by UI Supervisors to ensure the most accurate information is provided to Employment Services staff. UI training materials, such as guides, presentations and quizzes, are incorporated into Employment Services staff resources, to create a library of available information.

During any 1-on-1 meeting or conversation with a customer, if the individual discloses that they:

- Cannot accept full-time work
- Attend or plan to attend school or training
- Are currently working

NEres staff case note this information in the customer's file and complete the Eligibility Review Interview form and email it to the NEres Adjudicators. NEres staff does not determine if customers are complying with the UI program, but they communicate the information about potential UI eligibility issues to UI staff to adjudicate the claim.

The Office of Unemployment Insurance (UI) has developed online training modules to train Employment Services (ES) and WIOA staff on basic Unemployment Insurance information and claimant eligibility. UI also conducts training for ES and WIOA staff throughout the year to assist ES staff in identifying potential UI eligibility issues. ES and WIOA staff are trained by UI Supervisors to listen for and identify potential UI eligibility issues and then to report the issues to UI on an Eligibility Review Form (ERF), a document that identifies the potential eligibility issue. Written guidance for the ERF is reviewed by UI and provided in program manuals for ES and WIOA staff. Referrals of potential issues

are provided to UI staff for adjudication. The referral process involves emailing the ERF to UI staff to identify and adjudicate the potential issue. UI communicates the referral process for information to WIOA partners and staff, and provides staff training to all interested parties.

UI is integrated into and highly involved in the mandatory annual training conducted for ES staff; partner programs are also invited to attend these trainings to gain a better understanding of the UI system and procedures. UI partner trainings are conducted at the Administrative building as well as on site at local American Job Center locations to best accommodate partner needs and resources. UI also provides legislative and program updates to ES and WIOA staff as they occur to inform partner staff of potential impacts to the shared customer based.

## **b. Provision of UI Information and Meaningful Assistance**

Explain how the state will provide information and meaningful assistance to individuals requesting assistance in filing a claim for unemployment compensation through One-Stop centers, as required by WIOA as a career service.

UI provides dedicated phone lines in the One-Stop Centers located across the state. The phones are labeled with a sign designating them as a resource for individuals seeking assistance with filing a UI claim. In addition to the dedicated phones, there are also dedicated computers for use of filing a UI claim. Employment Services staff are trained on the process for UI claim filing by customers and provide direct assistance with customer questions about the general UI process. While Employment Services staff is not equipped to provide direct information on UI customer benefits, the One-Stop Centers focus on quality customer service and a streamlined customer experience.

One-stop centers are provided UI information and materials that can be provided to customers with questions on filing UI claims. The information can be reviewed with the customers to clarify language and provide guidance on the steps a customer must follow to file a UI claim. The use of NEworks as the integrated system for customers to register for work and file a UI claim in Nebraska streamlines the process for customers by allowing Nebraska's One-Stop Centers to provide information and assistance for the single-sign on system. One-Stop Center staff is trained on the NEworks system as a tool to provide Employment Services. The staff's strong knowledge and constant use of the system allows them to provide meaningful assistance to UI claimants as they use the system to file UI claims, register for work, and meet Nebraska's work search requirements.

Meaningful assistance is interpreted by Employment Services to be customer oriented and focused on their needs, not simply their requests. Meaningful assistance will be provided via direct information related to filing of UI claims and additional support and guidance for around work search activities. Employment Services staff are cross-trained with UI staff and supervisors to have a better understanding of the claimants' experience and challenges when filing a UI claim. This information and shared experience provides

the customer with as much assistance as possible, whether they are talking to Employment Services staff or UI staff.

### **c. Reemployment Assistance**

Describe the state's strategy for providing reemployment assistance to Unemployment Insurance claimants and other unemployed individuals.

#### **Vision and Purpose**

Nebraska's reemployment strategy for UI claimants and other unemployed individuals has led to the development of the NERes program. NERes creates a single, comprehensive service model for delivering re-employment services with the UI claimant as the core consumer of the model. UI claimants are customers of the comprehensive workforce system and are inherently job seekers. The recent economic downturn has changed the way Nebraska must assist UI claimants. NERes places an emphasis on early intervention and continuing engagement with UI claimants, with a goal of gainful employment. This re-employment strategy allows customers to enter the re-employment system through a common entry point, which allows the customer to be connected with the array of services and tools needed for effective job searching and rapid reemployment. With NERes, Nebraska uses technology and innovative strategies to more thoroughly assist UI claimants in their return to the workforce.

NERes connects unemployed individuals with the full range of re-employment services available through the Nebraska Department of Labor (NDOL). NERes seeks to accelerate opportunities for individuals to obtain gainful employment after separation from their job. Reducing the period of unemployment for individuals is beneficial to both the individual and Nebraskan employers in the following ways:

1. UI claimants will see a quicker return of lost wages.
2. Employers will be able to fill open positions faster, effectively increasing productivity.
3. When UI recipients spend less time out of work, money will be saved in the unemployment trust fund, which may help to contain employer unemployment taxes.

NERes efficiently utilizes financial and human resources by consolidating re-employment programs to provide high quality employment services to assist unemployed individuals on their path to re-employment. The NERes program was developed to meet the federal requirements of the Worker Profiling Reemployment System (WPRS) and Reemployment and Eligibility Assessment (REA) programs. NERes has evolved to meet the standards of newly implemented of Reemployment Services and Eligibility Assessment (RESEA) program, which replaced REA. Since its development, NERes has expanded its services to include all initial non-exempt Unemployment Insurance claimants in order to provide early intervention and resources to promote quick entry back into the workforce. The use of high quality, effective re-employment tools is the cornerstone of the NERes program

and provides a key strategy to developing an available workforce for Nebraska. The offices of Unemployment Insurance (UI) and Employment and Training (E&T) collaborate extensively and continue to strengthen partnerships to provide employment services and reemployment assistance to Nebraskans impacted by job loss.

## **NEres Participants**

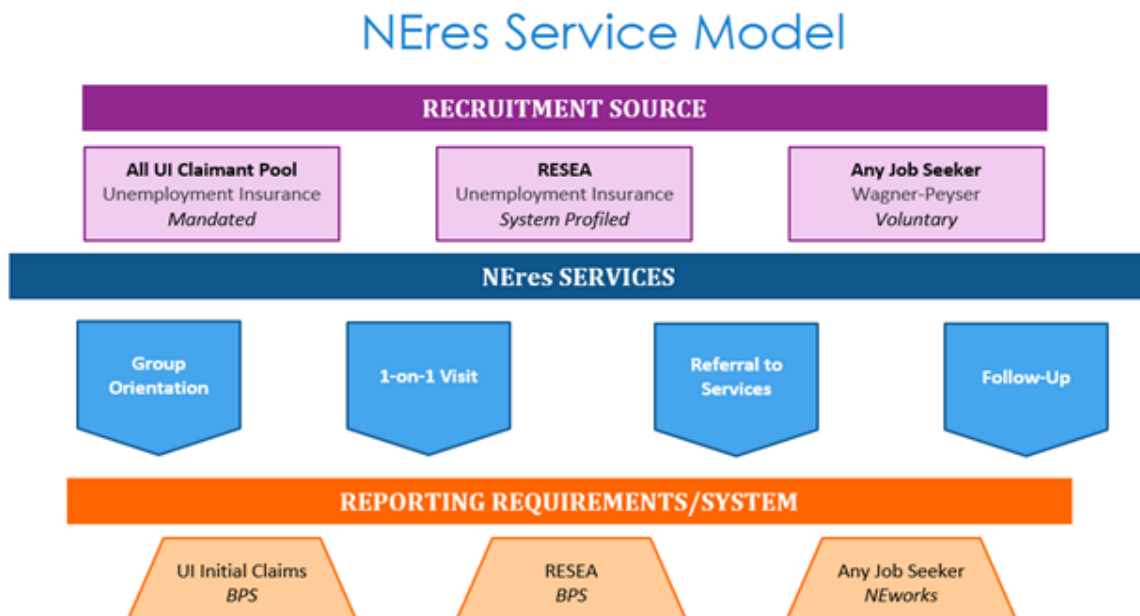
NEres serves the following populations:

1. All initial non-exempt UI claimants
2. Re-Employment Services and Eligibility Assessment (RESEA) profiled individuals
3. Voluntary Job Seekers wishing to participate

As a comprehensive re-employment program, NEres seeks to provide services to the individuals most in need of re-employment assistance. This includes individuals profiled through the UI system (RESEA), as well as all initial non-exempt UI claimants. Profiled individuals (RESEA) have been identified to be at risk of potentially exhausting their UI benefits. Initial UI claimants are at the beginning stage of re-entering the workforce and will benefit from early intervention and re-employment assistance. NEres is also available to voluntary job seekers choosing to participate in order to strengthen their job searching skills. All voluntary participants receive the same resources and services available to required NEres participants.

NEres participants are provided universal services intended to meet their individual re-employment needs. While serving individuals with an umbrella of services, NEres maintains the funding source and reporting integrity of each population served. NEres is able to do this based on the NEres Participant Service Model shown in Illustration 6 and outlined below.

## Illustration 6: NEres Service Model



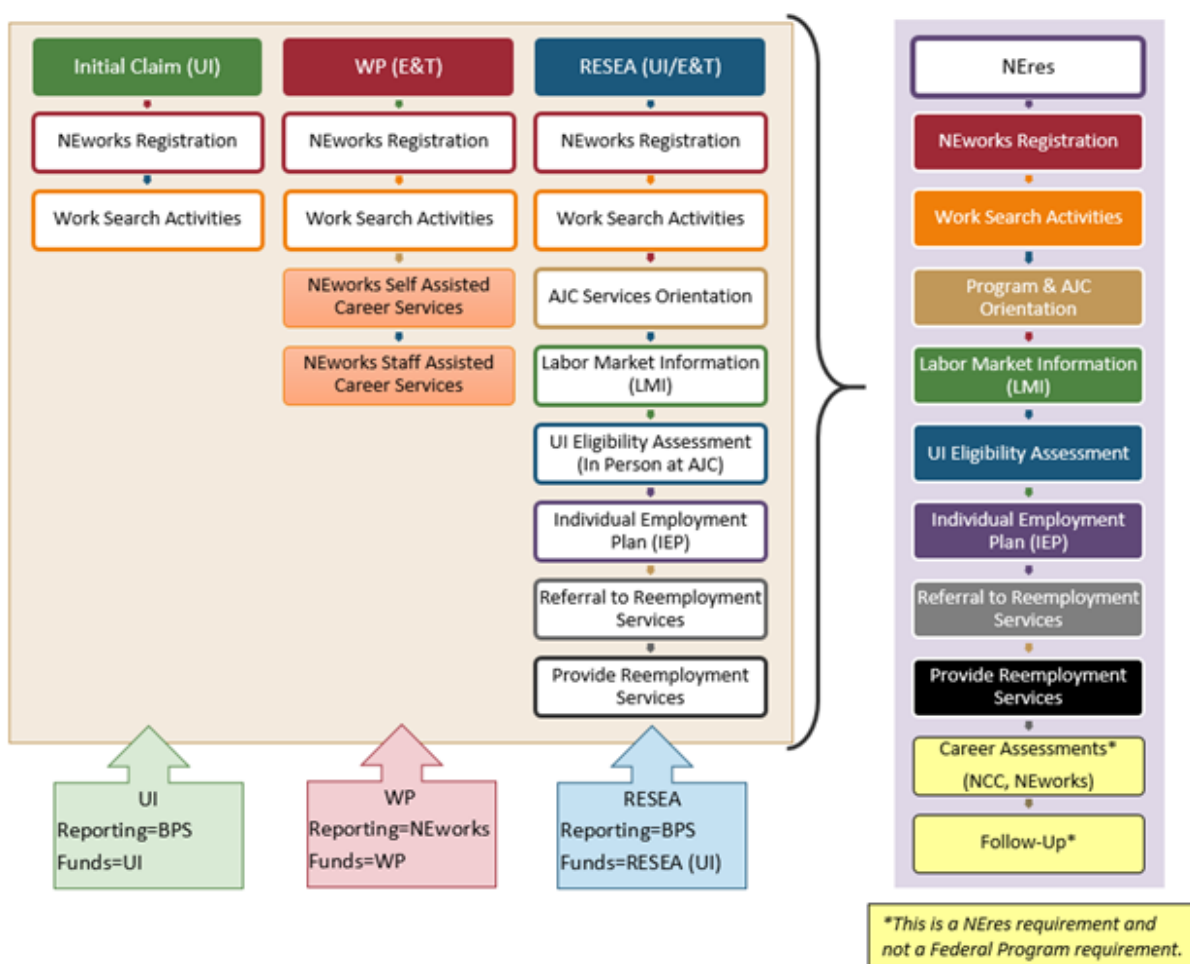
This service model identifies the following information:

1. Recruitment Source: indicates the identification of each NEres participant through one of three avenues (All UI Claimant Pool; RESEA; Voluntary Job Seeker) based on their association with the targeted populations to be served.
2. NEres Services: Regardless of population or recruitment sources, every NEres participant receives the same set of services, in the same order.
  - a. Group Orientation
  - b. 1-on-1 Visit
  - c. Referral to Services
  - d. Follow-up
3. Reporting Requirements/System: The model also shows that individuals will maintain their funding source identity for federal and state reporting requirements as well as individual program integrity and compliance.

## Menu of Services

NEres combines the required services of the federally funded Re-Employment Services and Eligibility Assessment (RESEA) program, along with the job seeker requirements for regular Unemployment Insurance (UI) compensation. Based on the requirements for each specific program, NEres offers a set of universal services and meets the strictest program criteria of RESEA in order to ensure compliance with all federal and state program requirements. The identified program services required by each separate program and their relation to the universal services provided via NEres, are demonstrated in Illustration 7 and outlined below.

**Illustration 7: NEres Menu of Services**



1. Initial Claim (UI): NEworks Registration; Work Search Activities.
2. WP (Employment & Training): NEworks Registration; Work Search Activities; NEworks Self Assisted Career Services (optional); NEworks Staff Assisted Career Services (optional).
3. RESEA (UI/E&T): NEworks Registration; Work Search Requirements; AJC Services Orientation; Labor Market Information (LMI); UI Eligibility Assessment (in person at AJC); Individual Employment Plan (IEP); Referral to Reemployment/Training Services; Provide Reemployment Services.
4. NEres: NEworks Registration; Work Search Requirements; Program & AJC Orientation; Labor Market Information (LMI); UI Eligibility Assessment; Individual Employment Plan (IEP); Referral to Reemployment/Training Services; Provide Reemployment Services; Career Assessments\* (Nebraska Career Connections, NEworks); Follow-Up\*

\*This is a NEres requirement and not a Federal Program Requirement.

## Program Requirements

NEres has four services that comprise the criteria necessary to meet re-employment program requirements. These services are shown in Illustration 8 and outlined below.

**Illustration 8: NEres Program Requirements**



1. Group Orientation
2. 1-on-1 Visit
3. Referral to Services
4. Follow-Up

Each service of the NERes program has a defined set of criteria that are provided to assist the customer in meeting their re-employment needs and program requirements. The individual criteria that are part of each NERes service are:

1. Group Orientation: NEworks Registration; Program and AJC Orientation; LMI; Skills Assessment Overview (Nebraska Career Connections and NEworks); Work Search Requirement.
2. 1-on-1 Visit: UI Eligibility Assessment; Individual Employment Plan; Review Skills Assessment; Review Work Search Activities.
3. Referral to Services: Workshops; Wagner-Peyser; Training Services-Vocational Rehabilitation, WIOA Title I, etc.; Veteran Services-DVOP, VA, VSO, etc.; AJC Services; Community Agencies.
4. Follow-Up: Contact individuals; Compare status to IEP; Review Work Search Activities; Meet with individual up to 3 additional times.

## **Participant Compliance**

The following populations are required to participate in NERes:

- All initial non-exempt UI claimants
- Re-Employment Services and Eligibility Assessment (RESEA) profiled individuals

Failure to comply with NERes program requirements may result in suspension of benefits until the NERes program requirements are met.

NERes also welcomes voluntary job seekers to participate in the program and receive resources to assist them in their job search to advance their employment or achieve re-employment. Voluntary job seekers are not mandated to participate and receive no sanctions for failure to comply with program requirements. Voluntary job seeker participants receive the same menu of NERes services and are included in federal reporting for the Wagner-Peyser program.

## **Benefitting Fund Sources**

Per the NERes Service Model shown previously, NERes maintains each participant's association with the program that originally identified them as a part of the NERes program:

- Unemployment Insurance (UI)
- Re-Employment Services and Eligibility Assessment (RESEA)
- Wagner-Peyser (voluntary job seekers)

Individual program identity is necessary for data integrity and federal reporting purposes. The provision of universal services maximizes agency resources and eliminates duplication of services, while maintaining individual program integrity. NEworks, the state's reporting and case management information system, has the necessary capabilities to track individuals and their services, while maintaining their association with the appropriate and necessary reporting system.

## **Reemployment Opportunities**

NEres provide tools and resources for individuals to increase their re-employment options via successful job matching. Through NEres, quality job matches are initiated by:

- Work Search Activities
- Job Referrals
- Virtual Recruiter Notifications

These preliminary steps to a successful job match provide NEres participants the opportunity to explore viable employment options that match their Knowledge, Skills and Abilities (KSA). Employment opportunities that are refined and based on participant KSAs will lead to greater success in re-employment for individuals.

## **NEres Service Delivery and Locations**

NEres staff is headquartered at primary NEres locations across the state and facilitate the group workshop, one-on-one visit, referral to services and follow-up services in person or face-to-face via video conferencing. NEres service regions are based on Nebraska's previous regions for implementation of the Extended Services Program (ESP), which was utilized to assist with the administration of Extended Unemployment Compensation (EUC) benefits. The state is divided into six regions, each composed of various counties that revolve around primary service locations. Customers are directed to the appropriate NEres location based on their home county.

### **d. Support of UI Claimants**

Describe how the State will use W-P funds to support UI claimants, and the communication between W-P and UI, as appropriate, including the following:

#### ***1. Labor exchange Services***

Coordination of and provision of labor exchange services for UI claimants as required by the Wagner-Peyser Act;

Wagner-Peyser funds support UI claimants through the regular and ongoing provision of Employment Services throughout the workforce system. Employment Services communicates with UI on a regular basis to discuss the provision and recording of reemployment services for UI customers and to assess current practices for opportunities

for improvement. Communication between UI and Employment Services occurs via technology, phone, and in-person meetings. UI Supervisors and staff are included in Employment Services training, both as participants and trainers, in order to communicate necessary and relevant strategies for provision of reemployment services to shared customers.

Nebraska Department of Labor has a contract with Geographic Solutions Inc. (GSI) for the NEworks Virtual One Stop (VOS) module system used for Employment Services, including labor exchange services. In October 2013, NDOL purchased GSI's Re-Employment Exchange (REX) Module which allows a single sign-on for customers who utilize services through both the NEworks and Unemployment Insurance systems. In Jan 2014, NDOL transferred hosting services from the Nebraska Office of Chief Information Officer (OCIO) to GSI and added a Mobile Application module. In order to successfully implement the program design of NERes, NDOL purchased the Scheduler & Attendance Tracking Module from GSI, which:

1. Interfaces with the VOS, REX, Mobile App and Benefit Payment System (BPS).
2. Provides the functionality to schedule and track program participants per the correct fund source.

The software helps maintain eligibility of benefits for UI claimants not yet employed, by providing eligibility data to the UI system. This module also allows NERes to schedule and track unemployment claimants who are required to attend an orientation and one-on-one meeting at the beginning of their unemployment claim to get them back to work sooner. This technology will replace an outdated scheduling system.

In addition to NEworks, the state's integrated Management Information System (MIS), Employment Services utilizes additional forms of technology to disseminate information and communicate with customers, including UI claimants. Social media, virtual services and user friendly mobile applications allow customers to have 24/7 access to services and communication tools intended to support employment opportunities for individuals in Nebraska. These same tools allow program staff to follow-up and maintain contact with participants and ensure employment services, and reemployment services for UI claimants, are being utilized in an effective manner to promote and encourage re-employment and career opportunities that match the job seeker's Knowledge, Skills and Abilities (KSAs).

Employment Services supports UI customers in Job Search and Placement Assistance by providing significant staff assistance with the job search process; including, but not limited to, evaluation of customers' abilities, job search approach, advisement on alternative methods of job search techniques, and assistance with company and industry research. Additionally, Employment Services supplements application assistance by offering resume assistance, both 1-on-1 and via group workshops. Resume assistance provides job seekers with a quality resume that can accompany their employment applications. Cover letters and other employment related correspondence are also

provided, and are tailored to the needs of each customer based on their employment goals and work experience.

NEworks offers customers a powerful and robust system to search for job openings. From quick job searches to advanced searches, NEworks features a host of options to view and apply for job openings across the state. The state's public labor exchange provides job search and employment assistance opportunities that can be self-assisted (by the customer) or staff-assisted. The web-based system means these services are available for customers to access directly 24/7, and at their convenience. The on-line labor exchange provides the opportunity and convenience for customers to look for employment opportunities that meet their needs. It also allows staff and employers to view job seeker resumes and work history, and create job referrals based on the candidate's abilities. A Virtual Recruiter offered through NEworks is another job-matching tool that provides customers with direct information about employment opportunities that match their interests and abilities.

## ***2. Registration of UI claimants***

*Registration of UI claimants with the State's employment service if required by State law;*

NEworks is used as the single sign-on system for Employment Services and UI customers. Employment Services staff work directly with UI customers in the One-Stop Centers or via phone to provide registration assistance on the NEworks system.

NEworks is a web-based system that can be accessed 24/7 anywhere internet connection is available. Computers available in the Resource Room in the One-Stop Centers provide direct customer access to NEworks, along with staff assistance if necessary. Employment Services staff have recognized that some customers are deficient in computer literacy skills. To assist customers in overcoming this barrier, Employment Services coordinates with local literacy groups, education institutions and Community Based Organizations (CBOs) to provide computer literacy assistance either in the local One-Stop Centers or at other locations in the community.

Employment Services also conducts NEworks Workshops to assist customers in registering for work and navigating the labor exchange system. Employment Services workshops include, but are not limited to:

- NEworks Registration
- Resumes Workshops
- Job Search Workshops
- Labor Market Information

### ***3. Work Test***

Administration of the work test for the State unemployment compensation system, including making eligibility assessments (for referral to UI adjudication, if needed), and providing job finding and placement services for UI claimants; and

Nebraska's Employment Services, One Stop Centers and UI division collaborate to provide seamless reemployment services through the NEres program. The NEres program includes initial eligibility assessments as well as additional reemployment services. Each NEres customer receives a group orientation and then a subsequent individual appointment.

Within the individual appointment, the NEres staff conducts the following core activities:

- Eligibility Review (for UI claimants)
- Development of an Individual Employment Plan (IEP)
- Provision of Labor Market Information (LMI)
- Reemployment Services
- Referral to Training
- Job Search and Placement Assistance

Employment Services provides these direct services to UI customers, and coordinates with the UI program to outline expectations and needs related to eligibility assessments. Employment Services staff are trained by UI on Eligibility Issues and the communication process with UI to inform them of potential issues. Identified Eligibility Issues are documented and communicated with UI in a timely fashion, in order for UI to follow up accordingly.

### ***4. Training and education programs and resources***

Provision of referrals to and application assistance for training and education programs and resources.

Employment Services conducts assessments of customers to determine their Knowledge, Skills and Abilities. Assessments may include an initial assessment, either formal or informal needs assessment based on first direct contact with the customer to determine their needs and appropriate services. It may also include an Interest/Aptitude and Skills Assessment, which involves the administration of a formal assessment to measure the possession of, interested in or ability to acquire job skills or knowledge. Examples of Interest/Aptitude and Skills Assessments include: Nebraska Career Connections; NEworks Skills Analyzer; O\*NET Online; My Next Move; Career One Stop; My Skills My Future; CASAS; etc.

Based on customer conversations, interviews and assessments, Employment Services staff makes the appropriate referral to training and education programs that may assist the customer with necessary upskills in order to be competitive in their reemployment

journey. Referral to training and education programs is based on customer need and circumstances. These referrals are documented in NEworks in order to track progress of partnership development and use of community resources. Employment Services staff also provide assistance if additional it is needed by the customer to complete reference or application materials, These situations occur on a case by case basis, and are prompted by the customer.

Sharing of training and education program information and materials is a key strategy in order for Employment Services to make appropriate referrals for customers. Employment Services staff communicates with their education partners to determine current program opportunities and possible requirements of customers in order to participate. This information allows referrals to be based on information that directly affects and benefits the customer.

#### **e.     Agricultural Outreach Plan (AOP).**

Each State agency must develop an AOP every four years as part of the Unified or Combined State Plan required under sections 102 or 103 of WIOA. The AOP must include--

##### ***1.   Assessment of Need***

Provide an assessment of the unique needs of farmworkers in the area based on past and projected agricultural and farmworker activity in the State. Such needs may include but are not limited to: employment, training, and housing.

Agriculture data from prior and current program years continue to be the foundation of this program plan to provide Wagner-Peyser funded services and activities to the agricultural community under the One-Stop Delivery System. Other key sources of information are the Nebraska Agriculture Statistical Services (NASS), United States Department of Agriculture (USDA) and Proteus Inc. (Proteus). Proteus is the WIA 167 National Farmworker Jobs Program grantee. The needs of Nebraska MSFWs are primarily language acquisition skills and technical skills. Both of these needs significantly impact the end goal of job placement for the MSFW population. In addition to language acquisition, Nebraska's farmworkers' needs center around skill attainment which can be assisted with training assistance and the need for permanent employment opportunities that match their available skill set. Housing is a challenge in rural areas of Nebraska, particularly for farmworkers with limited income and who require affordable housing. A cultural connection and sense of belonging is a common need for farmworkers. The limited availability of similar individuals settling in Nebraska communities can be offset with community engagement and education opportunities. Education beyond technical skill training is also a need. Basic literacy training is a common need among the farmworker population, many of whom have limited reading and writing ability in their native languages as well as English.

**a. Assessment of agriculture activity**

An assessment of the agricultural activity in the State means: 1) identifying the top five labor-intensive crops, the months of heavy activity, and the geographic area of prime activity; 2) Summarize the agricultural employers' needs in the State (i.e. are they predominantly hiring local or foreign workers, are they expressing that there is a scarcity in the agricultural workforce); and 3) Identifying any economic, natural, or other factors that are affecting agriculture in the State or any projected factors that will affect agriculture in the State.

1. Identifying the top five labor-intensive crops, the months of heavy activity, and the geographic area of prime activity

Crops	Months of Activity	Geographic Area
Alfalfa	June - October	Central and Western Nebraska
Corn	June - October	Statewide
Oats for Grain	June - October	Central and Western Nebraska
Sorghum for Grain	June - October	Central and Western Nebraska
Soybeans	June - October	Statewide

2. Summarize the agricultural employers' needs in the state (i.e., are they predominantly hiring local or foreign workers, are they expressing that there is a scarcity in the agricultural workforce)

Many employers are able to find local seasonal assistance for their workforce needs. There are employers that have the need for foreign workers, due to American workers not pursuing certain manual labor workforce opportunities. There have been no direct reports of employers experiencing a shortage of agricultural workers; between American workers, foreign workers, and technology, employers are able to meet their workforce needs.

3. Identifying any economic, natural, or other factors that are affecting agriculture in the state or any project factors that will affect agriculture in the state

Automation and changes in planting techniques and weed control have drastically reduced the need for migrant and seasonal farm workers in some areas of the state and crops. Row planting for some crops has been replaced by the drilling method of planting which provides closer spacing of the plants and makes the application of chemicals to control weeds more effective thereby reducing the need for hand weeding and hoeing efforts.

## **b. Assessment of unique needs**

An assessment of the unique needs of farmworkers means summarizing Migrant and Seasonal Farm Worker (MSFW) characteristics (including if they are predominantly from certain countries, what language(s) they speak, the approximate number of MSFWs in the State during peak season and during low season, and whether they tend to be migrant, seasonal, or year-round farmworkers). This information must take into account data supplied by WIOA Sec. 167 National Farmworker Jobs Program (NFJP) grantees, other MSFW organizations, employer organizations, and State and/or Federal agency data sources such as the U.S. Department of Agriculture and the U.S. Department of Labor (DOL) Employment and Training Administration.

Migrant and Seasonal Farm Workers are predominantly from Latin American countries, with most of the individuals coming from Mexico. The primary language spoken by MSFW populations is Spanish, with English being their second language, if they are bi-lingual. There are approximately 200 MSFWs in the state at any given time, with limited fluctuation due to the traditionally long season for the different crops listed in 1A above. The common populations for MSFWs are seasonal and year-round farmworkers, with migrant workers making up a smaller portion of MSFW in the state. This data is derived from NEworks, the State's Management Information System, with supplemental information from the National Farmworker Jobs Program (NFJP) grantee, Proteus, Inc. and the American Community Survey 2010 - 2014. The peak season for MSFW in the state is May through October annually, with low seasons occurring on the late fall through early spring (November - April).

## **2. *Outreach Activities***

The local offices outreach activities must be designed to meet the needs of MSFWs in the State and to locate and contact MSFWs who are not being reached through normal intake activities. Describe the State agency's proposed strategies for:

### **A. Contacting Farmworkers**

Contacting farmworkers who are not being reached by the normal intake activities conducted by the employment service offices.

Employment Services data mines information in NEworks to identify MSFW individual and pro-actively reach out to them to offer and promote permanent employment opportunities. Employment Services also partners with the Nebraska's NFJP grantee for the MSFW program to provide information and conduct workshops for their MSFW customers.

Employment Services coordinates with the state's Meat Packing Bill of Rights Coordinator to leverage travel time and outreach efforts to target communities shared by both MSFW and meat packing populations. The partnership involves community discussions, provision of resource materials, and outreach efforts with faith-based organization and other Community Based Organizations (CBOs) that serve or may come in contact with MSFW populations.

Other outreach efforts include, but are not limited to

- Identifying community organizations that may come into contact with MSFW's:
  - Churches with Spanish mass
  - Migrant Head Start
  - Libraries
  - Community Based Organizations
  - Service Agencies
  - Proteus
  - Legal Aid
- Identifying businesses that may come into contact with MSFW's: ethnic markets, laundromats, restaurants, motels, salons etc.

Available resources for the MSFW outreach include a Migrant & Seasonal Farm Workers booklet and Migrant and Seasonal Farmworkers Information Bulletin. In addition to these state administered materials, AJCs and NDOL Locations and outreach staff provide local information and resources targeted to the MSFW population. Outreach workers encourage migrant and seasonal farm workers to go to the nearest AJC or NDOL Location to receive services. If the migrant and seasonal farm workers cannot or do not wish to access services at the Center, the outreach worker provides onsite aid in the preparation of applications, assistance in obtaining referral to specific employment opportunities, guidance in the preparation of complaints, referral to supportive services, and help in making appointments and arranging transportation. In all instances where appropriate, bilingual staff is available to conduct outreach activities.

#### **B. Technical Assistance to Outreach Workers**

Providing technical assistance to outreach workers. Technical assistance must include trainings, conferences, additional resources, and increased collaboration with other organizations on topics such as one-stop center services (i.e. availability of referrals to training, supportive services, and career services, as well as specific employment opportunities), the employment service complaint system, information on the other organizations serving MSFWs in the area, and a basic summary of farmworker rights, including their rights with respect to the terms and conditions of employment.

Technical Assistance is provided through regularly scheduled Technical Assistance conference calls and video conferences with local ES staff during the peak MSFW season. An initial call is conducted at the start of the season to discuss outreach opportunities and Best Practices that can be implemented to reach and contact as many MSFWs as possible. A final call at the end of the season recaps success stories and opportunities identified for the following year. Resources are provided to ES staff for them to incorporate into their MSFW outreach efforts.

### **C. Outreach Worker Training and Awareness**

Increasing outreach worker training and awareness across core programs including the Unemployment Insurance (UI) program and the training on identification of UI eligibility issues.

ES staff partner on a regular basis with the UI program in order to serve customers in an informative manner about potential services available and/or eligibility issues. This same knowledge is leveraged by staff when outreaching to and serving MSFWs.

The UI program is integrated into mandatory annual training for ES staff. UI Supervisors prepare and conduct training to educate ES staff to listen for and identify potential UI eligibility issues. ES staff are also trained on the process to report potential issues to UI on an Eligibility Review Form (ERF), a document that identifies the potential eligibility issue. Written guidance for the ERF is developed in partnership with and reviewed by UI. The guidance is included in program manuals for staff. Referrals of potential issues are provided to UI staff for adjudication. The referral process involves emailing the ERF to UI staff to identifying and adjudicate the potential issue.

ES complaint system information is available at each American Job Center. ES staff also inform WIOA partners, community based organizations and other agencies that may work directly with MSFW populations about the ES complaint system. ES staff work directly with the NFJP grantee, Proteus, to find and reach MSFW populations in order to directly share information about Employment Services, including the ES complaint system. ES partners with local and regional advocacy groups, such as Nebraska Appleseed Center for Law in the Public Interest, to share and disseminate information to farmworkers about their rights. NDOL is in the process of updating the MSFW webpage. The updated webpages will include information about the ES complaint system in both English and Spanish. A “contact us” button will also be available directly on the webpage to allow for easy communication of questions or concerns from MSFWs, advocacy groups and other stakeholders. Links to advocacy groups will also be included on the updated MSFW webpage. MSFW Outreach staff seek out advocacy groups and partners when promoting ES services to MSFW populations. During this partnership development, Outreach staff will request printed and/or electronic materials to share with other partners and promote to MSFWs directly, in order to better inform them of services and agencies intended to serve and assist MSFWs.

### **D. Professional Development for Merit Staff Outreach Workers**

Providing State merit staff outreach workers professional development activities to ensure they are able to provide high quality services to both jobseekers and employers.

Employment Services conducts monthly Technical Assistance video conferences with ES staff to provided tools and resources to equip staff to determine and meet the needs of job seeker and employer customers. In addition to monthly TA conference calls, there are regular in-service training opportunities conducted throughout the year to provide new or

updated information and best practices. The ES program is constantly looking for innovative ways to train staff and provide them new resources.

#### **E. Coordination with NFJP Grantees**

Coordinating outreach efforts with NFJP grantees as well as with public and private community service agencies and MSFW groups.

Employment Services partners across the state with Proteus, the NFJP grantee. Proteus is co-located in some AJC and NDOL Locations and has access to services available across the state, even when they do not have a physical location in an AJC or NDOL Location. ES and Proteus staff partner together at the Administrative, Management and Staff levels, designing partnership opportunities that are appropriate for each community or region, based on the available MSFW population to serve and resources.

Concentrated outreach is undertaken, as our increasingly constricted annual budget permits, during the peak periods of migrant and seasonal farm workers' activity, traditionally April through June. The outreach workers, in coordination with Proteus Inc., the WIA 167 National Farmworker Jobs Program grantee, maintain a record of outreach activities that includes the names of individuals. These records are especially utilized when an application is taken, referral to a job is made, or a complaint is documented. This data is retained and preserved through the NEworks data system. This data system allows the Agency to track the number of migrant and seasonal agricultural workers contacted, any follow-up contacts that are made, and the types of services provided. This information is provided to USDOL's Employment and Training Administration (ETA) in the quarterly "Services to Migrant and Seasonal Farmworker Reports" (Form 5148, LEARS Reporting System).

To assist in outreach, NDOL has developed a brochure showing the services that are available and other services that are most needed by migrant and seasonal farm workers. The brochure has been produced in Spanish and English. A web page on the MSFW program has also been developed in Spanish and English on the Official Nebraska Government Website at [www.dol.nebraska.gov](http://www.dol.nebraska.gov). The brochure and the web page continue to be important resources, both for direct outreach and for connecting to other agencies within or without the AJC or NDOL Location involved in serving the migrant and seasonal population through outreach activities. The three most important resource partners for migrant and seasonal farm workers in Nebraska are the Department of Education migrant program, the migrant health programs, and Proteus Inc., which is the State's Workforce Investment Act Section 167 agency. Coordination among these partners will continue to be of special importance to the Wagner-Peyser funded programs. There is no Wagner-Peyser funding level per se set-aside for the proposed outreach activities. However, all outreach activities conducted will be paid for by Wagner-Peyser funds.

### ***3. Services provided through the one-stop delivery system.***

Services provided to farmworkers and agricultural employers through the one-stop delivery system.

Describe the State agency's proposed strategies for:

#### **(A) Employment and Training Services**

Providing the full range of employment and training services to the agricultural community, both farmworkers and agricultural employers, through the one-stop delivery system. This includes:

- (i) How career and training services required under WIOA Title I will be provided to MSFWs through the one-stop centers;
- (ii) How the State serves agricultural employers and how it intends to improve such services.

**Career and Training Services.** Migrant seasonal farm workers outreach activities are primarily coordinated through Nebraska's One-Stop Delivery System. A dedicated ES staff person from each region of the state has been assigned the responsibility to conduct outreach to employers and to migrant and seasonal farm workers in their surrounding areas of service. Utilization of the common case management system by WIOA Title I and ES programs is a key strategy in providing MSFW populations with WIOA Title I services. Utilizing the same case management system greatly improves the communication, enrollment and referral process, and allows management staff to review populations being served with an EEO summary report that details participant profiles, including: age; gender; household location; ethnicity; education level; employment status; MSFW status; etc.

Career and training services provided by AJC and NDOL Locations include: Job Search Assistance; Job Referral; Placement Assistance for Job Seekers; Reemployment Services to unemployment insurance claimants; Recruitment services to employers with job openings. Outreach efforts include an explanation of the full menu of services available from the local AJC or NDOL Location as well as specific employment opportunities that are currently available. Support for education and training is provided through the NFJP grantee. The State Workforce Development Boards in coordination with local Workforce Development Boards provide funding recommendations, assistance and guidance on methods of allowing AJC customers to be competitive in a regional and global economy. AJC and NDOL Locations provide MSFWs with referrals to local education institutions for GED, ESL and technical skills training.

**Serving Agricultural Employers.** Services to agricultural employers includes, but is not limited to:

**NEworks:** NEworks is a self-service tool for job seekers and employers. Employers may use the web-based, integrated system of NEworks to post their job openings, either through employer-direct entry or through any AJC or Department of Labor office.

Employers may also search active resumes, and contact potential employees 24 hours a day, 7 days a week.

Federal Bonding Program: Program allows employers to request fidelity insurance at no-cost when considering “at risk” and “not bondable” job seekers otherwise eligible.

Foreign Labor Certification: Program provides information and processes required forms to employers before they can bring foreign workers in the U.S.

The H2A Coordinator follows the directives issued by the Chicago National Processing Center (for labor certification) in clearing H2A job orders in neighboring states and labor supply states, in coordination with the State Monitor Advocate.

Labor Market Information for Business: Program provides information about local economy, and changes in labor market.

## **(B) Complaint System**

Marketing the employment service complaint system to farmworkers and other farmworker advocacy groups.

Outreach also involves the provision of information on the ES Complaint System and a summary of farm worker rights with respect to employment. ES partners with UI to provide consistent information to farmworkers regarding the ES Complaint System through agency communication and staff training. ES informs UI staff of the complaint system in place. UI staff share and communicate this information with MSFW customers it serves via the UI claims process.

## **(C) Agricultural Recruitment System**

Marketing the Agricultural Recruitment System to agricultural employers and how it intends to improve such publicity.

Outreach staff focuses on employer recruitment and services in addition to individual MSFWs. Employer outreach leverages H2A services and housing inspection staff to identify and communicate with employers about the Agricultural Recruitment System and employer services available to them through ES. Opportunities for publicity are limited due to financial restrictions and limited funds. Increased efforts for data mining will be used to access and reach out to more agricultural employers with a limited cost.

## 4. *Other Requirements*

### (A) Collaboration

Describe any collaborative agreements the state workforce agency (SWA) has with other MSFW service providers including NFJP grantees and other service providers. Describe how the SWA intends to build upon/increase collaboration with existing partners and in establishing new partners over the next four years (including any approximate timelines for establishing agreements or building upon existing agreements).

There are no existing cooperative agreements between NDOL and with public and private community service agencies. It is anticipated that there will be cooperation on an informal basis with service agencies, such as Nebraska Appleseed and Legal Aid of Nebraska. Development of a cooperative agreement will begin during PY2016.

The Monitor Advocate oversees the Wagner-Peyser program outreach to agricultural employers and migrant and seasonal farm workers. The State's Monitor Advocate (SMA) position is currently held in NDOL's Office of General Counsel. The Monitor Advocate coordinates responsibilities with the H2A Coordinator in NDOL's Foreign Labor Certification (FLC) program, and this coordination will remain critical as the state transitioned to the new H2A rule that re-engineers the process by which employers obtain an H2A labor certification. The change from an attestation-based application process to one requiring more investigations and findings by the SWA has warranted enhanced outreach and referral services to migrant workers through the Interstate Clearance System.

The SMA will partner with the H2A Coordinator to provide training, as needed, to One-Stop Career Center staff on activities such as Housing Inspections and the Employment Services (ES) Complaint System, in order to improve delivery of services to the migrant population. The SMA's duties include the conducting of annual field visits to AJCs and significant NDOL Locations in the state, and reporting any findings resulting from those visits.

Future collaborative efforts will include ongoing communication between ES and the NFJP grantee at the local AJC and statewide program levels. Both ES and the NFJP grantee are members of the state's Nebraska Partner Council and collaborate to provide services to MSFW populations. The Nebraska Partner Council meets throughout the year to discuss partnership opportunities and efforts to serve target populations, including MSFWs. At the local level, ES managers coordinate partner meetings with local one stop partners and service providers, including the NFJP grantee, to share information on MSFW populations and conduct targeted outreach. Both formal and informal meetings are conducted with the NFJP grantee to discuss and continue collaboration efforts. Development of local MOUs will formalize partnership efforts between ES and all one stop system partners, including the NFJP grantee. The MOUs will describe how efforts are coordinated among partners, the method for identifying MSFWs and the process for referrals of MSFWs.

**(B) Review and Public Comment.**

In developing the AOP, the SWA must solicit information and suggestions from NFJP grantees, other appropriate MSFW groups, public agencies, agricultural employer organizations, and other interested organizations. In addition, at least 45 calendar days before submitting its final AOP, the SWA must provide a proposed plan to NFJP grantees, public agencies, agricultural employer organizations, and other organizations expressing an interest and allow at least 30 days for review and comment. The SWA must: 1) Consider any comments received in formulating its final proposed AOP; 2) Inform all commenting parties in writing whether their comments have been incorporated and, if not, the reasons therefore; and 3) Transmit the comments and recommendations received and its responses with the submission of the AOP. The AOP must include a statement confirming NFJP grantees, other appropriate MSFW groups, public agencies, agricultural employer organizations and other interested employer organizations have been given an opportunity to comment on the AOP. Include the list of organizations from which information and suggestions were solicited, any comments received, and responses to those comments.

The Agricultural Outreach Plan was submitted for comment through the public posting of the WIOA State Plan during the public comment period. Informed parties included: All Nebraska Department of Labor (NDOL) American Job Centers and NDOL Locations in Nebraska; Legal Aid of Nebraska; Nebraska Department of Education (including Migrant Education Program); Proteus, Inc. (NFJP Grantee). No public comments were received regarding the AOP section of the WIOA State Plan.

**(C) Data Assessment.**

Review the previous four years Wagner-Peyser data reports on performance. Note whether the State has been meeting its goals to provide MSFWs quantitatively proportionate services as compared to non-MSFWs. If it has not met these goals, explain why the State believes such goals were not met and how the State intends to improve its provision of services in order to meet such goals.

- PY2011 No - Did not meet MSFW goals for Wagner-Peyser services.
- PY2012 Yes - Met MSFW goals for Wagner-Peyser services.
- PY2013 Yes - Met MSFW goals for Wagner-Peyser services.
- PY2014 No - Did not meet MSFW goals for Wagner-Peyser services.

The State showed success in meeting the goals when there were higher numbers of MSFWs recruited for services. The limited number of available MSFWs in 2014 negatively impacted the state's Wager-Peyser services for these individuals. In order to consistently meet these goals moving forward, the State is working with the NFJP partner for targeted co-enrollment of services and to create programs that leverage Employment Services while working with the NFJP grantee. Targeted Technical Assistance and Best Practices will also be utilized to meet the goals for MSFW in Wager-Peyser.

**(D) Assessment of Progress**

The plan must include an explanation of what was achieved based on the previous AOP, what was not achieved and an explanation as to why the State believes the goals were not achieved, and how the State intends to remedy the gaps of achievement in the coming year.

Based on the previous AOP, increased services and outreach efforts for MSFWs was provided. The State increased in the hiring of multi-lingual staff for offices across the State to provide greater access to AJC and affiliate sites. The State did not continuously meet its goal of contacting and serving at least 100 MSFWs each year. While the State met the goal most years, it did not meet the goal in PY2014. This is believed to be due to the reduced number of MSFW in the State. The State is increasing and revitalizing efforts with the NFJP grantee and other MSFW partners to target, identify and outreach to MSFWs.

**(E) State Monitor Advocate**

The plan must contain a statement confirming the State Monitor Advocate has reviewed and approved the AOP.

The State Monitor Advocate reviewed and approved the AOP.

**f. Wagner-Peyser Assurances**

The State Plan must include assurances that:

1. The Wagner-Peyser Employment Service is co-located with one-stop centers or a plan and timeline has been developed to comply with this requirement within a reasonable amount of time. (sec 121(e)(3)); **Yes**
2. The State agency is complying with the requirements under 20 CFR 653.111 (State agency staffing requirements) if the State has significant MSFW one-stop centers; **Yes**
3. If a State Workforce Development Board, department, or agency administers State laws for vocational rehabilitation of persons with disabilities, that board, department, or agency cooperates with the agency that administers Wagner-Peyser services, Adult and Dislocated Worker programs and Youth Programs under Title I; and **Yes**
4. State agency merit-based public employees provide Wagner-Peyser Act-funded labor exchange activities in accordance with Department of Labor regulations. **Yes**

## **Program-Specific Requirements for Adult Education and Family Literacy Act Programs**

The State Plan must include a description of the following as it pertains to Adult Education and Literacy programs under Title II, the Adult Education and Family Literacy Act (AEFLA).

### **a. Aligning of Content Standards**

Describe how the eligible agency will, by July 1, 2016, align its content standards for adult education with State-adopted challenging academic content standards, as adopted under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 6311(b)(1)).

Nebraska Adult Education will adopt the College and Career Ready Standards approved by the Nebraska State Board of Education. The Language Arts Standards were approved on September 5, 2014 and the Math Standards were approved on September 4, 2015. . In November of 2013, the Nebraska State Board of Education expressed that our AE program graduates/completers were to perform at the same standard levels as the K-12 high school graduates possess.

Adult Education programs will be required to utilize these standards in their respective programs in order to prepare students for post-secondary education and/or employment. Professional development will be provided to ensure that all Adult Education staff is adequately prepared for instruction of the College and Career Ready Standards; this will be a multi-year project.

### **b. Local Activities**

Describe how the State will, using the considerations specified in section 231(e) of WIOA, fund each eligible provider to establish or operate programs that provide the adult education and literacy activities, including programs that provide such activities concurrently. The Unified or Combined State Plan must include at a minimum the scope, content, and organization of local activities.

#### **Adult Education and Literacy Activities (Section 203 of WIOA)**

- Adult education;
- Literacy;
- Workplace adult education and literacy activities;
- Family literacy activities;
- English language acquisition activities;
- Integrated English literacy and civics education;
- Workforce preparation activities; or
- Integrated education and training that—

1. Provides adult education and literacy activities, concurrently and contextually with both, workforce preparation activities, and workforce training for a specific occupation or occupational cluster, and
2. Is for the purpose of educational and career advancement.

Nebraska Adult Education will fund any/all of the activities enumerated above, as federal and state funds allow. The scope of services will be dependent upon the literacy needs within the community or geographic area. It is essential that local AE programs work with WIOA partners and other service groups to provide a needed scope of services, which may include services provided concurrently with other partners. For example, AE providing basic skills instruction and a business, community college, or a WIOA partner providing specific instruction for a CNA or CDL certificate at the same time.

The Nebraska Adult Education program serves eligible individuals identified in WIOA, Section 203(4) as an individual—

- (A) who has attained 16 years of age;
- (B) who is not enrolled or required to be enrolled in secondary school under State law; and
- (C) who—
  1. is basic skills deficient;
  2. does not have a secondary school diploma or its recognized equivalent, and has not achieved an equivalent level of education; and/or
  3. is an English language learner.

### Instruction

Instruction includes:

- Basic Skills/Foundation Skills instruction;
- English Language instruction;
- Workforce Preparation Activities;
- Academic Skills leading to a high school equivalency diploma;
- entry into post-secondary education/training and/or employment; and
- may include all of the following:
  - Math;
  - Reading;
  - Writing;
  - Science;
  - Social Studies;
  - Language Arts;
  - Civics;
  - Integrated Education and Training (IET);and
  - other eligible categories of instruction enumerated in Section 203 of WIOA.

## Practitioners and Providers

A committee comprised of Adult Education practitioners has been formed to develop a framework for Adult Education instructors to address Workforce Preparation Activities as well as College and Career Readiness (CCR) standards. Both a resource guide and professional development training covering these broad areas will be conducted statewide in the spring/summer of 2016 so that AE programs are ready to incorporate them into the program's offerings on July 1, 2016 or when classes begin for the new program year.

As defined in Section 203(5) of WIOA, the term "eligible provider" means an organization that has demonstrated effectiveness in providing adult education and literacy activities that may include:

- (1) a local educational agency;
- (2) a community-based organization or faith-based organization;
- (3) a volunteer literacy organization;
- (4) an institution of higher education;
- (5) a public or private nonprofit agency;
- (6) a library;
- (7) a public housing authority;
- (8) a nonprofit institution that is not described in any of subparagraphs (A) through (G) and has the ability to provide adult education and literacy activities to eligible individuals;
- (9) a consortium or coalition of the agencies, organizations, institutions, libraries, or authorities described in any of subparagraphs (A) through (H); and
- (10) a partnership between an employer and an entity described in any of subparagraphs (A) through (I).

The local application process will include applicable information required/needed by Nebraska Adult Education and the items enumerated in Section 232 (Local Application) of WIOA, which states that each eligible provider desiring a grant or contract from an eligible agency shall submit an application to the eligible agency containing such information, as enumerated in Section 232 of WIOA, and assurances as the eligible agency may require, including:

- (1) a description of how funds awarded under this title will be spent consistent with the requirements of this title;
- (2) a description of any cooperative arrangements the eligible provider has with other agencies, institutions, or organizations for the delivery of adult education and literacy activities;
- (3) a description of how the eligible provider will provide services in alignment with the local plan under section 108, including how such provider will promote concurrent enrollment in programs and activities under Title I, as appropriate;

- (4) a description of how the eligible provider will meet the State adjusted levels of performance described in section 116(b)(3), including how such provider will collect data to report on such performance indicators;
- (5) a description of how the eligible provider will fulfill one-stop partner responsibilities as described in section 121(b)(1)(A), as appropriate;
- (6) a description of how the eligible provider will provide services in a manner that meets the needs of eligible individuals; and
- (7) information that addresses the considerations described under section 231(e), as applicable.

*Section 231(c) requires that each eligible agency receiving funds under this title shall ensure that all eligible providers have direct and equitable access to apply for grants or contracts under this section; and the same grant or contract announcement process and application process is used for all eligible providers in the State or outlying area.*

The Nebraska Department of Education ensures that all eligible providers have direct and equitable access to apply for grants under the Adult Education and Family Literacy Act (Title II) of the Workforce Investment and Opportunity Act. The same grant announcement and application process is used for all eligible providers in the state. All applicants follow a detailed request for proposal, and each proposal is evaluated by a team of evaluators and state Adult Education staff.

The considerations for funding will follow Section 231(e) of WIOA; other considerations identified in the local plan under section 108 (Local plan not available until July 1, 2017) as determined by the regional Workforce Boards; and other considerations as determined by Nebraska Adult Education in accomplishing the intent of WIOA.

Multi-year grants will be awarded to eligible agencies on a competitive basis.

In those programs that provide family literacy services, AE funds can be used only for those activities specifically offered for the adult parent(s) who are eligible for Adult Education services. Other sources of funding will be required to fund activities involving children. (Pertains to Special Rule directly below.)

### **Special Rule**

Each eligible agency awarding a grant or contract under this section shall not use any funds made available under this title for adult education and literacy activities for the purpose of supporting or providing programs, services, or activities for individuals who are under the age of 16 and are enrolled or required to be enrolled in secondary school under State law, except that such agency may use such funds for such purpose if such programs, services, or activities are related to family literacy activities. In providing family literacy activities under this title, an eligible provider shall attempt to coordinate with programs and services that are not assisted under this title prior to using funds for adult education and literacy activities under this title for activities other than activities for eligible individuals.

### **c. Corrections Education and other Education of Institutionalized Individuals**

Describe how the State will establish and operate programs under section 225 of WIOA for corrections education and education of other institutionalized individuals, including how it will fund, in accordance with the requirements of Title II, subtitle C, any of the following academic programs for:

- a. Adult education and literacy activities;
- b. Special education, as determined by the eligible agency;
- c. Secondary school credit;
- d. Integrated education and training;
- e. Career pathways;
- f. Concurrent enrollment;
- g. Peer tutoring; and
- h. Transition to re-entry initiatives and other post release services with the goal of reducing recidivism.

Each eligible agency using funds provided under Programs for Corrections Education and Other Institutionalized Individuals to carry out a program for criminal offenders within a correctional institution must give priority to serving individuals who are likely to leave the correctional institution within 5 years of participation in the program.

The Nebraska Department of Education, pursuant to the Act, shall use not less than 82.5 percent of the grant funds to award grants and contracts under Section 231 and to carry out Section 225, of which not more than 20 percent of such amount shall be available to carry out Section 225.

Adult education and literacy activities are provided at both the local and state levels of Corrections Adult Education classes.

All other academic programs listed below are provided only at the state correctional facilities and are funded with other state and/or federal funding:

- Special education, as determined by the eligible agency
- Secondary school credit • Integrated Education and Training (IET)
- Career pathways
- Concurrent enrollment
- Peer tutoring
- Transition to re-entry initiatives and other post release services with the goal of reducing recidivism

The policies, procedures, and activities for providing instructional services to this clientele are the same as those for regular programs of instruction for adults. In addition, programs will be encouraged to use guidance and supportive services where possible and to provide education and training through cooperative efforts with providers in correctional

and other institutionalized settings. The same application and review processes will be used for Section 225 as are used for Section 231 applicants.

## **d. Integrated English Literacy and Civics Education Program**

### ***1. Establishment and operation***

Describe how the State will establish and operate Integrated English Literacy and Civics Education programs under Section 243 of WIOA, for English language learners who are adults, including professionals with degrees and credentials in their native countries.

All English Language Learners (ELL), whether they are served by Section 225, 231 or Section 243 funds, will receive instruction in learning the English language (reading, writing, speaking, and comprehension) and acquire the basic and more advanced skills needed to function effectively as parents, workers, and citizens in the United States; this includes those ELL learners who are professionals with degrees or credentials in their own countries. Under WIA, all Nebraska ESL classes, not just the EL/Civics classes, incorporated civics and citizenship instruction into its classes; that practice will not change and will be reinforced with WIOA. Any new grant recipient(s) will be required to incorporate Civics and Citizenship instruction into their curriculum. As with all AEFLA programs, an open competition will be held, with direct and equitable access for eligible applicants. The IELCE program, under Section 243 of WIOA, requires three components: 1. Adult Education and Literacy activities; 2. Workforce Preparation Activities; and 3. Occupational training. It is anticipated that the cost of implementing an IELCE program will require more funding than an EL/Civics program did with WIA funds. With the limited amount of funding for IELCE programs, it is likely there will be fewer approved grants than with WIA EL/Civics funds. During the 2016-2017 year, when more definite information is available, the State Office will inform interested parties about the requirements of an IELCE program and the necessary collaboration with other WIOA partners. Some AE staff will visit other states that have already initiated a successful IELCE program to learn about the particular program and what and how it can be replicated or revised for use in Nebraska. Extensive information for applicants will be necessary when there is an open competition for funds starting with the 2017-2018 program year. Any IELCE program that is funded must be provided by a combination of providers: Adult Education, AJC, community college or other post-secondary institution, business community, WIOA partners and/or other applicable groups or organizations. A specific plan must be created, outlining the responsibilities of each contributing partner as well as the expected outcomes, including the need for the specific occupation within the training area or state.

Upon final federal guidance, all students in the Integrated English Literacy and Civics Education Programs may be (1) co-enrolled in other workforce system programs or (2) receive services concurrently from several partners.

The Nebraska Department of Education will offer a competitive RFP process designed specifically for Integrated English Literacy and Civics. Funding under this title will be awarded based upon the criteria for evaluation of a program's application contained in

Section 231(e) of WIOA and other criteria determined through state applications for Nebraska Adult Education.

The Nebraska Department of Education recognizes the importance of integrating English Literacy and Civics education services, including workplace development, with other agencies and institutions within the state. Collaborative efforts will be made with such agencies as Department of Labor, Vocational Rehabilitation (VR), Nebraska Commission for the Blind and Visually Impaired (NCBVI), Department of Health and Human Services (DHHS), and other partnering agencies. Local programs will use guidance from the Nebraska Department of Education, Workforce Development Boards, and local advisory committees and in close association with other training providers, to establish and operate an Integrated English Literacy and Civics education program. This cooperation leads to program improvements through which to better serve students.

Other partnerships come from agency and business/industry representatives serving on local advisory committees and program administrators taking an active role by participating on other agency committees. In addition, local program representatives are appointed to the regional Workforce Development Boards. These efforts will increase collaboration, raise awareness, and educate business and industry leaders about the benefits of workplace literacy, English Literacy, and Civics education.

To carry out English Literacy and Civics instruction, eligible agencies will collaborate where possible, and avoid duplication of efforts in order to maximize the impact of the activities.

As a strong supportive partner in the American Job Center, Adult Education will provide basic skills instruction and specific workplace readiness skills. This will enable the target population to obtain the skills necessary for successful employment. It is anticipated that, where feasible, Adult Education will provide on-site instruction and/or referral services. All of these activities help to build strong local programs that benefit the lives of students.

Nebraska Adult Education is committed to the development and implementation of programs and services through new and promising assessment tools and strategies that are based on scientifically valid research, identification of barriers and needs, and capturing the gains of such students. Adult English language learners will have the support necessary to achieve competence in Reading, Writing, Math, speaking, digital literacy, comprehension of the English language, and Career Pathways.

Further guidance will assist the state in finalizing the procedures and goals necessary to fulfill the program requirements. Anticipated additional funding sources of the training component include: Nebraska Department of Labor, other WIOA partners, government and public agencies, and/or the business community.

## **2. *Funding***

Describe how the State will fund, in accordance with the requirements of title II, subtitle C, Integrated English Literacy and Civics Education services and how the funds will be used for those services.

The same application and review processes and procedures will be used for Sections 225, 231, and 243 grant awards. This includes the items enumerated in Section 232 (Local Application) in WIOA, as well as Section 231(e), and other considerations that may apply as the Section 108 local Workforce Development plans are finalized for implementation on July 1, 2017. All local applications may also contain requests for information needed by the Nebraska Department of Education/AE section.

It is anticipated that each grant recipient that receives funding under Section 243 shall utilize these funds to:

1. Prepare adults who are English language learners for, and place such adults in, unsubsidized employment in high-demand industries and occupations that lead to economic self-sufficiency; and
2. Integrate with the local workforce development system and its functions to carry out the activities of the program.

Final guidance is forthcoming from OCTAE, at which such time final determinations will be made for this section's activities and applications.

### **e. *State Leadership***

#### **1. *Funding***

Describe how the State will use the funds to carry out the required State Leadership activities under section 223 of WIOA.

State Leadership funds are essential as new and required initiatives are implemented under WIOA. State Leadership activities will be carried out to develop or enhance the services that Adult Education and other WIOA core partners provide to eligible participants in the program. Various committees will be formed to address both the required and permissible activities needed to fulfill the requisites of Section 223 of WIOA. A maximum of 12.5% of the federal Adult Education monies will be utilized for State Leadership activities.

#### **Required Activities**

##### **1. Career Pathways**

In anticipation of the formulation of the WIOA state plan, a committee of personnel from the local Nebraska Adult Education programs was formed to develop the plan for meeting

Career Pathways and College and Career Readiness (CCR) objectives. Research is currently being conducted on the wide range of Career Pathways resources that are available, including the Nebraska Career Connections website that is available to all Nebraskans, including adults. Nebraska Career Connections was developed as a joint effort of Nebraska Career and Technical Education (CTE) and the Nebraska Department of Labor.

The Career Pathways and CCR plan for Nebraska includes three phases: training, implementation, and full transition. Statewide training of all program staff will include redefining initial contact with students and developing an orientation to address a career pathway system for each student. When implemented, instructors will engage students to determine the level of need and they will collaboratively design a training plan that may include any, some, or all of the three training areas of employability skills, career readiness and college readiness.

During transition, Adult Education programs will be directed to core partners through the American Job Center delivery system, utilizing job search and additional training programs offered through the Department of Labor administered programs. Upon determination of additional barriers, other partner programs such as Vocational Rehabilitation and Department of Health and Human Services will be consulted to provide support service training(s).

During the next year, the core and plan partners will continue to work collaboratively and cooperatively to align AJC services for program participants. State Leadership funds will be used to build capacity through training activities; plan partners will be invited to participate as well as to be part of the training. Work has begun on the common intake form, data sharing, and the referral process; cross training will be a useful means to communicating our shared responsibilities and guidelines resulting in a smooth process for the student/client served. During the 2017-2018 program year, core and plan partners at the regional and local levels will be attending a three-part training that will assist the regions in building a foundation for completing their WIOA Regional Plans; this will assist the participants to build a service delivery map among the workforce partners.

All WIOA core partners currently utilize the Career Connections model in delivery of Career Pathways in their respective programs. The AJC partners are in the process of aligning the procedures and particular roles each program will play for the individual/common clients as they progress through their career pathway.

## **2. Professional Development Programs**

To accomplish the required objectives of Section 223 of WIOA, Nebraska Adult Education proposes to establish a committee to assist the State Office in the development and implementation of the State Leadership portion of the Four-Year Combined State Plan.

The Professional Development Committee will study and recommend specific trainings to be offered during the state plan period. Staff from the core partner programs will be

invited to attend and participate in various trainings that are offered to Adult Education teachers and staff. Areas to be included, but not limited to, are: reading instruction, needs of adult learners, training and use of volunteers in Adult Education, and dissemination of best practices and models of learning, and other professional development activities as needed or requested.

### **3. Technical Assistance**

The part-time nature of the Nebraska AE program will require technical assistance for all levels of staff on a continuous basis.

As needed, technical assistance to eligible providers and WIOA partners will include, but not be limited to:

- The development and dissemination of instructional and programmatic practices in reading, writing, speaking, mathematics, English language acquisition, digital literacy, distance education, and staff development;
- The role of eligible providers as a one-stop partner to provide access to training, employment, and education; and
- Assistance in the use of technology including staff development programs.

In Nebraska, a survey of both students and staff will be conducted within the first year of this plan in order to assess both needs and competencies of the students and of the staff who serve in the program. Specific trainings will be determined after the surveys have been conducted. Training will be provided in a variety of formats; such as webinars, on-line classes, and face-to-face.

### **4. Monitoring and Evaluation of Programs**

The monitoring and evaluation of the quality of, and the improvement in, adult education and literacy activities are essential to program improvement and attainment of the performance standards that are determined for the individual programs and for the state-wide WIOA program.

Monitoring and evaluation documents will be revised to address the goals of WIOA, and in particular, for the Adult Education program and its newly required activities in relation to the core partners. In addition, the dissemination of information about models and proven or promising practices within the State and from other states, will take place.

All professional development activities will be evaluated by participants, program directors, and state staff. Due to the wide geographic area of the state, an increased request and need for regional trainings, webinars, distance learning for AE staff, and other modes of technology-delivered training will be offered; it is essential that participant evaluations validate the use of these methods vs. face-to-face trainings. Local programs can apply for State Leadership funds to provide training that is needed or requested by

its own program staff, such as improving reading instruction or providing technology instruction to their teachers.

Also, the state office, and local program directors, will evaluate the effectiveness of professional development by looking at program performance and teacher effectiveness. Program data, which can be broken down to the individual teacher level, will provide ways to evaluate, for example, reading instruction or math instruction professional development activities – is performance in reading and math EFL movement happening? Another example is with the BEST Plus 2.0 assessment: periodic trainings of test administrators and a subsequent post-test at the end of the training, will determine a person's approval to continue BEST Plus testing or a need for additional training.

In addition, discussions will be held with local program directors to gather their input on the success of specific initiatives for teacher improvement, resulting in increased student performance as well as student and teacher retention.

While the availability and use of distance learning systems have increased in the state during the past few years, it is necessary for both the local and state administration to ensure that adequate training is being offered and evaluate the eventual outcomes of the distance learning students served. For example: is retention a problem; is EFL movement happening; are more students participating in distance education; are the teachers participating in both required and optional training being offered by the individual providers of distance education programs?

Annual statewide AE conference has, for the past few years, included our WIOA core partners. It is essential that our AE staff be aware of the functions of our partners and the collaborations essential to the success of WIOA.

## **2. *Use of funding***

Describe how the State will use the funds to carry out permissible State Leadership Activities under section 223 of WIOA, if applicable.

### **Permissible Activities**

With the exclusion of the regional resource centers, the following permissible activities are envisioned to be components of the trainings provided to Nebraska's Adult Education staff. Many of these will be incorporated into the required state leadership activities that are offered throughout the year; invitations to the trainings will be made to WIOA partners.

1. **Support of technology and distance education applications** (Nebraska Adult Education is presently reviewing additional distance education resources and will conduct a survey of staff and students in the area of technology.)
2. **Develop and disseminate curriculum including reading** (Nebraska Adult Education is presently in the second year of a mentoring project, emphasizing the

four components of reading in assisting students to become college and career ready.)

3. **Develop content and models for Career Pathways** (In development in Nebraska)
4. **Provide assistance to eligible providers in developing programs to measure progress under this title** (Update needed in Nebraska.)
5. **Develop or implement a system to assist in transition from Adult Education to postsecondary education or employment** (In progress in Nebraska)
6. **Develop activities to promote workplace adult education**
7. **Identify and disseminate curriculum frameworks for adult education**
8. **Develop and pilot strategies for improving teacher quality**
9. **Develop strategies to meet the needs of adult learners with learning disabilities**
10. **Develop strategies of outreach to instructors, students and employers**
11. **Establish collaboration between eligible agencies** (In progress)

## **f. Assessing Quality**

Describe how the eligible agency will assess the quality of providers of adult education and literacy activities under title II and take actions to improve such quality, including providing the activities described in section 223(a)(1)(B) of WIOA.

The monitoring and evaluation of the quality of, and the improvement in, adult education and literacy activities is essential to program improvement and the attainment of the performance standards which are determined annually for the core programs and for the state-wide WIOA program.

Adequate and valuable professional development activities affect all areas of the Adult Education program. The quality of professional developed in many areas, including reading instruction, the adult learner, instruction by paid staff and volunteers, and dissemination of promising practices are evaluated in the following ways:

- Local program data that is submitted monthly for each class
- Monthly conference calls for state staff and local program administrators, including discussions on available professional development activities offered at the state, regional and local levels, new program initiatives pertaining to WIOA, sharing of instructional strategies and new curriculum
- Quarterly director reports, including program achievements, new contacts and partners, collaborative efforts with WIOA partners, training opportunities offered
- Desk monitoring of local program claims, reports, AIMS data information, looking at individual teacher's average daily attendance, student progress, post-testing eligible students, etc.
- Use of a corrective action plan or program improvement plan, if needed for an individual or a program

- A minimum of one on-site evaluation of each local grantee every three years, to include the four areas of mentioned above, the intent being to improve instruction of the adult learner
- Local program visitations as needed
- A local program's participation in state-sponsored professional development activities
- Are reading scores improving
- Is teacher/volunteer retention improved
- Are new instructional strategies and methods being introduced into the AE classrooms
- Is student retention improving
- Close attention paid to local program budgets, program operation, and compliance components of adult education
- Follow-up of student, staff, or other entity concerns of a local or the state AE program(s)

The monitoring and evaluation documents will be revised to address the goals of WIOA, and in particular, for the Adult Education program and its newly required activities in relation to the core partners. In addition, the dissemination of information about models and proven/promising practices within the State and from other states will take place.

The primary emphasis of evaluation will be to assess the effectiveness at both the state and local level, in achieving continuous improvement of Adult Education and literacy activities, teacher quality, and overall program performance. Data will be both quantitative and qualitative to evaluate the progress and continuous improvement of program activities.

Nebraska's Adult Information Management System (AIMS) meets Federal reporting requirements for data reporting. Through this data tool, the quality performance of local programs will be assessed on the core performance levels required for WIOA partners and the additional assessment of academics established by the Office of Career Technical and Adult Education. Further, the data in AIMS will be utilized to analyze local and state performance, determine the cause of area(s) of weakness, and develop strategies for improvement in the coming year. Professional development and technical assistance activities will be coordinated to ensure training and support for program improvements correlate with the program needs. Programs that fail to improve will develop a program improvement plan and could see a reduction in future funding.

The State Office holds regular meetings with the Adult Education program directors. This includes monthly conference calls and biannual face-to-face director meetings for local program administrators to share their programs' challenges as well as successes. These meetings serve as an opportunity to share new policies, best practices, and network with Adult Education colleagues.

## **Teacher Effectiveness:**

Within the next two years, the Nebraska Adult Education program will devise a checklist for evaluating the effectiveness of teachers in the local programs. This will include instruments for goal setting and professional development plans. The teacher effectiveness evaluation will be rooted in best practices and current research, such as that developed by OCTAE and the American Institutes for Research; it includes a set of teacher competencies, toolkits of technical assistance resources, and teacher induction models to assist efforts to retain, support, and develop highly effective adult educators.

Local programs will be expected to meet requirements set forth by OCTAE; the State Adult Education Office; and as enumerated in their program proposal, grant award document, and assurances and certifications. Meeting performance standards and timely submission of student data, claims, and reports, along with desk audits, monitoring visits, and program evaluations are essential to the quality of an Adult Education program and its staff members.

If a local Adult Education program is out of compliance, a Corrective Action Plan (CAP) will be developed. For low-performing programs, a Program Improvement Plan (PIP) will be initiated.

To assist in achieving maximum performance by all staff in all parts of the Adult Education program, regular and continuing professional development is essential. In addition, the Indicators of Program Quality will be updated and implemented.

## Certifications

States must provide written and signed certifications that

1. The plan is submitted by the State agency that is eligible to submit the plan. **Yes**
2. The State agency has authority under State law to perform the functions of the State under the program. **Yes**
3. The State legally may carry out each provision of the plan. **Yes**
4. All provisions of the plan are consistent with State law. **Yes**
5. A State officer, specified by title in the certification, has authority under State law to receive, hold, and disburse Federal funds made available under the plan. **Yes**
6. The State officer who is submitting the plan, specified by the title in the certification, has authority to submit the plan. **Yes**
7. The agency that is submitting the plan has adopted or otherwise formally approved the plan. **Yes**
8. The plan is the basis for State operation and administration of the program. **Yes**

## Certification Regarding Lobbying

### Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer **or** employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Applicant's Organization

- **Nebraska Department of Education**

Full Name of Authorized Representative

- **Matthew L. Blomstedt, Ph.D.**

Title of Authorized Representative

- **Commissioner of Education**

SF LLL Form – Disclosure of Lobbying Activities (only if applicable) (<http://www2.ed.gov/fund/grant/apply/appforms/appforms.html>). If applicable, please print, sign, and email to OCTAE\_MAT@ed.gov

## Assurances

The State Plan must include assurances that:

1. The eligible agency will expend funds appropriated to carry out title II of the Workforce Innovation and Opportunity Act (WIOA) only in a manner consistent with fiscal requirements under section 241(a) of WIOA (regarding supplement and not supplant provisions). **Yes**
2. The eligible agency will ensure that there is at least one eligible provider serving each local area, as defined in section 3(32) of WIOA. **Yes**
3. The eligible agency will not use any funds made available under title II of WIOA for the purpose of supporting or providing programs, services, or activities for individuals who are not “eligible individuals” within the meaning of section 203(4) of WIOA, unless it is providing programs, services or activities related to family literacy activities, as defined in section 203(9) of WIOA **Yes**
4. The Integrated English Literacy and Civics Education program under section 243(a) of WIOA will be delivered in combination with integrated education and training activities; **Yes**
5. The Integrated English Literacy and Civics Education program under section 243(a) of WIOA will be designed to (1) prepare adults who are English language learners for, and place such adults in, unsubsidized employment in in-demand industries and occupations that lead to economic self-sufficiency and (2) integrate with the local workforce development system and its functions to carry out the activities of the program; and **Yes**
6. Using funds made available under title II of WIOA to carry out a program for criminal offenders within a correctional institution, the eligible agency will give priority to serving individuals who are likely to leave the correctional institution within five years of participation in the program. **Yes**

## **Program-Specific Requirements for Vocational Rehabilitation (Nebraska VR)**

The Vocational Rehabilitation (VR) Services Portion of the Unified or Combined State Plan\* must include the following descriptions and estimates, as required by section 101(a) of the Rehabilitation Act of 1973, as amended by WIOA:

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\* Sec. 102(b)(D)(iii) of WIOA

### **a. Input of State Rehabilitation Council (Nebraska VR)**

All agencies, except for those that are independent consumer-controlled commissions, must describe the following:

#### ***1. State Rehabilitation Council***

input provided by the State Rehabilitation Council, including input and recommendations on the VR services portion of the Unified or Combined State Plan, recommendations from the Council's report, the review and analysis of consumer satisfaction, and other Council reports that may have been developed as part of the Council's functions; (Nebraska VR)

The State Rehabilitation Council (SRC) is made up of individuals from across the state that have an interest in working with Nebraska VR to ensure that the needs of Nebraskans who experience a disability are being met in the most effective and efficient manner possible. Council members review, analyze and advise Nebraska VR regarding the agency's performance. They also help develop, agree to, and review the agency's goals and priorities. The SRC developed the following mission statement: "The State Rehabilitation Council recommends and advises Nebraska VR for the purpose of ensuring quality employment services for Nebraskans with disabilities." This report covers SRC meetings and recommendations from October, 2013 through September, 2015.

The Council is composed of 3 subcommittees: Client Services, Employment and Transition. Each SRC member selects a subcommittee to participate in based on their interests and background. These committees provide the Council members the opportunity to focus and provide feedback on topics relevant to their individual group.

- The Client Services Committee provided feedback on client satisfaction surveys, services to VR clients and recommended cultural awareness training and technical assistance on materials and outreach strategies directed toward Nebraskans who are deaf and hard of hearing and the Latino populations. The Client Services Committee formed the subcommittee, Consumer Input Committee, as another avenue to gather feedback and recommendations. The Consumer Input Committee consists of past and present clients of Nebraska VR. This year the Consumer Input Committee reviewed: 1)

Discover the Job that Works for You booklet section Individualized Plan for Employment (IPE) Important Information for You, 2) Application: section Understanding Your Rights as an Applicant, 3) Marketing: Magnet Promotional Item Survey and Nebraska VR bus advertisements, and 4) MyVR Survey.

- The Employment Committee selected the Entrepreneur of Distinction Annual Award winners, discussed and provided feedback on VR job placement services, job seeking training, Certificate Programs and Project Search.
- The Transition Committee focused on policies and procedures relating to high school aged clients and families including discussions on pre-employment transition services as defined in WIOA.

### **SRC Input**

The VR Director provided information on the Workforce Innovation and Opportunity Act (WIOA) and the State Plan process. The SRC discussed and provided input on the long-term vision and goals of the State Plan. The SRC was in support of the comments developed and submitted by Nebraska VR on the WIOA draft regulations.

SRC members provided input on many issues including: educating the public about VR, marketing materials and brochures, and internal and external agency websites, VR's internal data dashboard that displays information on client expenditures, placement by primary occupation, plans, eligibilities and outcomes by individual counselors, teams, and statewide. The VR and SRC websites were updated and redesigned to be compatible with mobile devices and compliant with Section 508.

The SRC provided input on client engagement initiatives, i.e., MyVR, an on-line application to enhance communication with clients, a tool to increase client engagement by providing greater access to their VR counselor and their case information. In addition, the SRC reviewed and supported the 30-day client contact standard which is the minimum amount of time that a client should be contacted.

The SRC unanimously supported the continuation of FedEx days and the creative ideas that are generated by VR staff. FedEx days was enacted several years ago to provide VR staff the opportunity to share and create ideas to improve Nebraska VR. FedEx days provides time for VR employees to work on problem solving for the agency, i.e., the Lincoln VR Office purposed and eventually developed a tool to assist with job placement giving staff the ability to search their caseloads by employment goal when working with employers.

## 2. *Designated State Unit*

The Designated State unit's response to the Council's input and recommendations; and (Nebraska VR)

### **SRC Recommendations**

- The SRC supported VR's efforts to improve engagement of individuals in the VR Process through the Meet You Were You Are initiative, a rapid engagement model, and stressed the importance of using surveys to gauge how Nebraska VR is meeting client needs. Therefore, client satisfaction surveys were revised to get more detail as to why jobs ended.
- The SRC provided feedback and supported combining the VR Adult and Transition workbooks that explore client interests, assets, work history and employment needs used to develop the Individualized Plan for Employment. The SRC recommended adding Benefit Analysis to the booklet.
- The SRC provided feedback and suggestions to make the VR Transition pamphlets more user-friendly language by eliminating VR terminology.
- The SRC suggested that VR explore opportunities to increase the number of Native Americans with disabilities being served. With the only Vocational Rehabilitation Services Project for American Indians with Disabilities in Nebraska no longer funded, VR will approach other eligible tribes and organizations to apply for AIVR grants.

The agency agreed with all the input and recommendations and will take or has taken necessary action to implement.

### **SRC Annual Events**

Entrepreneur of Distinction Awards: The SRC selected and recognized Nebraska VR clients who were successful in their self-employment ventures. The SRC held the award ceremony during October to coincide with Disability Awareness Month and the quarterly SRC meeting. This allowed more SRC members to also attend the ceremony. The Nebraska Commissioner of Education recognized the following Entrepreneur of Distinction award winners:

- Charlene Potter of Rosewood Environmental Art in Omaha is an artist who paints and sculpts.
- Lee Krumm of Midwest Auto Salvage in Lincoln salvages auto parts.
- Dan Hromus of Prairie Pride Poultry in York provides healthy, farm fresh eggs to consumers.

The Alumni Entrepreneur of Distinction Award winners recognizes previous winners who have successfully maintained their business for at least 3 years:

- Jessica Goeden of Healthy Paws in Norfolk has a pet-grooming business.
- Nathan Chandler of 40 Nights Photography in Lincoln is a photojournalist.

VR Awareness Activity for Legislators: SRC Member Brad Meurrens, Disability Rights Nebraska, provided training to the SRC on strategies and techniques to educate State Legislators on employment and vocational rehabilitation services. The SRC members put what they learned into immediate action when visiting State Senators or aides.

### ***3. Explanations***

The designated State unit's explanations for rejecting any of the Council's input or recommendations. (Nebraska VR)

The agency did not reject any of the SRC's input or recommendations.

#### **b. Request for Waiver of Statewideness (Nebraska VR)**

When requesting a waiver of the statewideness requirement, the designated State unit must identify the types of services to be provided by the program on a non-statewide basis. The waiver request must also include written assurances that:

##### ***1. Non-Federal share of costs***

A local public agency will provide the non-Federal share of costs associated with the services to be provided in accordance with the waiver request; (Nebraska VR)

Nebraska VR is not requesting a Waiver of Statewideness.

##### ***2. Proposed Service***

The designated State unit will approve each proposed service before it is put into effect; and (Nebraska VR)

Not applicable

##### ***3. All State Plan Requirements will Apply (Nebraska VR)***

Requirements of the VR services portion of the Unified or Combined State Plan will apply to the services approved under the waiver.

Not applicable

**c. Cooperative Agreements with Agencies not carrying out Activities under the Statewide Workforce Development System. (Nebraska VR)**

Describe interagency cooperation with and utilization of the services and facilities of agencies and programs that are not carrying out activities through the statewide workforce development system with respect to:

***1. Federal, State, and Local Agencies and Programs; (Nebraska VR)***

Nebraska VR seeks to work cooperatively with numerous other state and local agencies and programs. Collaborative efforts are manifested through coordinated committees throughout the state with Nebraska VR state office and local field staff actively participating. Examples of the committees Nebraska VR serves on includes, but are not limited to, Nebraska Planning Council on Developmental Disabilities, State Advisory Council on Mental Health Services, Nebraska Special Education Advisory Council Standing Committees on 1) Autism Spectrum Disorders, 2) Out of Home Placements (OHP), 3) Transition, 4) Deaf and Hard of Hearing, 5) Nebraska Youth Leadership Council, Nebraska Brain Injury Advisory Council, Local Community Resource Committees, Madonna Community Advisory Council, Assistive Technology Partnership (ATP) Advisory Council, Alternative Finance Loan Advisory Council, Nebraska Children's Commission Juvenile Services Committee, Protection and Advocacy for Individuals with Mental Illness Advisory Council, Prevention Partnership with the Nebraska Children and Families Foundation, and local Chambers of Commerce, etc.

Nebraska VR maintains interagency agreements with Nebraska Health and Human Services, Nebraska Commission for the Blind and Visually Impaired, and the Veterans Administration-Vocational Rehabilitation and Employment Program for purposes of providing an understood and coordinated effort to achieve employment goals for persons with disabilities.

Nebraska VR maintains written agreements with the following programs to coordinate efforts and services to assist persons with disabilities to achieve employment success. These following agencies represent various locations throughout the state and serve individuals experiencing a variety of disabilities such as severe and persistent mental illness, developmental disability, brain injury, learning disability, autism spectrum disorders, and those experiencing multiple disabilities.

Liberty Centre Services Employment Program, Cirrus House, Inc., Goodwill Industries of Greater Nebraska, Goodwill of the Great Plains, Vocational Development Center Inc., Community Options Individual and Family Services, Mental Health Association of Nebraska, Community Alliance Rehabilitation Services, Mosaic, Douglas County Correctional Services, Developmental Services of Nebraska, Vital Services, Employment Works, Inc., Region V Services, Resources for Human Development, Inc. Integrated Life Choices, Eastern Nebraska Community Office of Retardation, Rainbow Center, Turley Employment Services, Ability Building Services, Easter Seals Nebraska, Abilities Fund,

North Star Services, North Platte Opportunity Center, Black Hills Workshop and Training Center, Ollie Webb Center, Inc. and The Autism Center of Nebraska.

Project Search agreements are maintained with these business and high schools:

**Businesses:** Cabela's, Walmart Distribution Center, Embassy Suites Downtown Omaha, Embassy Suites La Vista and Embassy Suites Lincoln, PayPal, Valmont Industries, Faith Regional Hospital, St. Francis Hospital, Mercy Medical Center, Mary Lanning Health Care, St. Elizabeth's Hospital, Children's Hospital, Columbus Community Hospital, Monroe Meyer Institute, Nebraska Medicine, York Health Care and Good Samaritan Hospital.

**Schools:** Bellevue Public School, Columbus Public Schools, Kearney Public Schools, Lincoln Public Schools, Madonna School, Millard Public Schools, Norfolk Public Schools, North Platte Public Schools, Omaha Nations Public Schools, Omaha Public Schools, Papillion LaVista School District, Westside Community Schools, Winnebago Public Schools, Norris Public Schools, Waverly Public Schools, York Public Schools and Educational Service Units 1, 2, 6, 7 & 9.

To maximize limited resources and assist individuals to access other programs which can provide needed services essential to individuals achieving employment, Nebraska VR works cooperatively with and utilizes numerous services and facilities within the state. These services and facilities include Centers for Independent Living, the Parent Information and Training Center, Apprenticeship Program, schools, Educational Service Units and employers.

## ***2. State Programs Carried Out Under Section 4 of the Assistive Technology Act of 1998; (Nebraska VR)***

Nebraska VR provides a grant to the Assistive Technology Partnership (ATP) to offer rehabilitation technology assessment, assistive technology use services, rehabilitation engineering, and rehabilitation technology repair services to clients throughout the VR process. ATP and VR have established policies and procedures for these services. ATP staff are co-located in most of the Nebraska VR field offices.

Nebraska VR contracts with Easter Seals Nebraska for benefits analysis, post successful employment outcome follow-up, and conducts our client satisfaction survey.

## ***3. Programs carried out by the Under Secretary for Rural Development of the United States Department of Agriculture; (Nebraska VR)***

Nebraska VR works cooperatively with and utilizes Rural Economic Area Partnerships, and other programs carried out by the Under Secretary for Rural Development of the United States Department of Agriculture, when these programs and resources are available to local communities for economic development, and to the extent such cooperation and utilization is permissible under the Rehabilitation Act, as amended.

#### ***4. Noneducational agencies serving out-of-school youth; and (Nebraska VR)***

With respect to non-educational agencies serving out-of-school youth many of the programs listed above serve this population.

#### ***5. State use contracting programs. (Nebraska VR)***

The State of Nebraska does not have a state use contracting program.

### **d. Coordination with Education Officials (Nebraska VR)**

Describe:

#### ***1. DSU's plans (Nebraska VR)***

The designated State unit's plans, policies, and procedures for coordination with education officials to facilitate the transition of students with disabilities from school to the receipt of VR services, including pre-employment transition services, as well as procedures for the timely development and approval of individualized plans for employment for the students.

The Office of Special Education, under the Nebraska Department of the Education, is responsible for the provision of a free and appropriate public education. Nebraska VR is the adult service agency responsible for providing vocational rehabilitation services. There is a current interagency agreement to facilitate the transition of students receiving special education services which will be revised when final regulations are issued.

Nebraska has a strong tradition of local control with over 250 local school districts offering secondary education. Most districts are small, enrolling fewer than 100 secondary students, and having less than 10 students with disabilities. Nebraska has VR Specialists assigned to each of the Nebraska high schools partnering and collaborating with school staff in providing transition services including pre-employment transition services. Nebraska VR's policies and procedures are consistent with the Act's timely expectation for the development and approval of individualized plans for employment for all students.

#### ***2. Information on the formal interagency agreement with the State educational agency with respect to: (Nebraska VR)***

##### **A. Transition of students with disabilities**

Consultation and technical assistance to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including VR services; (Nebraska VR)

Once final regulations are issued, the agreement with the Nebraska Department of Education will be revised to outline the consultation and technical assistance needed to

assist local educational agencies and Educational Service Units in planning for Pre-Employment Transition Services and the transition of students with disabilities from school to post-school activities, including employment, post-secondary education, vocational rehabilitation services, or services from an appropriate adult service agency.

## **B. Transition Planning**

Transition planning by personnel of the designated State agency and educational agency that facilitates the development and implementation of their individualized education programs; (Nebraska VR)

Transition partnership planning occurs with schools, Educational Service Units, and VR at the local level. This planning promotes a coordinated effort between the local school, ESU, and the local VR Office. The planning process identifies the nature and scope of services the local VR Office will provide in coordination with the efforts of the school and/or ESU. The process addresses the schedule of events and activities, expected outcomes, and a process to evaluate the effectiveness of the partnership. Nebraska VR will develop local interagency agreements with school districts and Educational Service Units to address the coordination of the provision of Pre-Employment Transition Services (PETS) to students with disabilities and the joint responsibilities of each agency in providing and paying for PETS and transition services.

## **C. Roles and Responsibilities**

Roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services; (Nebraska VR)

Once final regulations are issued, VR and the Nebraska Department of Education intend to refine the respective roles and fiscal responsibilities in the provision of transition services including pre-employment transition services. VR has worked closely with the Special Education Office, i.e., providing cross-training to schools, Educational Service Units, and VR staff about the provisions to WIOA pertinent to transition services, and jointly developed a Transition Planning Guide for use by school staff, agency staff, parents, and students to help guide the transition process.

## **D. Outreach**

Procedures for outreach to and identification of students with disabilities who need transition services. (Nebraska VR)

Outreach and identification efforts are directed to special education, vocational education, guidance counseling, school nursing, and school personnel having knowledge of students with disabilities, including those not receiving special education services. In addition outreach efforts are made to students with disabilities and their parents.

Following are examples of transition services outreach and collaboration:

- Nebraska VR serves on the Nebraska Department of Education's Special Education Advisory Council Committees on 1) Autism Spectrum Disorders, 2) Out of Home Placements (OHP) Committee, 3) Transition, 4) Deaf and Hard of Hearing, 5) Youth Leadership Council. These committees meet throughout the year to share information, identify issues, and coordinate secondary education and transition services for students with disabilities.
- Nebraska VR and the Nebraska Department of Education-Special Education co-funds a Youth Leadership Facilitator and a Nebraska Youth Leadership Council.
- Serving on the statewide Nebraska Youth Leadership Council provides an opportunity for youth with disabilities to develop leadership skills and promote self-advocacy. The Council works with youth and organizations across the state to promote the Council's goals and activities and the maintenance of regional councils. There are five regional councils across the state and each council meets four times throughout the year and all councils come together for a statewide meeting in the summer. Council members reach out to students and youth with disabilities as well as to community members to highlight and promote awareness of disability rights issues.
- Nebraska VR provides financial support and consultation for five regional Transition Youth Conferences for students, aged 16-21, hosted at local community college sites. The conferences focus on employment, post-secondary educational opportunities, self-advocacy, utilizing community supports, and assistive technology. The students are exposed to a variety of interactive and informative discussions and activities to prepare for learning, working, and navigating as a young adult in the real world.
- In an interagency collaborative effort, Nebraska VR partnered with Department of Education-Special Education, ESUs, Disability Service Offices at Institutes for Higher Education, and PTI Nebraska to participate in a Capacity Building Institute hosted by the National Secondary Transition Technical Assistance Center. Work has continued at a local level to develop a tool, which will help professionals, parents and students answer critical questions about the coordination of services and access to resources surrounding the five core PETS activities.
- Nebraska VR is providing financial support to the Department of Education - Career Education to provide training to guidance counselors and special education staff regarding the Career Pathway Advancement Project (CPAP) grant. The Career Education office will educate high school staff regarding the training and employment opportunities for students when referred to Nebraska VR Career Pathway Recruiters. Local school staff will also be made aware of the grant by VR staff that work with transition students within the high schools. This will encourage referrals to Nebraska VR for students interested in career pathway advancement.
- The Assistive Technology Partnership/Education receives funding from Nebraska VR for the AT Education Specialists to focus on transition youth and coordinate services with Nebraska VR offices. The Education Specialists host technology conferences, participate in self-advocacy workshops, provide AT demonstrations

and individualized services and AT recommendations to transition youth across the state.

- Nebraska VR supports 17 Project SEARCH sites across the state. Consistent with the national model, Project SEARCH is a partnership between Nebraska VR, a business, area school systems, the Commission for the Blind and Visually Impaired, Assistive Technology Partnership, and Division of Developmental Disabilities. The one year school-to-work program is business led and takes place entirely in the workplace. The experience includes a combination of classroom instruction, career exploration, and hands-on training through worksite rotations. While completing the rotations, the students have the opportunity to gain transferable skills, practice self-advocacy and demonstrate work readiness. Nebraska's Project SEARCH programs are hosted in a variety of businesses including hotels, hospitals, retail and distribution.

**e. Cooperative Agreements with Private Nonprofit Organizations (Nebraska VR)**

(Formerly known as Attachment 4.8(b)(3)). Describe the manner in which the designated State agency establishes cooperative agreements with private non-profit VR service providers.

Nebraska VR has written procedures for establishing written agreements with service providers, including private nonprofit vocational rehabilitation service providers. These procedures emphasize the role of local VR offices in identifying needs for specific vocational rehabilitation services responsive to the needs of persons with significant disabilities in their areas. They also emphasize the role of local VR and community rehabilitation staff in monitoring the agreements, including usage and effectiveness of services.

Background screening is required for all individual providers with written agreements who provide job coaching, independent living skills exploration and training, supported employment, and self-employment consultation. Providers who employ individuals who deliver services requiring background screening must furnish written assurances that those employees have not been convicted of a felony or misdemeanor involving neglect and/or abuse of a child or vulnerable adult before the written agreement is approved.

Currently, Nebraska VR does not have any formal Cooperative Agreements that utilize state and local dollars for matching federal funds.

## **f. Arrangements and Cooperative Agreements for the Provision of Supported Employment Services (Nebraska VR)**

(Formerly known as Attachment 4.8(b)(4)). Describe the designated State agency's efforts to identify and make arrangements, including entering into cooperative agreements, with other State agencies and other appropriate entities in order to provide supported employment services and extended employment services, as applicable, to individuals with the most significant disabilities, including youth with the most significant disabilities.

On the state level, Nebraska VR works collaboratively with the Nebraska Department of Health and Human Services Divisions of Developmental Disabilities Services and Behavioral Health Services to coordinate the system of service delivery for supported employment services. While the funding models for supported employment services in these two systems are different, both models contain performance-based provisions.

The Health and Human Services Division of Developmental Disabilities has expanded supported employment opportunities through its Community Supports Program (CSP). This program option allows clients and their families to hire private individuals, not associated with any agency, to serve as a job coach to help the individual achieve a supported employment outcome. Nebraska VR developed policies to support this effort and to financially participate in this innovative supported employment option.

The Autism Center of Nebraska has successfully provide supported employment and job coaching for individuals with Autism Spectrum Disorders under a performance-based contract. The Autism Center self-funds extended services.

At the local level, Nebraska VR enters into written agreements for the provision of supported employment services with financial assistance provided by Nebraska VR. These agreements are used with public or private non-profit community rehabilitation programs and private for-profit entities providing supported employment services. Nebraska VR maintains written procedures for entering into these agreements.

Each agreement describes the time-limited services that will be provided to eligible persons with the most significant disabilities using funds from Nebraska VR prior to the transition to extended services.

Cooperating organizations must assure the availability of the minimum extended services of (1) twice monthly monitoring at the work site of each individual to assess job stability and (2) based on that assessment, coordination or provision of specific services needed to maintain job stability. If off-site monitoring is determined to be appropriate, then each month, there must be two contacts with the employed person and, if the person has disclosed their impairment to their employer, one contact with the employer each month. These mandatory extended monitoring services apply to all agreements.

## **g. Coordination with Employers (Nebraska VR)**

(Formerly known as Attachment 4.8(b)(5)). Describe how the designated State unit will work with employers to identify competitive integrated employment and career exploration opportunities in order to facilitate the provision of:

### ***1. VR services; and (Nebraska VR)***

In Nebraska, coordination with employers is essential to creating competitive integrated employment and exploration opportunities. In an effort to increase the partnerships Nebraska VR has with employers, the following activities have been implemented:

#### **“Meet You Where You Are” Model**

Nebraska VR has engaged in a dual customer approach to the provision of employment-related services for many years as embodied in its mission statement, “We help people with disabilities prepare for, obtain, and maintain employment while helping businesses recruit, train, and retain employees with disabilities.” This has led to a job-driven approach in Nebraska VR’s development of customized training programs such as Project SEARCH, Certificate Programs, and On the Job Evaluation and Training sites. Nebraska VR recently extended the job-driven emphasis with the implementation of a “Meet You Where You Are” model that includes a rapid engagement (Progressive Employment) focus engaging individuals in an element of work as quickly as possible. VR staff are actively involved in the recruitment and support of businesses to partner with VR on rapid engagement activities.

#### **Business Account Managers and Placement Specialists**

Nebraska VR created three new positions during the spring of 2015. The primary responsibility of these new Business Account Managers (BAMs) is fostering relationships with current and prospective business partners. As the BAMs meet with employers, the focus is not only on current hiring needs but also on exploration of opportunities that may eventually lead a client to employment. These coordinated exploration opportunities include but are not limited to: On the Job Evaluation (OJE), mock interviews, and company tours. Over time, Nebraska VR will consider increasing the number of BAMs available in the state.

Nebraska VR Placement Specialists are available across the state to assist individuals with disabilities find and keep jobs. The Placement Specialists work with clients and businesses to ensure appropriate supports are available for job seeking and job retention.

Placement Specialists and BAMs enter business information into an electronic Employer Contact application. This application is accessible to all Nebraska VR staff. It not only provides the agency with “business memory,” it also allows Nebraska VR to track employer contacts and the variety of career exploration activities each business is willing to complete.

Nebraska VR's Talent Bank is another resource available to staff. The Talent Bank can graphically display aggregate information from the case management system by client job goal. This allows teams to strategically target employers by sectors in response to the number of job goals presented.

As the BAMs and Placement Specialists are meeting with employers, anecdotal labor market information is gathered. Employers are sharing current hiring needs with VR staff. The use of anecdotal and real time labor market information is an important component of Nebraska VR's work to support businesses.

### **Career Pathway Advancement Project**

Nebraska VR is a recent recipient of a Career Pathway grant. The Career Pathway Advancement Project represents the next evolution of vocational rehabilitation by proactively improving the likelihood of economic self-sufficiency for individuals with disabilities, including youth with disabilities. The project will build off of existing Department of Labor career pathways initiatives in Information Technology, Manufacturing, Transportation, Distribution and Logistics. It will expand partnerships with other agencies including Easter Seals Nebraska, Assistive Technology Partnership, Nebraska Department of Education (NDE) Career Education and the Institute for Community Inclusion. Ultimately the project will allow VR eligible individuals over the course of the project to access career pathway partnerships with businesses and educational institutions. A proven Upskill/Backfill business model will be used to create opportunities for former VR eligible individuals to advance their careers and open up new opportunities for other VR eligible individuals.

### **Customized Employment**

Impending changes in Section 511 of WIOA and Nebraska's experience in working with individuals with significant disabilities, lead to the conclusion that an emphasis on Customized Employment can increase the opportunities for successful employment and expanded partnerships with employers. In order for Nebraska VR to be successful in the implementation of Customized Employment services for individuals with significant disabilities, Nebraska is receiving intensive technical assistance and training from the Institute for Community Inclusion (ICI) in the following areas: 1) strategies to increase employer awareness and acceptance of a Customized Employment approach and 2) training to VR staff at all levels to develop the necessary skills, knowledge and buy-in to the Customized Employment approach and to work with businesses to negotiate customized employment opportunities.

### **ADA and Section 503 Training**

There are a variety of opportunities available for Nebraska VR to present ADA and Section 503 information to businesses. Nebraska VR maintains membership with fourteen Chambers of Commerce across the state. VR staff have presented at ADA conferences and hosted National Disability Employment Awareness Month forums.

## **NET and TAP**

Nebraska's Program Director for Employment Services is a National Employment Team (NET) contact. Nebraska's NET contact receives timely information about national job openings and partnerships and participates in face-to-face business meetings. Nebraska VR staff receive information/training specific to the Talent Acquisition Portal (TAP) and its benefits are shared with businesses.

## **2. *Transition Services***

Transition services, including pre-employment transition services, for students and youth with disabilities. (Nebraska VR)

### **Work Based Learning Experiences**

Many of the activities highlighted under (1) VR Services also enhance Nebraska VR's transition services, including pre-employment transition services. For example, as the Business Account Managers are working with employers, opportunities for students and youth are also explored. These work-based learning opportunities may include informational interviews, job shadows, company tours, On-the-Job Evaluation and Training, internships, and placement assistance.

### **Certificate Programs**

For the past several years, Nebraska VR has developed and maintained Certificate Programs. These Certificate Programs provide hands-on training for students and youth with disabilities (adult VR clients may also enroll). The specialized training results from a partnership with local Nebraska VR service offices, three to five core business partners in the area, a community college and local schools. Students take classes, tour businesses and either work part-time or participate in an internship with employer partners. The programs are business-driven, short term, real life trainings that teach both technical hard skills and soft skills. Each training opportunity gives the students an opportunity to acquire the skills that they need to pursue in-demand jobs and careers. To date, the Certificate Programs offered include: Electrician Helper, Welding, Auto Mechanic Helper, Construction, HVAC Helper, Para-educator, and Community Health Worker. Nebraska VR will explore increasing the number of Certificate Programs available in the state.

### **Project SEARCH and Business Advisory Councils**

There are currently 17 Project SEARCH sites in Nebraska. Consistent with the national model, Project SEARCH is a partnership between Nebraska VR, a business, area school systems, the Commission for the Blind and Visually Impaired, Assistive Technology Partnership, and Division of Developmental Disabilities. The one year school-to-work program is business led and takes place entirely in the workplace. The experience includes a combination of classroom instruction, career exploration, and hands-on

training through worksite rotations. While completing the rotations, the students have the opportunity to gain transferable skills, practice self-advocacy, and demonstrate work readiness. Nebraska's Project SEARCH programs are hosted in a variety of businesses including hotels, hospitals, retail and distribution.

There are currently two Project SEARCH Business Advisory Councils (BAC) in Nebraska. The goal of the BAC is to broaden the program across a variety of industries, provide individuals with disabilities access to the resources they need to be successfully employed in a wide-range of fields and serve as a platform to further educate business professionals about the benefits of employing individuals with disabilities. The measurable goal is 100% employment of Project SEARCH intern participants. Between the two Nebraska BACs there are more than thirty businesses involved. Nebraska VR will consider increasing the number of Project SEARCH sites available in the state and will also consider the expansion of BACs.

## **h. Interagency Cooperation (Nebraska VR)**

Describe how the designated State unit will collaborate with the State agency responsible for administering each of the following programs to develop opportunities for competitive integrated employment, to the greatest extent practicable:

### ***1. The State Medicaid plan under title XIX of the Social Security Act; (Nebraska VR)***

Attachment 4.16-A of the State of Nebraska State Plan Under Title XIX of the Social Security Act defines the relationship between the state health and vocational rehabilitation agencies and grantees under Title V of the Social Security Act and their respective functions. The attachment addresses reciprocal referrals, liaison staff, confidentiality of information, funding and limitations, exchange of service reports and reviews.

### ***2. Services for individuals with developmental disabilities***

The State agency responsible for providing services for individuals with developmental disabilities; and (Nebraska VR)

Nebraska VR (VR) and the Nebraska Health and Human Services (DHHS), Division of Developmental Disabilities (DD) continue to co-fund milestone outcome payments for individuals with intellectual disabilities. VR maintains Service Agreements with DD approved community-based service providers.

VR and DD have not had an opportunity to meet and begin planning on the respective sections of WIOA that related to competitive integrated employment and competitive-integrated supported employment for individuals with intellectual disabilities. This delay is the result of a change in the Nebraska governorship, changes in the Nebraska Department of Health and Human Services agency directorship and division directors particularly with DD which has yet to select a permanent director. An initial conversation

with the DHHS Director found a willingness to work with VR on the WIOA related initiatives and in particular, services to individuals with intellectual disabilities prior to age 21.

### **3. *Mental health services***

The State agency responsible for providing mental health services. (Nebraska VR)

Nebraska VR (VR) and Nebraska Health and Human Services, Division of Behavioral Health Services (DBH) have developed a Memorandum of Understanding to provide braided funding for an outcome-based milestone system of supported employment for individuals with significant behavioral health disabilities. The negotiating team consisted of the Directors of VR and DBH along with their respective Program Managers and Fiscal Administrators. The tools used to arrive at the model included: reviews of the fidelity models, a signed agreement for sharing information on mutual clients, VR contract costs and the payments to supported employment providers from the six Behavioral Health Regions who receive their funding from the Division of Behavioral Health.

During this negotiating period, internal VR case reviews were performed on clients receiving supported employment services and program reviews were performed on the supported employment providers to assess the types of services being performed and their effectiveness. After consulting with other states including Maryland, Missouri, Kansas, Oklahoma and Indiana on milestone payment systems a braided funding system was developed. VR pays for three of the four milestones and DBH pays for one of the four milestones and all of the long-term supports. The implementation process included a pilot program to track the flow of payments, training for both VR staff and for providers. The Division of Behavioral Health instituted a “Supported Employment Payment Protocol Manual — Milestones and Payment for Services”. VR changed its Program Manual to reflect all of the changes. The new payment system was implemented starting October 1, 2014.

Regular communication is the key to keeping the model moving forward. VR case reviews and supported employment provider program reviews were conducted again during the summer of 2015. A report was written and overall recommendations were made for program improvement. DBH conducts fiscal audits and provider reviews.

VR teams have a designated liaison meeting at least monthly with the supported employment providers. The VR Program Manager and VR Office Directors meet quarterly with the supported employment providers.

**i. Comprehensive System of Personnel Development; Data System on Personnel and Personnel Development (Nebraska VR)**

(Formerly known as Attachment 4.10)). Describe the designated State agency's procedures and activities to establish and maintain a comprehensive system of personnel development designed to ensure an adequate supply of qualified State rehabilitation professional and paraprofessional personnel for the designated State unit, including the following:

**1. Data System on Personnel and Personnel Development (Nebraska VR)**

**A. Qualified Personnel Needs. (Nebraska VR)**

Describe the development and maintenance of a system for collecting and analyzing on an annual basis data on qualified personnel needs with respect to:

**i. Personnel and Individuals Served**

The number of personnel who are employed by the State agency in the provision of VR services in relation to the number of individuals served, broken down by personnel category; (Nebraska VR)

Nebraska VR (VR) maintains a system for collecting and analyzing data on qualified personnel needs which includes: the number of personnel currently employed by VR by personnel category, the number of positions currently available to VR by personnel category, and projections of the number of personnel who will be needed in 5 years by personnel category. The table summarizes this information for direct service personnel as of September 30, 2015:

***Direct Service Personnel Employees***

	Rehab Specialist	Service Specialist	Associates
Direct Service Personnel Employed	51.68	52.8	38.375
Personnel to Client Ratio after IPE	1:131	1:129	1:177
Personnel to Clients Ratio All Clients	1:185	1:217	1:296
Projected Staffing Requirements ( <i>All vacancies filled</i> )	54.68	61.8	39.938
Current Vacancies	3	9	1.563
Projected Replacement Needs (5 year total)	40	35	20

### *Non-Direct Service Personnel Employed*

	Senior Administrator	Program Directors Office Directors	Information Technology	Program Specialists Administrative Specialists Administrative Associates	Office Associates
Non-Direct Service Personnel Employed	1	22	7	9.6	1.13
Projected Staffing Requirements	1	22	9	10	1.13
Current Vacancies	0	0	2	0	0
Project Replacements (5 year total)	0	3	2	1	.565

#### *ii. Personnel needs by category*

The number of personnel currently needed by the State agency to provide VR services, broken down by personnel category; and (Nebraska VR)

See the two tables above.

#### *iii. projections of the number of personnel, broken down by personnel category, who will be needed by the State agency to provide VR services in 5 years based on projections of the number of individuals to be served, including individuals with significant disabilities, the number of personnel expected to retire or leave the field, and other relevant factors. (Nebraska VR)*

See the two tables above.

### **B. Personnel Development (Nebraska VR)**

Describe the development and maintenance of a system for collecting and analyzing on an annual basis data on personnel development with respect to:

#### *i. VR Professionals - Institutions*

A list of the institutions of higher education in the State that are preparing VR professionals, by type of program; (Nebraska VR)

There are no institutions of higher education in Nebraska receiving funds under Title III of the Rehabilitation Act to prepare vocational rehabilitation professionals in the disciplines designated in the Act.

With the proposed changes in CSPD requirements and hiring Bachelor's with paid and unpaid disability-related experience and Masters in other disability-related disciplines, requesting enrollment statistics from Nebraska post-secondary institutions' current bachelor and master's candidates in a number of disability and business/employment related disciplines is neither feasible nor helpful. Consequently, there is no personnel development data system on potential graduates.

***ii. VR Professionals - Enrollment***

The number of students enrolled at each of those institutions, broken down by type of program; and (Nebraska VR)

Not applicable

***iii. VR Professionals - Graduation***

the number of students who graduated during the prior year from each of these institutions with certification or licensure, or with the credentials for certification or licensure, broken down by the personnel category for which they have received, or have the credentials to receive, certification or licensure. (Nebraska VR)

Not applicable

***2. Plan for Recruitment, Preparation and Retention of Qualified Personnel***  
***(Nebraska VR)***

Describe the development and implementation of a plan to address the current and projected needs for qualified personnel including, the coordination and facilitation of efforts between the designated State unit and institutions of higher education and professional associations to recruit, prepare, and retain personnel who are qualified, including personnel from minority backgrounds and personnel who are individuals with disabilities.

There is a projected need to replace an average of 19-24 VR service delivery staff annually due to resignations and retirements over the next 5 years. With the passage of the Workforce Innovation and Opportunity Act and pending final regulations, it is difficult to predict the impact on personnel levels. The dual customer focus of serving both individuals with a disability and employers along with a heightened emphasis on providing pre-employment transition services to students with a disability and serving youth with a disability may have an impact on how staff are deployed, staffing levels, or a combination of both.

## Recruitment

The ability of Nebraska VR to recruit qualified specialists continues to be impaired by the absence of:

- (1) a federal traineeship support for a long-term rehabilitation training program in Nebraska,
- (2) the inadequate regional supply of qualified applicants with an obligation to the public vocational rehabilitation program, and
- (3) pending changes to 361.18 (c) (1) (ii) in the Act may somewhat change Nebraska VR's strategy for recruiting personnel having a 21<sup>st</sup> century understanding of the evolving labor force and needs of individuals with disabilities.

As previously stated, there are no institutions of higher education in Nebraska receiving funds under the Rehabilitation Act to prepare vocational rehabilitation professionals in the disciplines designated in the Act; however, Nebraska VR has had staff enrolled in programs located in other states.

Emporia State University attended one day of the FY2015 Nebraska VR State Training Conference to recruit Nebraska VR employees to the RC48 Online Masters Program. As a result, 7 employees enrolled in their program. Other staff have attended rehabilitation related programs with Drake University.

Nebraska Department of Education and Nebraska VR policy provide options to VR staff to request time or financial assistance for post-secondary education. Nebraska VR has provided non-paid internships to graduate and undergraduate students. Our most recent internship was Spring 2015 to a University of Wisconsin-Stout graduate student who was hired upon completion of the internship.

Qualified rehabilitation and service specialists are actively recruited from the Nebraska higher education institutions listed below as well as rehabilitation education programs located primarily in the Midwest. The agency supplements the distribution of Rehabilitation and Service Specialists' vacancy postings by the State Personnel Office by sending announcements directly to the following counseling programs.

In Nebraska, there are two programs accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP). They are the University of Nebraska at Kearney and the University of Nebraska at Omaha. Both programs offer an M.A. in Community Counseling.

- University of Nebraska at Kearney - Community Counseling
- University of Nebraska at Omaha - Community Counseling and School Counseling

There are 6 institutions of higher education, accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools that offer an M.A. in Counseling, Clinical Counseling, or Community Counseling. Because these are generic

counseling programs, the agency must conduct a transcript analysis to determine which applicants meet the Professional Counseling certification criteria.

- University of Nebraska Lincoln
- Creighton University
- Bellevue University
- Chadron State College
- Doane College
- Wayne State College

The following are rehabilitation education programs in adjacent and other Midwest states that the agency sends specialist vacancy announcements.

### **Master's Rehabilitation Programs**

- Adler School of Professional Psychology
- Drake University
- East Central University
- Emporia State University
- Langston University
- Maryville University of St. Louis
- Minnesota State University, Mankato
- St. Cloud State University
- University of Illinois Urbana
- The University of Iowa
- University of Northern Colorado
- University of North Dakota
- University of Wisconsin - Stout

### **Undergraduate Rehabilitation Programs**

- East Central University
- Emporia State University
- Southern Illinois University - Carbondale
- University of North Dakota
- University of Wisconsin - Stout

The agency annually participates in the Fall and Spring Career Fairs at the University of Nebraska Lincoln (UNL). This career fair, while held at UNL, is attended by students from most of the colleges in Nebraska. In addition, the agency also participates in Nebraska small college career fairs.

There is active recruitment of qualified personnel with disabilities and those from racial and ethnic minority. Our vacancy postings are listed with the Nebraska Latino-American Commission, the Ponca Tribe of Nebraska, the Urban League of Nebraska, the Nebraska

State Independent Living Council, five Nebraska Centers for Independent Living, and the Center for Independent Living in Council Bluffs, Iowa. In addition, an increased salary differential is offered to individuals who are bilingual or fluent in Spanish or American Sign Language (ASL). The agency currently has 16 minority staff. While we do have a number of staff with a reported or observed disability, we do not officially collect this information.

## **Retention**

The Director conducts video conversations with all new staff during the first month, fifth month (6-month probationary positions), and in the seventh month on the job (1 year probationary positions). The video conversations are an opportunity to:

- become acquainted with each new staff member and his/her background,
- provide an opportunity for a new staff member to ask questions and provide feedback,
- assess how a new staff member is progressing in his/her training,
- determine if a new staff member is finding his/her job to be what they expected and is consistent with how the job was presented, and
- demonstrate the agency's interest in his/her success.

The Director offers an opportunity to staff for face-to-face, one-on-one interviews. This is an opportunity for all staff to provide personal feedback on specific policies and procedures and to discuss their role on their team and in the agency. In addition, staff have an opportunity to anonymously post questions about policy, rumors, or any concern a staff member has to the Director on an internal website.

Nebraska VR offers staff flexible work schedule options which include, but are not limited to a 4 day workweek (10 hour workdays) and compressed workweek (four 9 hour workdays and one 4 hour workday). In some cases, the agency has approved a staff person moving to a part-time schedule. This option provides a measure of autonomy to staff in balancing work and family.

On-line exit interviews are offered to staff exiting the agency. The goal of the interview is to assess why people leave, look for trends, and to learn if there was anything the agency could have done to retain them.

### **3. *Personnel Standards (Nebraska VR)***

Describe the State agency's policies and procedures for the establishment and maintenance of personnel standards consistent with section 101(a)(7)(B) and 34 CFR 361.18(c) to ensure that designated State unit professional and paraprofessional personnel are adequately trained and prepared, including:

#### **A. National or State-approved or -recognized certification, licensing, registration**

Standards that are consistent with any national or State-approved or -recognized certification, licensing, registration, or other comparable requirements that apply to the profession or discipline in which such personnel are providing VR services; and (Nebraska VR)

Nebraska VR employs staff in 13 self-directed teams throughout the state to provide direct services and supports including financial assistance to help pay for the cost of services that are responsive to the unique needs and circumstances of each person with significant disabilities served.

During FY 2003, Nebraska VR implemented the new "VR Service Specialist" personnel classification. This position was created as the result of a Nebraska Department of Education position classification study based on job analyses of current job incumbents. The study found that the direct service work performed by Nebraska VR staff fell into three distinct classes of personnel instead of the two that existed. It was recommended that VR create a VR Service Specialist position classification located between the VR Associates and VR Rehabilitation Specialists positions comprised of job duties taken from the other two classifications.

#### **VR Associate and VR Senior Associate positions**

VR Associates provide direct support to teams serving persons with disabilities seeking employment. Their responsibilities include: monitoring persons with disabilities engaged in agreed on vocational rehabilitation plans, arranging and coordinating team activities, arranging and coordinating transportation, maintaining individual service record, and arranging financial assistance necessary to obtain agreed on goods and services from community providers.

#### **Associate academic degree standards**

There are no national or state approved or state-recognized standards applicable to the associate position. The highest entry-level academic degree required for comparable work in State Personnel requirements is the high school diploma. All currently employed associates meet or exceed this standard.

## **VR Service Specialist and VR Senior Service Specialist positions**

VR Service Specialists provide direct support to persons with disabilities seeking employment. Their responsibilities include: conducting orientation to Social Security benefits and benefits analysis, providing personal management training, social skills training, job placement assistance, job seeking skills training and other instruction of persons with disabilities using standardized curricula and instructional methods, and providing information about the purpose, nature, and scope of vocational rehabilitation services to persons with disabilities, service providers, and the general public.

### **VR Service Specialist academic degree standards**

There are no national or state approved or state-recognized standards applicable to the VR Service Specialist. The highest entry-level academic degree required for comparable work in State Personnel requirements is the baccalaureate degree. All currently employed VR Service Specialists meet this standard.

## **VR Rehabilitation Specialist and VR Senior Rehabilitation Specialist positions**

VR Rehabilitation Specialists make determinations and provide specialized direct services to persons with disabilities pursuing employment goals. Their responsibilities include: eligibility, Individualized Plan for Employment (IPE) and amendment approval, IPE progress, and employment outcome determinations, community assessment, career counseling, disability awareness counseling, personal adjustment counseling, rehabilitation engineering, independent living skill training, personal management training, social skills training, job placement assistance, and job retention assistance. These activities generally require independent complex decision-making and problem-solving based on extensive knowledge of disability, human behavior, the world of work, and the community.

To comply with the previous CSPD requirements prior to WIOA, Nebraska VR elected in 1983 to use the coursework requirements for a Nebraska Certified Professional Counselor under the Nebraska Uniform Credentials Act. (Neb. Rev. Stat. §38-2132). Note that while Nebraska VR uses this academic coursework criteria for hiring, the certification applies only to individuals providing mental health counseling and who identify themselves as a Certified Professional Counselors. Nebraska VR neither requires staff to obtain the credential nor holds its staff out to be Certified Professional Counselors.

Once final regulations are issued around the CSPD standards, Nebraska VR intends to work with the Nebraska Department of Education Human Resources Office to combine the current two VR Rehabilitation Specialist classifications with the two VR Service Specialist classifications to create a four-step classification career ladder for VR Rehabilitation Specialists. The subsequent classifications are expected to be VR Rehabilitation Specialist I, II, III, and IV. Newly hired Specialists would enter the classification career ladder step commensurate with meeting the minimum education and experience requirements for either VR Rehabilitation Specialist I (BA) or VR

Rehabilitation Specialist III (MA) and then progress up the career ladder based on time in grade, academic degree attainment and satisfactory performance. This career ladder has the potential of being a retention strategy to address a common comment on exit interviews on the lack of upward mobility within the agency.

## **B. Education and experience requirements**

the establishment and maintenance of education and experience requirements, in accordance with section 101(a)(7)(B)(ii) of the Rehabilitation Act, to ensure that the personnel have a 21st century understanding of the evolving labor force and the needs of individuals with disabilities. (Nebraska VR)

A 21<sup>st</sup> century understanding of the evolving labor force begins with an awareness that the workforce will continue to grow and reflect the increasing diversity of America. While increasing numbers of individuals with disabilities will be entering the labor force, such individuals currently remain a largely untapped labor source. Women's employment rates will rise while the employment rates for men will decline slightly. The percentage of individuals from minority groups entering the workforce will also grow.

The workforce will become increasingly urban and the manufacturing sector will slowly decline while the service-producing sector will grow as will e-commerce. Technology and globalization will continue to shape the labor force and require a workforce with highly technical skills. How quickly graduate rehabilitation programs will revise curriculum to prepare graduates in a 21<sup>st</sup> understanding of the evolving labor force remains to be seen. Consequently Nebraska VR must provide staff with timely training on Nebraska labor market information and trends, career pathways, the world of work and career connections in order to equipping VR staff with the knowledge to counsel individuals with disabilities in their pursuit of work and career and provide effective employment services. The outreach and partnership efforts of our Business Account Managers with Nebraska businesses will be also be critical to understanding their respective labor needs in order for VR to prepare, train and offer skilled applicants with disabilities.

#### 4. *Staff Development. (Nebraska VR)*

Describe the State agency's policies, procedures, and activities to ensure that, consistent with section 101(a)(7)(C) of the Rehabilitation Act, all personnel employed by the designated State unit receive appropriate and adequate training in terms of:

##### **A. System of staff development (Nebraska VR)**

a system of staff development for professionals and paraprofessionals within the designated State unit, particularly with respect to assessment, vocational counseling, job placement, and rehabilitation technology, including training implemented in coordination with entities carrying out State programs under section 4 of the Assistive Technology Act of 1998; and

Each team assesses the current knowledge, skill, and ability of the team and its members, and identifies the personnel development activities necessary to enable the team and its members to achieve their strategic and performance goals. These team level assessments are analyzed and integrated with a) statewide training needs identified by Program Directors in their specialty area, b) training needed to implement new innovative services, and c) needs indicated by objective program performance measures. The following summarizes significant staff development needs identified from these assessments.

Analysis of the assessments indicates the need for a long-term staff development strategy. In the absence of a long-term strategy, staff development becomes a series of one-time responses to immediate needs. A Program Director has been designated with the responsibility to work with the VR Leadership Council in the development of a long-term strategy.

For staff development purposes, the organizational knowledge and skill base is made up of the three major domains: Disabilities, Service Delivery Processes and Team Services. These domains are critical knowledge and skills shared by all team members. To effectively communicate among themselves, team members must possess knowledge of client disabilities and the way in which these impact the client, employment, and the provision of services. Every team member of the organization must understand the VR provided team services and possess knowledge of the service delivery system.

**Table 1. Organizational Knowledge and Skill Domains and Sub-domains**

- **Disabilities (team-based)**
  - Spinal cord disorders
  - Psychosis
  - Anxiety & personality disorders
  - Autism Spectrum Disorders
  - Alcohol & Drug
  - Musculoskeletal
  - Cognitive disabilities

- Endocrine & immune system disorders
- Central nervous system
- Circulatory & respiratory
- Amputations
- Hearing impairments
- Acquired Brain Injury
- Learning Disabilities
- Intellectual Disabilities
- **Service Delivery Processes**
  - VR Implementation Process
  - Motivational Interviewing
  - QE2 Training
- **Team Services**
  - Assessment/Vocational Evaluation
  - Benefits Orientation
  - Counseling
  - Placement
  - Rehabilitation technology
  - Independent living

## **B. Acquisition and dissemination of significant knowledge (Nebraska VR)**

Procedures for the acquisition and dissemination of significant knowledge from research and other sources to designated State unit professionals and paraprofessionals.

1. **New staff training.** There is an anticipated need for Nebraska VR to replace an average of 19- 24 staff annually due to resignations and retirements over the next 5 years. Until recently this turnover has primarily occurred among direct line staff. For the last three years, the agency experienced significant turnover among its administrative and management staff due to retirement. New hires through growth are a possibility given the emphasis of Title IV to serve businesses and to increase level of services to youth and students with a disability.

Nebraska does not have a Council on Rehabilitation Education (CORE) accredited, Rehabilitation Services Administration (RSA) assisted, graduate level rehabilitation education program preparing persons for practice in a rehabilitation discipline of counseling, evaluation or administration. In-migration of qualified personnel to fill vacant positions averages only about 1-2 per year. Consequently, newly hired VR Rehabilitation Specialists, VR Service Specialists, and VR Associates must be provided with intensive initial post-hire training to assure they possess critical performance related vocational rehabilitation knowledge and skills.

LINK is the State of Nebraska's online Human Capital Management program that will assist the state with Sourcing and Recruiting, Learning and Development, Employee Performance Management, On-Boarding & Benefits Enrollment, Succession Planning and Compensation Management. The component supporting Learning and

Development will be the Employment Development Center (EDC). EDC is an employee's "one-stop shop" for learning, employee performance management, and employee and employer succession planning. The State of Nebraska continues to make enhancements to LINK and Nebraska VR continues to explore ways to best utilize this system.

The agency continues to explore different ways of utilizing videoconferencing, podcasts, or streaming videos as a way to deliver timely training to new staff. Using media technology would allow the training to be accessed when most relevant to each new staff member. On-line training through Elsevier, Inc. is being implemented to support training new and existing staff on career planning, working with employers, and job placement activities.

2. **Training in team services.** There is a need for on-going training to enhance the ability of VR Rehabilitation Specialists, VR Service Specialists, and VR Associates to provide direct services and supports. Staff turnover also requires training new staff to provide the quality team services expected by the program.

Specific types of team services provided directly by our staff include: community-based assessment, career counseling, vocational evaluation, disability awareness counseling, personal adjustment counseling, independent living skill training, personal management training, social skills training, job placement assistance, and job retention assistance. Also included are: Social Security benefits orientation, job seeking skills training and other instruction of persons with disabilities, monitoring persons with disabilities engaged in agreed on rehabilitation plans, providing information, arranging, coordinating, and scheduling team activities, arranging, coordinating, scheduling, and providing transportation, developing, preparing, and maintaining individual service records, and arranging financial assistance to procure agreed on goods and services. Motivational interviewing training has been provided to current staff. New staff will receive the same training. This training is expected to enhance the staff's delivery of team services.

3. **Individual training.** Probationary and annual performance reviews include identifying individual training and development needs. Staff request to attend training not provided or sponsored by Nebraska VR will be approved based on what was identified in their performance review.
4. **Technology use training.** Training needs assessments show a broad and diverse range of training needs related to integrating technology into everyday service delivery in order to improve productivity, efficiency, and timeliness of services. Primary focus of the training has been and will continue to be on the use of iPads in case management and associated applications.

5. **Social Media.** This training will focus on the appropriate use of social media as an outreach strategy with clients, businesses, and the public.

### **System of personnel development**

1. New staff training will be provided to an estimated 19-24 new staff annually. This responds to the identified need to develop fundamental vocational rehabilitation knowledge and skill related to job performance in newly hired staff.
  - a. New employee training classes include the following:
    - i. VR Implementation Training (4 days)
    - ii. QE2- Case Management System (1 day)
    - iii. Motivational Interviewing (5 days)
2. Training in the functional aspects of disabilities, service delivery and team services will occur at the local office level utilizing workshops, distance learning, podcasts, and continuing education.
3. The EDC through LINK will be used to identify areas of individual development and performance improvement. The EDC responds to individual needs as well as organizational needs of succession planning, leadership development, and capacity building.
4. Acquisition and dissemination of significant knowledge from research and other sources to staff ensures access to new knowledge and learning in the field of vocational rehabilitation. The system of staff development must provide for the on-going renewal and updating of the entire organizational knowledge and skill base, requiring a long-range training plan.

### **5. *Personnel to Address Individual Communication Needs (Nebraska VR)***

Describe how the designated State unit has personnel or obtains the services of other individuals who are able to communicate in appropriate modes of communication with or in the native language of applicants or eligible individuals who have limited English speaking ability.

Nebraska VR, to the maximum extent possible, recruits and hires qualified personnel who are able to communicate in the native languages of applicants and recipients with limited English speaking ability. An increased salary differential is offered to individuals who are bilingual or fluent in American Sign Language (ASL). Interpreter services for persons with limited English speaking ability are obtained from agencies, vendors, ethnic organizations and advocacy groups. Nebraska VR has staff with sign language skills and staff fluent in a foreign language.

Deaf Services Unlimited and LanguageLine Services, Inc. are contracted with to provide on-demand and prior arranged interpreting services via video or phone. Deaf Services Unlimited provides video remote interpreting (VRI) and CART service while LanguageLine Services, Inc. provides VRI for sign language and video remote or phone interpreting for foreign languages. These remote services are provided when in-person interpreting services are not available. The State of Nebraska has recently passed

legislation requiring the use of only licensed sign language interpreters and licensed VRI businesses in Nebraska.

## ***6. Coordination of Personnel Development under the Individuals with Disabilities Education Act (Nebraska VR)***

As appropriate, describe the procedures and activities to coordinate the designated State unit's comprehensive system of personnel development with personnel development under the Individuals with Disabilities Education Act.

Nebraska VR coordinates with the Comprehensive System of Personnel Development under the Individuals with Disabilities Education Act (IDEA) by: (1) exchanging needs assessment findings in areas or topics of mutual concern, (2) exchanging schedules of training and personnel development activities, and (3) joint development of training programs of mutual concern and priority, and joint funding of trainer costs for conducting joint training, when appropriate.

### **j. Statewide Assessment (Nebraska VR)**

(Formerly known as Attachment 4.11(a)).

#### ***1. Needs assessment***

Provide an assessment of the rehabilitation needs of individuals with disabilities residing within the State, particularly the VR services needs of those: (Nebraska VR)

##### **A. Most significant disabilities**

With the most significant disabilities, including their need for supported employment services; (Nebraska VR)

The Comprehensive Statewide Assessment was conducted between October 1, 2013 and August 30, 2015 for Federal Fiscal Years 2016, 2017, and 2018. During this assessment period, the Workforce Innovation and Opportunities Act was passed July 2014 and proposed regulations issued April 2015. Final regulations are expected in the spring of 2016.

The State Rehabilitation Council (SRC) held 8 meetings during the assessment period. At each meeting, the SRC was apprised of and provided input on the assessment data, agency's activities, performance data, consumer satisfaction survey results, client issues addressed by the Client Assistance Program, agency's response to SRC recommendations and partnership updates including presentations by some of the partners. The SRC was updated on WIOA from its introduction, passage and the input Nebraska VR provided on the proposed regulations.

While the assessment is intended to help the VR agency establish its goals, strategies and priorities in addressing the rehabilitation needs of Nebraska's with disabilities in the next three fiscal years, the pending provisions of WIOA and the Rehabilitation Act will have the greater impact on the Nebraska VR program's goal and strategies.

### **Individuals with the most significant disabilities**

Major service needs include —

- ***Impact and challenge from changing demographics in serving individuals with the most significant disabilities.*** Nebraska continues to see a declining rural population. 59.95% of the state's population reside within 5 of the 93 counties. The agency must continue to look at how best to allocate staff resources throughout the state and adequately serve both population sets. As noted in the previous comprehensive assessment community resources and employment opportunities seem to follow the population shift. Individuals with serious mental health impairments continue to be the largest disability category being served by Nebraska VR.
- ***Challenge of locating, accessing and coordinating needed community services and supports.*** Consistent with prior comprehensive assessment of rehabilitation needs, individuals with the most significant work disabilities continue to have complex needs, complicated by poverty. Social services and support networks, both governmental and non-profit, have not been able to maintain much less increase service levels to meet these needs. The new governor and the legislature will be evaluating the previous trend of moving social services from local community offices to area call centers which has resulted in service access issues. However, Nebraska VR intends to maintain its strategic office locations across the state and travel to all counties.
- ***Access to supported employment extended supports for students with developmental disabilities desiring to exit high school at an age appropriate time.*** Extended supports are still not available for individuals with developmental disabilities under age 21 delaying their access to supported employment services. With the mandate to expend half of Title VI funds on youth with disabilities, Nebraska VR has approached and will continue to approach the Nebraska Department of Health and Human Services on strategies that will address that service delay. With a recent change in the governorship and newly hired administrators, Nebraska Department of Health and Human Services, the discussions have only just begun.
- ***Skill training services provided in integrated competitive employment and community settings.*** Many individuals with cognitive disabilities struggle with traditional post-secondary classroom and/or segregated training programs. In addition to On-The-Job Training services, Certificate Programs and Project Search sites have proven to be another successful alternative for adults and students to achieve employment without pursuing post-secondary training. The collaboration between businesses and community colleges in the Certificate Programs and business and high schools in the Project Search programs results in individuals

with cognitive and other impairments acquiring the desired work skills and jobs. Post-secondary training continues to be the highest expenditure category among the VR services as individuals choose careers and professions that require certificates and degrees. VR staff provides occupational information and Nebraska Labor Market data on demand occupations so clients can make an informed decision on their vocational goal.

- **Rehabilitation technology services to accommodate functional limitations.** Nebraska VR continues a strong ongoing partnership with the Nebraska Assistive Technology Partnership (ATP) that allows Nebraska VR to offer up-to-date and effective rehabilitation technology service to our clients throughout the VR process. In FY 2014, 478 clients were referred to and received services from ATP through our grant to the ATP program. The identification of solutions through a technology transfer approach has provided individuals with significant disabilities expanded opportunities for employment as reflected in our program's increase in successful employment outcomes. ATP staff are co-located in most of the VR services offices which facilitates this effective collaboration.
- ***Transportation for employment and independence.*** Nebraska's 88 rural counties lack transportation resources that limit the opportunities for employment and independence among persons with significant work disabilities. Resources for addressing this need vary by community and for the most part transportation services are viewed as likely areas for budget cuts. Private and non-profit transportation resources also struggle with maintaining service levels essential to the elderly and persons with significant disabilities even in the more populous counties and cities. An emerging trend among students and youths with disabilities is the lack of interest in obtaining a driver's license which contributes to the issue of transportation.

## **B. Minorities**

### **Who are minorities; (Nebraska VR)**

The state's population growth has continued to be primarily among minority racial and ethnic groups. The growth has occurred in the more populous Nebraska cities and counties. The Hispanic or Latino (of any race) population grew by 77% since the 2000 census and numbers 167,405, which is 9.2% of the state's population. It is estimated that by 2020, the Hispanic population in Nebraska will reach 242,531 and represent 12.5% of the state's population.

The Asian, non-Hispanic, population grew by 47% and represents 1.8% of the state's population based on the 2010 census and is projected to be the third fast-growing minority group in the state. The Black and African American population grew by 20.9% and represent 4.5% of the state's population. The White, non-Hispanic, population only increased by 0.4%.

Refugee Resettlement in Nebraska from 2000 to 2010, the most recently reported data, totaled 5,414 from 37 different countries.

Nebraska VR has met or exceeded the Standard/Indicator 2.1 six of the last seven years. Still, there is a need for Nebraska VR to be more effective in its outreach and marketing to diverse populations to improve minority referrals. While there are foreign language interpreters in the state, Nebraska VR has written agreements with two providers to provide phone and video remote foreign language services. These services can be pre-arranged or on-demand.

Nebraska VR will be working more closely with the Adult Education and Family Literacy programs which serve minority and refugee populations.

### **C. Unserved or underserved**

#### **Who have been unserved or underserved by the VR program; (Nebraska VR)**

SSDI and/or SSI recipients may be an underserved population by virtue of the fact that Nebraska VR's percentage of clients receiving SSDI and/or SSI is below the national and agency mean. However, SSA data indicates that the state's percentage of individual's age 18 - 64 on SSDI or SSI on the basis of a disability is also below the national average.

As previously mentioned, youth with intellectual disabilities who exit or would like to exit school at an age appropriate time are unserved until they reach the age of 21 and can then receive Developmental Disabilities services and supports. With the proposed WIOA regulations, Nebraska VR intends to approach the HHS-Developmental Disabilities program with a plan to serve these youth prior to age 21.

Strides have continued to be made in using screening tools and specialized vocational assessments to identify Nebraska VR clients with brain injury and other cognitive disorders in order to better align services and supports required to achieve employment. The identification and use of assistive technology options have also proven to be beneficial to individuals with a brain injury.

Nebraska VR received a TBI Implementation Partnership Grant from the Health Resources and Services Administration in June 2014. The purpose of the 4-year grant is to increase access to rehabilitation and community-based services for individuals with brain injury. Nebraska VR is the lead agency for brain injury in the state and collaborates with several other state agencies and programs to carry out grant-funded activities. While progress has been made, information collected is a part of this grant finds that there are still service gaps and resources that exist for this population.

Nebraska VR is also active in promoting services to individuals with Autism Spectrum Disorders, a disability population that continues to grow nationally and is now the fourth largest impairment group in Nebraska schools. Nebraska VR staff have attended the National Autism Leadership Summit, joined the State Autism Collaborative, trained vocational evaluators in best practices for vocational assessment for individuals experiencing autism spectrum disorders, and have presented at the ASD Network

Conference. Supported employment services to individuals with autism spectrum disorders have proven to be quite successful providing impetus to expand those services.

#### **D. Served through other components of the statewide workforce development system**

Who have been served through other components of the statewide workforce development system; and (Nebraska VR)

With the implementation of WIOA, it is expected that there will be a significant reversal of the decline in referrals to the VR program in recent years under the former workforce investment system. The major contributing factor was the move to on-line registration and on-line services at the One Stop Centers that was not adequately identifying applicants who had disabilities. The collaboration that has occurred among the core partners since the passage of WIOA has already resulted in a greater awareness of each core partners program and opportunities for reciprocal referrals and service coordination. Work is currently underway on the development of a common intake.

Nebraska VR staff will continue to serve on the new regional workforce boards which will now have a larger business representation. It is important that VR staff are aware of and promote among its clients, the jobs-driven, work-based learning, career pathways and industry sector initiatives put forth by the workforce development system.

#### **E. Youth and students with disabilities**

Who are youth with disabilities and students with disabilities, including, as appropriate, their need for pre-employment transition services or other transition services. (Nebraska VR)

The Nebraska Department of Education Statewide Count of Special Education Students by Impairment shows the four largest impairment groups continue to be Specific Learning Disability, Other Health Impaired, Intellectual Disabilities and Autism. While Nebraska has one of the highest 4 year high school graduation rates in the country (89.68%) and 6 year graduation rates (91.1%), there is still concern for those students who have dropped out of school or who graduate but do not make a successful transition to employment and independence and become involved within the Juvenile Justice system or dependent on public assistance. The provision of pre-employment transition services will hopefully lead to a more successful transition for all students and youth with a disability into employment and adult life.

Nebraska Department of Education Special Education Data by Impairment shows a three-year increase in the number of students identified as experiencing Autism. This identification is an educational diagnosis rather than a medically verified diagnosis. Regardless, individuals with Autism Spectrum Disorders experience difficulty in employment due to their social and communication skills and their repetitive and restricted behaviors and interests.

Nebraska VR has a significant presence in the high schools across the state assessing and counseling, attending IEPs and working with the schools and other community partners. This provides a foundation for developing and offering a wide range of Pre-Employment Transition Services.

On average, 35.4% of clients served by Nebraska VR are age 21 or younger when applying for VR services.

## ***2. Establish, develop, or improve community rehabilitation programs***

Identify the need to establish, develop, or improve community rehabilitation programs within the State; and (Nebraska VR)

Particular emphasis will be focused on establishing and developing supported employment services for youth exiting high school prior to age 21 and expanding supported employment services for individuals with autism spectrum disorders or acquired brain injuries.

Strides have been made in developing and improving evidence-based, flexible vocational skill training, behavior management, and rehabilitation technology services and supports to be provided in natural environments, including integrated competitive employment sites.

## ***3. Transition career services and pre-employment transition services***

Include an assessment of the needs of individuals with disabilities for transition career services and pre-employment transition services, and the extent to which such services are coordinated with transition services provided under the Individuals with Disabilities Education Act. (Nebraska VR)

See (j)(1)(E) above

## ***k. Annual Estimates (Nebraska VR)***

(Formerly known as Attachment 4.11(b)). Describe:

### ***1. The number of individuals in the State who are eligible for services; (Nebraska VR)***

The 2014 Annual Disability Statistics Compendium published by the Rehabilitation Research and Training Center on Disability Statistics and Demographics estimates of number of Nebraskans with a disability of any age in 2013 at 205,354. For the age range of 18 - 64 the estimate is 99,698 which represents 8.9% of the population for that age range. This places the State of Nebraska in the lowest prevalence range of 7.9% to 9.1%. By comparison, the other prevalence ranges are 9.1% to 10.5%, 10.5% to 12.6% and 12.7% to 18.1. The report estimates 45,352 individuals with a disability in the 18 - 64 year

age range are working in some capacity with approximately 12,064 of those individuals working full-time.

When also considering students and youth with a disability under the age of 18 and individuals over the age of 64 with a disability, the upper range of the number of individuals with a disability of working age falls between 118,500 to 123,700. Best guesstimate of the potential number of Nebraskans with disabilities who want to work and are eligible for services is 75,000 to 83,000. In reality, only 7 to 7.5% of the potential number of Nebraskans with disabilities will apply for VR services in FY 2017.

## ***2. The number of eligible individuals who will receive services under: (Nebraska VR)***

### **A. VR Program; (Nebraska VR)**

#### **Title 1, Part B**

The estimate of eligible individuals who will receive services with funds provided by Title I, Part B during FY 2017 is between 6,326 and 7,015. The estimate of case service expenditures for FY 2017 is between \$6,750,000 and \$7,250,000.

### **B. Supported Employment Program; and (Nebraska VR)**

#### **Title VI, Part B**

The number of individuals expected to receive supported employment services in FY2017 is expected to be between 758 and 875. This includes all individuals receiving supported employment services regardless of the funding source. Based on the last two years' expenditures, Nebraska VR will spend over \$1,000,000 for supported employment services which greatly exceed the Title VI grant of \$270,000.

### **C. Each priority category**

#### **If under an order of selection; (Nebraska VR)**

Nebraska VR is not currently under an Order of Selection and does not anticipate needing to go under an Order of Selection in FY 2017-2020.

## ***3. Eligible individuals not receiving services***

**The number of individuals who are eligible for VR services, but are not receiving such services due to an order of selection; and (Nebraska VR)**

Nebraska VR is not currently under an Order of Selection and does not anticipate needing to go under an Order of Selection in FY 2017-2020.

#### **4. *Cost of services eligible individuals not receiving services***

The cost of services for the number of individuals estimated to be eligible for services. If under an order of selection, identify the cost of services for each priority category. (Nebraska VR)

Nebraska VR is not currently under an Order of Selection and does not anticipate needing to go under an Order of Selection in FY 2017-2020.

### **1. *State Goals and Priorities (Nebraska VR)***

The designated State unit must:

#### **1. *Jointly developed (Nebraska VR)***

Identify if the goals and priorities were jointly developed and agreed to by the State VR agency and the State Rehabilitation Council, if the State has a Council, and jointly agreed to any revisions.

Nebraska VR's State Goals and Priorities have been aligned to the strategic vision of Nebraska for its Workforce Development System. The vision maintains a shared focus on seamlessly providing services to jobseekers, including individuals with disabilities, at all stages of employment and providing a trained and qualified workforce for businesses. The following aligned goals incorporate input from the State Rehabilitation Council provided during the August 2015 Council meeting.

### **2. *Goals and priorities***

Identify the goals and priorities in carrying out the VR and Supported Employment programs. (Nebraska VR)

#### **Goal 1. *Improve the communication between core partner programs and other key stakeholders to ensure coordinated and seamless services.***

*Continue participation on the Nebraska Partners Council.* The Partner Council represents program stakeholders in Nebraska's Workforce Delivery System model. The Nebraska Partner Council works to strengthen cross agency partnerships that focus on workforce solutions to ensure subpopulations are being afforded quality work opportunities and employers have a diverse and ready workforce. The Council is dedicated in finding employer identified skill gap solutions, resource solutions, work readiness solutions, and innovative workforce solutions while ensuring the needs of subpopulations are well represented. Members include the Nebraska Department of Education, Department of Labor, Department of Economic Development, Job Corps, Proteus (Migrant Seasonal Farmer), Indian Center, Department of Health and Human Services, Career Technical Education, Nebraska Community College Association, Adult Basic Education, Senior Community Services Program, Unemployment Insurance, Office of Employment and Training, Vocational Rehabilitation and Temporary Assistance for Needy Families. The Director of Nebraska VR will serve as the Chair of the Council beginning January 1, 2016.

*Continue to develop the interface for a common intake and reporting system and a process for sharing of information as necessary. Initial discussions have begun but are dependent on further guidance from RSA and DOL.*

*Increase the retention rate of VR staff to ensure the availability and participation of qualified rehabilitation counselors, evaluators and placement specialists enhancing the likelihood of coordinated and seamless services and improving communication by preserving established cross partner relationships. The agency will develop strategies to provide for a competitive salary for all positions, training to develop and maintain knowledge and skills, and flexibility to enhance autonomy as much as possible within a state agency environment.*

**Goal 2. Increase the workforce participation of individuals with disabilities through the provision of services and supports to prepare them for careers.**

*Maintain a high quality of service as measured by the rehabilitation rate and other VR program standards and indicators. Nebraska VR has maintained a rehab rate of over 66% the last two fiscal years. Until the final rules and regulations are issued, the agency will utilize the former VR standards and indicators to evaluate its success in maintaining or improving the quality of services.*

Increase the engagement of individuals with disabilities by employing motivational interviewing strategies, implementation of the Meet You Where You Are rapid engagement model, and the integration of technology, including MyVR and other social media.

Motivational Interviewing: Nebraska VR is committed to integrating motivational interviewing as a strategy to help consumers determine if they are ready to make decisions about the next steps to getting a job and as a strategy to keep consumers engaged in the process. This is a consumer-centered directive counseling approach to assist consumers to recognize and reduce barriers to change. Motivational interviewing has been shown to increase consumer motivation and promote more active participation in services.

Meet You Where You Are: MYWYA is a major initiative of Nebraska VR that captures how the agency intends to provide services to all individuals with disabilities who come to VR for services. The initiative respects that each individual comes with a different set of experiences, skills, knowledge and interests and uses that information to determine, in collaboration with the individual, what services are of most benefit. Instead of the traditional linear process, the agency aligns the strengths of the VR team and other resources in a way that recognizes the uniqueness of each individual and assists with achieving their employment goals in a timely manner. Rapid Engagement, based on Vermont's Progressive Employment model, is a tool or strategy, as an element of the MYWYA model that seeks to connect an individual with a business in the community as soon as possible. This could be a mock interview, an individual tour, volunteer work, an

on the job evaluation or on the job training. Rapid Engagement allows an individual to gain exposure to the world of work, acquire work experience, and creates an opportunity for the employer to get to know the individual without an obligation to hire. Rapid Engagement can also be a potential placement strategy as an employer may ultimately find the individual to be a good fit for their business.

MyVR and Social Media: Nebraska VR will continue to promote the use of MyVR, a consumer side social media-type application that allows for enhanced communication and engagement with staff and client access to selected case management information. MyVR was developed and piloted in partnership with ICI-UMass' Learning Collaborative under the auspices of the NIDILRR funded RTAC on VR Program Management. Nebraska VR will maintain its presence in other social media arenas such as LinkedIn, Facebook, and Twitter.

*Increase the participation of Native Americans in VR services.* The State Rehabilitation Council suggested that the agency explore opportunities to collaborate with any existing American Indian VR programs in Nebraska to increase the number of Native Americans with disabilities being served. The one existing program in Nebraska is no longer funded. The agency will identify possible partnerships to encourage other eligible tribes/organizations to apply for an AIVR grant as available.

*Collaborate with Workforce Development core partners on the development and availability of soft skills training for all individuals.* The core partners will explore the possibility of joint soft skills training. The potential collaboration could reduce duplication and increase the availability of training opportunities across the state.

### **Goal 3. Strengthen the alignment between education, training, and employer workforce needs.**

*Maintain the Business Account Manager model and consider expansion to other areas of the state.* Nebraska VR has hired Business Account Managers (BAM) in Omaha, Norfolk, and Kearney to establish relationships with businesses, trade associations, business, and human resources organizations to identify staffing patterns, skill requirements, support needs, training preferences, etc., to be an effective representative to Nebraska VR teams on behalf of businesses. The BAMs will seek out opportunities to establish work-based learning partnerships, OJE/OJTs, apprenticeships, and internships with businesses. These positions take a jobs driven approach in aligning the education and training requirements of businesses with the qualifications of VR eligible clients to better meet the workforce needs of employers.

*Maintain and expand the number of certificate programs that serve as an entry-level training program into an established career pathway.* Certificate Programs offer hands-on training programs for students and adults with disabilities. This opportunity results from a partnership with local Nebraska VR service offices, three to five core business partners in the area, a community college, and local schools. The businesses have common interests in the types of skills and abilities they need to fill job vacancies. Together, the

businesses work to identify exactly what they need in job candidates qualified to fill job vacancies. They can fit their hiring and retention needs with the opportunity to design a curriculum. The training includes soft skills training keying in on the basics of being on time and dependable. Work place communication skills are included. Students take classes, tour business, and either work part-time or participate in an internship with employer partners. The agency will look to expand partnerships across the state as well as beyond the current areas of auto tech, HVAC, welding, electrician and community health worker.

*Collect information on the business/employer level of satisfaction with VR services and programs.* Nebraska VR will reinstitute an employer satisfaction survey to provide feedback on business-focused initiatives. This will be revised at the issuance of federal guidance on the final employer measures under WIOA.

**Goal 4. Provide coordinated services that lead to gainful employment and the likelihood of economic self-sufficiency.**

*Move more individuals to economic self-sufficiency through the implementation of the Career Pathways Advancement Project.* The CPAP is funded under a grant from RSA and uses an “Upskill/Backfill” model to train individuals in emerging and growing industry sectors. Career Pathway Recruiters will contact 1,200 former VR clients now working in targeted industry sectors such as information technology, manufacturing, transportation, distribution and logistics, to inform them of an opportunity to receive additional training and education to advance their careers. The grant will provide the necessary financial assistance to allow individuals with disabilities to participate in an established career pathway initiative in collaboration with the Nebraska Department of Labor, several post-secondary educational institutions, and businesses. Approximately 50-60 individuals will move up the career pathway by upgrading their skills and knowledge, creating opportunities for other individuals with disabilities to backfill the vacant positions. Individuals with disabilities will be more likely to be economically self-sufficient as they advance upward in their career pathway in the targeted high demand sectors.

*Increase our capacity to provide customized employment services and options to consumers and employers.* Nebraska VR is one of the states selected to receive technical assistance under the JD-VR TAC. The impending changes in Section 511 of WIOA, and the agency’s experience in working with individuals with significant disabilities, point to an increased emphasis on Customized Employment. In order for Nebraska VR to be successful in the implementation of Customized Employment services for individuals with significant disabilities, there are two areas of need for intensive technical assistance and training to be provided: 1) strategies to increase employer awareness and acceptance of a Customized Employment approach; and 2) training to VR staff at all levels to develop the necessary skills, knowledge and buy-in to the Customized Employment approach and to work with businesses to negotiate customized employment opportunities. The JD-VR TAC will work with Nebraska VR to increase our capacity to provide customized employment services through the provision of training and technical assistance. The expected outcomes are:

- An increase in the number and type of businesses adopting a customized employment approach and establishing a CE job for an individual with a significant disability.
- An increase in the number of individuals with a significant disability, especially individuals with an intellectual or developmental disability, participating in competitive integrated employment.
- An increase in the quality of employment (as determined by the salary, benefits, number of hours worked, etc.).

*Maintain and increase the number of Project Search sites in Nebraska.* Project SEARCH is a partnership between Nebraska VR, a business, area school systems, the Commission for the Blind and Visually Impaired, Assistive Technology Partnership, and Division of Developmental Disabilities. This one year school-to-work program is business led and takes place entirely in the workplace. The experience includes a combination of classroom instruction, career exploration, and hands-on training through worksite rotations. The goal upon program completion and graduation is to utilize skills acquired during the internship for gainful employment and greater opportunity for economic self-sufficiency. Nebraska has established 17 Project Search sites and will seek to expand the number of sites during the next year.

### **3. *Basis for goals and priorities***

Ensure that the goals and priorities are based on an analysis of the following areas: (Nebraska VR)

See 3A, 3B, and 3C.

#### **A. Comprehensive statewide assessment**

The most recent comprehensive statewide assessment, including any updates; (Nebraska VR)

The above goals and priorities are consistent with the most recent statewide comprehensive assessment as previously described.

#### **B. The performance accountability measures**

The State's performance under the performance accountability measures of section 116 of WIOA; and (Nebraska VR)

The State's performance under the performance accountability measures of section 116 of WIOA have yet to be established.

### **C. Operation and effectiveness**

Other available information on the operation and effectiveness of the VR program, including any reports received from the State Rehabilitation Council and finding and recommendations from monitoring activities conducted under section 107. (Nebraska VR)

The State Rehabilitation Council and Nebraska VR work in collaboration to conduct consumer satisfaction surveys via a contract with Easter Seals Nebraska. This survey will continue and will be reviewed to make revisions as necessary based on the final rules and regulations, including any pertinent standards and indicators under the performance measures. The evaluation and report of progress in Section (p) illustrates the effectiveness of the Nebraska VR program.

### **m. Order of Selection (Nebraska VR)**

Describe:

#### ***1. Order of selection***

Whether the designated State unit will implement and order of selection. If so, describe: (Nebraska VR)

#### **A. Selecting eligible individuals**

The order to be followed in selecting eligible individuals to be provided VR services. (Nebraska VR)

Nebraska VR is not currently under an Order of Selection and does not anticipate needing to go under an Order of Selection in FY 2017-2020.

#### **B. Justification for the order. (Nebraska VR)**

Not applicable

#### **C. Service and outcome goals. (Nebraska VR)**

Not applicable

#### **D. Timelines for goals**

The time within which these goals may be achieved for individuals in each priority category within the order. (Nebraska VR)

Not applicable

## **E. Selection of individuals with the most significant disabilities**

How individuals with the most significant disabilities are selected for services before all other individuals with disabilities; and (Nebraska VR)

Not applicable

## ***2. Specific services or equipment***

If the designated State unit has elected to serve eligible individuals, regardless of any established order of selection, who require specific services or equipment to maintain employment. (Nebraska VR)

Not applicable

## **n. Goals and Plans for Distribution of title VI Funds. (Nebraska VR)**

### ***1. Goals and priorities for funds received under section 603***

Specify the State's goals and priorities for funds received under section 603 of the Rehabilitation Act for the provision of supported employment services. (Nebraska VR)

Nebraska VR has for the last few years allocated the funds received under section 603 to providing supported employment services to persons with the most significant behavioral health disabilities. Additionally, the program's expenditures for supported employment services to this population are supplemented by section 110 funds. With the funds under 603(d) to be expended on youth with the most significant disabilities, additional 110 funds will be needed to continue the service level for persons with significant behavioral health disabilities. The funds received under Title VI, 603 will continue to be distributed in the form of contractual payments for the costs of supported employment services provided to eligible persons with the most significant behavioral health disabilities.

### ***2. Activities to be conducted, with funds reserved pursuant to section 603(d)***

Describe the activities to be conducted, with funds reserved pursuant to section 603(d), for youth with the most significant disabilities, including: (Nebraska VR)

## **A. The provision of extended services for a period not to exceed 4 years; and (Nebraska VR)**

Nebraska VR has a written agreement with the state's Division of Behavioral Health Services that promotes evidence-based supported employment services to individuals with behavioral health disabilities. Written contracts have been established with a qualified provider in each of the state's six regions. These contracts identify the need for supported employment, the specific evidence-based supported employment services available from the provider leading to competitive integrated employment which may

include transitional employment, and their negotiated projected outcomes. The Division of Behavioral Health Services also provides funds for supported employment and extended services.

Nebraska VR and the Division of Development Disabilities have a written agreement to co-fund milestone outcome payments for individuals with intellectual disabilities.

For individuals with autism spectrum disorders who do not qualify for behavioral health or developmental disability services and funding, Nebraska has a separate written agreement with the Autism Center of Nebraska. For individuals with acquired brain injury who do not qualify for behavioral health or developmental disability services, there are two separate written agreements.

Youth with the most significant disabilities are served by these providers subject to any age requirements.

**B. How the State will leverage other public and private funds to increase resources for extended services and expanded supported employment opportunities for youth with the most significant disabilities. (Nebraska VR)**

**Goals**

*Behavioral Health*

To maintain or increase the number of persons with a most significant behavioral health disability served through providers using an evidence-based model of supported employment services.

- Number served in FY 2016: 600 - 693

To meet or increase the number of persons with a most significant behavioral health disability who achieve a successful competitive integrated employment outcome through providers using an evidence-based model of supported employment services.

- Number of successful employment outcomes in FY 2016 - 230

### *Autism Spectrum Disorder*

To maintain or increase the number of persons with a most significant autism spectrum disorder disability served through a provider using an evidence-based model of supported employment services.

- Number served in FY 2016: 80 - 92

To meet or increase the number of persons with a most significant autism spectrum disorder disability who achieve a successful competitive integrated employment outcome through a provider using an evidence-based model of supported employment services.

- Number of successful employment outcomes in FY 2016 - 60

### *Acquired Brain Injury*

To maintain or increase the number of persons with a most significant acquired brain injury disability served through providers using an evidence-based model of supported employment services.

- Number served in FY 2016: 20 - 23

To meet or increase the number of persons with a most significant acquired brain injury disability who achieve a successful competitive integrated employment outcome through providers using an evidence-based model of supported employment services.

- Number of successful employment outcomes in FY 2016 - 14

### *Intellectual Disabilities*

To maintain or increase the number of persons with a most significant intellectual disabilities served through providers using an evidence-based model of supported employment services.

- Number served in FY 2016: 60 - 69

To meet or increase the number of persons with a most significant intellectual disabilities who achieve a successful competitive integrated employment outcome through providers using an evidence-based model of supported employment services.

- Number of successful employment outcomes in FY 2016 - 58

## *Youth with the Most Significant Disabilities*

Most of the providers of supported employment services in Nebraska also serve youth with a disability. The major challenge will be increasing the capacity of these providers to serve youth with disabilities exiting high school prior to age 21.

Nebraska VR anticipates that all of the 50% of funds received under section 603(d) for youth with a significant disability will be used to fund both supported employment services and the necessary extended services for youth with intellectual disabilities, autism spectrum disorders and brain injuries acquired as youth. It is also anticipated that Nebraska VR will need to supplement these supported employment services with section 110 funds especially to fund up to four years of extended services.

- To serve 80 to 100 youth with the most significant disabilities in FY 2016 using an evidence-based model supported employment services.
- To achieve 40 - 60 successful competitive integrated employment outcomes for youth with significant disabilities in FY 2016 using an evidence-based model of supported employment services.

### ***o. State's Strategies (Nebraska VR)***

Describe the required strategies and how the agency will use these strategies to achieve its goals and priorities, support innovation and expansion activities, and overcome any barriers to accessing the VR and the Supported Employment programs (See sections 101(a)(15)(D) and (18)(B) of the Rehabilitation Act and section 427 of the General Education Provisions Act (GEPA)):

#### ***1. The methods to be used to expand and improve services to individuals with disabilities. (Nebraska VR)***

- Continue to provide motivational interviewing training with new and existing staff on how to use this engagement strategy throughout the VR process.
- Fully implement the Meet You Where You Are model of Rapid Engagement.
- Use MyVR and Social Media strategies to increase opportunities for communication between staff and clients.

#### ***2. How a broad range of assistive technology services and devices will be provided to individuals with disabilities at each stage of the rehabilitation process and on a statewide basis. (Nebraska VR)***

The agency contracts with the Nebraska Assistive Technology Partnership (ATP) to provide rehabilitation engineering and assistive technology services to agency consumers at all stages of the rehabilitation process. Consumers are referred to ATP by Nebraska VR staff for all assistive technology assessments, funding coordination and assistive technology solutions. ATP offices are located throughout the state and in some

cities are co-located with the VR office. Based on referral data available at the writing of this plan, the VR agency is expected to make approximately 450 - 500 referrals to ATP annually.

**3. *The outreach procedures that will be used to identify and serve individuals with disabilities who are minorities, including those with the most significant disabilities, as well as those who have been unserved or underserved by the VR program. (Nebraska VR)***

Each team develops an outreach plan. As part of the plan, consideration is given on how to target minority populations. In addition our presence in all Nebraska high schools assists in reaching all racial and ethnic minority groups as they occur naturally in schools.

- Continue to work with El Centro de las Américas on technical assistance.
- Continue to run feature articles in the Nebraska Mundo Latino Newspapers.
- Continue the priority of hiring bilingual staff. Increased pay is available for staff who are bilingual.
- Establish and maintain service agreements with qualified foreign language interpreters and utilize phone and video remote foreign language interpreting when on-site interpreting is not available.
- Continue to translate agency audio/visual media, brochures and forms in other languages.
- Continue to serve individuals with disabilities with a Deferred Action for Childhood Arrivals (DACA).
- Attend community cultural events to promote VR services.

**4. *The methods to be used to improve and expand VR services for students with disabilities, including the coordination of services designed to facilitate the transition of such students from school to postsecondary life (including the receipt of VR services, postsecondary education, employment, and pre-employment transition services). (Nebraska VR)***

- Maintain the statewide and 5 regional Youth Leadership Councils that provide students with opportunities to develop leadership skills. Seek input on suggestions from a youth perspective on the 5 core Pre-Employment Transition Services activities.
- Continue to financially support the 5 regional Transition Youth Conferences.
- Develop, revise and disseminate publications on PETS and Transition Services for both youth and students with a disability and their families.
- Maintain existing Project Search sites and develop additional sites in response to requests from schools and/or employers.
- Maintain existing Certificate Programs and develop additional programs based on local labor market needs.
- Continue VR representation on the Special Education Advisory Council (SEAC) subcommittees.

- Continue to serve on the Nebraska Transition Advisory Committee and the Transition Practitioner's Committee.
- Develop agreements with local LEAs for provision of Pre-Employment Transition Services (PETS) and Transition Services.

**5. *If applicable, plans for establishing, developing, or improving community rehabilitation programs within the State. (Nebraska VR)***

Counseling, placement, and evaluation services are provided by Nebraska VR staff. The performance-based agreements with supported employment providers previously described serve to improve the supported employment services and contribute to the quality and quantity of competitive, integrated supported employment outcomes.

**6. *Strategies to improve the performance of the State with respect to the performance accountability measures under section 116 of WIOA. (Nebraska VR)***

- Develop strategies in coordination with the appropriate core partners and participating Combined State Plan program partners once benchmarks are established.
- Implement the technical assistance and training on customized employment with VR staff and providers. Technical assistance will be provided by the Job-Driven VR Technical Assistance Center.

**7. *Strategies for assisting other components of the statewide workforce development system in assisting individuals with disabilities. (Nebraska VR)***

- Continue participation on the Nebraska Partners Council to strengthen cross agency partnerships that focus on workforce solutions.
- Dovetail with the Nebraska Department of Labor's established career pathways initiatives through our Career Pathways Advancement Project.

**8. *How the agency's strategies will be used to: (Nebraska VR)***

**A. Achieve goals and priorities by the State, consistent with the comprehensive needs assessment; (Nebraska VR)**

The agency's strategies are fully explained in the State Goals and Priorities section.

**B. Support innovation and expansion activities; and (Nebraska VR)**

The transition youth conferences and the Youth Leadership Council are innovation and expansion activities that focus on students who are potentially eligible or are under an IEP or Section 504 Plan. The Youth Leadership Council members reach out to other students who can benefit from VR services and serve as role models for transitioning from

school to work. Transition youth conferences provide opportunities for career exploration and development of work soft skills including independent living skills. The number of youth conferences and the number of youth attending continue to increase due to additional support from VR.

The State Rehabilitation Council provides input and guidance on VR's innovative approaches to service delivery including the Meet You Where You Are service delivery model, the use of motivational interviewing techniques, and the expanded use of social media to engage consumers (MyVR). Members also provide direction on strategies to reach underserved and unserved through expanded and innovative marketing strategies.

The Grants Management position facilitates the development and implementation of innovative community and agency partnerships, i.e., the Assistive Technology Partnership, the use of community rehabilitation providers for supported employment (expanded autism services, acquired brain injury, intellectual/developmental disabilities, and behavioral health). The position assisted in the development of a braided milestone funding payment system — an innovative approach to collaborative funding for behavioral health supported employment services. The position will be instrumental in the exploration of this payment system for other providers of supported employment services especially in collaboration with intellectual/developmental disability community providers.

**C. Overcome identified barriers relating to equitable access to and participation of individuals with disabilities in the State VR Services Program and the State Supported Employment Services Program. (Nebraska VR)**

The proactive strategies listed above are expected to address identified barriers such as locating, accessing, and coordinating needed community services and supports expanding work-based training opportunities throughout the entire state. Nebraska VR remains committed to serving individuals with disabilities in their local communities. To be successful this includes establishing partnerships and collaborations with local businesses, local community resources, schools, and other programs.

**p. Evaluation and Reports of Progress: VR and Supported Employment Goals (Nebraska VR)**

Describe:

***1. An evaluation of the extent to which the VR program goals described in the approved VR services portion of the Unified or Combined State Plan for the most recently completed program year were achieved. The evaluation must: (Nebraska VR)***

**A. Identify the strategies that contributed to the achievement of the goals. (Nebraska VR)**

The following represents Nebraska VR's evaluation and report of progress on the agency's FY 2014 State Goals and Priorities.

**(A) Identify the strategies that contributed to the achievement of the goals —**

**Increase the Rehabilitation Rate (Goal of 65%)**

In FY 2014, we:

- (1) Conducted quarterly reviews with management staff to review progress on Standards & Indicators including the rehabilitation rate.
- (2) Continued Project Search training programs with 8 hospitals, a warehouse distribution center, and 3 hotels. Added Project Search training programs with a manufacturer, payment processing center, and another hospital. Students in these programs achieved a 75% employment rate. Since the first site in 2009, 206 students with disabilities have participated in Project Search.
- (3) Represented Nebraska as point of contact on The National Employment Team (NET). Pursued developing partnerships with employers identified through The NET.
- (4) Continued to contract with the Abilities Fund to provide all necessary services for clients with a self-employment goal.
- (5) Continued outcome-based supported employment services for individuals with behavioral health, acquired brain injury, autism spectrum disorders and intellectual disabilities.
- (6) Expanded Certificate Training Programs to a total of 13 sites based on local employer needs in conjunction with community colleges and high schools. The rehab rate for FY2014 was 57%.
- (7) The statewide rehab rate for FY2014 was 66.32% which exceeded VR's goal and the federal standard.

## **Increase the quality and timeliness of services**

In FY 2014, we:

- (1) Continued a state-imposed standard of 55 days for job search and placement.
- (2) Continued to monitor the placement requirements that have been developed.
- (3) Continued to have placement staff marketing with employers to identify specific job openings.
- (4) Provided monthly labor market information specifically addressing each team's local labor market.
- (5) Provided additional training through monthly lunch-time video conferencing to all placement staff in the areas of: 503 Compliance, How to Find Labor Market Information on the Department of Labor Website, Effective Resumes, Employer Panel on Effective Interviewing, and Working with Clients Who Have Criminal Backgrounds.
- (6) Utilized iPads to enhance timely VR service delivery.
- (7) Average consumer wage was \$11.09 in FY 2014, an increase from FY 2013's Average Consumer Wage of \$10.51.
- (8) The amount of time that a client was in employment services for FY2014 was 70.86 days.
- (9) QE2 on-line case management system continues to be revised to enhance utilization.
- (10) Continue statewide implementation of MyVR, a computer-based client communication application, to enhance timeliness of communication between staff and clients.

## **Improve client satisfaction and engagement**

In FY 2014, we:

- (1) Continued the employment outcome survey conducted at the time of the 90-day employment monitoring follow-up. Client satisfaction was 92.75% in FY2014.
- (2) Reported survey results are tabulated by the Client Assistance Program (CAP) and provided to the State Rehabilitation Council (SRC) at each of the meetings throughout the year.
- (3) Provided management staff the ability to review the results of client satisfaction surveys in order to address any team issues in a timely fashion.
- (4) Continued quarterly reports from the CAP on the type of client concerns and CAP's recommendations to Nebraska VR leadership.
- (5) Continued the Consumer Input Committee as a part of the SRC to provide direct client input on program marketing materials and marketing strategies.
- (6) Continued quarterly agency ombudsman reports to SRC.
- (7) Continued the use of LinkedIn and Facebook as communication strategies to enhance client engagement.

- (8) Provided another statewide training through Technical Assistance and Continuing Education (TACE) and follow-up support on motivational interviewing to improve client satisfaction and engagement.

## **Develop effective community partnerships**

In FY 2014 we:

- (1) Continued to collaborate and provide funding for Nebraska Career Connections through the Nebraska Department of Education, Department of Labor, Nebraska Public Power District, and Partnerships for Innovation.
- (2) Continued and added Project Search partnerships involving high schools and businesses. Continued to explore and promote partnership opportunities with other community businesses and schools.
- (3) Continued the supported employment program for individuals with severe and persistent mental illness, acquired brain injury, autism spectrum disorders and intellectual disabilities through an outcome-based payment process.
- (4) Continued and added Certificate Programs across the state.

### **B. Describe the factors that impeded the achievement of the goals and priorities. (Nebraska VR)**

- (1) Staff turnover affects timeliness of services due to the amount of time to orient and train staff to be fully functional.
- (2) Small rural population over a large geographic area creates issues with timeliness and availability of services.
- (3) The growing number of non-English speaking individuals with disabilities and the lack of availability of interpreters results in delays of services.

## ***2. An evaluation of the extent to which the Supported Employment program goals described in the Supported Employment Supplement for the most recent program year were achieved. The evaluation must: (Nebraska VR)***

### **A. Identify the strategies that contributed to the achievement of the goals. (Nebraska VR)**

- (1) Maintained supported employment partnerships for mental health in all 6 regions of the state.
- (2) Piloted a revised supported employment milestones and payment system to demonstrate the viability to providers.
- (3) Finalized a protocol manual in collaboration with the Division of Behavioral Health following the pilot.
- (4) Utilized Title I funds to supplement Title VI, Part B funds to adequately address the mental health supported employment service needs in the State of Nebraska.
- (5) Served 672 behavioral health supported employment cases.

**B. Describe the factors that impeded the achievement of the goals and priorities. (Nebraska VR)**

- (1) A change in leadership and direction within the Division of Behavioral Health delayed the implementation of the final protocol.
- (2) The supported employment providers were hesitant to accept the new milestones and payment process.

***3. The VR program's performance on the performance accountability indicators under section 116 of WIOA. (Nebraska VR)***

Since the performance accountability indicators were not in effect in FY2014, the following is a summary of the program's performance utilizing Standards & Indicators and RSA reporting data.

The agency met all of the performance Standards & Indicators in FY 2014.

- **Applied for Services**
  - FY2009 — 5,013
  - FY2010 — 5,069
  - FY2011 — 4,812
  - FY2012 — 5,246
  - FY2013 — 5,677
  - FY2014 — 5,558
- **Eligible for Services**
  - FY2009 — 4,429
  - FY2010 — 4,513
  - FY2011 — 4,237
  - FY2012 — 4,439
  - FY2013 — 5,407
  - FY2014 — 5,080
- **Started Services**
  - FY2009 — 2,710
  - FY2010 — 2,955
  - FY2011 — 2,877
  - FY2012 — 2,845
  - FY2013 — 3,314
  - FY2014 — 3,168
- **Received Services**
  - FY2009 — 6,018
  - FY2010 — 6,397
  - FY2011 — 6,519
  - FY2012 — 6,364
  - FY2013 — 6,745
  - FY2014 — 6,789
- **Successfully Employed**

- FY2009 — 1,568
- FY2010 — 1,677
- FY2011 — 1,799
- FY2012 — 1,806
- FY2013 — 1,887
- FY2014 — 2,014
- **Supported Employment Outcomes**
  - FY2009 — 201
  - FY2010 — 212
  - FY2011 — 270
  - FY2012 — 275
  - FY2013 — 325
  - FY2014 — 317
- **SE Mental Health Partnership Outcomes\***
  - FY2009 — 179
  - FY2010 — 173
  - FY2011 — 218
  - FY2012 — 222
  - FY2013 — 212
  - FY2014 — 224 *\*SE Mental Health Partnership Outcomes are a subset of the Supported Employment Outcomes*
- **SE Autism Outcomes**
  - FY 2014 - 33 *\*SE Autism Outcomes are a subset of all Supported Employment Outcomes*

- **SE Acquired Brain Injury Outcomes**
  - FY 2014 - 11 \*SE Acquired Brain Injury Outcomes are a subset of the Supported Employment Outcomes
- **SE Intellectual Disability Outcomes**
- FY 2014 - 49 \*SE Intellectual Disability Outcomes are a subset of the Supported Employment Outcomes

**4. *How the funds reserved for innovation and expansion (I&E) activities were utilized. (Nebraska VR)***

I & E funding for FY2014 totaling \$122,474.21 was used to support the following:

- (1) State Rehabilitation Council (\$4,876.35)
- (2) Transition Program (\$49,948.98) and the Youth Leadership Council (\$17,080.96)  
— \$67,029.94
- (3) Grants & Contracts Specialist (\$50,567.92)

The agency has pursued outside funding for the development of innovative activities, such as MyVR and Employer On-Demand Side Strategies (Certificate Program) supported by grants from the Institute for Community Inclusion.

**q. *Quality, Scope, and Extent of Supported Employment Services. (Nebraska VR)***

Include the following:

**1. *The quality, scope, and extent of supported employment services to be provided to individuals with the most significant disabilities, including youth with the most significant disabilities. (Nebraska VR)***

**Quality of supported employment services**

All services provided will be of high quality, as judged by prevailing professional standards and such legal standards as may apply. Persons licensed, certified, or registered in accordance with the laws of the State of Nebraska to perform the services will render these services or, if the service is not regulated by the State, by persons who are able to demonstrate they are qualified by reason of education, training, and experience to perform the services.

**Scope of supported employment services**

The services made available by Nebraska VR using Title VI and Title I funds are limited to those initial services resulting in stable job performance in an integrated competitive work setting. These may include, as appropriate to individual needs:

1. An assessment of the need for supported employment services is supplementary to and provided after an assessment of eligibility and rehabilitation needs has been determined that a person is eligible for services and is a person with a most significant disability.
2. Development and placement in competitive integrated employment includes customized employment services for the maximum number of hours possible consistent with the person's unique strengths, resources, priorities, concerns, abilities, and capabilities.
3. Intensive on-the-job skills training and other training provided by skilled job trainers, co-workers, and other qualified persons is based on a systematic analysis of the work to be performed, and a systematic analysis of the employer's performance expectations and requirements. It is conducted in accordance with a written plan identifying the methods of teaching, instruction, and behavior management necessary to enable the individual to acquire skills and master the work to be performed, to regulate behavior in accordance with the employer's requirements and expectations, and achieve stable job performance. The training provides for a systematic reduction of intensive teaching, instruction, and behavior management methods to the lowest intervention level necessary to maintain stable job performance.
4. Other vocational rehabilitation services that are needed to achieve and maintain job stability include, but are not limited to —
  - a. Interpreter services for individuals with hearing impairments to permit communication between the individual and the skilled job trainer.
  - b. Occupational licenses and permits required by federal, state, and local law to perform an occupation.
  - c. Occupational tools and equipment required by the employer but not routinely provided to new employees.
  - d. Rehabilitation technology services including adaptations and modifications of the workplace.
  - e. Work clothing and uniforms required by the employer but not routinely provided to new employees, and safety shoes and other articles of clothing necessary to permit safe performance on the job.
  - f. Transportation from place of residence to the work site and return until the person can pay for the cost from earnings.
  - g. Benefits planning to ensure an understanding of work incentives and earnings reporting requirements.
  - h. Customized employment services to enhance the likelihood of competitive, integrated employment for individuals with significant disabilities.
5. Follow-up services, including regular contact with the employer, the individual with a most significant disability, the individual's parents, guardian or other representative, in order to reinforce and stabilize the job placement.
6. On-going monitoring services from the time of job placement until the transition to extended services from one or more extended services providers. These services include, at a minimum, the assessment of employment stability and, based on that assessment, the coordination or provision of specific services needed to maintain employment stability.

## Extent of supported employment services

1. Assessment of rehabilitation need for supported employment services are made available to the extent necessary to determine the nature and scope of services to be provided under an Individualized Plan for Employment (IPE) to achieve supported employment or to determine on the basis of clear evidence that an employment outcome cannot be achieved
2. Job development including customized employment and placement services are provided to the extent necessary to place the individual into competitive integrated employment consistent with client's informed choice.
3. Intensive on-the-job and other training services are provided to the person to the extent necessary to achieve stable job performance, or to determine on the basis of clear evidence this cannot be achieved. Services are provided for a maximum of 24 cumulative months, or for youth with a disability (16-24) utilizing Title VI funds up to 48 cumulative months unless a longer period is provided in the IPE of the person.
4. Other services are made available to the extent necessary to support the individual achieving a successful competitive integrated outcome.
5. Follow-up services are provided to the individual to the extent necessary to assure that job stability has occurred, or to determine on the basis of clear evidence that job stability cannot be achieved.
6. On-going monitoring services are provided, at a minimum, twice monthly at the work site to assess employment stability and, based on that assessment, to coordinate or provide specific services needed to maintain employment stability. If off-site monitoring is determined to be appropriate, and is included in the person's IPE, it must, at a minimum, include two meetings with the person and one contact with the employer each month.

## 2. *The timing of transition to extended services. (Nebraska VR)*

Nebraska VR transitions the person to extended services provided by other public agencies, nonprofit agencies or organizations, employers, natural supports, or other entities no later than 24 cumulative months or 48 cumulative months for youth with a disability after placement in supported employment (unless a longer period is established in the IPE), provided that—

- the person has made substantial progress toward their hours per week goal in the IPE,
- the individual is stabilized on the job, and
- extended services will be available and provided without a hiatus in services.

## Certifications (Nebraska VR)

Name of designated State agency or designated State unit, as appropriate

- **Nebraska Division of Rehabilitation Services**

Name of designated State agency

- **Nebraska Department of Education**

Full Name of Authorized Representative

- **Mark A. Schultz**

Title of Authorized Representative

- **Deputy Commissioner/Director**

States must provide written and signed certifications that:

1. The **designated State agency or designated State unit (as appropriate) listed above** is authorized to submit the VR services portion of the Unified or Combined State Plan under title 1 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by WIOA\*, and its supplement under title VI of the Rehabilitation Act.\*\* **Yes**
2. As a condition for the receipt of Federal funds under title I of the Rehabilitation Act for the provision of VR services, the **designated State agency listed above** agrees to operate and administer the State VR Services Program in accordance with the VR services portion of the Unified or Combined State Plan, the Rehabilitation Act, and all applicable regulations, policies, and procedures established by the Secretary of Education. Funds made available under section 111 of the Rehabilitation Act are used solely for the provision of VR services and the administration of the VR services portion of the Unified or Combined State Plan; **Yes**
3. As a condition for the receipt of Federal funds under title VI of the Rehabilitation Act for supported employment services, the designated State agency agrees to operate and administer the State Supported Employment Services Program in accordance with the supplement to the VR services portion of the Unified or Combined State Plan,\* the Rehabilitation Act, and all applicable regulations, policies, and procedures established by the Secretary of Education. Funds made available under title VI are used solely for the provision of supported employment services and the administration of the supplement to the VR services portion of the Unified or Combined State Plan;\*\* **Yes**
4. The designated State agency and/or the designated State unit has the authority under State law to perform the functions of the State regarding the VR services portion of the Unified or Combined State Plan and its supplement; **Yes**
5. The State legally may carry out each provision of the VR services portion of the Unified or Combined State Plan and its supplement. **Yes**

6. All provisions of the VR services portion of the Unified or Combined State Plan and its supplement are consistent with State law. **Yes**
7. The **Authorized Representative listed above** has the authority under State law to receive, hold, and disburse Federal funds made available under the VR services portion of the Unified or Combined State Plan and its supplement; **Yes**
8. The **Authorized Representative listed above** has the authority to submit the VR services portion of the Unified or Combined State Plan and the supplement for Supported Employment services; **Yes**
9. The agency that submits the VR services portion of the Unified or Combined State Plan and its supplement has adopted or otherwise formally approved the plan and its supplement. **Yes**

#### Footnotes (Nebraska VR)

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#### Certification 1 Footnotes

\* Public Law 113-128.

\*\* Unless otherwise stated, "Rehabilitation Act" means the Rehabilitation Act of 1973, as amended by WIOA, signed into law on July 22, 2014.

#### Certification 2 Footnotes

\* All references in this plan to "designated State agency" or to "the State agency" relate to the agency identified in this paragraph.

\*\* No funds under title 1 of the Rehabilitation Act may be awarded without an approved VR services portion of the Unified or Combined State Plan in accordance with section 101(a) of the Rehabilitation Act.

\*\*\* Applicable regulations, in part, include the Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 76,77,79,81, and 82; 2 CFR part 200 as adopted by 2 CFR part 3485; and the State VR Services Program regulations.

#### Certification 3 Footnotes

\* No funds under title VI of the Rehabilitation Act may be awarded without an approved supplement to the VR services portion of the Unified or Combined State Plan in accordance with section 606(a) of the Rehabilitation Act.

\*\* Applicable regulations, in part, include the citations in \*\*\* under Certification 2 footnotes

#### Additional Comments on the Certifications from the State (Nebraska VR)

**None**

## Certification Regarding Lobbying — Vocational Rehabilitation (Nebraska VR)

Certification for Contracts, Grants, Loans, and Cooperative Agreements – The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## Statement for Loan Guarantees and Loan Insurance (Nebraska VR)

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Applicant's Organization

- **Nebraska Division of Rehabilitation Services**

Full Name of Authorized Representative

- **Mark A. Schultz**

Title of Authorized Representative

- **Deputy Commissioner/Director**

SF LLL Form – Disclosure of Lobbying Activities (only if applicable) (<http://www2.ed.gov/fund/grant/apply/appforms/appforms.html>). If applicable, please print, sign, and email to MAT\_OCTAE@ed.gov.

## Certification Regarding Lobbying — Supported Employment (Nebraska VR)

Certification for Contracts, Grants, Loans, and Cooperative Agreements – The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## Statement for Loan Guarantees and Loan Insurance (Nebraska VR)

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Applicant's Organization

- **Nebraska Division of Rehabilitation Services**

Full Name of Authorized Representative

- **Mark A. Schultz**

Title of Authorized Representative

- **Deputy Commissioner/Director**

SF LLL Form – Disclosure of Lobbying Activities (only if applicable)  
(<http://www2.ed.gov/fund/grant/apply/appforms/appforms.html>).

## Assurances (Nebraska VR)

The designated State agency or designated State unit, as appropriate and identified in the State certifications included with this VR services portion of the Unified or Combined State Plan and its supplement, through signature of the authorized individual, assures the Commissioner of the Rehabilitation Services Administration (RSA), that it will comply with all of the requirements of the VR services portion of the Unified or Combined State Plan and its supplement, as set forth in sections 101(a) and 606 of the Rehabilitation Act. The individual authorized to submit the VR services portion of the Unified or Combined State Plan and its supplement makes the following assurances:

### **The State Plan must provide assurances that:**

#### **1. Public Comment on Policies and Procedures: (Nebraska VR)**

The designated State agency assures it will comply with all statutory and regulatory requirements for public participation in the VR Services Portion of the Unified or Combined State Plan, as required by section 101(a)(16)(A) of the Rehabilitation Act.

#### **2. Submission of the VR services portion of the Unified or Combined State Plan and Its Supplement: (Nebraska VR)**

The designated State unit assures it will comply with all requirements pertaining to the submission and revisions of the VR services portion of the Unified or Combined State Plan and its supplement for the State Supported Employment Services program, as required by sections 101(a)(1), (22), (23), and 606(a) of the Rehabilitation Act; section 102 of WIOA in the case of the submission of a unified plan; section 103 of WIOA in the case of a submission of a Combined State Plan; 34 CFR 76.140.

#### **3. Administration of the VR services portion of the Unified or Combined State Plan: (Nebraska VR)**

The designated State agency or designated State unit, as appropriate, assures it will comply with the requirements related to:

- a. **the establishment of the designated State agency and designated State unit, as required by section 101(a)(2) of the Rehabilitation Act. (Nebraska VR)**
- b. **the establishment of either a State independent commission or State Rehabilitation Council, as required by section 101(a)(21) of the Rehabilitation Act. (Nebraska VR)**

The designated State agency or designated State unit, as applicable: **(B) has established a State Rehabilitation Council**

- c. **consultations regarding the administration of the VR services portion of the Unified or Combined State Plan, in accordance with section 101(a)(16)(B) of the Rehabilitation Act. (Nebraska VR)**
- d. **the financial participation by the State, or if the State so elects, by the State and local agencies, to provide the amount of the non-Federal share of the cost of carrying out the VR program in accordance with section 101(a)(3). (Nebraska VR)**
- e. **the local administration of the VR services portion of the Unified or Combined State Plan, in accordance with section 101(a)(2)(A) of the Rehabilitation Act. (Nebraska VR)**

The designated State agency allows for the local administration of VR funds **No**

- f. **the shared funding and administration of joint programs, in accordance with section 101(a)(2)(A)(ii) of the Rehabilitation Act. (Nebraska VR)**

The designated State agency allows for the shared funding and administration of joint programs: **No**

- g. **statewideness and waivers of statewideness requirements, as set forth in section 101(a)(4) of the Rehabilitation Act. (Nebraska VR)**

Is the designated State agency requesting or maintaining a waiver of statewideness for one or more services provided under the VR services portion of the Unified or Combined State Plan? See Section 2 of this VR services portion of the Unified or Combined State Plan. **No**

- h. **the descriptions for cooperation, collaboration, and coordination, as required by sections 101(a)(11) and (24)(B); and 606(b) of the Rehabilitation Act. (Nebraska VR)**
- i. **all required methods of administration, as required by section 101(a)(6) of the Rehabilitation Act. (Nebraska VR)**
- j. **the requirements for the comprehensive system of personnel development, as set forth in section 101(a)(7) of the Rehabilitation Act. (Nebraska VR)**
- k. **the compilation and submission to the Commissioner of statewide assessments, estimates, State goals and priorities, strategies, and progress reports, as appropriate, and as required by sections 101(a)(15), 105(c)(2), and 606(b)(8) of the Rehabilitation Act. (Nebraska VR)**
- l. **the reservation and use of a portion of the funds allotted to the State under section 110 of the Rehabilitation Act for the development and implementation of innovative approaches to expand and improve the provision of VR services to individuals with disabilities, particularly individuals with the most significant disabilities. (Nebraska VR)**
- m. **the submission of reports as required by section 101(a)(10) of the Rehabilitation Act. (Nebraska VR)**

#### **4. Administration of the Provision of VR Services: (Nebraska VR)**

The designated State agency, or designated State unit, as appropriate, assures that it will:

- a. comply with all requirements regarding information and referral services in accordance with sections 101(a)(5)(D) and (20) of the Rehabilitation Act. (Nebraska VR)**
- b. impose no duration of residence requirement as part of determining an individual's eligibility for VR services or that excludes from services under the plan any individual who is present in the State in accordance with section 101(a)(12) of the Rehabilitation Act. (Nebraska VR)**
- c. provide the full range of services listed in section 103(a) of the Rehabilitation Act as appropriate, to all eligible individuals with disabilities in the State who apply for services in accordance with section 101(a)(5) of the Rehabilitation Act? (Nebraska VR)**

Agency will provide the full range of services described above.

**Yes**

- d. determine whether comparable services and benefits are available to the individual in accordance with section 101(a)(8) of the Rehabilitation Act. (Nebraska VR)**
- e. comply with the requirements for the development of an individualized plan for employment in accordance with section 102(b) of the Rehabilitation Act. (Nebraska VR)**
- f. comply with requirements regarding the provisions of informed choice for all applicants and eligible individuals in accordance with section 102(d) of the Rehabilitation Act. (Nebraska VR)**
- g. provide vocational rehabilitation services to American Indians who are individuals with disabilities residing in the State, in accordance with section 101(a)(13) of the Rehabilitation Act. (Nebraska VR)**
- h. comply with the requirements for the conduct of semiannual or annual reviews, as appropriate, for individuals employed either in an extended employment setting in a community rehabilitation program or any other employment under section 14(c) of the Fair Labor Standards Act of 1938, as required by section 101(a)(14) of the Rehabilitation Act. (Nebraska VR)**
- i. meet the requirements in sections 101(a)(17) and 103(b)(2) of the Rehabilitation Act if the State elects to construct, under special circumstances, facilities for community rehabilitation programs (Nebraska VR)**
- j. with respect to students with disabilities, the State,**
  - i. has developed and will implement,**
    - strategies to address the needs identified in the assessments;**
    - and**

- strategies to achieve the goals and priorities identified by the State, to improve and expand vocational rehabilitation services for students with disabilities on a statewide basis; and
- ii. has developed and will implement strategies to provide pre-employment transition services (sections 101(a)(15) and 101(a)(25)).

**5. Program Administration for the Supported Employment Title VI Supplement:**

- a. The designated State unit assures that it will include in the VR services portion of the Unified or Combined State Plan all information required by section 606 of the Rehabilitation Act. (Nebraska VR)
- b. The designated State agency assures that it will submit reports in such form and in accordance with such procedures as the Commissioner may require and collects the information required by section 101(a)(10) of the Rehabilitation Act separately for individuals receiving supported employment services under title I and individuals receiving supported employment services under title VI of the Rehabilitation Act. (Nebraska VR)
- c. The designated state unit will coordinate activities with any other State agency that is functioning as an employment network under the Ticket to Work and Self-Sufficiency program under Section 1148 of the Social Security Act. (Nebraska VR)

**6. Financial Administration of the Supported Employment Program:**

- a. The designated State agency assures that it will expend no more than 2.5 percent of the State's allotment under title VI for administrative costs of carrying out this program; and, the designated State agency or agencies will provide, directly or indirectly through public or private entities, non-Federal contributions in an amount that is not less than 10 percent of the costs of carrying out supported employment services provided to youth with the most significant disabilities with the funds reserved for such purpose under section 603(d) of the Rehabilitation Act, in accordance with section 606(b)(7)(G) and (H) of the Rehabilitation Act. (Nebraska VR)
- b. The designated State agency assures that it will use funds made available under title VI of the Rehabilitation Act only to provide supported employment services to individuals with the most significant disabilities, including extended services to youth with the most significant disabilities, who are eligible to receive such services; and, that such funds are used only to supplement and not supplant the funds provided under Title I of the Rehabilitation Act, when providing supported employment services specified in the individualized plan for employment, in accordance with section 606(b)(7)(A) and (D), of the Rehabilitation Act. (Nebraska VR)

**7. Provision of Supported Employment Services: (Nebraska VR)**

- a. The designated State agency assures that it will provide supported employment services as defined in section 7(39) of the Rehabilitation Act. (Nebraska VR)**
- b. The designated State agency assures that:**
  - i. the comprehensive assessment of individuals with significant disabilities conducted under section 102(b)(1) of the Rehabilitation Act and funded under title I of the Rehabilitation Act includes consideration of supported employment as an appropriate employment outcome, in accordance with the requirements of section 606(b)(7)(B) of the Rehabilitation Act**
  - ii. an individualized plan for employment that meets the requirements of section 102(b) of the Rehabilitation Act , which is developed and updated with title I funds, in accordance with sections 102(b)(3)(F) and 606(b)(6)(C) and (E) of the Rehabilitation Act.**

**Additional Comments on the Assurances from the State (Nebraska VR)**

**None**

## **Program-Specific Requirements for Vocational Rehabilitation (Nebraska Commission for the Blind and Visually Impaired [NCBVI])**

The Vocational Rehabilitation (VR) Services Portion of the Unified or Combined State Plan\* must include the following descriptions and estimates, as required by section 101(a) of the Rehabilitation Act of 1973, as amended by WIOA:

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\* Sec. 102(b)(D)(iii) of WIOA

### **a. Input of State Rehabilitation Council (NCBVI)**

All agencies, except for those that are independent consumer-controlled commissions, must describe the following:

- 1. Input provided by the State Rehabilitation Council, including input and recommendations on the VR services portion of the Unified or Combined State Plan, recommendations from the Council's report, the review and analysis of consumer satisfaction, and other Council reports that may have been developed as part of the Council's functions; (NCBVI)***

The Nebraska Commission for the Blind and Visually Impaired (NCBVI) is a consumer-controlled agency. Since it is governed by a Board of consumers, there is no State Rehabilitation Council.

- 2. The Designated State unit's response to the Council's input and recommendations; and (NCBVI)***

Not applicable

- 3. The designated State unit's explanations for rejecting any of the Council's input or recommendations. (NCBVI)***

Not applicable

## **b. Request for Waiver of Statewideness (NCBVI)**

When requesting a waiver of the statewideness requirement, the designated State unit must identify the types of services to be provided by the program on a non-statewide basis. The waiver request must also include written assurances that:

- 1. A local public agency will provide the non-Federal share of costs associated with the services to be provided in accordance with the waiver request; (NCBVI)*

All services provided by NCBVI are statewide. There is no request for a waiver.

- 2. The designated State unit will approve each proposed service before it is put into effect; and (NCBVI)*

Not applicable

- 3. All State plan requirements will apply (NCBVI)*

Requirements of the VR services portion of the Unified or Combined State Plan will apply to the services approved under the waiver.

Not applicable

## **c. Cooperative Agreements with Agencies not carrying out Activities under the Statewide Workforce Development System. (NCBVI)**

Describe interagency cooperation with and utilization of the services and facilities of agencies and programs that are not carrying out activities through the statewide workforce development system with respect to:

- 1. Federal, State, and local agencies and programs; (NCBVI)*

Nebraska Commission for the Blind and Visually Impaired (NCBVI) works across the state of Nebraska to establish interagency cooperation with, and utilization of the services of all relevant entities, including entities which are not within the Workforce Development System. NCBVI administrative personnel communicate and cooperate with representatives of the statewide or corporate level of such entities. Counseling and other staff of our District and area rehabilitation offices do so in their areas. There are no State Use Contracting programs in Nebraska.

In each office, NCBVI staff members identify and network with a wide range of professionals in both the public and the private sectors. Doing so serves multiple purposes. NCBVI's VR professionals become well-versed in the resources and opportunities available to blind consumers across Nebraska. They are able to make

NCBVI services known to those same entities, to educate them about the tremendous resource available to them from blind and visually impaired community members. In some cases, NCBVI Counselors participate with local Chambers of Commerce, Lions Clubs, Rotary Clubs, Commissions or Area Agencies on Aging, Community Networking Councils, and related organizations.

The United States Rural Development Agency (RDA) administers programs related to self-employment, business opportunities, housing, and other community economic development activities. NCBVI collaborates by providing information to counseling staff about the RDA programs which might benefit their clients. NCBVI VR Counselors also provide information to RDA representatives about efforts to assist blind and visually impaired Nebraskans to access funds available for developing self-employment and business opportunities.

NCBVI works to assure that all the programs of the RDA in Nebraska are made available to clients. We also are available to provide training about NCBVI services, and about blindness, to RDA personnel. With this training they are able to provide reciprocal referrals to persons participating in their programs who might be eligible for services from NCBVI. NCBVI offices are located in six locations; NCBVI staff work in all communities across the State of Nebraska. Agency staff members go to where the referrals and clients live, to provide the rehabilitation services specific to each individual. In each area and statewide, they work with local, state, and regional resources available. These include, but are not limited to small business, women's and minority business initiatives, community commercial, recreational and educational programs, religious entities (churches, synagogues, mosques), and private or public organizations are available and relevant to helping blind Nebraskans achieve their employment goals.

## ***2. State programs carried out under section 4 of the Assistive Technology Act of 1998; (NCBVI)***

NCBVI provides Assistive technology services throughout the state of Nebraska to blind and visually impaired consumers. Under the leadership of the NCBVI Technology Program Manager, the Commission's three technology specialists provide assessment, consultative support, and training on mainstream and access technology products. The specialists participate in trainings and research to discover technology solutions and provide consumers the ability to weigh the pros and cons of specific technologies to support their informed choice. Furthermore, NCBVI collaborates with Assistive Technology Partnership throughout the state in field offices and is active on the ATP Advisory Board.

## ***3. Programs carried out by the Under Secretary for Rural Development of the United States Department of Agriculture; (NCBVI)***

The United States Rural Development Agency (RDA) administers programs related to self-employment, business opportunities, housing, and other community economic development activities. NCBVI collaborates by providing information to counseling staff

about the RDA programs which might benefit their clients. NCBVI VR Counselors also provide information to RDA representatives about efforts to assist blind and visually impaired Nebraskans to access funds available for developing self-employment and business opportunities.

#### ***4. Noneducational agencies serving out-of-school youth; and (NCBVI)***

NCBVI programs partner with non-educational agencies serving out-of-school youth through many of the programs listed above.

#### ***5. State use contracting programs. (NCBVI)***

The State Use Contracting program is not applicable to NCBVI.

### **d. Coordination with Education Officials (NCBVI)**

Describe:

#### ***1. DSU's plans (NCBVI)***

The designated State unit's plans, policies, and procedures for coordination with education officials to facilitate the transition of students with disabilities from school to the receipt of VR services, including pre-employment transition services, as well as procedures for the timely development and approval of individualized plans for employment for the students.

Consistent with requirements of the Workforce Investment and Opportunities Act, NCBVI coordinates with entities within the WIOA system, including teachers of the visually impaired and education officials, to facilitate the transition of students with disabilities from school to the vocational rehabilitation service system. We have developed a number of strategies to address the seamless transition from school to work for blind students. The most formal is a Cooperative Agreement, signed and updated periodically.

#### ***2. Information on the formal interagency agreement with the State educational agency with respect to: (NCBVI)***

##### **A. Consultation and technical assistance to assist educational agencies in planning for the transition of students with disabilities from school to post-school activities, including VR services; (NCBVI)**

The agreement delineates the responsibilities of the Commission (NCBVI), the Nebraska Department of Education (NDE) Special Populations Division, the Nebraska Center for the Education of Children who are Blind or Visually Impaired (NCECBVI), and school districts and Educational Service Units across Nebraska.

**B. Transition planning by personnel of the designated State agency and educational agency that facilitates the development and implementation of their individualized education programs; (NCBVI)**

Specifically, included in the agreement are provisions for consultations and technical assistance, transition planning, coordinating the IEP and the IPE for roles and responsibilities amongst key individuals, and financial responsibilities, and procedures for outreach. The purpose is to coordinate and promote the cooperation of the programs and services available to students who are blind, deaf-blind and visually impaired during the transition process.

**C. Roles and responsibilities, including financial responsibilities, of each agency, including provisions for determining State lead agencies and qualified personnel responsible for transition services; (NCBVI)**

NDE is responsible for assuring that a free, appropriate public education, in accordance with federal and state laws, rules and regulations, to children with disabilities from date of diagnosis to age 21 or graduation. Local school districts and Educational Service Units operate under the structure of NDE and are responsible to fund the education of children with disabilities who are in that particular district. This may include direct provision of educational services in the district itself or at NCECBVI. Ongoing communication amongst NCBVI, educators, parents, and students, are an important strength to the overall transition efforts in Nebraska. NCBVI counselors and administrators will continue a process of educating educators and service providers about the services we provide to children who are blind. Students of NCECBVI and those attending school in their local school districts also have the opportunity to participate in specialized NCBVI programs for children and youth. We invite educators to also attend and observe our programs for students. NCBVI youth programs are offered each year. In all NCBVI Transition Programs our participants are exposed to successful adult blind role models. The impact of the events is clear in terms of self-confidence, blindness skills, and elevated expectations. We can see qualitatively that many if not most adults who have attended such programs in previous years, are active, competent members of the workforce and their communities. NCBVI is working to acquire a data management system which will enable us to track results quantitatively as well. Project Independence (PI) is a five day summer program for pre-transition age students. PI provides counseling on attitudes about blindness, self-esteem building, recreational and social experiences. It enables students to develop and to utilize relevant skills in conjunction with the discussions and activities. The opportunity to be with other blind and visually impaired children is a vital factor to the success of the program participants. Winnerfest retreats are offered twice per school year, from Thursday evening through Saturday noon. Transition aged students from across the state participate in the opportunity for fellowship with blind and visually impaired peers. The curriculum focuses on personal achievement, goal setting, and communication skills. Through videos, role play activities and group discussion, young people explore a variety of topics relative to their everyday lives and to their career aspirations. Participants have the opportunity to learn from and with each other about how to be competent and successful in all aspects of their lives. WAGES (Work and Gain

Experience in the Summer) is a summer employment program for students as they approach high school graduation. WAGES provides students with work experience, peer interaction, and the opportunity to enhance pre-employment and independent living skills. Participants are trained in job-readiness skills, perform actual jobs with businesses in the community, and practice the behaviors needed to maintain employment. WAGES also enhances entities within the workforce system, particularly those participating employers who learn the value of employees who are blind or visually impaired. In FFY 2016, fifteen percent (15%) of VR funds and fifty percent (50%) of supported employment funds are committed to the provision of pre-employment transition services to blind and visually impaired students and youth in transition between 14 and up to but not including 22 years of age. To that end, a Transition Service Specialist was hired in September 2015 to strengthen the partnership with educational institutions statewide with the objective of making a smooth transition from school to adult life and the world of work possible for more blind and visually impaired students and youth. NCBVI staff members work with local Workforce Investment Boards and Youth Councils to inform them of the program and to develop the job opportunities for the young blind participants.

**D. Procedures for outreach to and identification of students with disabilities who need transition services. (NCBVI)**

The newly created position, Transition Service Specialist is working on a statewide basis to enhance communication between NCBVI, educators at all levels, and families with children identified as having a visual disability. These efforts include meetings with local Educational Service Units and school districts, together with the NCBVI Technology Program Manager and Specialists, and local VR Staff to further reach out and identify students with visual disabilities who need transition services. He also meets regularly with NCBVI Supervisors to assure that the outreach efforts are consistent in all NCBVI field offices.

**e. Cooperative Agreements with Private Nonprofit Organizations (NCBVI)**

(Formerly known as Attachment 4.8(b)(3)). Describe the manner in which the designated State agency establishes cooperative agreements with private non-profit VR service providers.

Most private non-profit vocational rehabilitation service providers in Nebraska do not specifically serve persons who are blind or visually impaired. Nebraska Commission for the Blind and Visually Impaired (NCBVI) does work cooperatively with such entities when specific client needs and interests dictate. In such cases, agreements are developed for the provision of relevant services. Outlook Nebraska, Inc. (ONI) of Omaha is a private nonprofit providing employment and training that allow blind and visually impaired persons to achieve personal and career goals. NCBVI works cooperatively with ONI, Goodwill, and other service providers to serve mutual clients or consumers. In addition to services specific to individuals, NCBVI collaborates on various projects. NCBVI worked with ONI in providing cane travel instruction to all their employees. NCBVI worked with each of three work shifts to demonstrate appropriate cane technique and staff walked all through their work area and break area utilizing canes (Two Point Touch, Shore lining,

Pencil Grip, Sighted Guide). Working with ONI management the goal is to make this an annual training event. Training was provided for ONI blind employees on Social Security Benefits, the benefits of earning SGA and understanding Social Security. Also being explored is a workshop on Tasks of Daily Living. A collaborative project in 2013 was to develop public information materials about 'vision resources' in our area. The Coalition of Vision Resources: The partners are NCBVI, ONI, Radio Talking Book of Nebraska (RTBN), Nebraska Library Commission and Talking Book and Braille Services, Lions Clubs, Nebraska Academy of Eye Physicians and Surgeons, Nebraska. The NCBVI Omaha District Supervisor shared the work product at the state conventions of the Nebraska Academy of Eye Surgeons, Ophthalmologists, and Optometrists in 2013 and 2014. NCBVI also partners with the Nebraska Foundation for Visually Impaired Children in the provision of assistive technology for blind and visually impaired children under 14 years of age on an ongoing basis.

#### **f. Arrangements and Cooperative Agreements for the Provision of Supported Employment Services (NCBVI)**

(Formerly known as Attachment 4.8(b)(4)). Describe the designated State agency's efforts to identify and make arrangements, including entering into cooperative agreements, with other State agencies and other appropriate entities in order to provide supported employment services and extended employment services, as applicable, to individuals with the most significant disabilities, including youth with the most significant disabilities.

Nebraska Commission for the Blind and Visually Impaired (NCBVI) enters into cooperative agreements with other state agencies and providers of supported employment when specific clients are identified as candidates for those services. The agreements are based on a model utilized for the purpose of providing supported employment, including the assurance of long term services. The NCBVI Deputy Director for Client Services has lead responsibility for Supported Employment. He is the point of contact for the Nebraska Department of Health and Human Services–Division of Developmental Disabilities (NDHHS–DDD). NCBVI Field Supervisors and Vocational Rehabilitation Counselors typically identify providers of supported employment services and make the necessary contractual arrangements. Each blind and visually impaired individual with a developmental disability has a case service coordinator employed by the NDHHS–DDD. The case service coordinator is responsible for leading a multi-disciplinary team in the development of an Individualized Program Plan (IPP) for mutual clients served by NCBVI and NDHHS–DDD. When supported employment services are involved, the IPP includes financial support provided by NCBVI and DDD. DDD pays for hourly rates charged by the supported employment service provider; NCBVI provides incentive payments at specific intervals (start of job search, start of employment, 30 days following the start of employment, stabilization, and 90, 180, and 270 days following stabilization). This arrangement is in accordance with the "milestones" model used by the Nebraska general rehabilitation agency to serve clients shared with NDHHS–DDD. In FFY 2016, NCBVI will work towards establishing a similar partnership with the Nebraska Department of Health and Human Services–Division of Behavioral Health (NDHHS–DBH) to extend supported employment services to blind and visually impaired clients with

behavioral health disorders. NCBVI collaborated with the Department of Education, Special Education and Vocational Rehabilitation (Nebraska VR Services) in the development of policies and procedures more clearly delineating the responsibilities of the different agencies and institutions involved and the scope and nature of services available to younger persons with disabilities in transition from school. The Collaborative Agreement between NCBVI, Department of Education – Special Populations, and the Nebraska Center for the Education of Children who are Blind or Visually Impaired, applies to persons who are likely to require supported employment or extended services in the future, as well as those students without this need.

## **g. Coordination with Employers (NCBVI)**

(Formerly known as Attachment 4.8(b)(5)). Describe how the designated State unit will work with employers to identify competitive integrated employment and career exploration opportunities in order to facilitate the provision of:

### **1. VR services; and (NCBVI)**

The business community is a key customer for vocational rehabilitation. NCBVI professionals in all six offices have active approaches to reaching out to employers in their areas of coverage. NCBVI staff are engaged with the American Job Centers (AJC) and the WIOA state and local boards. In the metropolitan area of Omaha, NCBVI co-locates two VR Counselors at the local AJC.

VR Counselors and Supervisors are members of employer groups, or business networking organizations, as available in each area. These include local Chambers of Commerce, and other entities established for businesses to connect in a meaningful way.

Employers and Human Resource personnel of companies are invited to tour the Nebraska Center for the Blind. This gives them a chance to learn about the potential capability of blind persons as potential employees and to dispel misconceptions held by many people about blindness.

VR professionals, including Counselors and Technology Specialists in particular are available to spend time at companies to assess the positions or openings, to identify if any accommodations might be needed and to provide information about the various technologies and adaptations that can facilitate employing blind and visually impaired persons in most every occupation.

Information is also provided about the resources available – some directly from NCBVI, such as paying for technology, or from external sources, such as tax supports or benefits to the employer as a result of hiring a person with a disability.

## ***2. Transition services, including pre-employment transition services, for students and youth with disabilities. (NCBVI)***

Transition services, including pre-employment transition services (PETS) for students and youth with disabilities are key to life-long successful employment of persons with disabilities. NCBVI has a strong emphasis on building the skills and abilities of blind and visually impaired youth, so that they will be successful. The WAGES program is an example already in place, others will likely be developed pursuant to PETS requirements in WIOA. Work And Gain Experience in the Summer (WAGES) first focuses on identifying employers who will hire young clients for a nearly full-time job during the summer. Employers involved are encouraged to consider the youth as any employee, with high expectations for performance. NCBVI provides salaries to the clients and consultation and technology to the employers. This and other such programs are effective in the career success of the young clients; they are also instrumental in enabling employers to have direct experience with the benefits of hiring people who are blind. This promotes more opportunities for VR clients of all ages to achieve full-time integrated employment.

### ***h. Interagency Cooperation (NCBVI)***

Describe how the designated State unit will collaborate with the State agency responsible for administering each of the following programs to develop opportunities for competitive integrated employment, to the greatest extent practicable:

#### ***1. The State Medicaid plan under title XIX of the Social Security Act; (NCBVI)***

NCBVI is very much focused upon clients achieving competitive integrated employment, to the greatest extent practicable. The agency will explore potentials for cooperation and collaboration with the State Medicaid plan under title XIX of the Social Security Act.

#### ***2. The State agency responsible for providing services for individuals with developmental disabilities; and (NCBVI)***

NCBVI collaborates with the Nebraska Department of Health and Human Services—Division of Developmental Disabilities services (NDHHS—DDD) to identify potential clients, coordinate service plans and share funding for those individuals in the System who are described as blind and visually impaired.

#### ***3. The State agency responsible for providing mental health services. (NCBVI)***

Efforts are in motion to establish a similar relationship with the Department of Health and Human Services—Division of Behavioral Health (NDHHS—DBH). Other mental health services are provided statewide by various entities. NCBVI personnel in each office cooperate with those providers to ensure that mutual clients, or persons who may need both VR and mental health services, will be adequately and appropriately served.

**i. Comprehensive System of Personnel Development; Data System on Personnel and Personnel Development (NCBVI)**

(Formerly known as Attachment 4.10)). Describe the designated State agency's procedures and activities to establish and maintain a comprehensive system of personnel development designed to ensure an adequate supply of qualified State rehabilitation professional and paraprofessional personnel for the designated State unit, including the following:

**1. Data System on Personnel and Personnel Development (NCBVI)**

**A. Qualified Personnel Needs. (NCBVI)**

Describe the development and maintenance of a system for collecting and analyzing on an annual basis data on qualified personnel needs with respect to:

**i. The number of personnel who are employed by the State agency in the provision of VR services in relation to the number of individuals served, broken down by personnel category; (NCBVI)**

NCBVI staffing complement totals forty-nine point seven five (49.75) FTEs; forty-six full-time staff persons and five permanent part-time staff persons. NCBVI personnel include eleven (11) vocational rehabilitation (VR) counselors; three Field supervisors and one Center supervisor; twelve (12) rehabilitation teachers (orientation counselors); six (6) program specialists (three in technology, one in older blind services, one in transition services, and one is in Nebraska Business Enterprises); and eight (8) vocational rehabilitation technicians. There are also eight (8) administrative/business personnel including the executive director, two deputy directors, one business manager, one technology manager, two (2) Administrative Assistants, and one business office-time accounting clerk. The Nebraska Business Enterprise (NBE) program consists of a Team: one Program Specialist (FT), one Accounting Clerk (PT), and part of the time of the VR Deputy Director and two people in the Business Office. All NCBVI Vocational Rehabilitation Counselors meet the state standard by having achieved the status of Certified Vocational Rehabilitation Counselor for the Blind (CVRCB). Sixteen (16) staff members hold graduate degrees of a Masters or higher, including one Ph.D. and one J.D. These positions are all included in the total agency staffing, mentioned above.

**ii. The number of personnel currently needed by the State agency to provide VR services, broken down by personnel category; and (NCBVI)**

We project the total number of persons served by vocational rehabilitation (all statuses, from applicant through full services) during FY 2016 to total 560. The ratio of applicants and eligible individuals served to personnel will be 12.24 to 1. The current staffing level does enable NCBVI to provide core services to customers. Generally, the number of individuals served each year does not change a great deal.

iii. projections of the number of personnel, broken down by personnel category, who will be needed by the State agency to provide VR services in 5 years based on projections of the number of individuals to be served, including individuals with significant disabilities, the number of personnel expected to retire or leave the field, and other relevant factors. (NCBVI)

When numbers of referrals increase, we work to find ways to effectively streamline our processes to enable us to continue meeting customer needs. Budgetary considerations and state regulations which limit personnel per agency prevent us from changing our staffing to any great extent. We do, of course, monitor services to assure that all core services are provided and that all active Individualized Plans for Employment are carried out in full. Policy and procedures are in place to implement Order of Selection should it ever be imminent. As stated, though, to date we are able to manage the number of personnel who will be needed by the Commission to provide vocational rehabilitation services to all eligible individuals. During the next five years, we project that the number of individuals served including those with significant disabilities, will neither increase nor decrease significantly from the current level. We project vacancies during the next five years, based on potential retirement age and age of the individual, as follows: one (1) Executive Director, one (1) Deputy Director, one (1) Business Manager, one (1) Vocational Rehabilitation Counselor, three (3) Orientation Counselors, and three (3) Voc Rehab Technicians (support staff). The plan is to consider the needs of the agency as people retire. When any vacancy occurs, we assess client needs statewide, to determine whether to change the staffing patterns. We may decide to move any vacant position to a different location in the State or to put the resources toward a different position.

Row	Job Title	Total positions	Current	vacancies	Projected vacancies over the next 5 years
1	Vocational Rehabilitation Counselors	11	0	1	2
2	Vocational Rehabilitation Technicians	8	0	3	3
3	Orientation Counselors (Rehab Teachers)	12	0	3	4
4	Program Specialists (Technology, Transition, OIB, BEP)	6	0	0	5
5	Vocational Rehabilitation Supervisors	4	0	0	6
6	Deputy Directors	2	0	1	7
7	Business, Personnel, Other	7	0	1	8
8	Executive Director	1	0	1	

**B. Personnel Development (NCBVI)**

Describe the development and maintenance of a system for collecting and analyzing on an annual basis data on personnel development with respect to:

i. A list of the institutions of higher education in the State that are preparing VR professionals, by type of program; (NCBVI)

There are no institutions of higher education in Nebraska that are preparing vocational rehabilitation professionals. The State law mandating standards for Certified Vocational Rehabilitation Counselor for the Blind (CVRCB) enables NCBVI to hire, train and maintain qualified staff. This is especially important because there is no Master's degree program in Rehabilitation Counseling within Nebraska. It is extremely rare that our job candidates have a CRC, and rarely do applicants have a Master's Degree in Rehabilitation Counseling specifically. There are no institutions of higher education in Nebraska

receiving funds under Title III of the Rehabilitation Act, to prepare vocational rehabilitation professionals in the disciplines designated in the Act [29 USC 771(b)(1)(B)].

*ii. The number of students enrolled at each of those institutions, broken down by type of program; and (NCBVI)*

- Institutions 0
- Students enrolled 0
- Employees sponsored by agency and/or RSA 0
- Graduates sponsored by agency and/or RSA Graduates from the previous year 0

*iii. The number of students who graduated during the prior year from each of these institutions with certification or licensure, or with the credentials for certification or licensure, broken down by the personnel category for which they have received, or have the credentials to receive, certification or licensure. (NCBVI)*

As stated above, there are no institutions of higher education in Nebraska receiving funds under Title III of the Rehabilitation Act, to prepare vocational rehabilitation professionals in the disciplines designated in the Act [29 USC 771(b)(1)(B)]. Nor are there any colleges or universities offering academic programs in vocational rehabilitation at the Baccalaureate or Graduate degree levels. Therefore, there is no coordination or facilitation of recruitment, preparation or retention efforts between the Commission and colleges or universities within Nebraska. There are, however, some such graduate programs in the Midwest. NCBVI has contacted the university placement offices of nine institutions. All have indicated that they will post any job openings that we transmit to them.

*2. Plan for Recruitment, Preparation and Retention of Qualified Personnel (NCBVI)*

Describe the development and implementation of a plan to address the current and projected needs for qualified personnel including, the coordination and facilitation of efforts between the designated State unit and institutions of higher education and professional associations to recruit, prepare, and retain personnel who are qualified, including personnel from minority backgrounds and personnel who are individuals with disabilities.

Currently, there is one vacancy for pre-existing vocational rehabilitation personnel at Nebraska Commission for the Blind and Visually Impaired. When vacancies occur within our VR positions, NCBVI recruits through local and statewide newspapers, State of Nebraska Personnel services, consumer organizations of blind persons, University graduate programs beyond our immediate geographic area, and related list-serves. As stated above, there are no institutions of higher education in Nebraska receiving funds under Title III of the Rehabilitation Act, to prepare vocational rehabilitation professionals in the disciplines designated in the Act [29 USC 771(b)(1)(B)]. Nor are there any colleges or universities offering academic programs in vocational rehabilitation at the Baccalaureate or Graduate degree levels. Therefore, there is no coordination or

facilitation of recruitment, preparation or retention efforts between the Commission and colleges or universities within Nebraska. There are, however, some such graduate programs in the Midwest. NCBVI has contacted the university placement offices of nine institutions. All have indicated that they will post any job openings that we transmit to them. During 2014, we began to do this on a routine basis. The goal is to recruit recent graduates to apply for open positions with NCBVI in the future. Non-Discriminatory Plan NCBVI always strives to be non-discriminatory in hiring, retention, and promotion of staff from minority backgrounds and with disabilities. To recruit qualified personnel including those from minority backgrounds and those with disabilities, NCBVI follows federal Affirmative Action guidelines. We recruit via national consumer groups of blind individuals. To prepare and retain all personnel, including those from minority backgrounds and those with disabilities, the initial training and the ongoing training plan are individualized according to each person's specific training needs and also encompasses training issues that will maximize the agency's effectiveness and efficiency.

### ***3. Personnel Standards (NCBVI)***

Describe the State agency's policies and procedures for the establishment and maintenance of personnel standards consistent with section 101(a)(7)(B) and 34 CFR 361.18(c) to ensure that designated State unit professional and paraprofessional personnel are adequately trained and prepared, including:

#### **A. Standards that are consistent with any national or State-approved or -recognized certification, licensing, registration, or other comparable requirements that apply to the profession or discipline in which such personnel are providing VR services; and (NCBVI)**

Nebraska statute requires a State Certification for Vocational Rehabilitation Counselors for the Blind. This law is the highest standard in Nebraska for the discipline of rehabilitation counseling for the blind. All the NCBVI Vocational Rehabilitation Counselors meet the state standard by having achieved the status of Certified Vocational Rehabilitation Counselor for the Blind. Sixteen staff members also hold graduate degrees of a Masters or higher. Certified Vocational Rehabilitation Counselor for the Blind (CVRCB) is defined as a person who is certified to practice vocational rehabilitation counseling for blind persons and holds a certificate issued by NCBVI. Vocational rehabilitation counseling for the blind is defined as the process implemented by a person who operates a comprehensive and coordinated program designed to assist blind persons to gain or maintain remunerative employment, to enlarge economic opportunities for blind persons, to increase the available occupational range and diversity for blind persons, and to stimulate other efforts that aid blind persons in becoming self-supporting. The qualifications to be a certified vocational rehabilitation counselor for the blind in Nebraska are: (a) to have a bachelor's degree from an appropriate educational program approved by the NCBVI Executive Director; (b) to have completed six hundred (600) hours of immersion training under sleep shades (for persons with any functional vision) at the Nebraska Center for the Blind (operated by NCBVI); and (c) to have completed appropriate continued education training credits as approved by the NCBVI Executive Director. The plan for training newly hired personnel who do not meet the established

standards is as follows. New hires for VR Counselor positions must have the bachelor's degree (a) before hire. Training in the immersion setting (b), begins on the first day of the second week of employment. It continues for 600 hours of their employment, that is roughly four (4) months of work time. The time period allowed is sometimes extended if there are interruptions to the training, such as leave needed for illness, vacation, or sometimes meetings that must be attended, etc. The continuing education credits (c) are accrued over time and are reviewed every three years to qualify for certification renewal. Intensive systematic immersion training of six hundred (600) hours is provided by NCBVI for all newly hired counselors, followed by three months of training specific to the individual's new position. This training provides an orientation to the agency understanding of blindness and the strategy of service delivery that grows out of that understanding. The training includes reading and discussion of many articles and documents in the blindness field, and skills training in non-visual techniques and technologies through hands-on experiences. To a lesser degree, paraprofessional or support personnel also receive intensive pre-service training in the office where they will be working at the start of their employment.

**B. the establishment and maintenance of education and experience requirements, in accordance with section 101(a)(7)(B)(ii) of the Rehabilitation Act, to ensure that the personnel have a 21st century understanding of the evolving labor force and the needs of individuals with disabilities. (NCBVI)**

Following Center Training, newly hired rehabilitation personnel continue with two to three months of on-the-job training activities for specific job duties including agency policies and procedures, accessing local resources, sensitivity training, social security, vocational counseling techniques, consumer group information, etc. The topics covered include a wide range of policies and procedures, counseling techniques, teaching modalities, etc. Each Certified Vocational Rehabilitation Counselor for the Blind shall, in the period since his or her certificate was issued or last renewed, complete continuing competency requirements as set forth by NCBVI under the Executive Director's approval. Annually, each employee and supervisor review performance and plan for individualized training. The goals include activities to enhance abilities in blindness skills, to refresh and deepen understanding of philosophical concepts, to expand professional knowledge within the field of rehabilitation counseling for the blind, and opportunities for training specific to rehabilitation counseling for specific positions. Discussions of philosophical issues are held in local offices and by the Administrative Team in Central office. Employees are also encouraged to spend time with other staff to learn new practices and to stimulate ongoing improvement.

#### **4. *Staff Development. (NCBVI)***

Describe the State agency's policies, procedures, and activities to ensure that, consistent with section 101(a)(7)(C) of the Rehabilitation Act, all personnel employed by the designated State unit receive appropriate and adequate training in terms of:

##### **A. System of staff development (NCBVI)**

a system of staff development for professionals and paraprofessionals within the designated State unit, particularly with respect to assessment, vocational counseling, job placement, and rehabilitation technology, including training implemented in coordination with entities carrying out State programs under section 4 of the Assistive Technology Act of 1998; and

Supervisors have provided data regarding their subordinates' education, including degrees held. As mentioned above, the CVRCB Certification requirement is a Bachelor's degree approved by the Executive Director, and 600 hours of intensive training at the NCBVI Nebraska Center for the Blind. We encourage VR Counselors to pursue additional academic work. NCBVI has six offices across the State of Nebraska. Some of these locales are many hours away from colleges or universities with graduate programs relevant to this endeavor. Distance learning is an option for some parts of a degree program, but may not fulfill all requirements for such a program. Many activities are conducted in the team setting. This enables mentoring of staff less experienced by those with more expertise in a particular area. Individual staff members may also schedule time with others to expand their own knowledge, skills and experience in areas needing to be strengthened. One example that is proving to be highly productive is training in Motivational Interviewing (MI). The Nebraska Center for the Blind and each district have each scheduled sessions with MI trainers, to develop, expand, and fine tune the MI skills of NCBVI Counselors. These skills helped counselors build more positive working relationships with clients towards the achievement of individualized service goals and objectives. NCBVI coordinates efforts with institutions of higher education, organized consumer groups and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel who are individuals with disabilities. Continuing efforts ensure that all personnel are adequately trained and prepared to meet standards that are based on the highest requirements in the State and to become certified in accordance with State Law. NCBVI also works to ensure the availability of personnel internally (or from external resources) who are, to the maximum extent feasible, trained to communicate in the native language or mode of communication of an applicant or eligible individual. Ongoing staff development activities will ensure that all NCBVI personnel receive appropriate and adequate training. Funds from several segments of the NCBVI budget are committed to developing personnel, including funding training from the Nebraska Center for the Blind, as well as tuition and related expenses for expanding the capacities of NCBVI staff. Ongoing training is made available to all staff on relevant and timely topics. Retaining qualified personnel is particularly important because of the investment we make with the intensive Center Training as well as our willingness to reimburse tuition for course work. Topics of focused training sessions may include, but are not limited to:

1. laws and regulations, including the Rehabilitation Act, Randolph–Sheppard, the Workforce Innovation and Opportunity Act, Americans with Disabilities Act, Individuals with Disabilities Education Act, and others,
2. methods to help clients of all ages achieve successful employment in high–quality positions with benefits and opportunities for advancement,
3. using data to measure the success of concentrated efforts for achieving goals of high quality employment outcomes,
4. providing effective services to transition–aged persons who are blind or visually impaired, including approaches to outreach and service delivery;
5. ways to work effectively with the increasing number of older individuals who are losing vision but still want or need to be a part of the workforce,
6. serving persons with multiple disabilities, especially deaf–blindness,
7. assistive technology, including non–visual and low vision options,
8. maximizing effectiveness in the group training or counseling setting,
9. Social Security information, including benefits counseling and PASS plan development,
10. supported employment,
11. workplace policies,
12. positive philosophical understandings of blindness,
13. diversity awareness and sensitivity training, especially to working with people from poverty, and
14. additional relevant issues, e.g. transportation, crisis management, etc.

The long–range plan for ongoing development of staff is based upon needs identified by our annual processes for comprehensive statewide needs assessment. The plan is updated and kept current with ideas or issues identified from ongoing client satisfaction surveys, employee requests for additional training on specific topics, and internal data collection from the NCBVI data management system.

## **B. Acquisition and dissemination of significant knowledge (NCBVI)**

Procedures for the acquisition and dissemination of significant knowledge from research and other sources to designated State unit professionals and paraprofessionals.

Significant knowledge from research and other sources is disseminated to staff members; thus ensuring access to new knowledge and learning in the field of vocational rehabilitation. The system of staff development provides for on–going renewal and enhancing of the individual and the agency’s organizational knowledge and expertise.

## ***5. Personnel to Address Individual Communication Needs (NCBVI)***

Describe how the designated State unit has personnel or obtains the services of other individuals who are able to communicate in appropriate modes of communication with or in the native language of applicants or eligible individuals who have limited English speaking ability.

NCBVI has several employees across the State of Nebraska with bilingual skills in English and Spanish. Independent contracts are established as needed to obtain services from individuals who are able to communicate in the native language of applicants or clients who have limited English speaking ability or in appropriate modes of communication. Contracts have included, but are not limited to American Sign Language, including Tactile Signing for Deaf-Blind individuals, Spanish, French, Turkish, Arabic, Vietnamese, Burmese, Karen, Swahili and others according to the needs of applicants and eligible individuals.

## ***6. Coordination of Personnel Development under the Individuals with Disabilities Education Act (NCBVI)***

As appropriate, describe the procedures and activities to coordinate the designated State unit's comprehensive system of personnel development with personnel development under the Individuals with Disabilities Education Act.

NCBVI coordinates with the Comprehensive System of Personnel Development under the Individuals with Disabilities Education Act (IDEA) in several ways. NCBVI and a team of educators and other stakeholders established a Protocol for educators and NCBVI counselors, for providing high quality services to blind and visually impaired children and youth in Nebraska. The handbook is titled *Opening Doors: A Transition Guide*. This tool serves as a vehicle for educating parents and families, service providers, educators, and others about the best way for children from birth through transition age, to obtain the education and rehabilitation services that will move them into adulthood successfully. NCBVI provides information to educators and to VR personnel about training opportunities relevant to personnel development in the fields of both education and vocational rehabilitation. A series of personnel training sessions relating to the handbook were held in a coordinated effort between NCBVI and personnel covered by IDEA. In FFY 2014 and 2015, NCBVI Counselors continued to provide the tool, and instructions as needed, statewide to educators, parents, and other persons involved with educating blind and visually impaired school students within Nebraska. Additional joint personnel development efforts will be held when specific issues of mutual concern are identified. For example, teachers of blind children from the public school system provide presentations to NCBVI at Staff Meetings. At the NCBVI Annual State Staff Meeting in 2013, a speaker from Nebraska Department of Education/Special Populations gave a presentation on the IEP process and the role of VR Counselors in that process, working with educators, families and students. NCBVI staff members provide presentations at training sessions of the school system, university and college classes, and other opportunities which arise. We will continue to explore ways to assure success in education and quality employment. One avenue will be collaborating with the WinAHEAD

organization (Western Iowa and Nebraska Association on Higher Education and Disabilities). On an ongoing basis, the primary emphasis will be individual communication between NCBVI counselors and parents, teachers and others in the education system.

## **j.     Statewide Assessment (NCBVI)**

(Formerly known as Attachment 4.11(a)).

### ***1. Provide an assessment of the rehabilitation needs of individuals with disabilities residing within the State, particularly the VR services needs of those: (NCBVI)***

#### **A.     With the most significant disabilities, including their need for supported employment services; (NCBVI)**

Nebraska Commission for the Blind and Visually Impaired (NCBVI) is the Designated State Agency responsible under State law for operating the vocational rehabilitation program for the blind in Nebraska. A governing board, the majority of whom are persons who are blind or visually impaired, appointed by the Governor of the State of Nebraska serves to assure the agency is consumer-controlled. NCBVI undertakes to review and analyze the effectiveness of services and consumer satisfaction with services provided by the Commission, vocational rehabilitation services provided by other state, public and private entities, and employment outcomes achieved by eligible individuals receiving vocational rehabilitation services from NCBVI, to assure high quality, career track employment outcomes, with health and other employment benefits, wages comparable to state wages for non-disabled persons, and equity for persons of minority status. Formal Comprehensive Statewide Needs Assessment (CSNA) During FFY 2013, NCBVI established a contract with the National Research and Training Center on Blindness and Low Vision (NRTC), Mississippi State University Research Unit for a formal Comprehensive Statewide Needs Assessment to cover the period of 2011 through 2013. The assessment included surveys of blind clients closed either in status 26 or 28, members of NCBVI staff, and employers who have had experience with NCBVI staff and clients. Semi-structured interviews were conducted with other key informants. In addition, existing data from various sources was analyzed, such as the RSA-911 data for NCBVI, American Community Survey data, and Bureau of Labor Statistics labor and economic forecasts. Data gathering began in March 2013 and continued through August 2013. Analysis was conducted primarily during the final quarter of Fiscal year 2013. The full report was provided to NCBVI early in fiscal year 2014. A plan is in place to contract for a triennial assessment again in the upcoming period. The next Statewide Assessment will cover the period of FY 2015 through FY 2018. NCBVI worked to understand and assess the study's results. Steps are being taken to move forward on the recommendations of the Comprehensive Statewide Needs Assessment. Serving consumers with the most significant and multiple disabilities is a need that grows in complexity and numbers. The agency will work to increase staff members' expertise in a variety of disabilities, including deaf-blindness, brain injury, and others. In addition, it is important to partner with other entities specializing in serving persons with specific disabilities other than blindness.

There is a need to increase competitive employment outcomes for clients with multiple disabilities. Caseloads were reviewed to identify clients with multiple disabilities and strategies were developed to more effectively provide the services needed by those individuals.

**B. Who are minorities; (NCBVI)**

The population of Nebraska is not tremendously diverse in terms of race and ethnicity, but diversity has been increasing. The agency works to assure that contacts are made to minority populations in every area of the State. The CSNA results show that there is a need to analyze the work being done. It is important to make meaningful contacts with diverse populations, to effectively reach persons who might be eligible for agency services. Materials are being revised to have different languages available, including print, online, and video productions for public use. A translation tool was added in 2014 to the agency website, allowing the user to read all content in a wide range of language options. There is a need to increase the proportions of people served from minority populations who achieve competitive employment outcomes. The efforts to date have focused on increasing outreach to all Nebraskans. This effort will continue, along with examination of barriers that inhibit successful outcomes. Efforts statewide assure that regardless of race or ethnicity, quality services are provided at referral, application, and throughout the VR process.

**C. Who have been unserved or underserved by the VR program; (NCBVI)**

Several data sources indicated that services to consumers with multiple disabilities need improvement. According to the RSA-911 analyses, consumers with multiple disabilities were competitively employed at a significantly lower rate after receiving services than other consumers. In the consumer survey, respondents who had multiple disabilities reported a greater need for services in many areas compared to those with blindness or visual impairment only. In terms of services for which a need remained after the completion of their rehabilitation program, respondents with multiple disabilities had similar or higher remaining needs in all areas. They reported a higher remaining need (compared to those without multiple disabilities) in 47.4% (n=9) of the services asked about. Almost all staff (94.7%) indicated that improving services to consumers with multiple disabilities was a moderate or critical need. This item had the fewest number of people who did not consider it a need (only one staff person rated this as limited or no need). Four of the eight key informants identified persons with multiple disabilities as a group that was unserved or underserved by NCBVI. One key informant mentioned that counselors tended to not have knowledge about other disabilities, and there was a need for them to have this knowledge in order to serve this group appropriately. In terms of suggestions by participants about how to better serve this population and meet their needs, four key informants indicated that it is important for NCBVI to partner with other agencies or organizations that have some expertise with the additional disabilities of this group. Three staff members mentioned that additional training or professional development about other disabilities was needed, and two staff members suggested

partnering with other professionals or organizations that have expertise with other disabilities.

**D. Who have been served through other components of the statewide workforce development system; and (NCBVI)**

Assistance related to employment is another identified need. The needs can be broken into three major areas: career exploration and guidance, searching for and obtaining employment, and working with employers on accommodations and other on-the-job requirements. More specifically, the needs include help with finding a job, finding job leads or contacting employers, working with employers on job accommodations, completing applications, exploring career options, and developing clients' skills for seeking and obtaining competitive employment. The world of work and life in general require increasing needs for technology related skills and equipment. The highest focus of need from consumer surveys was in this area. Training in access technology is an area of high need, according to the assessment. This is consistent with our ongoing needs assessment with consumers statewide, described below, which we conduct every year. Employers surveyed also indicated that assistance with technology will help them to hire and retain employees with vision impairments. The Technology Team, led by a Program Manager, works to enhance their own expertise, to train other staff, to provide opportunities for training consumers, and to identify additional opportunities available from external resources. Another area identified is the importance of partnering with other organizations, agencies, groups, etc. In particular, other components of the statewide workforce development system are key entities with whom to partner. Much is done and will continue to be done throughout the state. Staff members in each geographic area are encouraged to engage in networking opportunities with businesses in their locale. We engage with the Local Workforce Boards in all parts of the State. This helps to assure that we do have knowledge of and interaction with other components of the workforce system statewide. When staff members learn of new entities, or ones that have not worked with NCBVI in the past, the information is shared with other staff and consumers who need it. This agency is strongest when collaborating with and learning from people and groups that may have resources beyond its own. With the exception of Omaha and Lincoln metropolitan areas, most of the state is rural. There are small and medium-sized towns sprinkled across the state. Still it is critical that we work to ensure our ability to achieve competitive employment outcomes for clients living in rural Nebraska. NCBVI data show that the rates of acceptance for services and competitive employment are actually slightly better for rural-based clients than for urban. However, there may be a perception amongst individuals who feel isolated and unable to connect with employment, leading to a sense that this is an unmet need. It is also not unusual for VR Counselors in the rural areas to be frustrated by limited employment opportunities for their clients. The fact that this need emerged as critical in the survey reinforces the need to strengthen networking efforts, outreach to potential clients and employers, and building skills among agency staff to make sure that all areas of the state are served fully, including rural, urban, and metropolitan.

**E. Who are youth with disabilities and students with disabilities, including, as appropriate, their need for pre-employment transition services or other transition services. (NCBVI)**

NCBVI is committed to the provision of rehabilitation services to blind and visually impaired children and youth and their families as early as possible in the child's development. Special programs such as Project Independence for children between the ages of five and fourteen stress the importance of self-confidence and independence using the alternative skills of blindness. Programs for blind and visually impaired teens such as WAGES (Work and Gain Experience in the Summer) and Winnerfest provide valuable work experiences and opportunities for developing interpersonal skills needed for success in later life. Other programs such as technology fairs and the College Workshop also help blind and visually impaired students make the transition to life after high school. In the coming year, NCBVI will increase efforts promoting more job opportunities for blind and visually impaired youth in their home communities throughout the school year. In September 2015, NCBVI hired a Transition Services Specialist to strengthen the relationship between NCBVI and schools statewide on behalf of blind and visually impaired students. Fifteen percent (15%) of funds allocated to NCBVI for vocational rehabilitation services are dedicated to providing pre-employment transition services to blind and visually impaired youth between the ages of 14 and up to but not including 22; 50 percent (50%) of funds for supported employment services are committed to providing pre-employment transition services to blind and visually impaired youth in the same age group. Increasing the number of blind and visually impaired youth in transition achieving their individual employment goals is a major objective for NCBVI in FY 2016. Transition-aged clients are encouraged to elevate their expectations for personal achievement. This can translate to higher education, often delaying their ultimate employment. It may take more years to reach that goal, but when they do, it will be in a career that will pay well, have benefits, and the chance for promotions. We are in the process of examining all 28 closures, including those for Transition clients. We will determine if there is any difference between those who choose to continue their education and those who do not. We also will explore any commonalities among cases closed unsuccessfully. There may be strategies which can be used to improve the employment outcomes and the resulting rehab rate.

**2. *Identify the need to establish, develop, or improve community rehabilitation programs within the State; and (NCBVI)***

For the effort to establish, develop or improve community rehabilitation programs (CRPs), NCBVI collaborates with a wide range of community partners statewide, working together to develop and improve services. NCBVI is an active partner with the Statewide Independent Living Council (SILC). As part of the State Plan for Independent Living, to assure that IL services are available statewide, NCBVI provides 15.5% of the budget for Panhandle Independent Living Services (PILS). This funding is likely to discontinue at the end of FFY 2017 when a new SPIL goes into effect. Job coaching to Supported Employment clients is provided through contracts with community rehabilitation programs. Agency staff members also work with CRPs and independent living centers to

assure that services are coordinated and meeting the needs of Nebraskans with disabilities, especially those who are blind or visually impaired along with multiple disabilities. NCBVI partners with community rehabilitation programs (Outlook Nebraska, Goodwill, Martin Luther Homes, Community Alternatives of Nebraska, Quality Living) and other entities. Outlook Nebraska, Inc. (ONI) of Omaha is a private nonprofit providing employment and training that allow blind and visually impaired persons to achieve personal and career goals. NCBVI works cooperatively with ONI and other service providers to serve mutual clients or consumers. In addition to services specific to individuals, collaboration on other projects occurs as the need and opportunity arise. The activities enable NCBVI to inform many persons about the services available to individuals who are blind, thus expanding opportunities to those who are, or who may become, eligible for services of the Vocational Rehabilitation or the Supported Employment program. The agency website is updated continuously and provides information to the public about available services and resources, avenues to apply for services, and ask questions, and so forth. Work is being done to enhance a social media presence with information and updates about NCBVI events, activities, and services. The agency collaborates with the Nebraska Department of Health and Human Services—Division of Developmental Disabilities services (NDHHS–DDD) to identify potential clients, coordinate service plans and share funding for those individuals in the System who are described as blind and visually impaired. Efforts have been initiated to establish a similar relationship with the Department of Health and Human Services—Division of Behavioral Health (NDHHS–DBH) on behalf of blind and visually impaired clients with behavioral health issues. For the most part, job coaching to SE clients is provided through contracts with community rehabilitation programs. DDD provides ongoing funding for the job supports. Contracts with CRPs and coordination for services all serve to expand, develop and improve such programs across the State of Nebraska. Part of the Comprehensive Statewide Needs Assessment gathered information regarding this question, from the staff survey and the key informant interviews. One item on the staff survey addressed this, and staff did not consider establishing or developing CRPs within the state to be an important need. This was the lowest rated item for staff in terms of need, with 64.7% indicating there was limited or no need to do this. Four of the key informants indicated they did not know or preferred not to provide an answer about this need. One informant did not see a need to establish CRPs, while another commented on the fact that there are no other organizations in the state which can provide blindness rehabilitation services. Only one key informant felt there is a need to establish additional CRPs, although this was from the perspective of providing a source of employment for consumers rather than from the perspective of providing rehabilitation services to consumers. Overall, the results would indicate that most do not consider the establishment or development of CRPs to be an important need for blind consumers in Nebraska. The only information that supports a need is that two key informants thought that there is a need for other service options (beyond NCBVI providing all services). The fact that NCBVI currently partners with community programs to identify and to address consumer needs may be the reason that developing further such programs is not seen as a high-level need.

***3. Include an assessment of the needs of individuals with disabilities for transition career services and pre-employment transition services, and the extent to which such services are coordinated with transition services provided under the Individuals with Disabilities Education Act. (NCBVI)***

With the increased emphasis on pre-employment youth, students and programming to enhance their skills in the areas of job readiness, community based integration skills and exploration of potential pathways in both college and/or job settings, NCBVI has adopted several new strategies designed to assess both the needs of our staff and clients with regard to the transition process. NCBVI has engaged in a survey and programmatic initiative with Dr. Gary Meers, to implement his internationally recognized transition model in ways suited to NCBVI and WIOA. This process involves the assessment of various stakeholders to gauge their present level of transition knowledge and then create new curriculums or methods that staff and students can use together to increase internships or employment opportunities, especially in after-school, non-traditional settings, rural areas and with multiply-disabled youth, all of which are strengths of the model. In addition, NCBVI attends Stakeholder meetings at NCECBVI, the statewide program for blind and visually impaired youth, meetings of the transition practitioners committees, and various district meetings of teachers of the visually impaired, in an effort to assess the needs of students and teachers and to offer our expertise in meeting these needs. One unique aspect of this effort is a strategic plan to connect schools districts and every education service unit in Nebraska to cement the notion that NCBVI provides the rehabilitation services for youth with visual impairments and blindness. These connections will help to assess the extent that youth may not yet know of vocational rehabilitation services for the blind in Nebraska. These efforts will enhance discovery and anecdotal assessed needs for increased programming for blind and visually impaired youth in school systems who now offer career academies. Programs and districts, such as the one in Lincoln Public Schools, are now shifting to new pathways of learning, which are career-based opportunities for students as opposed to the traditional classroom learning model. Initial Meetings have been held and proposals are being drafted to submit to Lincoln Public Schools to support staffing at these career academies so the needs of youth can be addressed, to enable them to perform in these new and exciting aspects of education in our state.

***k. Annual Estimates (NCBVI)***

(Formerly known as Attachment 4.11(b)). Describe:

***1. The number of individuals in the State who are eligible for services; (NCBVI)***

NCBVI projects the total number of persons served by vocational rehabilitation (all statuses, from applicant through full services) during FY 2017 to total 560. The ratio of applicants and eligible individuals served to personnel will be 12.24 to 1. The current staffing level does enable NCBVI to provide core services to customers. Generally, the number of individuals served each year does not change a great deal. When numbers of

referrals increase, the agency identifies ways to effectively streamline processes to enable the staff to continue meeting customer needs. Budgetary considerations and state regulations that limit personnel per agency prevent us from changing our staffing to any great extent. Services are monitored to assure that all core services are provided and that all active Individualized Plans for Employment are carried out in full. Policy and procedures are in place to implement Order of Selection should it ever be imminent. As stated, though, to date there are adequate personnel to provide vocational rehabilitation services to all eligible individuals.

**2. *The number of eligible individuals who will receive services under: (NCBVI)***

**A. The VR Program; (NCBVI)**

560

**B. The Supported Employment Program; and (NCBVI)**

30

**C. Each priority category, if under an order of selection; (NCBVI)**

Not applicable

**3. *The number of individuals who are eligible for VR services, but are not receiving such services due to an order of selection; and (NCBVI)***

Not applicable

**4. *The cost of services for the number of individuals estimated to be eligible for services. If under an order of selection, identify the cost of services for each priority category. (NCBVI)***

Not applicable

**I. State Goals and Priorities (NCBVI)**

The designated State unit must:

**1. *Identify if the goals and priorities were jointly developed (NCBVI)***

Identify if the goals and priorities were jointly developed and agreed to by the State VR agency and the State Rehabilitation Council, if the State has a Council, and jointly agreed to any revisions.

Nebraska Commission for the Blind and Visually Impaired (NCBVI) is an independent, consumer-controlled Commission. As such, it does not have a State Rehabilitation

Council. A Board of Commissioners governs NCBVI, the majority of whom must be blind consumers. Until last year, all Commissioners appointed by the Governor of the State of Nebraska have been individuals who are blind or visually impaired. There is now an appointed Commissioner who is the parent of a blind young adult. The Board of Commissioners works together with the agency Executive Director to develop and agree to annual goals and priorities.

***2. Identify the goals and priorities in carrying out the VR and Supported Employment programs. (NCBVI)***

The mission of NCBVI is “Empowering Blind Individuals, Promoting Opportunities, and Building Belief in the Blind.” The agency’s primary priority is to enable persons who are blind and visually impaired, including those who also have multiple disabilities, to achieve their individual goals for competitive employment (including supported employment). The secondary priority is to enable persons who are blind and visually impaired, including those who also have multiple disabilities, to achieve their individual goals to live independently, and to be full participants in their communities. With both priorities, agency personnel work with clients to elevate their personal goals beyond what they might have expected a blind person to be able to achieve. As people learn to understand blindness and learn to utilize the alternative skills of blindness, they develop self-confidence and determination to establish personal goals that embody elevated expectations for themselves and for their future. 1. Increase the number and percentage of clients achieving competitive employment outcomes. 2. Increase the rehabilitation rate for transition aged clients achieving competitive employment outcomes. 3. Improve the quality assurance system.

***3. Ensure that the goals and priorities are based on an analysis of the following areas: (NCBVI)***

***A. The most recent comprehensive statewide assessment, including any updates; (NCBVI)***

NCBVI goals are based on factors identified through analysis of the comprehensive statewide assessments, both the contracted research project and the ongoing public forums, and results of federal RSA Monitoring and oversight.

***B. The State's performance under the performance accountability measures of section 116 of WIOA; and (NCBVI)***

NCBVI performance will be based on the performance accountability measures of section 116 of WIOA as those are negotiated and determined.

**C. Other available information on the operation and effectiveness of the VR program, including any reports received from the State Rehabilitation Council and finding and recommendations from monitoring activities conducted under section 107. (NCBVI)**

NCBVI goals are based on factors identified through analysis of the comprehensive statewide assessments, both the contracted research project and the ongoing public forums, and results of federal RSA Monitoring and oversight. The operation and effectiveness of the VR-B program is reviewed by the NCBVI Commission Board at quarterly meetings, reviews of reports to federal and state entities, and follow-up from previous RSA Monitoring activities and reports.

**m. Order of Selection (NCBVI)**

Describe:

**1. *Whether the designated State unit will implement and order of selection. If so, describe: (NCBVI)***

**A. The order to be followed in selecting eligible individuals to be provided VR services. (NCBVI)**

NCBVI is not under an Order of Selection. Policy and procedures are in place to implement Order of Selection should it ever be imminent. It is not expected that an Order of Selection will be required during FFY 2016.

**B. The justification for the order. (NCBVI)**

Not applicable

**C. The service and outcome goals. (NCBVI)**

Not applicable

**D. The time within which these goals may be achieved for individuals in each priority category within the order. (NCBVI)**

Not applicable

**E. How individuals with the most significant disabilities are selected for services before all other individuals with disabilities; and (NCBVI)**

Not applicable

2. *If the designated State unit has elected to serve eligible individuals, regardless of any established order of selection, who require specific services or equipment to maintain employment. (NCBVI)*

Not applicable

**n. Goals and Plans for Distribution of title VI Funds. (NCBVI)**

1. *Specify the State's goals and priorities for funds received under section 603 of the Rehabilitation Act for the provision of supported employment services. (NCBVI)*

The primary goal for the Supported Employment (SE) program of NCBVI is to develop appropriate individualized SE placements for blind and visually impaired persons with developmental disabilities. It is also the goal of NCBVI's SE program to develop appropriate individualized SE placements for blind and visually impaired persons with significant secondary disabilities including brain injury, mental illness, hearing impairment, or other multiple disabilities occurring after consumers have reached the age of 21.

2. *Describe the activities to be conducted, with funds reserved pursuant to section 603(d), for youth with the most significant disabilities, including: (NCBVI)*

**A. The provision of extended services for a period not to exceed 4 years; and (NCBVI)**

Each blind and visually impaired individual with a developmental disability has a case service coordinator employed by the Nebraska Department of Health and Human Services, Division of Developmental Disabilities (NDHH-DDD). The case service coordinator is responsible for developing an Individualized Program Plan (IPP) for mutual clients served by NCBVI and DDD. When supported employment services are involved, the IPP includes financial support provided by NCBVI and NHHS-DDD. NHHS-DDD pays for hourly rates charged by the supported employment service provider; NCBVI provides incentive payments at specific intervals (start of job search, start of employment, 30 days following the start of employment, stabilization, and 90, 180, and 270 days following stabilization).

This arrangement is in accordance with the milestones model used by the Nebraska general rehabilitation agency to serve clients shared with NHHS-DDD. The NCBVI Deputy Director described the milestone model as applicable to NCBVI clients at a statewide gathering of 30 local field office supervisors coordinated by NHHS-DDD in November 2012. The NCBVI Lincoln district supervisor and vocational rehabilitation counselors and the NCBVI Deputy Director for Independent Living Services also met with NHHS-DDD supervisors and case service coordinators from various local field offices in southeastern Nebraska, and work continues to establish working relationships with NHHS-DDD local field offices in other parts of the state. One supported employment case

has been closed successfully since the milestones model was initiated. ? Some blind and visually impaired persons with non–developmental disabilities, primarily those with traumatic brain injuries, mental health issues, or other significant disabilities occurring after age 21 might benefit from supported employment services; however, state funding for support extending beyond eighteen (24) months to such persons is not available in Nebraska (or 48 months for youth defined as eligible for Pre–Employment Transition Services). In such cases, the Deputy Director, Supported Employment Administrator, works with the NCBVI Counselor involved to identify possible resources for the ongoing support (i.e., PASS plans, natural supports, personal resources). Continued training regarding Supported Employment services is provided to NCBVI counselors, statewide. The total funds projected for FY 2016 is expected to be \$30,000. At least 50% will be allocated to persons in the pre–employment transition services categories.

**B. How the State will leverage other public and private funds to increase resources for extended services and expanded supported employment opportunities for youth with the most significant disabilities. (NCBVI)**

Concerted efforts will assure efficiency so that the limited funding will be as effective as possible. As appropriate, additional funding will be available from Title I funds. SE services were provided to 20 clients in FY 2015; it is feasible that the number served in 2016 will be 25. Overall, NCBVI Management staff work to implement creative strategies to most effectively utilize Supported employment funds to maximize the benefit for those individuals in the program’s target population. Project SEARCH is a joint effort between NCBVI, VR (NE–G), school districts, hospitals and other businesses in several communities. Project SEARCH is not specifically supported employment, but it is designed to benefit people with developmental disabilities in transition. Additional Project SEARCH programs were added during the past year. These partnerships between NCBVI, VR, schools and businesses are expanding. New projects include a major hotel and hospitals. Outreach to transition aged persons with multiple disabilities will enable us to identify youth who are appropriate for this opportunity and to provide the vocational preparation and experience that will serve them well into adulthood.

**o. State's Strategies (NCBVI)**

Describe the required strategies and how the agency will use these strategies to achieve its goals and priorities, support innovation and expansion activities, and overcome any barriers to accessing the VR and the Supported Employment programs (See sections 101(a)(15)(D) and (18)(B) of the Rehabilitation Act and section 427 of the General Education Provisions Act (GEPA)):

**1. *The methods to be used to expand and improve services to individuals with disabilities. (NCBVI)***

Nebraska Commission for the Blind and Visually Impaired works to increase the number and percentage of clients achieving competitive employment outcomes; increase the rehabilitation rate for transition aged clients achieving competitive employment outcomes; and to improve the quality assurance system. NCBVI utilizes strategies identified in the

text above and in WIOA to achieve these goals and priorities, to support innovation and expansion activities, and to overcome barriers to accessing NCBVI's vocational rehabilitation and supported employment programs. There are six physical offices throughout the State of Nebraska, to reach blind and visually impaired persons in their home communities. Vocational Rehabilitation staff travel their catchment areas to meet with referrals and clients, to educate the general public, including employers, and to reach out to individuals who may need our services.

**2. *How a broad range of assistive technology services and devices will be provided to individuals with disabilities at each stage of the rehabilitation process and on a statewide basis. (NCBVI)***

NCBVI provides assistive technology services throughout the state of Nebraska to blind and visually impaired consumers. The Commission's team of three technology specialists, under the lead of a Technology Program Manager, provides assessment, consultative support, and training on mainstream and access technology products. The specialists participate in trainings and research to discover technology solutions and provide consumers the ability to weigh the pros and cons of specific technologies to support their informed choice. Technology training is provided in the NCBVI Center for the Blind. We also contract with third parties to make software accessible and with others to provide training when additional consultation is needed. NCBVI collaborates with Assistive Technology Partnership throughout the state in field offices. The NCBVI Technology Program Manager is active on the ATP Advisory Board.

**3. *The outreach procedures that will be used to identify and serve individuals with disabilities who are minorities, including those with the most significant disabilities, as well as those who have been unserved or underserved by the VR program. (NCBVI)***

Through the leadership of NCBVI Deputy Directors and Supervisors, Counselors in each District and Office work to identify and serve blind and visually impaired individuals who are of minority backgrounds, have the most significant disabilities, and those who have been unserved or underserved by NCBVI. Direct contact is made with organizations and populations in each area of the state, to assure that the availability of services is made known to all who might be eligible.

**4. *The methods to be used to improve and expand VR services for students with disabilities, including the coordination of services designed to facilitate the transition of such students from school to postsecondary life (including the receipt of VR services, postsecondary education, employment, and pre-employment transition services). (NCBVI)***

There is an increasing emphasis upon providing effective services to the transition population, particularly pre-employment transition eligible persons. From the RSA

perspective, as well as this agency, it is crucial to increase successful outcomes for clients who begin rehabilitation services from the age of 16 (or 14 where appropriate) through age 24. NCBVI closely reviews all transition cases closed without achieving employment outcomes. Through this process, approaches and services are analyzed, to determine how successes for transition clients can be increased. At the same time, case reviews are conducted on all transition cases closed that did achieve employment outcomes. The level and types of services provided and the success achieved are examined based upon benchmarks established by RSA and WIOA common measures, to be determined.

***5. If applicable, plans for establishing, developing, or improving community rehabilitation programs within the State. (NCBVI)***

Workshops are provided in various locations around Nebraska to spotlight the capabilities of blind individuals. The agency partners with other agencies, consumer organizations, communities, and groups; including Disability Rights Nebraska, Nebraska Assistive Technology Partnership (ATP), the Statewide Independent Living Council, Workforce Development Councils, educational entities, hospitals, multi-cultural centers, community rehabilitation programs (Goodwill, Martin Luther Homes, Community Alternatives of Nebraska, Quality Living), and a wide range of other entities.

***6. Strategies to improve the performance of the State with respect to the performance accountability measures under section 116 of WIOA. (NCBVI)***

Performance accountability measures under §116 of WIOA have not yet been established. The system of Standards and Indicators established by RSA has been the primary benchmark used to measure the extent to which program goals were achieved and as a result, the effectiveness of the overall program. NCBVI successfully achieved performance levels required by the US Department of Education/Rehabilitation Services Administration (RSA) official Standards and Indicators.

***7. Strategies for assisting other components of the statewide workforce development system in assisting individuals with disabilities. (NCBVI)***

Various activities enable NCBVI to inform other components of the statewide workforce development system about the services available to individuals who are blind, thus expanding opportunities to those who are, or who may become, eligible for services of the Vocational Rehabilitation or the Supported Employment program. At the Statewide level, NCBVI is actively engaged with the WIOA Core Partners efforts; in local workforce areas, NCBVI staff collaborate with other components of the workforce system to assure there is knowledge of and access to providing services to persons who are blind or visually impaired. The agency website is updated continuously and provides information to the public about available services and resources, avenues to apply for services, and ask questions, and so forth. In 2016, the employment conferences for clients will be continued. The conferences are an effective approach to expand and improve efforts to secure high quality employment outcomes for job ready consumers and to enable pre-

employment services clients to gain skills and resources for achieving employment. Included in the conferences are motivational speakers, sessions on resume writing, interviewing and related skills, technology demonstrations, mock interviews with local business people, and a job fair with local businesses present. Employers have an opportunity to meet blind job candidates in a setting conducive to exploring the options for both blind consumers and for business representatives. Clients learn and practice many skills necessary to succeed in the world of work. Instructional videos developed and produced by NCBVI are now being used by clients, for self-study on blindness skills, between appointments with Rehabilitation Counselors and Teachers.

## ***8. How the agency's strategies will be used to: (NCBVI)***

### **A. Achieve goals and priorities by the State, consistent with the comprehensive needs assessment; (NCBVI)**

Over the past several years, staff training included intervention strategies promoting greater effectiveness working with people with Traumatic Brain Injury, Deaf-Blindness, autism, and other significant disabilities. These activities will enable more blind consumers to obtain employment and to be full participants in their families and communities. Every year, NCBVI conducts comprehensive, statewide assessments on an ongoing basis. Throughout each year, NCBVI holds public forums to elicit opinions and comments from consumers regarding the services currently being provided and the needs of consumers that are not being addressed. In some cases, the forums are conducted jointly with other providers (e.g. the general vocational rehabilitation agency, centers for independent living, education, health and human services, etc.). Other forums are conducted as a part of our presentations to statewide meetings of consumer or peer support groups of the blind: National Federation of the Blind of Nebraska, American Council of the Blind of Nebraska, Nebraska Association of the Blind, and others. The NCBVI Board of Commissioners also holds quarterly public meetings during which they encourage consumers and interested persons to make comments and suggestions. In addition to the ongoing work to hear from the public about services and needs, we now have the results of the formal Comprehensive Statewide Needs Assessment, completed in FFY 2014. The results are consistent with our less formal, ongoing assessments, validating the information that is received from both approaches.

Consumers are informed that the current NCBVI State Plan is posted on the website and is otherwise available to anyone requesting a copy in any format. The forums serve as focus groups to solicit consumer input. The event locations and logistics are scheduled to best elicit input from and ideas about the needs of persons with the most significant disabilities, disabled individuals of minority or ethnic background, areas that may be underserved, and those who may be served by other entities such as the Nebraska Workforce System or other partner entities. The following strategies work toward achieving the third goal (Improve the quality assurance system): each fiscal year, a percentage of Title I funds are used to develop and implement innovative approaches to expand and improve services. During recent years, Innovation and Expansion funds were allocated to further our ability to manage data systematically. The NCSAB data

management system, eForce, has been live since April 9, 2009. Each year, training sessions were conducted for NCBVI personnel to operate the system, both inputting data and accessing information. Additional programming and training efforts were required to fully utilize the system, on an ongoing basis as the system was developed and refined.

#### **B. Support innovation and expansion activities; and (NCBVI)**

As with any data management system, facets needing to be fine-tuned have become evident. The programming and training costs have been funded with a combination of Title I Innovation and Expansion and Social Security Reimbursement funds. Enhancement of the system and provision of the service are specific areas for which resources are needed. New, major additional requirements from RSA for 911 data collection have been implemented, relating to medical coding and other reporting elements. The new regulations, pending further regulations related to WIOA, and an effort to link system with the State of Nebraska fiscal system has led to the decision to purchase a proprietary data system. NCBVI is in the process of a Request for Proposals for competitive bid. This should generate proposals from major software entities for consideration. Plan for starting with a new system is projected at October 1, 2017. Work with the data management system will address all goals. Data management will enable NCBVI to analyze the effectiveness of all parts of the system. These can then be used the data based results to add value to overall efforts of the agency, achieve established goals, and to identify future needs and challenges.

#### **C. Overcome identified barriers relating to equitable access to and participation of individuals with disabilities in the State VR Services Program and the State Supported Employment Services Program. (NCBVI)**

Partnering with other organizations throughout Nebraska and the nation is crucial to assuring equitable access to and participation of individuals who are blind and visually impaired in the State VR and SE services programs. Resources external to NCBVI can help to address areas and issues of potential barriers. Partnering with other agencies, components of the statewide workforce system, consumer organizations and experts expands the capacities of NCBVI and of those other entities. It is a viable way to better serve hard to reach consumers and to improve services with limited funding. Particularly in rural areas, collaboration improves outreach and services to those living in less-populated communities.

**p. Evaluation and Reports of Progress: VR and Supported Employment Goals (NCBVI)**

Describe:

***1. An evaluation of the extent to which the VR program goals described in the approved VR services portion of the Unified or Combined State Plan for the most recently completed program year were achieved. The evaluation must: (NCBVI)***

**A. Identify the strategies that contributed to the achievement of the goals. (NCBVI)**

**Mission**

The mission of Nebraska Commission for the Blind and Visually Impaired (NCBVI) is “Empowering Blind Individuals, Promoting Opportunities, and Building Belief in the Blind.” The Commission’s primary priority is to enable persons who are blind and visually impaired, including those with multiple disabilities (i.e., hearing impairment, brain injury, mental illness) to achieve their individual goals for competitive employment (including supported employment). A secondary priority is to enable persons who are blind and visually impaired, including those who also have multiple disabilities, to achieve their individual goals to live independently and to be full participants in their home communities. Particular emphasis is given to the provision of pre–employment transition services to blind youth ages 14 years and up to but not including age 22.

**Goals**

NCBVI goals are based on factors identified through analysis of comprehensive statewide assessments, the contracted research projects, and ongoing public forums. 2016 State Plan program goals for NCBVI are extensions of the goals identified on the 2014 State Plan:

- (1) Increase the number and percentage of clients achieving full–time (31+ hours per week) competitive employment outcomes.

Fifty (50) VR clients were closed in Status 26 during FY 2015, indicating that employment goals were achieved, compared to seventy–two (72) in FY 2014. In FY 2015, 54% of cases closed in Status 26 achieved full–time employment, compared to 52.77% achieving full–time employment in FY 2014. Our goal specifically focused on employment with more than 31 hours per week. While the goal of increasing the percentage of status 26 closures achieving full–time employment in FY 2015 was met, the goal of increasing the number of status 26 closures achieving full–time employment in FY 2015 was not.

- (2) Increase the ratio of average hourly earnings of clients who become employed compared to average earnings in the state.

The average hourly wage of cases closed in status 26 during FY 2015 was \$15.08. Using the most recent Department of Labor (DOL) estimates for the average overall hourly wage for Nebraska in the 2nd quarter of 2015 (\$19.99), the ratio of average hourly wage of cases closed in status 26 with DOL estimates is .75. The average hourly wage of cases closed in status 26 during FY 2014 was \$15.67. Using DOL estimates for the average hourly wage for Nebraska at the end of FY 2014 (\$19.69), the ratio of average hourly wage of cases closed in status 26 with DOL estimates of the average overall hourly wage in Nebraska is .79. Goal number 2 was not met.

- (3) Increase the rehabilitation rate for transition aged clients in FY2015 over the previous fiscal year.

The rehab rate for transition-aged clients in FY 2015 was 45.45%; in FY 2014, it was 28.57%. Goal 3 was met. NCBVI is committed to the provision of rehabilitation services to blind and visually impaired children and youth and their families as early as possible in the child's development. Special programs such as Project Independence for children between the ages of five and fourteen stress the importance of self-confidence and independence using the alternative skills of blindness. Programs for blind and visually impaired teens such as WAGES (Work and Gain Experience in the Summer) and Winnerfest provide valuable work experiences and opportunities for developing interpersonal skills needed for success in later life. Other programs such as technology fairs and the College Workshop also help blind and visually impaired students make the transition to life after high school. In the coming year, NCBVI will increase efforts promoting more job opportunities for blind and visually impaired youth in their home communities throughout the school year.

In September 2015, NCBVI hired a Transition Services Specialist to strengthen the relationship between NCBVI and schools statewide on behalf of blind and visually impaired students. Fifteen percent (15%) of funds allocated to NCBVI for vocational rehabilitation services are dedicated to providing pre-employment transition services to blind and visually impaired youth between the ages of 14 and up to but not including 22; 50 percent (50%) of funds for supported employment services are committed to providing pre-employment transition services to blind and visually impaired youth in the same age group. Increasing the number of blind and visually impaired youth in transition achieving their individual employment goals is a major objective for NCBVI in FY 2016. Transition-aged clients are encouraged to elevate their expectations for personal achievement. This can translate to higher education, often delaying their ultimate employment. It may take more years to reach that goal, but when they do, it will be in a career that will pay well, have benefits, and the chance for promotions. We are in the process of examining all 28 closures, including those for Transition clients. We will determine if there is any difference between those who choose to continue their education

and those who do not. We also will explore any commonalities among cases closed unsuccessfully. There may be strategies which can be used to improve the employment outcomes and the resulting rehab rate.

(4) Improve the quality assurance system.

In October 2015, NCBVI issued an RFB requesting bids to replace the client database management system, eForce, to a system that will be more comprehensive and effective on all levels of the process, such as establishing electronic reminders of service deadlines; ways for staff to communicate with each other about client needs and case service activities; mechanisms for administrators to review work that is done, accomplishments made, and to assess gaps in either the data management system itself or the agency's service delivery system. As there is more time using the new system, the Commission will be better able to track effectiveness of programs and in other ways, assure that high quality services are provided to accomplish successful outcomes for clients.

To achieve the goals and priorities of achieving high-quality successful employment for clients, NCBVI is using many approaches. Each situation is individualized, thus the strategies and solutions for each client is unique. This approach is productive in many ways. It helps each individual client to clarify personal goals and then to achieve those goals. It helps to model for the individual that throughout life, one can accomplish new things by thinking creatively and having the confidence to try new approaches. It also helps rehabilitation staff by reinforcing creative, individualized thinking, which in turn stimulates creative thinking for the next client who walks in the door.

Clients are encouraged to examine whether, if not for blindness, he or she would still be in the workforce. If so, counselors help individuals to understand blindness and to raise personal expectations and aspirations. This process often leads to employment goals for individuals who otherwise would not have believed that they could be successful in the job market as a blind or visually impaired person.

NCBVI has developed workshops for clients that give a jump-start toward competitive employment. They also serve to educate business people about the features and benefits involved with hiring blind job candidates, the capabilities of blind individuals, and technology related to blind persons in the workplace. These events have been highly effective in the short term and are expected to garner additional benefits over time.

During FY 2015, NCBVI entered into a contract with Abilities Fund, a private non-profit organization specializing in training for people with disabilities in preparation for self-employment. It is expected that this partnership will expand self-employment options for more blind and visually impaired consumers. The upturn in the national economy over the past couple of years has created a more favorable labor market; however, there are still pressures which make getting a job more difficult for individuals who are blind or visually impaired. It is hoped that the overall

economic situation in Nebraska and across the country will continue to improve during 2016.

## **B. Describe the factors that impeded the achievement of the goals and priorities. (NCBVI)**

### **Evaluation of Program Effectiveness**

Every year, NCBVI evaluates the effectiveness of its vocational rehabilitation program in several different ways; using data and input from Rehabilitation Services Administration (RSA), employers, consumers and the general public, staff members, the Client Assistance Program, and private or other public entities with whom the agency collaborates. Most important, service recipients are asked for their evaluation of services provided at several stages of their program.

The needs of Nebraskans who are blind or have visual impairments are identified on a statewide basis through public forums and meetings, surveys of clients after completion of Center training, after case closure, and changes at statuses 18 and 20. There is ongoing communication with the NCBVI Governing Board of Commissioners (four of five of whom are blind) and the agency's accessible website. Work continues with the resultant feedback, to best address identified needs and to modify procedures for the future. The public forums held throughout the year continue to confirm and reinforce findings of that formalized needs assessment.

### **Statewide Needs Assessment**

In 2013, NCBVI initiated a contract for a statewide needs assessment with the National Research and Training Center on Blindness and Low Vision (NRTC), Mississippi State University Research Unit. The assessment includes surveys of blind clients who were closed either in status 26 or 28, members of NCBVI staff, and employers who have had experience with NCBVI staff and clients. Semi-structured interviews were conducted with other key informants. In addition, existing data from various sources were analyzed, such as the RSA-911 data for NCBVI, American Community Survey data, and Bureau of Labor Statistics labor and economic forecasts. Some of the more important research findings of the statewide needs assessment issued in FY 2014 were as follows:

### **Services to Consumers with Multiple Disabilities**

Several data sources indicated that services to consumers with multiple disabilities need improvement. According to the RSA-911 analyses, consumers with multiple disabilities were competitively employed at a significantly lower rate after receiving services than other consumers. In the consumer survey, respondents who had multiple disabilities reported a greater need for services in many areas compared to those with blindness or visual impairment only. In terms of services for which a need remained after the completion of their rehabilitation program, respondents with multiple disabilities had similar or higher remaining needs in all areas. They reported a higher remaining need (compared to those without multiple disabilities) in 47.4% (n=9) of the services asked

about. Almost all staff (94.7%) indicated that improving services to consumers with multiple disabilities was a moderate or critical need. This item had the fewest number of people who did not consider it a need (only one staff person rated this as limited or no need). Four of the eight key informants identified persons with multiple disabilities as a group that was unserved or underserved by NCBVI. One key informant mentioned that counselors tended to not have knowledge about other disabilities, and there was a need for them to have this knowledge in order to serve this group appropriately.

In terms of suggestions by participants about how to better serve this population and meet their needs, four key informants indicated that it is important for NCBVI to partner with other agencies or organizations that have some expertise with the additional disabilities of this group. Three staff members mentioned that additional training or professional development about other disabilities was needed, and two staff members suggested partnering with other professionals or organizations that have expertise with other disabilities.

### **Services to minorities**

Several data sources also indicated that services to minorities could be improved. In RSA-911 analyses, there were significant differences by race/ethnicity in both acceptance rates and competitive employment. Whites were significantly more likely than other races/ethnicities to be accepted to receive services and also to be closed with competitive employment.

Specifically, Whites were competitively employed at a rate of nearly double the rate for African Americans (51.2% and 25.9%, respectively). Competitive employment rates were also lower for Hispanics (33.3%) and for American Indians (10%). The majority (57.9%) of staff respondents indicated that services to consumers with diverse racial or ethnic backgrounds was a critical (31.6%) or moderate (26.3%) need for improvement.

Across multiple data sources, there were indications that improvement of services to non-English speaking individuals is needed. Those of Hispanic origin were under-represented in percentages who received services by NCBVI compared to the percentages of their population in the state. Key informants and staff respondents indicated that there are various barriers associated with serving non-English speaking consumers. These issues included cultural barriers, language or communication issues, and outreach concerns. Improving the availability of materials for non-English speaking consumers was indicated as either a critical or moderate need by 73.7% of staff respondents. Staff and key informants suggested that the use of local translators can create a perceived threat to confidentiality among non-English speaking consumers, especially in small communities. One recommendation provided was to contract with non-local translators by phone when possible. Another respondent suggested that specific steps need to be taken beyond what is outlined in the Minority Outreach Plan. Suggested actions to potentially improve services include making all materials and outreach brochures available in Spanish and reaching out to communities to learn about cultural issues that may discourage individuals from contacting the Commission.

## **Employment–related Assistance**

Employment–related assistance was another area of need identified by several data sources. This was one of the most common rehabilitation needs identified by key informants, for all people who are blind or visually impaired and for those with the most significant disabilities. Consumers indicated a remaining need, after receipt of services, for many employment–related services. The services included assistance with finding a job (39.3% reported still needing help in this area), finding job leads or contacting employers (38.5%), assistance working with employer to provide accommodations (34.8%), filling out a job application (33.3%), exploring career options (26.7%), support from counselor to raise career expectations (24%), improving interview skills (21.4%), and guidance in developing a resume (11.8%). More than one quarter of the consumer respondents (28.2%) indicated that they did not achieve their employment goal. However, it is relevant to note that when reporting on barriers experienced to employment, the top five barriers identified are not things that can be directly influenced by the agency.

Several items on the staff survey addressed employment–related services. The two items that were identified as having the greatest needs were Improving placement services by developing and strengthening relationships with employers and community organizations and improving services that enable consumers to learn more about career options (both identified by 84.2% of staff as a moderate or critical need). Also considered a moderate or critical need by most staff were improving job placement services to help clients find or maintain employment (78.9%) and improving training for consumers on job seeking skills (68.4%). Some suggestions related to improving services in these areas were: doing more on–the–job training, use of professionals to help with career exploration, use of career assessments, providing more opportunities for bringing employers and job–ready consumers together, all staff being involved in networking with employers, and having one staff person in each district specialize in placement activities.

## **Assistive technology**

Training in assistive technology, including computer assistive technology, was the highest area of need reported by consumers in their survey. After completing their rehabilitation programs, a number of consumers reported a remaining need for training in this area. Of the people who reported that they initially needed the service, 20.8% (n=11) for assistive technology and 14.8% (n=8) for computer assistive technology reported still needing the service after completion of their programs. Four of the seven consumers who indicated a remaining need after services (to the open–ended question) indicated a need in this area. In addition, 33.3% of employers who completed the survey indicated that providing assistance with assistive technology would help them in hiring or retaining people who are blind or visually impaired, and two key informants identified assistive technology as an important rehabilitation need.

Most staff also considered items associated with improving assistive technology to be important needs. Improving the assistive technology training to consumers was rated the second highest in terms of critical need (36.8% of staff rated as critical and 42.1% rated

it as a moderate need). A large majority of staff (84.2%) also believed that offering more in-service training for staff who provide assistive technology to consumers and providing more assistive technology support to employers were moderate or critical needs. Staff provided several suggestions for improving services related to assistive technology. Several recommended additional, ongoing training in use of assistive technology for all staff (not just the tech staff). Two suggested group training classes for consumers. One suggested that better teamwork was needed between VR/OC counselors and technology staff.

## **Partnering with Other Organizations**

Across multiple data sources, many respondents suggested that several needs could be addressed by partnering with other agencies and organizations. According to respondents, collaboration with resources external to NCBVI has the potential to address several issues, particularly those related to expertise and funding constraints. Staff members and key informants suggested partnering with other agencies, consumer groups, and experts to improve service to those with multiple disabilities by providing staff training, learning from successful organizations, and sharing costs and caseloads. Specifically, some individuals suggested partnering with experts in mental health, memory loss, and brain injury associations.

Respondents suggested that partnering with organizations would also improve services to other special populations such as the older blind, transition age youth, non-English speaking consumers, and those living in rural areas. For example, key informants suggested that NCBVI could better serve older blind consumers, by reaching out to senior centers, community centers, the Department of Aging, and state independent living centers. Respondents also suggested that partnerships should be established with schools and educators beginning as early as pre-school, with direct communication with TVIs, which would develop better relationships to later serve transition-age youth.

In addition to these partnerships, some respondents noted the benefits of strengthening partnerships with community organizations, non-employment related agencies (such as housing, transportation, and Medicaid), advocacy groups, the Nebraska Partner Council, and low vision clinics. Most respondents suggested that partnering with other organizations is a viable way to better serve hard to reach consumers and to improve services with limited funding. Some respondents suggested that partnering with agencies in rural areas, or hiring paraprofessionals, would improve outreach and services to those living in those communities. Collaboration with other agencies was also suggested as one way to improve services to non-English speaking consumers by learning how cultural and language barriers are being addressed by other community agencies. While most respondents were in favor of improving and developing partnerships, one individual cautioned that “sometimes too many agencies working together can create delays and miscommunication.”

## **Services for Consumers in Rural Areas**

A large majority of staff indicated that enhancing services in rural areas was either a moderate (47.4%) or critical (42.1%) need, making it the most critical area for improvement of all items on the staff survey. In addition, one key informant stated that reaching consumers in rural areas is a problem. However, analyses with RSA-911 data did not indicate a significant difference in acceptance rates or competitive employment rates based on rurality. Though not significantly different, highest acceptance and competitive employment rates were among those living in rural areas (86.8% and 50% respectively), while those living in urban areas had the lowest acceptance and competitive employment rates (75.2% and 45.3% respectively). To evaluate whether people living in rural areas might be underserved (under-represented), percentages of consumers served in rural, urban, and metro areas were compared to percentages for the entire population of the state, and no differences were found.

Despite lack of evidence from secondary data sources (RSA-911 and state population data), staff and one key informant perceived services to consumers in rural areas to be an important area needing improvement. A variety of suggestions for improving services to consumers in rural areas included increasing outreach efforts in these areas, increasing presence by providing more counselors and visits to clients in those areas, promoting self-employment, and partnering with other agencies or contracting with professionals within rural communities.

NCBVI has studied and assessed these research findings in conjunction with other methods for gathering data in the establishment of priorities for improving VR services to blind and visually impaired individuals and in the consideration of future practice and policy.

As noted above, NCBVI will be switching to a new, more comprehensive client data management system. This will enable us to achieve our goal to improved quality assurance with a systematic assessment of progress of all aspects of service delivery. The system will be customized to our environment and fine-tuned to provide the data-analysis components which we will find most useful in the future.

Work to implement a new database management system will address all four goals and enable NCBVI to analyze the effectiveness of all parts of the client services system. We can then use the data based results to add value to our overall efforts, achieve established goals, and to identify future needs and challenges.

***2. An evaluation of the extent to which the Supported Employment program goals described in the Supported Employment Supplement for the most recent program year were achieved. The evaluation must: (NCBVI)***

**A. Identify the strategies that contributed to the achievement of the goals. (NCBVI)**

The primary goal for the SE Program is to develop supported employment opportunities for persons who experience a significant secondary disability (i.e., developmental disability, acquired brain injury, mental illness, or other significant disability limiting a person's ability to maintain competitive employment without ongoing support).

An agreement with the Nebraska Health and Human Services System provides the expertise and resources, including ongoing support, to develop and sustain individualized services. Each individual with a developmental disability has a case manager service coordinator, employed by the Nebraska Health and Human Services, Division of Developmental Disabilities (NHHS–DDD). The case service coordinator is responsible for developing an Individual Program Plan for each client. The Plan normally includes provision for ongoing support from DDD when supported employment is involved. NCBVI generally works with the client (or supported job coaching) for 90 days after stabilization. Using the milestones system; the client remains in active status for about a year after employment. Arrangements are made on a case-by-case basis and mirror the approach in place between the Nebraska general agency (VR) and NHHS–DDD.

Blind and visually impaired individuals with mental health issues, acquired brain injury, or other significant disabilities with onset of disability occurring after the age of 21 may also be candidates for SE services, and NCBVI is exploring ways to expand SE opportunities with these individuals through partnerships with relevant state agencies and non-profit SE service providers.

NCBVI works to enhance the potential to achieve employment outcomes in cases that often require maximizing resources and creativity. SE funds are utilized for training of clients who are Deaf–Blind or have other multiple disabilities. As appropriate, some clients are referred to the Helen Keller National Center (HKNC) for intensive training, not available in Nebraska. In recent years, there have been more Deaf–Blind individuals who have personal goals to become employed, who qualify for Supported Employment and for whom Supported Employment is indicated. In addition to the actual job coaching and ongoing supports, it is crucial for such individuals to enhance their capabilities for productive lives.

**B. Describe the factors that impeded the achievement of the goals and priorities. (NCBVI)**

As NCBVI has reached out to behavioral health agencies, we have encountered resistance to working with us. There is a lack of understanding about NCBVI being the entity responsible for funding Supported Employment services for the blind. That is, that NCBVI is the same as Vocational Rehabilitation–General in this regard. The Deputy Director and Lincoln District Supervisor are working to establish a pilot project with the

Division of Behavioral Health in Lincoln. A tour has been set to bring BH staff to NCBVI to learn about the Nebraska Center for the Blind training facility, and to learn more about NCBVI overall. There are a few current clients with BH issues, of NCBVI–Lincoln, who are likely candidates for Supported Employment. This effort to build understanding and collaboration is a pilot, which can be replicated statewide when it is established.

At present there is no client of NCBVI who is identified as eligible for Supported Employment as a result of autism or traumatic brain injury, in combination with visual impairment. Once the connections amongst the agencies are better established, it is expected that we (NCBVI and other entities) will be prepared to provide the services, since groundwork in the other related areas will have been laid.

There is a need to promote more public education and to form new relationships. The main history in the SE arena has been with the Division of Developmental Health. NCBVI Deputy Directors and Supervisors are developing plans to expand that work.

### ***3. The VR program's performance on the performance accountability indicators under section 116 of WIOA. (NCBVI)***

Performance accountability indicators under section 116 of WIOA have not yet been determined. To date, the RSA Standards and Indicators have served as the performance measure by which the VR programs are judged. The most current reporting of achievement on Standards and Indicators gives the following results. Standard 1.1 Change in number of employment outcomes – must be greater than or equal to zero. NCBVI: Plus 68. Passed. Standard 1.2 Percent employed – must be greater than or equal to 68.9%. NCBVI: 58.66%. Not passed. Standard 1.3 Employed competitively – % must be greater than or equal to 35.40%. NCBVI: 98.10%. Passed. Standard 1.4 Significant Disabilities achieving competitive employment outcomes – must be greater than or equal to 89%. NCBVI: 100%. Passed. Standard 1.5 Average hourly earnings – ratio must be greater than or equal to .59. NCBVI: 0.819. Passed. Standard 1.6 Self Support – % must be greater than or equal to 30.40%. NCBVI 33.01%. Passed Primary Indicators 1.3 through 1.5 – must pass 2 out of 3. Passed all three. Number of indicators 1.1 through 1.5 – must pass 4 of the 6. Passed five of the six. Standard 2.1 Minority ratio – must be greater than or equal to .80, except for low incidence populations where number served are less than N=100. Not applicable

### ***4. How the funds reserved for innovation and expansion (I&E) activities were utilized. (NCBVI)***

Nebraska Commission for the Blind and Visually Impaired works to increase the number and percentage of clients achieving competitive employment outcomes; increase the rehabilitation rate for transition aged clients achieving competitive employment outcomes; and to improve the quality assurance system. NCBVI utilizes strategies identified in the text above and in WIOA to achieve these goals and priorities, to support innovation and expansion activities, and to overcome barriers to accessing NCBVI's vocational rehabilitation and supported employment programs.

During recent years, Innovation and Expansion funds were allocated to further our ability to manage data systematically. The NCSAB data management system, eForce, has been live since April 9, 2009. Each year, training sessions were conducted for NCBVI personnel to operate the system, both inputting data and accessing information. Additional programming and training efforts were required to fully utilize the system, on an ongoing basis as the system was developed and refined.

As with any data management system, facets needing to be fine-tuned have become evident. The programming and training costs have been funded with a combination of Title I Innovation and Expansion and Social Security Reimbursement funds. Enhancement of the system and provision of the service are specific areas for which resources are needed.

#### **q. Quality, Scope, and Extent of Supported Employment Services. (NCBVI)**

Include the following:

##### ***1. The quality, scope, and extent of supported employment services to be provided to individuals with the most significant disabilities, including youth with the most significant disabilities. (NCBVI)***

Supported Employment (SE) is an employment option available to individuals with the most significant disabilities receiving services from NCBVI. An individual with the most significant disability is defined in rule (Title 192 Nebraska Administrative Code, Chapter 1) as an individual with a severe visual impairment or combination of visual, physical, or mental impairments which profoundly limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and an individual whose vocational rehabilitation can be expected to require extensive or intensive SE services for at least twelve months.

SE requires the provision of a job coach for the initial, intensive training; and requires long-term, intermittent support to insure the individual is successful on the job. This long term support is provided for as long as the person has the job.

NCBVI provides financial support of SE services using Title IV Subtitle G funds only if the placement is expected to meet the following conditions:

1. The placement is community-based.
2. The consumer is integrated into the workforce with other non-disabled individuals.
3. The consumer earns minimum wage or better.
4. The need for ongoing support is expected to continue indefinitely.

NCBVI works in partnership with the Department of Health and Human Services–Division of Developmental Disabilities (NDHHS–DDD) in the provision of SE services to blind and visually impaired individuals with developmental disabilities. Each individual with a

developmental disability has a case service coordinator, employed by NDHHS–DDD. The case service coordinator is responsible for developing an Individual Program Plan for each client. The Plan includes provision for the ongoing financial support of SE services provided by NDHHS–DDD after NCBVI support is discontinued. Over the past few years, NCBVI has been using a milestones system for financial support of SE services provided by private vendors. The milestone approach mirrors the model used by the general agency (Nebraska VR Services). Using this model, the client will remain in an active status for about a year after the start of employment. The arrangements are made on a case-by-case basis.

NCBVI collaborated with the Department of Education, Special Education and Vocational Rehabilitation in the development of policies and procedures more clearly delineating the responsibilities of the different agencies and institutions involved and the scope and nature of services available to younger persons with disabilities in transition from school. The Collaborative Agreement between NCBVI, Department of Education/Special Populations, and the Nebraska Center for the Education of Children who are Blind or Visually Impaired, applies to persons who are likely to require supported employment in the future, as well as those students without this need. Particular emphasis is placed on the provision of pre-vocational transition services for blind and visually impaired students in need of SE services between the ages of 14 and up to but not including the age of 22.

Financial support by NCBVI for supported employment services using Title VI funds is limited to 24 months, or up to 48 months for youth ages 16–24 with a disability, unless there are compelling reasons to believe that extending NCBVI support will result in a more successful placement. For example, supported employment services may be provided by NCBVI for longer than 24 months in those cases involving consumers between the ages of 18 and 22. Developmental Disabilities (DDD) does not pick up the cost of supported employment services until individuals have reached the age of 22. In such cases, NCBVI will extend services for longer than 18 months until the age of 22 is reached. In those cases in which the consumer has a developmental disability, long-term financial support after NCBVI's support is discontinued is typically provided by NDHHS–DDD.

Efforts are currently underway to establish a partnership with the Nebraska Department of Health and Human Services–Division of Behavioral Health (NDHHS–DBH) similar to the one between NCBVI and NDHHS–DDD using the milestone approach for providing SE services. The partnership with NDHHS–DBH is expected to expand SE service opportunities to blind and visually consumers with behavioral health issues.

A small number of blind and visually impaired consumers with significant, non-developmental secondary disabilities occurring after age 21 might benefit from SE services. Generally, however, funding for services extending beyond eighteen (24) months to such persons is not available in Nebraska. In such cases, the Deputy Director of Client Services and the immediate supervisor of field services works with the NCBVI Counselor involved to identify possible resources for the ongoing support, such as developing a PASS (Plan to Achieve Self Sufficiency) or personal resources. The Deputy

Director also provides statewide training and information to NCBVI personnel regarding the SE program.

NCBVI has service contracts with a number of providers in the Nebraska Developmental Disabilities system and with private providers of job coaching and related services. Contracts are developed on behalf of individuals with the most significant disabilities with both private and public providers who are actively seeking suitable work placements for them in integrated settings. The total amount of Title IV Subtitle G funds that we project to expend in FY 2016 is \$30,000. We expect to provide SE services to approximately 30 clients in FY 2016.

## ***2. The timing of transition to extended services. (NCBVI)***

NCBVI Supported Employment clients are transitioned to extended services provided by other public agencies, non-profit organizations, employers, natural supports or other entities after no longer than 24 months, or 48 months for blind or visually impaired youth after placement in Supported Employment, unless a longer period is set forth in the IPE. The transition to extended services is based upon a) substantial progress made toward hours per week goal in the IPE, b) the client is stabilized on the job, and c) that extended services will be available and provided without a break in services.

## Certifications (NCBVI)

Name of designated State agency or designated State unit, as appropriate

- **Nebraska Commission for the Blind and Visually Impaired**

Name of designated State agency

- **Nebraska Commission for the Blind and Visually Impaired**

Full Name of Authorized Representative

- **Dr. Pearl Van Zandt**

Title of Authorized Representative

- **Executive Director**

States must provide written and signed certifications that:

1. The **designated State agency or designated State unit (as appropriate) listed above** is authorized to submit the VR services portion of the Unified or Combined State Plan under title 1 of the Rehabilitation Act of 1973 (Rehabilitation Act), as amended by WIOA\*, and its supplement under title VI of the Rehabilitation Act.\*\* **Yes**
2. As a condition for the receipt of Federal funds under title I of the Rehabilitation Act for the provision of VR services, the **designated State agency listed above** agrees to operate and administer the State VR Services Program in accordance with the VR services portion of the Unified or Combined State Plan, the Rehabilitation Act, and all applicable regulations, policies, and procedures established by the Secretary of Education. Funds made available under section 111 of the Rehabilitation Act are used solely for the provision of VR services and the administration of the VR services portion of the Unified or Combined State Plan; **Yes**
3. As a condition for the receipt of Federal funds under title VI of the Rehabilitation Act for supported employment services, the designated State agency agrees to operate and administer the State Supported Employment Services Program in accordance with the supplement to the VR services portion of the Unified or Combined State Plan\*, the Rehabilitation Act, and all applicable regulations, policies, and procedures established by the Secretary of Education. Funds made available under title VI are used solely for the provision of supported employment services and the administration of the supplement to the VR services portion of the Unified or Combined State Plan;\*\* **Yes**
4. The designated State agency and/or the designated State unit has the authority under State law to perform the functions of the State regarding the VR services portion of the Unified or Combined State Plan and its supplement; **Yes**
5. The State legally may carry out each provision of the VR services portion of the Unified or Combined State Plan and its supplement. **Yes**

6. All provisions of the VR services portion of the Unified or Combined State Plan and its supplement are consistent with State law. **Yes**
7. The **Authorized Representative listed above** has the authority under State law to receive, hold, and disburse Federal funds made available under the VR services portion of the Unified or Combined State Plan and its supplement;. **Yes**
8. The **Authorized Representative listed above** has the authority to submit the VR services portion of the Unified or Combined State Plan and the supplement for Supported Employment services. **Yes**
9. The agency that submits the VR services portion of the Unified or Combined State Plan and its supplement has adopted or otherwise formally approved the plan and its supplement. **Yes**

### Footnotes (NCBVI)

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#### Certification 1 Footnotes

\* Public Law 113-128.

\*\* Unless otherwise stated, "Rehabilitation Act" means the Rehabilitation Act of 1973, as amended by WIOA, signed into law on July 22, 2014.

#### Certification 2 Footnotes

\* All references in this plan to "designated State agency" or to "the State agency" relate to the agency identified in this paragraph.

\*\* No funds under title 1 of the Rehabilitation Act may be awarded without an approved VR services portion of the Unified or Combined State Plan in accordance with section 101(a) of the Rehabilitation Act.

\*\*\* Applicable regulations, in part, include the Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 76,77,79,81, and 82; 2 CFR part 200 as adopted by 2 CFR part 3485; and the State VR Services Program regulations.

#### Certification 3 Footnotes

\* No funds under title VI of the Rehabilitation Act may be awarded without an approved supplement to the VR services portion of the Unified or Combined State Plan in accordance with section 606(a) of the Rehabilitation Act.

\*\* Applicable regulations, in part, include the citations in \*\*\* under Certification 2 footnotes

#### Additional Comments on the Certifications from the State (NCBVI)

**None**

## **Certification Regarding Lobbying — Vocational Rehabilitation (NCBVI)**

Certification for Contracts, Grants, Loans, and Cooperative Agreements – The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## Statement for Loan Guarantees and Loan Insurance (NCBVI)

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Applicant's Organization

- **Nebraska Commission for the Blind and Visually Impaired**

Full Name of Authorized Representative

- **Dr. Pearl Van Zandt**

Title of Authorized Representative

- **Executive Director**

SF LLL Form – Disclosure of Lobbying Activities (only if applicable) (<http://www2.ed.gov/fund/grant/apply/appforms/appforms.html>). If applicable, please print, sign, and email to MAT\_OCTAE@ed.gov

## Certification Regarding Lobbying — Supported Employment (NCBVI)

Certification for Contracts, Grants, Loans, and Cooperative Agreements – The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## Statement for Loan Guarantees and Loan Insurance (NCBVI)

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Applicant's Organization

- **Nebraska Commission for the Blind and Visually Impaired**

Full Name of Authorized Representative

- **Dr. Pearl Van Zandt**

Title of Authorized Representative

- **Executive Director**

SF LLL Form – Disclosure of Lobbying Activities (only if applicable)  
(<http://www2.ed.gov/fund/grant/apply/appforms/appforms.html>).

## Assurances (NCBVI)

The designated State agency or designated State unit, as appropriate and identified in the State certifications included with this VR services portion of the Unified or Combined State Plan and its supplement, through signature of the authorized individual, assures the Commissioner of the Rehabilitation Services Administration (RSA), that it will comply with all of the requirements of the VR services portion of the Unified or Combined State Plan and its supplement, as set forth in sections 101(a) and 606 of the Rehabilitation Act. The individual authorized to submit the VR services portion of the Unified or Combined State Plan and its supplement makes the following assurances:

### **The State Plan must provide assurances that:**

#### **1. Public Comment on Policies and Procedures: (NCBVI)**

The designated State agency assures it will comply with all statutory and regulatory requirements for public participation in the VR Services Portion of the Unified or Combined State Plan, as required by section 101(a)(16)(A) of the Rehabilitation Act.

#### **2. Submission of the VR services portion of the Unified or Combined State Plan and Its Supplement: (NCBVI)**

The designated State unit assures it will comply with all requirements pertaining to the submission and revisions of the VR services portion of the Unified or Combined State Plan and its supplement for the State Supported Employment Services program, as required by sections 101(a)(1), (22), (23), and 606(a) of the Rehabilitation Act; section 102 of WIOA in the case of the submission of a unified plan; section 103 of WIOA in the case of a submission of a Combined State Plan; 34 CFR 76.140.

#### **3. Administration of the VR services portion of the Unified or Combined State Plan: (NCBVI)**

The designated State agency or designated State unit, as appropriate, assures it will comply with the requirements related to:

- a. the establishment of the designated State agency and designated State unit, as required by section 101(a)(2) of the Rehabilitation Act. (NCBVI)**
- b. the establishment of either a State independent commission or State Rehabilitation Council, as required by section 101(a)(21) of the Rehabilitation Act. (NCBVI)**

The designated State agency or designated State unit, as applicable: **(A) is an independent State commission**

- c. consultations regarding the administration of the VR services portion of the Unified or Combined State Plan, in accordance with section 101(a)(16)(B) of the Rehabilitation Act. (NCBVI)
- d. the financial participation by the State, or if the State so elects, by the State and local agencies, to provide the amount of the non-Federal share of the cost of carrying out the VR program in accordance with section 101(a)(3). (NCBVI)
- e. the local administration of the VR services portion of the Unified or Combined State Plan, in accordance with section 101(a)(2)(A) of the Rehabilitation Act. (NCBVI)

The designated State agency allows for the local administration of VR funds **No**

- f. the shared funding and administration of joint programs, in accordance with section 101(a)(2)(A)(ii) of the Rehabilitation Act. (NCBVI)

The designated State agency allows for the shared funding and administration of joint programs **No**

- g. statewideness and waivers of statewideness requirements, as set forth in section 101(a)(4) of the Rehabilitation Act. (NCBVI)

Is the designated State agency requesting or maintaining a waiver of statewideness for one or more services provided under the VR services portion of the Unified or Combined State Plan? See Section 2 of this VR services portion of the Unified or Combined State Plan **No**

- h. the descriptions for cooperation, collaboration, and coordination, as required by sections 101(a)(11) and (24)(B); and 606(b) of the Rehabilitation Act. (NCBVI)
- i. all required methods of administration, as required by section 101(a)(6) of the Rehabilitation Act. (NCBVI)
- j. the requirements for the comprehensive system of personnel development, as set forth in section 101(a)(7) of the Rehabilitation Act. (NCBVI)
- k. the compilation and submission to the Commissioner of statewide assessments, estimates, State goals and priorities, strategies, and progress reports, as appropriate, and as required by sections 101(a)(15), 105(c)(2), and 606(b)(8) of the Rehabilitation Act. (NCBVI)
- l. the reservation and use of a portion of the funds allotted to the State under section 110 of the Rehabilitation Act for the development and implementation of innovative approaches to expand and improve the provision of VR services to individuals with disabilities, particularly individuals with the most significant disabilities. (NCBVI)
- m. the submission of reports as required by section 101(a)(10) of the Rehabilitation Act. (NCBVI)

#### **4. Administration of the Provision of VR Services: (NCBVI)**

The designated State agency, or designated State unit, as appropriate, assures that it will:

- a. comply with all requirements regarding information and referral services in accordance with sections 101(a)(5)(D) and (20) of the Rehabilitation Act. (NCBVI)**
- b. impose no duration of residence requirement as part of determining an individual's eligibility for VR services or that excludes from services under the plan any individual who is present in the State in accordance with section 101(a)(12) of the Rehabilitation Act. (NCBVI)**
- c. provide the full range of services listed in section 103(a) of the Rehabilitation Act as appropriate, to all eligible individuals with disabilities in the State who apply for services in accordance with section 101(a)(5) of the Rehabilitation Act? (NCBVI)**

Agency will provide the full range of services described above

**Yes**

- d. determine whether comparable services and benefits are available to the individual in accordance with section 101(a)(8) of the Rehabilitation Act. (NCBVI)**
- e. comply with the requirements for the development of an individualized plan for employment in accordance with section 102(b) of the Rehabilitation Act. (NCBVI)**
- f. comply with requirements regarding the provisions of informed choice for all applicants and eligible individuals in accordance with section 102(d) of the Rehabilitation Act. (NCBVI)**
- g. provide vocational rehabilitation services to American Indians who are individuals with disabilities residing in the State, in accordance with section 101(a)(13) of the Rehabilitation Act. (NCBVI)**
- h. comply with the requirements for the conduct of semiannual or annual reviews, as appropriate, for individuals employed either in an extended employment setting in a community rehabilitation program or any other employment under section 14(c) of the Fair Labor Standards Act of 1938, as required by section 101(a)(14) of the Rehabilitation Act. (NCBVI)**
- i. meet the requirements in sections 101(a)(17) and 103(b)(2) of the Rehabilitation Act if the State elects to construct, under special circumstances, facilities for community rehabilitation programs (NCBVI)**
- j. with respect to students with disabilities, the State,**
  - i. has developed and will implement,**
    - a. strategies to address the needs identified in the assessments; and**
    - b. strategies to achieve the goals and priorities identified by the State, to improve and expand vocational rehabilitation**

- services for students with disabilities on a statewide basis;  
and
- ii. has developed and will implement strategies to provide pre-employment transition services (sections 101(a)(15) and 101(a)(25)).

**5. Program Administration for the Supported Employment Title VI Supplement: (NCBVI)**

- a. The designated State unit assures that it will include in the VR services portion of the Unified or Combined State Plan all information required by section 606 of the Rehabilitation Act. (NCBVI)
- b. The designated State agency assures that it will submit reports in such form and in accordance with such procedures as the Commissioner may require and collects the information required by section 101(a)(10) of the Rehabilitation Act separately for individuals receiving supported employment services under title I and individuals receiving supported employment services under title VI of the Rehabilitation Act. (NCBVI)
- c. The designated state unit will coordinate activities with any other State agency that is functioning as an employment network under the Ticket to Work and Self-Sufficiency program under Section 1148 of the Social Security Act. (NCBVI)

**6. Financial Administration of the Supported Employment Program: (NCBVI)**

- a. The designated State agency assures that it will expend no more than 2.5 percent of the State's allotment under title VI for administrative costs of carrying out this program; and, the designated State agency or agencies will provide, directly or indirectly through public or private entities, non-Federal contributions in an amount that is not less than 10 percent of the costs of carrying out supported employment services provided to youth with the most significant disabilities with the funds reserved for such purpose under section 603(d) of the Rehabilitation Act, in accordance with section 606(b)(7)(G) and (H) of the Rehabilitation Act. (NCBVI)
- b. The designated State agency assures that it will use funds made available under title VI of the Rehabilitation Act only to provide supported employment services to individuals with the most significant disabilities, including extended services to youth with the most significant disabilities, who are eligible to receive such services; and, that such funds are used only to supplement and not supplant the funds provided under Title I of the Rehabilitation Act, when providing supported employment services specified in the individualized plan for employment, in accordance with section 606(b)(7)(A) and (D), of the Rehabilitation Act. (NCBVI)

**7. Provision of Supported Employment Services: (NCBVI)**

- a. The designated State agency assures that it will provide supported employment services as defined in section 7(39) of the Rehabilitation Act. (NCBVI)**
- b. The designated State agency assures that:**
  - i. the comprehensive assessment of individuals with significant disabilities conducted under section 102(b)(1) of the Rehabilitation Act and funded under title I of the Rehabilitation Act includes consideration of supported employment as an appropriate employment outcome, in accordance with the requirements of section 606(b)(7)(B) of the Rehabilitation Act**
  - ii. an individualized plan for employment that meets the requirements of section 102(b) of the Rehabilitation Act , which is developed and updated with title I funds, in accordance with sections 102(b)(3)(F) and 606(b)(6)(C) and (E) of the Rehabilitation Act.**

**Additional Comments on the Assurances from the State (NCBVI)**

**None**

## VII. Program-Specific Requirements for Combined State Plan Partner Programs

States choosing to submit a Combined State Plan must provide information concerning the six core programs—the Adult Program, Dislocated Worker Program, Youth Program, Wagner-Peyser Act Program, Adult Education and Family Literacy Act Program, and the Vocational Rehabilitation Program—and also submit relevant information for any of the eleven partner programs it includes in its Combined State Plan. When a State includes a Combined State Plan partner program in its Combined State Plan, it need not submit a separate plan or application for that particular program.\* If included, Combined State Plan partner programs are subject to the “common planning elements” in Sections II and III of that document, where specified, as well as the program-specific requirements for that program (available on [www.regulations.gov](http://www.regulations.gov) for public comment). The requirements that a State must address for any of the partner programs it includes in its Combined State Plan are provided in this separate supplemental document. The Departments are not seeking comments on these program-specific requirements, which exist under separate OMB control numbers and do not represent requirements under WIOA. For further details on this overall collection, access the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting Docket ID number ETA-2015-0006.

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\* States that elect to include employment and training activities carried out under the Community Services Block Grant (CSBG) Act (42 U.S.C. 9901 et seq.) under a Combined State Plan would submit all other required elements of a complete CSBG State Plan directly to the Federal agency that administers the program. Similarly, States that elect to include employment and training activities carried by the Department of Housing and Urban Development and programs authorized under section 6(d)(4) and 6(o) of the Food and Nutrition Act of 2008 that are included would submit all other required elements of a complete State Plan for those programs directly to the Federal agency that administers the program.

## **Temporary Assistance for Needy Families (TANF)**

States that include TANF in the Combined State Plan must outline how the State will meet the requirements of section 402 of the Social Security Act including how it will:

### **(a) Service in all Political Subdivisions**

Conduct a program designed to serve all political subdivisions in the State (not necessarily in a uniform manner) that provides assistance to needy families with (or expecting) children and provides parents with job preparation, work, and support services to enable them to leave the program, specifically cash assistance, and become self-sufficient (section 402(a)(1)(A)(i) of the Social Security Act).

Nebraska will continue to serve families who are Nebraska residents and:

- Are composed of either one or two parents; or
- Specified relatives, conservator, or guardian; and
- Who are expecting their first child to be born within the next 90 days; or
- Who care for children under the age of 18; or
- Up to age 19 if still in secondary school or participating in Employment First after dropping out of school; and
- Whose family's income and resources meet the current means test.

Nebraska will operate a statewide program which provides temporary financial assistance for needy families with minor children and a mandatory work program known as the Employment First Program.

### **(b) Employment First**

Require a parent or caretaker receiving assistance to engage in work (defined by the State) once the State determines the parent or caretaker is ready to engage in work, or once he or she has received 24 months of assistance, whichever is earlier, consistent with the child care exception at 407(e)(2) (section 402(a)(1)(A)(ii) of the Social Security Act)

**EMPLOYMENT FIRST PARTICIPATION** Nebraska has adopted the federal definition of work-eligible individuals. All individuals who are defined as a work-eligible individual are required to participate in the Employment First program.

Once a family applies for ADC cash assistance, all work-eligible individuals, unless they otherwise qualify for an exemption from Employment First, are referred to the Employment First program at the time of the intake interview. The work-eligible individual is required to complete an Employment First Self-Sufficiency Contract within five days of the referral and immediately engage in approved work activities.

Dependent children age 15 or younger (including an emancipated minor) and dependent children age 16, 17, or 18 who are full-time students regularly attending an elementary

or secondary school or a dependent child age 16 or 17 who is a full-time student and regularly attending college, are not required to participate in the Employment First program.

### **(c) Orientation Assessment; Self-Sufficiency Contract**

Ensure that parents and caretakers receiving assistance engage in work in accordance with section 407 (section 402(a)(1)(A)(iii) of the Social Security Act)

**ORIENTATION ASSESSMENT/SELF-SUFFICIENCY CONTRACT.** The orientation is done as an introduction to the Employment First program and the comprehensive assets assessment. The orientation highlights the responsibilities that the client will be expected to fulfill if s/he becomes eligible for ADC cash assistance. The orientation also provides the participant with detailed information on all Employment First requirements, program expectations, participation options, services, and time limits. An assessment will be completed with each participant. The purpose of the assessment is to gather and organize information about the participant's skills, aptitudes, strengths, interests, goals, prior work experience, family circumstances and employability. The assessment is an ongoing process. Reassessment occurs when a participant's circumstances change, when s/he is not able to continue forward movement in the activities included in his/her Self-Sufficiency Contract, or at any time the case manager and/or the participant determines it is necessary.

Based on the results of the assessment, an individualized Self-Sufficiency Contract, which incorporates a detailed Service Plan, will be developed. The Contract will stress urgent action toward economic independence. It will outline and define both DHHS' responsibility and the family's responsibility. The Contract will be used as a flexible tool. If the participant is not achieving progress in his/her Contract, it will be evaluated and changed accordingly.

### **WORK ACTIVITIES**

Nebraska's approved work activities are:

1. Core activities:
  - a. Unsubsidized Employment;
  - b. Subsidized Private or Public Sector Employment;
  - c. Work Experience;
  - d. On-the-Job Training;
  - e. Job Search/Job Readiness;
  - f. Community Service;
  - g. Vocational Training;
  - h. Providing Child Care Services to an Individual Who is Participating in a Community Service Program; and
  - i. Post-Secondary Education.

2. Non-Core activities:

- a. Job Skills Training Directly Related to Employment;
- b. Education Directly Related to Employment; and
- c. Satisfactory Attendance at Secondary School or in a Course of Study Leading to a Certificate of General Equivalence.

## **SUPPORTIVE SERVICES**

Supportive services will be provided to the extent determined necessary to permit the individual to participate in any Employment First approved work activity, including the administrative process of orientation, assessment, self-sufficiency planning, and Self-Sufficiency Contract development, if no other source is available. Case management and necessary supportive services may be provided for the duration of the client's participation in all Employment First approved work activities and, if needed, after the loss of eligibility for ADC cash assistance due to earned income, and if the individual was either cooperating with or participating in Employment First at the time:

1. Extended Employment First supportive can be provided for up to three months for all approved work activities included in his/her Self-Sufficiency Contract; and 2. Transitional Employment First supportive services can be provided for up to six months if the supportive services are determined as necessary and critical for maintaining and/or retaining their employment.

The supportive services include, but are not limited to transportation, education/training related expenses, relocation assistance, work-related expenses, and medical-related services.

## **SANCTIONS**

Non-cooperation with the program requirements will result in the following sanctions:

- ADC cash assistance will be reduced by \$50 for each dependent child who fails to attend school if the student's parent has not taken reasonable steps to encourage the child to remain in school.
- Non-cooperation with Child Support Enforcement will result in a 25 percent reduction in the ADC cash payment and the removal of the sanctioned individual's needs from the medical unit.
- Refusal to apply for potential income will result in the suspension or closure of the ADC case.
- Failure of a needy caretaker relative, guardian, or conservator to participate in the Employment First program results in the removal of the individual's needs from the ADC unit. The sanction will last until the failure to participate ceases.
- Failure of a dependent child age 16, 17, or 18 to attend school without participating in any other Employment First approved work activity results in removal of the child's needs from the ADC unit. The sanction will last until the failure to participate ceases. 6. If the parent(s) fails to participate in the Employment First program, the

result is the loss of ADC cash assistance for the entire family. The length of this sanction is: a. The first sanction will last one month or until the failure to cooperate ceases, whichever is longer. b. The second sanction will last for three months or until the failure to cooperate ceases, whichever is longer. c. The third and subsequent sanctions will last for 12 months or until the failure to cooperate ceases, whichever is longer.

#### **(d) Privacy**

Take such reasonable steps as the State deems necessary to restrict the use and disclosure of information about individuals and families receiving assistance under the program attributable to funds provided by the Federal Government (section 402(a)(1)(A)(iv) of the Social Security Act)

#### **CONFIDENTIALITY**

All information regarding individuals and families will remain confidential and available only for the purposes of the effective administration of the program and to other federal or state agencies as appropriate. All employees are trained in the need to maintain the confidentiality of information. All DHHS staff must complete HIPAA and SSA confidentiality training and all contractors must agree to and sign HIPAA Business Associates Agreements and SSA Access Agreements.

Access to DHHS' computer system N-FOCUS is defined by a security role that is attached to a person's ID, and access to information is defined and limited by job responsibilities. A personal logon ID cannot be issued until the individual completes a state developed orientation course. The orientation includes a review of data privacy and ethics as they pertain to client information.

All DHHS staff, contractors, temporary workers, and business partners are aware of the Information Technology (IT) Policies, Procedures, and Safeguards implemented by DHHS and understand their roles and responsibilities in insuring DHHS IT resources are secure and protected. There are two sections to the Security Awareness Training. The first section "Information Technology Computer User Security Awareness" must be completed by any individual who uses a DHSS computer. The second section "IRS Federal Tax Information Appropriate Use and Disclosure" must be completed by every DHHS staff person that accesses IRS Federal Tax Information in the N-FOCUS data system.

## **(e) Pregnancies**

Establish goals and take action to prevent and reduce out-of-wedlock pregnancies, with special emphasis on teenage pregnancies (section 402(a)(1)(A)(v) of the Social Security Act)

### **OUT OF WEDLOCK BIRTHS**

#### **Nebraska Reproductive Health**

Nebraska Reproductive Health is a Federal Grantee administering the statewide Title X Family Planning Program. Title X delegate clinics provide reproductive health education and comprehensive medical services that are an integral part of prevention and good health. Nebraska Reproductive Health:

- Promotes responsible behavior, the well-being of families and healthy babies.
- Reduces mother and infant death, unintended pregnancies, child abuse and sexually transmitted diseases.
- Allows timing of pregnancies when couples are in the best position to care for new children.

Eleven delegate clinics provide services to people, both female and male, regardless of income, marital status, age, national origin, or residence.

Services at delegate sites are confidential and provided in a setting that preserves and protects the privacy and rights of each person. Medical services include:

- Physical exams
- Cervical cancer screening
- Breast cancer screening
- STD testing and treatment
- High blood pressure screening
- Anemia screening
- Pregnancy testing
- Contraceptive methods
- Referrals and links to community resources

Education services include:

- Reproductive and preventative health
- Self-breast and testicular exams
- Contraceptive methods
- STD/HIV risks
- Infertility information

## Abstinence Education

As a result of the Patient Protection and Affordable Care Act of 2010, P.L. 111–148, Nebraska is receiving federal funds to provide a state Abstinence Education Program for youth through community–based projects statewide as defined by Section 510(b)(2) of the Social Security Act. A state plan for implementing the program was approved December 20, 2010 by HHS, Administration for Children and Families, Family and Youth Services Bureau. The state plan can be found on the DHHS website at: [http://dhhs.ne.gov/publichealth/Pages/lifespanhealth\\_adolescenthealth\\_abstinenceeducationprogram.aspx](http://dhhs.ne.gov/publichealth/Pages/lifespanhealth_adolescenthealth_abstinenceeducationprogram.aspx) Positive Alternatives A pilot program that began as a grant in 2005 has continued with service contracts executed for two–year periods. The current contractor, in place as of May 1, 2010, is Nebraska Children's Home Society. Their program, Positive Alternatives, provides a statewide network of prevention and direct services. The program is funded using Federal TANF funds and is administered by DHHS, Division of Public Health, Lifespan Health Services Unit. The services provided by the program meet the third and fourth statutory purposes of TANF as specified at §260.20(c) and (d) of this chapter. Positive Alternatives provides information on assistance that is available statewide for those who are pregnant, or who believe they are and are not sure what to do. Positive Alternatives can help men whose girlfriends or wives are pregnant to understand what to expect next and how to be of help with the birth and raising of their child. The program works with many organizations across the state to provide education and services such as: professional counseling, abstinence education, natural family planning, birth control risk education, pregnancy tests and counseling, mentoring, childbirth education, ultrasounds, prenatal care (up through birth), STD testing and education, adoption information and education, support groups, parenting education and services, newborn care education, and fathers' program.

### **(f) Statutory Rape Education Program**

Conduct a program designed to reach State and local law enforcement officials, the education system, and relevant counseling services, that provides education and training on the problem of statutory rape so that teenage pregnancy prevention programs may be expanded to include men (section 402(a)(1)(A)(vi) of the Social Security Act)

### **STATE RAPE EDUCATION PROGRAM**

The Nebraska Law Enforcement Training Center, the Nebraska State Patrol, and the Omaha Police Department are the three entities responsible for providing training to Nebraska's law enforcement officials on the problem of statutory rape. In addition, DHHS contracts with the Nebraska Domestic Violence Sexual Assault Coalition to provide training and technical assistance to local rape crisis centers as well as local police departments upon request regarding statutory rape.

Nebraska Revised Statutes 28–317 to 321, Crimes and Punishments, does not distinguish between genders. The State Rape Education Program serves all genders

equally without distinction. The educational services provided are the same for both genders statewide.

The Nebraska Domestic Violence Sexual Assault Coalition supports the Nebraska Step Up Speak Out Program. This program provides an educational curriculum designed for youth and young adults in grades 6 -12 regarding dating violence, sexual assault and harassment. The program also provides poster campaign material, public service announcements and public speakers.

### **(g) EBT and Access to Cash Assistance**

Implement policies and procedures as necessary to prevent access to assistance provided under the State program funded under this part through any electronic fund transaction in an automated teller machine or point-of-sale device located in a place described in section 408(a)(12), including a plan to ensure that recipients of the assistance have adequate access to their cash assistance (section 402(a)(1)(A)(vii) of the Social Security Act)

Nebraska uses the US Bank ReliaCard for TANF benefits. The ReliaCard Visa is a prepaid debit card, offered to DHHS grant recipients, clients and individual service providers who wish to receive their benefits electronically. This No-Cost or Low-Cost payment method is a great alternative to paper checks and direct deposit because it is fast, secure, convenient and easy.

- Fast & Efficient – You won't have to wait for the mail to arrive and have no risk of lost or stolen checks. Your money is automatically deposited to your card account.
- Safe & Secure – No need to carry large amounts of cash. Cardholders can get cash from many retailers, over 1 million Visa/Plus branded Automated Teller Machines (ATMs) and any bank or credit union accepting Visa.
- Convenient – Over 20 million merchants nationwide and more internationally, accept the ReliaCard. It can be used to make purchases everywhere Visa debit cards are accepted, including grocery stores, gas stations and restaurants.
- Easy – No existing bank account, credit approval or minimum balance is required.

### **TANF EBT RESTRICTIONS P. L. 112–96 (Middle Class Tax Relief and Job Creation Act of 2012)**

Nebraska has reached agreement with U. S. Bank, the vendor for our electronic benefit card to restrict access to automated teller machines or point-of-sale devices in casinos, gaming establishments, liquor stores, and retail establishments which provide adult-oriented entertainment. The restrictions will be placed based on vendor codes for these establishments and thus recipients of assistance will be able to access their benefits at any teller machine or point-of-sale device at other locations. Nebraska recipients of TANF assistance are not charged fees for use of their electronic benefit cards at any device.

## **(h) Nebraska ReliaCard**

Ensure that recipients of assistance provided under the State program funded under this part have the ability to use or withdraw assistance with minimal fees or charges, including an opportunity to access assistance with no fee or charges, and are provided information on applicable fees and surcharges that apply to electronic fund transactions involving the assistance, and that such information is made publicly available (section 402(a)(1)(A)(viii) of the Social Security Act)

The ReliaCard Visa is a No-Cost or Low-Cost payment method for DHHS cash grant recipients and individual service providers. It is fast, secure, convenient, and efficient and most services are free. The following services are free with the Nebraska ReliaCard. FREE SERVICES WITH RELIACARD Online Customer Service Live Customer Service Representative Automated Interactive Voice Response Standard Card Replacement Account Maintenance Teller Cash Withdrawal ATM Withdrawals at U.S. Bank or MoneyPass® ATM 1st ATM use per month for non-U.S. Bank or non-MoneyPass ATM Optional service to receive e-mail, text alert or mobile phone alert to notify account holder of deposit, address change, funds added, low balance and/or zero/negative balance. Bill Pay

## **(i) Services for Relocating Families**

Indicate whether it intends to treat families moving from another State differently from other families under the program, and if so how (section 402(a)(1)(B)(i) of the Social Security Act)

Nebraska will continue to serve families moving to Nebraska under the same program regulations as are applied to other Nebraska families.

## **(j) Services for Non-Citizens**

Indicate whether it intends to provide assistance to non-citizens, and if so include an overview of the assistance (section 402(a)(1)(B)(ii) of the Social Security Act)

Nebraska will continue to serve qualified aliens as defined in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), as amended, under the same program regulations as are applied to other Nebraska families.

## **(k) Eligibility and Benefits**

Set forth objective criteria for the delivery of benefits and the determination of eligibility and for fair and equitable treatment, including an explanation of how it will provide opportunities for recipients who have been adversely affected to be heard in a State administrative or appeal process (section 402(a)(1)(B)(iii) of the Social Security Act)

### **ELIGIBILITY FOR TANF**

Nebraska's TANF cash assistance program is called Aid to Dependent Children (ADC). Eligibility is limited to needy families with dependent children or parent(s) with an unborn child in the final trimester. A needy family is defined as a family consisting of children who are living in the home of a relative, guardian, or conservator, unless removed from that home by judicial determination and whose income and resources are below the standards which are applied on a statewide basis.

Usually the child shares the same household with the parent, relative, guardian or conservator. However, a home is considered to exist as long as the parent or relative exercise responsibility for the care and control of the child, even though circumstances may require the temporary absence of either from the customary family setting. Allowable absences include:

1. A child receiving medical care or education which requires the child to live away from the home.
2. A child out of the home for a visit not to exceed three months.
3. Emergency situations that deprive the child of a parent, relative, guardian, or conservator's care (may not continue beyond three months except in case of extended hospitalization).

If the child is living with a relative, the relative must be a father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, second cousin, nephew, or niece. These relatives may be half blood, related by adoption, or from a preceding generation. A child may also live with the spouse of any persons previously named even after death or divorce has terminated the marriage. The child may also live with a court appointed guardian or conservator.

The needs of the parent(s), needy caretaker relative, guardian or conservator may be included in the ADC financial payment. To be eligible they shall:

1. Assign support rights to DHHS;
2. Cooperate with the Child Support Enforcement Unit;
3. Live with the child in a place of residence they maintain;
4. Be in need, as determined by assistance requirements and standards;
5. Cooperate in developing and completing a Self-Sufficiency Contract;
6. Not be eligible for the Aid to the Aged, Blind and Disabled (AABD) medical assistance program.

If there is more than one child in the household of a non–relative, all children for whom assistance is requested must be included in a single grant unit and budgeted accordingly. Deprivation of parental support or care is not an eligibility requirement. Unmarried parents living together as a family shall be considered a family unit when paternity for the child(ren) has been acknowledged or established. When unmarried parents are living as a family and one parent is ineligible, the ineligible parent and his/her child(ren) are not included in the ADC unit. If otherwise financially eligible, the other parent and his/her children may continue to receive ADC cash assistance. Eligibility for ADC cash assistance must be redetermined every six months. A family will be eligible for financial assistance and services if:

1. The family's countable income is under the standards in effect on July 1, 2013, adjusted biennially using the Consumer Price Index (CPI) for the previous two years; and
2. Countable resources do not exceed \$4,000 for a single individual and \$6,000 for two or more.

Any person convicted in federal or state court of having fraudulently misrepresented his/her residence in order to obtain assistance in two or more states is ineligible for ADC cash assistance for 10 years from the date of conviction.

An individual is ineligible for ADC cash assistance during any period in which the individual is:

1. Fleeing to avoid prosecution or custody or confinement after conviction for a crime or attempt to commit a crime that is a felony under the law of the place from which the individual is fleeing; or
2. Violating a condition of federal or state probation or parole.

An individual who commits any offense after August 22, 1996, which is classified as a felony and which has as an element the possession, use, or distribution of a controlled substance and is convicted under federal or state law after August 22, 1996, is permanently ineligible to be included in the ADC cash assistance unit.

As a condition of eligibility for ADC cash assistance, a client determined to be a work–eligible individual and subject to Employment First participation must complete his/her Employment First Self–Sufficiency Contract before the family can be determined eligible to receive ADC cash assistance. If a client does not cooperate in developing and completing an Employment First Self–Sufficiency Contract, the family is ineligible for ADC cash assistance.

## BENEFITS

The maximum amount of ADC cash assistance provided will be \$222 for the first person and \$71 for each additional person included in the unit. The amount of the ADC cash payment to the household is determined by completing the following steps:

1. Total gross countable earned income;
2. Subtract 20 percent of earned income;
3. Subtract child care paid out-of-pocket;
4. Subtract the remaining earned income from the appropriate Standard of Need; (\$529 for the first person and \$123 for each additional person)
5. Compare the result of step 4 to the appropriate payment standard;
6. Show the lower of the payment standard or the difference from step 4;
7. Subtract unearned income from the amount shown in step 6;
8. The result of step 7 is the amount of the grant.

ADC cash assistance is time limited for families that include an adult or minor parent who meets the federal definition of a work-eligible individual. Families subject to the time limit may receive an ADC cash payment for which they are eligible for a total of 60 months in a lifetime. The 60-month lifetime limit begins with the first month the family is determined to be eligible for and receives ADC cash assistance.

Child care assistance is available at no cost to families receiving ADC cash assistance or whose gross earned and unearned income is at or below 100 percent of the Federal Poverty Level. Families whose incomes are above the current income standard for the full child care subsidy may be eligible for a partial child care subsidy if their gross earned and unearned income is at or below 125 percent of the Federal Poverty Level. Eligible families cannot be required to pay more than 20 percent of their gross income towards the cost of child care. Families must also show a need for receiving a child care subsidy, such as, but not limited to, job search, employment, education, training, incapacitated parent, and need to obtain medical care.

## **TRANSITIONAL BENEFITS**

An ADC case may receive up to five transitional cash payments, each payment being equal to one fifth of the ADC Payment Standard for the family's size at the time the family becomes ineligible for an ADC cash payment if:

1. The unit lost eligibility for an ADC cash payment because of increased earnings or increased hours of employment of the parent or needy caretaker relative or guardian or conservator.
2. The unit meets the requirements to qualify for Transitional Medical Assistance.
3. The unit must have lost eligibility for an ADC cash payment in the month immediately preceding the first month of eligibility for the transitional cash payment.
4. In order to continue to receive transitional cash payments for the full five-month period, the family must meet the following requirements:
  - a. The family's earned income cannot exceed 185 percent of the Federal Poverty Level for the family's size;
  - b. The parent or needy caretaker relative or guardian or conservator must be employed;
  - c. The family continues to reside in the State of Nebraska;

- d. The family must continue to include a dependent child; and
- e. The family must remain ineligible to receive an ADC cash payment.

Transitional cash payments will be funded with state dollars only. The state general funds used for transitional cash payments will apply towards Nebraska's Maintenance-of-Effort requirement. This additional cash benefit was created effective October 1, 2007.

Transitional child care assistance must be provided for up to 24 consecutive months if all of the following are met:

1. The family loses eligibility for ADC cash assistance as a result of increased earnings or increased hours of employment;
2. The family received an ADC cash payment (or did not receive a payment but met income and resource eligibility to receive a payment) for which they were eligible in three of the last six months preceding ineligibility;
3. The family provides the financial information necessary to determine eligibility and the amount of the fee;
4. The child care is necessary to allow the parent to accept or retain employment;
5. The family's gross earned and unearned income is equal to or less than 185 percent of the Federal Poverty Level; and
6. The family continues to meet the resource limit.

## **APPEALS/MEDIATION**

Every applicant for or recipient of assistance or services provided through DHHS has the right to appeal to the Director of DHHS for a fair hearing on any action or inaction with regard to the assistance or services. The request for a fair hearing must be filed in writing within 90 days following the date the notice of adverse action is mailed. If an applicant wishes to appeal due to inaction, s/he must request a fair hearing within 90 days of the date the application was signed. Requests for a fair hearing filed within ten days following the date the notice of adverse action is mailed will stay the adverse action until a fair hearing decision is rendered.

Employment First participants have the right to independent mediation if the participant is unhappy with a case manager's action or inaction; or when DHHS has determined that the participant has not complied with the terms of the Self-Sufficiency Contract; or the participant contends that DHHS has not fulfilled its terms of the Self-Sufficiency Contract. The request for mediation must be requested within 90 days following the date the notice of adverse action is mailed. Requests for mediation requested within ten days following the date the notice of adverse action is mailed will stay the adverse action until a decision is reached through mediation. If the individual is unhappy with a case manager's action or inaction, the individual has 30 days from the date of the case manager's action or inaction or the date the individual became aware of the case manager's action or inaction to request mediation.

## **(l) Elder Care**

Indicate whether the State intends to assist individuals to train for, seek, and maintain employment (Section 402(a)(1)(B)(v) of the Social Security Act)—

- 1. Providing direct care in a long-term care facility (as such terms are defined under section 1397j of this title); or*
- 2. In other occupations related to elder care, high-demand occupations, or occupations expected to experience labor shortages as, determined appropriate by the State for which the State identifies an unmet need for service personnel, and, if so, shall include an overview of such assistance.*

### **ELDER CARE**

Nebraska assists Employment First participants to train for, seek, and maintain employment providing direct care in long-term care facilities, and in other occupations related to elder care determined appropriate by the State for which the State identifies an unmet need for service personnel.

To help communities address the growing need for personnel in the eldercare and healthcare fields, where possible, the Employment First program will partner with community organizations, schools and businesses in developing and funding community responsive customized training for certified nursing assistants (CNA) and certified medication aides (CMA). Nebraska promotes and funds CNA and CMA training, for which state and federal financial aid is not available. Job skills training and vocational training in eldercare and healthcare occupations are approved work activities under the Employment First program.

## **(m) MOE-funded Services**

Provide for all MOE-funded services the following information: the name of the program benefit or service, and the financial eligibility criteria that families must meet in order to receive that benefit or service. In addition, for TANF MOE-funded services (co-mingled or segregated MOE) describe the program benefit provided to eligible families (SSP services do not have to include a description but the Department of Health and Human Services encourages it) (§263.2(b)(3) & §263.2(c) preamble pages 17826-7)

### **SOLELY STATE-FUNDED PROGRAM FOR SPECIFIED EXEMPTIONS**

Nebraska has implemented a solely-state funded program for families receiving ADC cash assistance where the adult or minor parent qualifies for one of the specified exemptions. To allow for more flexibility in serving these families, this program is not funded with federal TANF funds. Cash assistance provided to these families will be funded with state dollars only. The state general funds used for cash assistance for this program will not count toward Nebraska's TANF maintenance-of-effort requirement and

therefore are not subject to any federal TANF requirements. This program was created effective October 1, 2006.

This solely state-funded program allows Nebraska to exempt from the work participation requirements and federal time limits those families where the adult or minor parent is incapacitated with a medically determinable physical, mental or emotional impairment or who has significant barriers to participation in approved work activities. Nebraska will provide the services necessary to help these individuals overcome and/or remove the barriers preventing them from effectively engaging in approved work activities and attaining the maximum level of economic independence possible for their families through work.

The following individuals are exempt from participating in Employment First and are exempt from the state and federal time limit for the length of time they qualify for the exemption:

1. A person who: a. Has an illness or injury serious enough to temporarily prevent entry into employment or participating in another Employment First component activity for up to three months; b. Is incapacitated with a medically determinable physical or mental impairment which, by itself or in conjunction with age, prevents the individual from engaging in employment or participating in another Employment First component activity and which is expected to exist for a continuous period of at least three months.
2. A person age 65 or older.
3. A parent who is needed in the home on a continuous basis to provide care for a disabled family member living in the home who does not attend school on a full-time basis and no other appropriate member of the household is available to provide the needed care.
4. A victim of domestic violence and where participation in Employment First approved work activities would make it more difficult for the individual to escape violence, or unfairly penalize the individual, or would put the individual at risk of further domestic violence.
5. A single custodial parent who is unable to participate because s/he cannot obtain child care for his/her child age five or younger for one or more of the following reasons:
  - a. Unavailability of appropriate child care within a reasonable distance from the client's home or work site;
  - b. Unavailability or unsuitability of informal child care by a relative or under other arrangements; or
  - c. Unavailability of appropriate and affordable formal child care arrangements.

Two-parent families are allowed the same exemptions as are single-parent families, but will remain in the solely state-funded program for two-parent families. If both parents in a two-parent family qualify for an exemption, the family will be exempt from the state time limit for the length of time both parents qualify for an exemption.

## **SEPARATE STATE PROGRAM FOR SPECIFIED EXEMPTIONS**

Nebraska has implemented a separate state program for single-parent families receiving ADC cash assistance where the adult or minor parent qualifies for one of the specified exemptions. ADC cash assistance provided to these families will be funded with state dollars only. The state general funds used to support this separate state program will apply towards Nebraska's Maintenance-of-Effort requirement. This program was created effective October 1, 2006.

The following individuals are exempt from participating in Employment First and are exempt from the state and federal time limit for the length of time they qualify for the exemption:

1. A pregnant woman beginning the first of the month before the month of the mother's due date.
2. A parent or needy caretaker relative, guardian or conservator of a child under the age of 12 weeks. This exemption can be extended if a written statement from the attending physician states that the parent requires additional post-partum recovery time, or special medical conditions of the child require the presence of at least one parent or needy caretaker relative, guardian, or conservator.

Nebraska will continue to report on all TANF families and separate state funded families in the quarterly TANF data report (ACF-199) as required.

## **SEPARATE STATE PROGRAM FOR POST-SECONDARY EDUCATION**

Nebraska has implemented a separate state program for single-parent families where the adult or minor parent is participating in an approved post-secondary education component activity. ADC cash assistance provided to these families will be funded with state dollars only. The state general funds used to support this separate state program will apply towards Nebraska's Maintenance-of-Effort requirement. This separate state program took effect November 1, 2004.

Nebraska's Section 1115 waivers allowed the State to count post-secondary education as an approved work activity. With the loss of the Section 1115 waivers, Nebraska's post-secondary education component activity became inconsistent with approved federal work activities. Post-secondary education is specified as an allowable activity under the Nebraska Welfare Reform Act. By creating this separate state program Nebraska will be able to continue post-secondary education as an allowable work activity.

Nebraska will continue to report on all TANF families and separate state funded families in the quarterly TANF data report (ACF-199) as required.

## NEBRASKA'S MAINTENANCE-OF-EFFORT QUALIFYING EXPENDITURES

To receive full federal TANF funding, Nebraska must have qualifying state expenditures to meet at least 75% of the 1995 level of expenditures. Effective October 1, 2007, Nebraska's TANF Maintenance-of-Effort (MOE) requirement is \$28,375,365 at the 75% level and \$30,267,056 at the 80% level.

The following are the qualifying state expenditures for Nebraska's TANF Maintenance-of-Effort requirement beginning FFY 2006, with the exception of Nebraska's Earned Income Tax Credit which began qualifying as a TANF Maintenance-of-Effort expenditure for FFY 2007:

### 1. Cash Assistance

Nebraska's Aid to Dependent Children (ADC) program provides cash assistance to low-income families with minor children to help to meet their basic needs. This program is funded with both TANF federal funds and state general funds. Eligibility is based on the same criteria for TANF cash assistance as found on pages 4 – 6, ELIGIBILITY FOR TANF.

### 2. Emergency Assistance to Needy Families with Children (EA)

Nebraska's Emergency Assistance program provides financial assistance and/or services to or on behalf of a needy child(ren) and any other members of the household to meet needs that have been caused by an emergency situation when the needs cannot be met because of destitution. The program provides a means to deal with financial situations that are threatening the health or wellbeing of an eligible child and family. Emergency Assistance benefits must be used to help return the family to a stable environment that they will be able to maintain. The Emergency Assistance program is funded with state general funds only. Emergency Assistance may be provided to a needy child and any other member of the household in which the child is living only if:

- a. The child is age 18 or younger (a pregnant woman with no other children may be eligible);
- b. The child is currently living with one or both parents, or is temporarily absent from their home and within six months before the month in which assistance is required, was living with a specified relative\* or a legally appointed guardian or conservator\*\* in a place of residence maintained as their own home;
- c. Members of the household must be legally residing in the United States;
- d. The household meets relevant income eligibility requirements. The family's gross monthly income must not exceed 185 percent of Nebraska's ADC Standard of Need for the family size; and e. The destitution or need did not arise because the child (if age 16 or older and not in school) or the relative responsible for support and care refused without good cause to accept employment or training for employment or quit a job without good cause.

However, if the child or family member refused without good cause to accept employment or training for employment or quit a job without good cause, but the emergency was not caused by this action, the family is still eligible for EA.

\* A specified relative is defined as a relative with whom a child must be living or have been living within six months prior to the month in which EA is requested. A specified relative includes a child's father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, second cousin, nephew or niece are specified relatives. These relatives may be half-blood relation, related by adoption, or from a preceding generation as denoted by prefixes of grand, great, great–great, or great–great–great. A child may also live with the spouse of any persons previously named even after the marriage has been terminated by death or divorce.

\*\* Under Nebraska law, a guardian has the same powers, rights and duties that a parent has respecting his or her minor child and a conservator has all powers which he or she could exercise if not under a disability (Nebraska Revised Statutes §§30–2628 and 30–2637).

### 3. Employment Assistance

Nebraska's Employment First program provides education, training, employment preparation activities, and supportive services along with other activities and services to recipients of ADC cash assistance. The Employment First program is designed to move families, who are receiving ADC cash assistance, quickly into employment so that they may become economically independent. In order to promote job advancement and job retention, supportive services may be provided after the loss of eligibility for ADC cash assistance due to earned income: a. Extended supportive services: Supportive services determined necessary to participate in all approved Employment First activities included in a participant's Self-Sufficiency Contract may be provided for up to three months, if needed, after the loss of eligibility for ADC cash assistance due to earned income. b. Transitional supportive services: Supportive services determined necessary and critical for job retention may be provided for up to six months, if needed, after the loss of eligibility for ADC cash assistance due to earned income.

### 4. Administrative Expenses

Nebraska expends funds to administer Nebraska's assistance programs. These administrative costs support staff and necessary overhead. These qualifying state expenditures are developed through our Cost Allocation Plan.

### 5. Information Systems Expenses

Nebraska expends funds to provide information systems to provide needed information to staff regarding eligibility, client activities, cash payments and

services for families receiving assistance. These qualifying state expenditures are developed through our Cost Allocation Plan.

## 6. Child Care Assistance

Nebraska's Child Care Assistance program subsidizes child care costs for eligible families. Child care assistance is available at no cost to families receiving ADC cash assistance or whose gross earned and unearned income is at or below 100 percent of the Federal Poverty Level. Families whose incomes are above the current income standard for the full child care subsidy may be eligible for a partial child care subsidy if their gross earned and unearned income is at or below 125 percent of the Federal Poverty Level. Eligible families cannot be required to pay more than 20 percent of their gross income towards the cost of child care. Families must also show a need for receiving a child care subsidy, such as, but not limited to, job search, employment, education, training, incapacitated parent, and need to obtain medical care.

## 7. Tribal TANF Programs

Nebraska provides a fair and equitable share of state Maintenance-of-Effort funds to Nebraska Tribes in support of their federally approved Tribal TANF programs. DHHS specifies that the state Maintenance-of-Effort funds provided to the Tribes be used for Tribal cash payments to eligible families. Eligibility is defined in their Tribal Family Assistance Plan (TFAP). DHHS requires the reporting of the use of these funds and the number of families served with these funds.

## 8. Nebraska Earned Income Tax Credit (EITC)

Most states levy state income taxes, but the tax burden on low-income families varies significantly depending on where they live. A growing number of states offset this burden with state earned income tax credits and/or state child and dependent care tax credits. These credits are typically based on provisions in the federal income tax code, but states make all decisions regarding eligibility and benefit levels.

To be eligible to claim the Nebraska EITC the individual must:

- Be a resident of the State of Nebraska, and
- Be eligible for and claim the federal EITC on their federal tax return.

This tax credit is now refundable, which means it will first be used to lower or eliminate any state income tax s/he might owe and if the credit is larger than what s/he owes in state tax the amount will be refunded.

Income eligibility criteria Income eligibility rules same as federal EITC Yes (2009) Income limit for 1-parent family with 2 qualifying children \$40,295/year (2009)

Benefit level Refundable credit available Yes (2009) Percent of federal EITC 10% (2009) Max benefit for family with 2 qualifying children \$503/year (2009) 9. Nebraska Child and Dependent Care Tax Credit: The Child and Dependent Care Tax Credit is a tax benefit that helps families pay for the child care they need in order to work or look for work. The credit is also available to families that must pay for the care of a spouse or an adult dependent who is incapable of caring for himself or herself. Nebraska is counting only the refundable portion of the Nebraska Child and Dependent Care Tax Credit as a qualifying state expenditure for Nebraska's TANF Maintenance-of-Effort requirement.

Income eligibility criteria Income eligibility rules same as for federal credit Yes (2008) Income limit for family with 2 or more qualifying children No limit (2008)

Eligible expenses Child care expenses eligible by same rules as federal credit Yes (2008)

Benefit level Refundable credit available Yes (2008) Benefit structure Credit of 25–100% of federal credit, depending on income (2008) Max benefit for family with 2 qualifying children \$2,100/year (2008) 10. Respite Service for Children: DHHS, Office of Home and Community-Based Services offers respite service to caregivers who need a temporary break from care giving so they can come back refreshed and ready to provide good care again. Respite service pays someone to come into the home, take care of a child with disabilities or special needs, and give the primary caregiver a temporary break. This would include adult children caring for siblings with disabilities or special needs and parents of children with disabilities or special needs.

This program pays for respite services (someone to come into the home to care for a child with a disability or special needs to give the primary caregiver a temporary break). It is for people who are not receiving the service from another government program.

Caregivers who need a temporary break from providing care to persons of any age with special needs. Examples of special needs are developmental and physical limitations, emotional or behavioral disorders, chronic illness, Alzheimer's disease and related health concerns, or persons at risk of abuse and neglect.

Eligibility is based on income guidelines. However, if you have expenses directly related to the disability, these can usually be subtracted from the counted income. The person applying must have a caregiver. The program will provide up to \$125 per client each month

Lifespan Respite Subsidy Program – Income Guidelines The Lifespan Respite Subsidy Program serves clients whose monthly, adjusted gross income is at or below 310% of the Federal Poverty Guidelines. If eligible, the program will provide a payment for respite services up to \$125 per client per month. Benefits may be saved for use up to three months.

## TANF Certifications

States that include TANF in the Combined State Plan must provide a certification by the chief executive officer of that State, that during the fiscal year, the State will:

Operate a child support enforcement program under the State Plan approved under part D. (section 402(a)(2) of the Social Security Act) **Yes**

Operate a foster care and adoption assistance program under the State Plan approved under part E, and that the State will take such actions as are necessary to ensure that children receiving assistance under such part are eligible for medical assistance under The Unified or Combined State Plan under title XIX (section 402(a)(3) of the Social Security Act). **Yes**

Specify which State agency or agencies will administer and supervise the program referred to in paragraph (1) for the fiscal year, which shall include assurances that local governments and private sector organizations (section 402(a)(4) of the Social Security Act)—have been consulted regarding the plan and design of welfare services in the State so that services are provided in a manner appropriate to local populations; **Yes**

Specify which State agency or agencies will administer and supervise the program referred to in paragraph (1) for the fiscal year, which shall include assurances that local governments and private sector organizations (section 402(a)(4) of the Social Security Act)—have had at least 45 days to submit comments on the plan and the design of such services **Yes**

Provide each member of an Indian tribe, who is domiciled in the State and is not eligible for assistance under a tribal family assistance plan approved under section 412, with equitable access to assistance under the State program funded under this part attributable to funds provided by the Federal Government (section 402(a)(5) of the Social Security Act). **Yes**

Establish and enforce standards and procedures to ensure against program fraud and abuse, including standards and procedures concerning nepotism, conflicts of interest among individuals responsible for the administration and supervision of the State program, kickbacks, and the use of political patronage (section 402(a)(6) of the Social Security Act). **Yes**

(optional) Establish and Enforcing standards and procedures to (section 402(a)(7) of the Social Security Act).— screen and identify individuals receiving assistance under this part with a history of domestic violence while maintaining the confidentiality of such individuals; **Yes**

(optional) Establish and Enforcing standards and procedures to (section 402(a)(7) of the Social Security Act).— refer such individuals to counseling and supportive services; **Yes**

(optional) Establish and Enforcing standards and procedures to (section 402(a)(7) of the Social Security Act).—waive, pursuant to a determination of good cause, other program requirements such as time limits (for so long as necessary) for individuals receiving assistance, residency requirements, child support cooperation requirements, and family cap provisions, in cases where compliance with such requirements would make it more difficult for individuals receiving assistance under this part to escape domestic violence or unfairly penalize such individuals who are or have been victimized by such violence, or individuals who are at risk of further domestic violence **Yes**

## Trade Adjustment Assistance (TAA)

### *TAA State Planning Requirements*

There are no program-specific state planning requirements for TAA. If the state includes TAA in a Combined State Plan, the state must incorporate TAA in its responses to the common planning elements in sections II, III, IV, and V of the WIOA State Plan requirements instrument.

Individuals who have lost their jobs due to increased foreign imports or shifts in productions to foreign markets may be eligible for federally funded Trade Adjustment Assistance (TAA). Nebraska Department of Labor (NDOL) staff conducts informational meetings for the workers of the closing organizations and coordinate reemployment efforts and classroom training benefits. Additional benefits from the TAA may include job training, income support, job search and relocation allowances, a tax credit to help pay the costs of health insurance, and a wage supplement to certain reemployed trade-affected workers 50 years of age and older.

### *TAA Program*

The TAA program is currently operating in Nebraska under four Federal Acts: Trade Act of 2002, Trade Adjustment Assistance under the Trade and Globalization Adjustment Assistance Act of 2009, Trade Adjustment Assistance Program under Trade Act of 2011, and Trade Adjustment Assistance Reauthorization Act of 2015.

Among the services provided under the Trade Act program are:

1. Access to all Wagner-Peyser Services, including reemployment and job-readiness workshops
2. Training services
3. Coordinated services and referrals with partner agencies and programs
4. One-on-one case management
5. Job Search Allowances
6. Relocation Allowances

As a required partner in the American Job Center system, all participants being served under these four Trade Acts currently have access to a broad range of partners and programs offered through the American Job Center system. Potential program participants can be connected to the TAA program at all offices within the American Job Center system via an integrated referral process or through an onsite case manager, where available. With the implementation of the Workforce Innovation and Opportunity Act (WIOA), Nebraska anticipates that these services will continue to broaden as providers from outside the four walls of the traditional career center are brought into the system.

### *Adversely Affected Workers*

Adversely affected workers are identified, entered into an electronic Management Information System (MIS), and provided with skill, aptitude, and interest assessments. NEworks is Nebraska's MIS system, and functions as Nebraska's Labor Exchange under Wagner-Peyser. Utilizing assessments and participant input, program staff determine appropriate Trade benefit pathways for each individual. Wagner-Peyser or Workforce Innovation and Opportunity (WIOA) staff may provide initial services for adversely affected individuals prior to employer Trade certification, decreasing the amount of time the worker remains unemployed. While awaiting a determination on a TAA petition, individuals are encouraged to seek reemployment and training services from WIOA partners. Close coordination with the Dislocated Worker program allows these individuals the opportunity to access needed career services while awaiting a determination of their TAA petition. Continued coordination with the WIOA program after TAA eligibility is also strongly encouraged, and enhances the available career services and supportive services to the customer.

Once a participant is determined eligible for more than one program, the TAA case manager becomes the primary case manager. Conversations, communications and meetings are led by the TAA case manager; however, coordination with staff from other programs may continue to take place for the benefit of the client. The participant coordinates and communicates primarily with their assigned TAA case manager, yet is being served across programs. This system ensures seamless service to the participant and enhances outcomes.

### *Trade Readjustment Assistance (TRA)*

The Trade Readjustment Assistance (TRA) program is operated by the Office of Unemployment Insurance (UI) at NDOL. The TAA administrative staff works closely staff from UI to coordinate TAA and TRA benefits. NEworks establishes one record for each TAA participant. At the time a Trade waiver or Trade training is established, the client's detailed information is completed in NEworks. All elements for the file are required fields in NEworks to assure a complete reporting record is exchanged through an interface between NEworks and the Unemployment Benefit Payment System.

Regular communication between Trade and UI staff ensures appropriate TRA funding is available to those enrolled in full-time training. UI staff enters the Trade petition number correlating to the employer account number along with certification, impact and expiration dates, into the Unemployment Benefit Payment System.

Subsequent entitlement for TRA funding (Basic, Additional, Remedial, or Completion) is filed, established and/or modified by UI staff. This same interface captures daily payments that are uploaded from the BPS. Administrative staff can add or edit existing TRA payments based on EUC overlap issues. Data validation is completed for payment files to assure accurate build of TRA payment records, which is required for the quarterly TAPR/ Performance Reporting.

## *Policies and Operations Manual*

NDOL has developed an operations manual for staff and has implemented policies that cover individual Trade Adjustment Assistance acts. These policies are made available to the public and can be accessed on NDOL's Workforce Innovation and Opportunity Act Policies webpage and are provided in Section IV.a.2.A of this Combined State Plan. The operations manual is posted prominently on NDOL's intranet site, and is available to all internal staff members.

### *Rapid Response and Early Intervention Policies*

Nebraska has established operational policies to assure the Trade affected workers are being offered appropriate Early Intervention Services. These services include Rapid Response assistance and career services under WIOA. Early intervention services that will be beneficial to potential Trade-affected workers may include, but are not limited to, orientation, surveying the workers, initial assessment of skill levels, aptitudes and abilities, the provision of labor market information, job search assistance, stress management, and financial management workshops. The staff providing these services may come from a variety of funding sources, particularly Wagner-Peyser or WIOA Title I. In most instances, the Rapid Response informational meeting(s) will be held in the city where the affected workers are or were employed. These meetings provide an outline of the TAA services potentially available.

If the Trade petition is certified by USDOL, the Trade administrative unit will send notifications to affected workers and schedule a trade orientation to disseminate information on Trade, WIOA, Wagner-Peyser and Unemployment Insurance. A Rapid Response event in a local area that covers employees displaced from a mass layoff, plant closing or other event that produced any number of unemployed individuals may turn into a Trade-covered layoff. Once the petition has been filed the Rapid Response staff work closely with the Trade staff to ensure all information is shared so that the Trade staff can immediately start triage efforts to contact all affected employees. The earlier the Trade staff can make contact with the employees, the better the chance the affected employees can begin receiving re-employment services.

### *TAA Informational Meetings*

Following federal certification of a Trade Act petition, NDOL staff works with the State Trade Act Program Coordinator to ensure a TAA information meeting is provided for any affected workers. When possible, this meeting is held in conjunction with the Rapid Response meeting. During these meetings, the worker will be instructed to go to the nearest American Job Center system location to complete an application for TAA benefits. Rapid Response staff will coordinate reasonable accommodations for effected workers to assist in accessing TAA information.

### *Career Services to TAA Participants*

Guidance from the Office of Employment and Training at the United States Department of Labor encourages multiple enrollment resources in order to produce successful outcomes for Trade-impacted workers. Providing timely career services to Trade-impacted workers will improve both the efficiency and effectiveness of the Trade Act programs. Nebraska's established Trade policies require staff to encourage potential dislocated workers to seek services from their local American Job Center as soon as possible, even if they are awaiting TAA certification decisions. At American Job Centers, career services are available and tracked in NEworks. These services include, but are not limited to, orientation, surveying the workers, initial assessment of skill levels, aptitudes and abilities, the provision of labor market information, job search assistance, stress management, and financial management workshops. Staff providing these services may work for various programs (particularly Wagner-Peyser or WIOA).

As part of TAA case management, staff will initiate an assessment of the worker's transferable skills, knowledge, and abilities and assist in researching both the labor markets within the commuting area and, if the worker is willing to relocate, other labor markets where relocation might be acceptable. Results from these assessments will help to determine if the required criteria for Trade training services are met. Immediately initiating the process of needs-assessment improves participation rates and allows individuals more time to consider the options available to them. Early intervention is particularly critical due to the time lapse that could occur while individuals await TAA petition determinations. Once Trade eligibility is established and individuals are notified of the TAA certification, partner staff continue to work together to ensure the services are delivered in order to avoid duplication, maximize funding, and improve the quality of service.

### *Federal Reporting*

Nebraska has implemented an integrated case management and reporting System (NEworks) that allows Trade participants to receive all employment and case management services that suit their individual needs. This system creates individual electronic files for Trade participants that provide the information necessary for all federal reporting requirements. As files are created for federal reports, applicable data is pulled from each program. Operating instructions for the federal Trade Activity Participant Report (TAPR) require that outcomes for training and receipt of certifications funded by WIOA be reported in the TAPR if the individual is co-enrolled. A data validation file is constructed daily in NEworks) in conjunction with the specification in the TAPR handbook. All elements for the file are required fields in NEworks to assure a complete reporting record. The data validation file is submitted each quarter via the United States Department of Labor for required federal reporting. The ability of NEworks to track and report on co-enrolled individuals improves participant outcomes while minimizing the funding of costly Management Information Systems for each program.

### *Memoranda of Understanding with Local Workforce Development Boards*

The Nebraska Department of Labor (NDOL) is the entity that delivers TAA case management services. Memoranda of Understanding are in place with local areas allowing for the provision of job-seeking and career services to potentially eligible TAA participants to be provided. NDOL works very closely with each local area to ensure that proper referrals are being made and that participants are provided with additional career services at the location most convenient to that individual participant.

### *Use of TAA Funding for Infrastructure and Shared Costs*

*Describe how the State will use TAA funding for infrastructure, other shared costs, and the promotion of the development of integrated intake, case management and reporting systems.*

Nebraska does not currently have a common intake among all core partner programs, but planning for such a system has been underway since shortly after the enactment of WIOA. Currently, information is shared between some partners through the integrated referral mechanism of NEworks. Trade shares NEworks as a common data tracking system with Wagner-Peyser, Jobs for Veterans State Grants, WIOA Title I Adult, Dislocated Worker, and Youth Programs, and two other discretionary grant programs. Partner staff can see the participant is being served by a partner program, and can consider this when planning for potential co-enrollment opportunities. The Trade program in Nebraska is committed to working with other programs and providing resources to help develop a common intake system across programs that meets the needs of Nebraska's job seekers and employers.

*Except for States covered by the regulatory exemption 20 CFR 618.890 (c) or to perform noninherently governmental functions, States must engage only State government personnel to perform TAA-funded functions undertaken to carry out the TAA program, and must apply to such personnel the standards for a merit system of personnel administration applicable to personnel covered under 5 CFR part 900, subpart F. (20 CFR 618.890)*

In compliance with Title 20, CFR 618, the State of Nebraska houses merit staff in offices strategically located across the state to offer TAA case management. Merit staff is positioned in locations where TAA certification and service provision activity indicates the greatest need. These position assignments are reviewed on a regular basis. Where TAA merit staff is not present, Trade coordinates closely with existing WIOA or Wagner-Peyser staff to provide TAA case management to assist the customer in preparing for and obtaining suitable reemployment as quickly as possible.

## Trade Adjustment Assistance (TAA) Program Assurances

1. The State Plan must include assurances that on an annual basis, the CSA will execute TAA Cooperative Financial Agreements and UI Funding Agreements for each fiscal year during the four-year State planning cycle. **Yes**

Has the state incorporated TAA into the sections indicated above? **Yes**

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

The Jobs for Veterans' State Grants (JVSG) are mandatory, formula-based staffing grants to (including DC, PR, VI and Guam). The JVSG is funded annually in accordance with a funding formula defined in the statute (38 U.S.C. 4102A (c) (2) (B) and regulation and operates on a fiscal year (not program year) basis, however, performance metrics are collected and reported (VETS-200 Series Reports) quarterly (using four "rolling quarters") on a Program Year basis (as with the ETA-9002 Series). Currently, VETS JVSG operates on a five-year (FY 2015-2019), multi-year grant approval cycle modified and funded annually.

In accordance with 38 U.S.C. § 4102A(b)(5) and § 4102A(c), the Assistant Secretary for Veterans' Employment and Training (ASVET) makes grant funds available for use in each State to support Disabled Veterans' Outreach Program (DVOP) specialists and Local Veterans' Employment Representatives (LVER) staff. As a condition to receive funding, 38 U.S.C. § 4102A(c)(2) requires States to submit an application for a grant that contains a State Plan narrative, which includes:

### **(a) Employment, Training, and Job Placement Services**

How the State intends to provide employment, training and job placement services to Veterans and eligible persons under the JVSG

#### **Partnerships**

DVOPs and LVERs have formed strong partnerships with other AJC programs to integrate Veteran services and to promote employment, training, and placement opportunities for Veterans throughout the areas of the state. This includes integration with other state and federal agencies. This integration ensures that qualified Veterans can be simultaneously enrolled with other partner programs such as Wagner-Peyser, Trade Adjustment Assistance (TAA), Workforce Innovation and Opportunities Act (WIOA), and Vocational and Rehabilitation Employment Program (VR&E).

Lincoln and Omaha DVOP staff currently attend U.S. Department of Veterans Affairs Chapter 31 VR&E orientation sessions hosted in these metro VA offices. Omaha staff partners with Offutt Airman & Family Readiness staff with two significant Veteran focused job fairs each year hosted in the spring and fall.

In collaboration with the Nebraska National Guard (NENG), Wagner-Peyser staff routinely attend unit demobilization and reintegration trainings to assist eligible Veterans with employment and training services. These events, known as "Yellow Ribbon Events" provide staff an opportunity to promote Veteran services to newly separated Veterans. DVOPs work with Wagner-Peyser staff to inform and education them on relevant information to promote and share. NDOL conducts training sessions to present job search, resume, and interviewing skills workshops to NENG members during weekend unit trainings and other appropriate occasions. NDOL will develop, implement, and offer new and updated informational sessions during NENG weekend training sessions as needed.

State VR has developed a Traumatic Brain Injury (TBI) Task Force and facilitates education and trainings for those providing services to this unique population. NDOL is working to ensure that all DVOP and LVER staff has the opportunity to attend these informational sessions. Traumatic Brain Injury Task Force awareness and resource emails are distributed to DVOP and LVER staff to allow them to get a better understanding of the program and its resources. This allows the DVOP and LVER staff to address the employment barriers created by TBIs.

NDOL continues to develop and refine the relationship with the Veterans Association (VA) Regional Office with regard to assisting and monitoring Chapter 31 Veterans. In Nebraska, the state JVSG Program Coordinator, assigned to the Nebraska Department of Labor Office of Employment and Training, coordinates Chapter 31 referrals from VR&E Counselors to DVOP staff across the state. Upon receipt of the referral, DVOP staff members commence communication with the referring VR&E counselor and the Veteran to verify needed services and/or employment plans as appropriate. Nebraska intends to expand its partnership with VR&E over the next year to establish an outstation agreement that is mutually beneficial to both agencies. This may include placing DVOP staff on a part-time basis at VA offices or placing VA Counselors on a part-time basis at NDOL locations.

## **Outreach**

The JVSG Program Coordinator also supports the Hiring our Heroes (HOH) job fairs conducted by the U.S. Chamber of Commerce in order to help Veterans, transitioning service members, and military spouses find meaningful employment opportunities. Nebraska typically hosts three HOH job fairs each year and plans to continue this for years to come. The location for these events changes with each job fair to provide services to Veterans statewide.

The majority of state and county correctional facilities are located in or near the Lincoln and Omaha AJCs and NDOL office locations. Local DVOPs provide outreach, employment, and training information to incarcerated Veterans at several correctional facilities located in these areas. DVOP outreach at these facilities is scheduled as needed when Veterans are identified within the incarcerated population. Eligible incarcerated Veterans, who are approved for work release, are referred to DVOPs for job development and other placement activities to provide optimal support as the incarcerated Veteran transitions to life outside the correctional institution.

The preponderance of homeless Veterans are located in the two metropolitan service delivery areas of Omaha and Lincoln, which also have the greatest number of support agencies available to provide assistance. However, regardless of location, when a homeless Veteran is identified, the DVOP will commence and coordinate support activities with local shelters and health organizations to provide for basic subsistence needs and referral to job training activities or agencies. If job ready, DVOPs provide job placement/referral activities and initiate contact with public housing and social service agencies to provide often needed support services when transitioning to employment.

All DVOP and LVER staff members have the responsibility to expand partnerships and coordination with other resource and community agencies in their locations in order to locate and assist the various Veteran groups and provide additional services. LVER staff will work with industry employers and employer associations to identify the skills needed for in-demand careers. If applicable, LVERs will provide information on military skill identifiers and military occupational specialties that possess similar skills and experiences, but may be unknown to employers due to differences in military/civilian terminologies. LVER staff will work with additional agencies including Nebraska State Vocational Rehabilitation, local County Veteran Service Offices, Vet Centers, satellite VA clinics, homeless shelters, and NENG units, etc., to develop the in-demand skills that have been identified. LVERs will keep DVOPs well informed of the in-demand jobs and related job training opportunities. DVOPs will present information on services and opportunities in high-demand, high-skill, and high-wage (H3) occupations while conducting career counseling. DVOPs will assist Veterans and eligible spouses in making decisions based on individual needs in conjunction with the projected labor market information.

NDOL has partnered with the state Apprenticeship program to assist with the screening and assessment for the local electrical workers and steamfitters unions. Additionally, NDOL has developed a dedicated Veteran's services web page outlining available resources. Through this web page, Veterans and military personnel can access a current NDOL office directory with all appropriate location and contact information. The web page includes information regarding priority of service, job search services and location sites, job fair information, and links to other Veteran service organizations, federal employment information, and state and federal benefit information.

Due to the isolated nature of the Native American communities living on tribal lands in largely unpopulated rural areas of Nebraska, specific outreach plans for Native American Veterans have not been developed.

Success regarding services to Veterans will be monitored and assessed through existing report mechanisms. This includes quarterly reports and reports located within NEworks. These reports currently provide information on employment and training activities on Veterans with SBE's and the targeted population at a state, regional or local perspective.

## **(b) DVOP Specialists and LVER Staff Roles and Responsibilities**

The duties assigned to DVOP specialists and LVER staff by the State; specifically implementing DVOP and LVER duties or roles and responsibilities as outlined in 38 U.S.C. § 4103A and 4104. These duties must be consistent with current guidance;

DVOP Staff: Nebraska's current staffing model is predominantly a DVOP model. All DVOPs are state merit staff and assigned to a Nebraska Department of Labor location or American Job Center. DVOPs are integrated into the one-stop delivery system and are well versed in the process of developing and maintaining strong relationships with other service providers and program partners to promote employment, training, and placement

services for Veterans. NDOL conducts numerous public relations activities to ensure the general public is aware of the services available to Veterans. This includes the use of informational pamphlets, webpages, and social media posts containing information about the employment services offered by DVOPs and LVERs.

DVOPs will provide or coordinate the full range of employment and training services to eligible Veterans in accordance with the VPL 03-14 Change 2 & VPL 04-14. The intent is to serve Veterans with the following Significant Barriers to Employment (SBE) or within the following target population(s):

- A special disabled or disabled Veteran
- Homeless
- A recently-separated service member, who at any point in the previous 12 months has been unemployed for 27 or more weeks
- An offender who is currently incarcerated or released from incarceration
- Lacks a high school diploma or equivalent certificate
- Low-income
- Veterans or Transitioning Service Members between the ages of 18-24
- TSMs identified as in need of intensive services
- Members of the armed forces who are wounded, ill, or injured and receiving treatment in a Military Treatment Facility (MTF) or Warrior Transition Unit (WTU)
- The spouse or other family caregivers of such wounded, ill, or injured members

These Veterans may be identified and referred through other partner or program staff such as WIOA, Trade Adjustment Assistance (TAA), Unemployment Insurance, Department of Health and Human Services, Vocational Rehabilitation, Veteran County Service officers, among others. Regardless of the referral source, the provision of direct services provided by DVOP staff to Veterans with a SBE may include, but are not limited to:

- Initial and/or in-depth assessment
- Intensive services as defined in VPL 07-10
- Case management activities and established case files
- Individual Employment Plans (IEP)
- Provision of Labor Market Information
- Referral to supportive service programs and resources
- Co-enrollment (shared case management responsibility) with other agency, state or partner staff
- Job search assistance
- Job developments
- Individual or group career counseling

DVOP staff will also place emphasis on outreach activities and partnerships with other NDOL partners and programs within their local communities to locate those Veterans who may benefit from more intensive services. The DVOPs will provide technical assistance

or guidance as needed to community-based organizations and assist other NDOL staff in carrying out their responsibilities to serve Veterans.

All VR&E referrals/Chapter 31 Veterans will be disseminated to DVOP staff. The referral process will be coordinated through the State JVSG Program Coordinator. VR&E counselors will outline needed services for the Veteran that may include the need for labor market information, assessments, and job placement services. DVOP staff will case manage and track those Veterans deemed “job ready” or who are within 90 days of completing their Individual Written Rehabilitation Plan (IWRP). DVOP staff will be required to maintain regular communication (monthly or on a more frequent basis) with the Veteran and provide monthly updates to the VR&E counselors regarding the Veteran’s progress. VR&E activities and Chapter 31 Veteran updates will also be included in monthly and quarterly reports disseminated to Nebraska’s DVET.

### DVOP Responsibilities and Job Functions

DVOP Responsibilities and Job Functions include, but are not limited to:

#### 1. Outreach

- a. Provide outreach services to the entire service area; including surrounding towns outside of the NDOL Location
- b. Actively recruit eligible Veterans and spouses through consistent and on-going efforts. These efforts include:
  - Partnering with Wagner-Peyser to data mine in NEworks to make referrals to DVOPs
  - Developing and expanding partnerships with agencies that serve Veterans
  - Communicating with Veteran service staff from other Veteran programs (Nebraska Veteran Affairs, County Veteran Service Officer (VSO), etc.)
  - Partnering with community colleges, state colleges, universities and other educational institutions to obtain Veteran referrals
- c. Review newly registered reports in NEworks and partner Wagner-Peyser to receive Veteran referrals
- d. Maintain beneficial relationships with area VSOs, VFWs, American Legions, Local Armory, Salvation Army, Rescue Mission; Goodwill; National Guard and Reserve; Community foundations; Chamber of Commerce’s and such within the communities.

#### 2. Service Delivery

- a. Recruit, enroll and maintain an active caseload that corresponds to the staffing matrix:
  - 1.0 FTE = minimum of 40 qualifying/eligible Veterans.
- b. Provide all Veterans on the caseload with intensive services at least once every 30 days.
- c. Provide case management and intensive services for no more than 6 months per Veteran.

- d. Maintain an active caseload that accurately reflects the Veterans being provided intensive services.
  - e. Remove Veterans from case management at the conclusion of intensive services.
  - f. Request an extension to provide intensive services beyond 6 months.
  - g. Continuously evaluate the intensive services provided to Veterans to determine if sufficient progress is being made and how the Veteran is benefitting from the intensive services provided.
- 3. Priority of Service
  - a. Inform and educate NDOL staff and partner programs of Priority of Service and changes in policy.
- 4. Program Knowledge
  - a. Be informed of changes in Veteran related policies and programs, and share relevant information with staff and management.
  - b. Attend National Veterans Training Institute (NVTI) training.
  - c. Participate in Vets Technical Assistance activities, webinars and trainings.
- 5. Reports
  - a. Provide input and information to the Manager for the quarterly Veteran reports for the local office. Completion and submission of this report is the manager's responsibility, but it is completed with input from the DVOP.

### Management Responsibilities to Support DVOPs

MANAGEMENT Responsibilities to support DVOPs include, but are not limited to:

The Manager is responsible for the workload and production level of the DVOP. To ensure that that the DVOP is working productively and meeting the goals of the VETS program, the Manager will:

- 1. Meet on a regular basis with the DVOP to discuss the following:
  - a. Outreach and enrollment efforts.
  - b. Any obstacles that are preventing the DVOP from meeting expectations.
  - c. Enrollments and services provided since the previous meeting will be reviewed.
  - d. The Manager will identify DVOP strengths shown and opportunities for improvement.
  - e. Issues, questions and concerns will be discussed.
- 2. Review all new enrollments to ensure data integrity and program eligibility are met.
- 3. Determine the need for and request technical assistance from the Veteran Program Coordinator.
- 4. Assist in coordinating necessary NEworks Training and Technical Assistance to be provided via the Manager, NDOL Administration, and/or the Veterans Program Coordinator.
- 5. Assist in coordinating National Veterans Training Institute (NVTI) training.
- 6. Monitor DVOP progress using NEworks reports.

7. Run and share appropriate NEworks reports, including Enrolled Individual reports and Services Provided Individual reports, to inform the DVOP of progress and identify areas of concern.
8. Conduct Quality Control (i.e. monitoring, data integrity, oversight, etc.) to ensure that program guidelines, rules and expectations are followed.

LVER Staff: Nebraska will support three LVER positions in this next fiscal year; each with specific duties and responsibilities.

#### JVSG Program Coordinator

One LVER will be assigned to the State Administrative office and will serve as the state JVSG Program Coordinator. Primary duties for the JVSG Program Coordinator will be to provide technical assistance to DVOPs and LVERs regarding NDOL and USDOL guidance, policies, and mandates on services to Veterans. This position will also be responsible for all quarterly and annual reporting requirements as defined in the JVSG grant. This LVER will also assist in coordinating staff attendance at Veteran-focused job fairs, Nebraska National Guard demobilization activities in their assigned areas, and compile the Quarterly Managers Report on Services to Veterans, VR&E Quarterly Report, and JVSG Quarterly Report.

#### Omaha Supervisor LVER

The second LVER position serves in a lead capacity for DVOP staff assigned to the Omaha AJC and NDOL Omaha location. As the Omaha metro area serves up to 60% of Nebraska's employment and training customers and the majority of the state's job seeking Veteran population, Omaha is the only locale with a defined Veterans unit consisting of three DVOP and one LVER staff. This unit receives and serves the majority of Chapter 31 referrals in Nebraska.

#### Virtual Services Unit (VSU) LVER

The third LVER position will function within the Virtual Service Unit. The LVER functioning in this position will primarily provide virtual support to employers utilizing the NEworks system. This role will provide statewide LVER functions while working with both DVOPs and employers throughout Nebraska to assist in placing Veterans in quality employment and filling employer's needs.

The VSU LVER will serve as the Veterans' services liaison on a statewide basis to promote job and training opportunities on behalf of Veterans within the workforce system. The LVER will also establish and maintain regular employer contacts to develop educational, promotional and employment opportunities for Veterans.

The outlined duties do not preclude the overarching LVER responsibility to ensure that Veterans are provided the full range of labor exchange services to meet their employment and training needs. The LVER shall be available to provide guidance and/or technical

assistance to NDOL staff regarding the identification and referral of those Veterans who may benefit from more intensive services provided either by DVOP staff or other partner resources.

LVER staff will also conduct employer outreach either independently or through the coordinated efforts of the AJCs and NDOL locations. Through contacts within the employer community, LVER staff work to develop employment and job training opportunities, apprenticeship, and other on-the-job (OJT) training positions to benefit the Veteran community.

VSU LVER Responsibilities and Job Functions include, but are not limited to:

LVER staff promote available resources, programs, and work to develop or expand the network of community and employer groups for the purpose of opening all avenues of assistance and job opportunities to these Veterans.

1. On a weekly basis, team members will:
  - a. Conduct Employer Outreach
    - Contact employers for job postings. Explain the benefits of posting on NEworks;
    - Provide information on self-service job postings;
    - Explain to the benefits of job development and hiring Veterans. Federal contractors will be informed of their responsibility to recruit and retain qualified Veterans;
    - Promotional calls will include calls placed to unions, apprenticeship programs, and business organizations to promote the benefits of hiring Veterans.
  - b. Provide Job Order Assistance/Follow-Up
    - Job Order Assistance will take place during “Promotional” and “Follow-Up” calls with employers;
    - Staff will promote self-service job posting for employers.
  - c. Perform Customized Recruiting
  - d. Contact DVOP and Wagner-Peyser staff throughout the state to find Veterans who are job ready and qualified for available positions.
2. On a monthly basis, the LVER will:
  - a. Conduct speaking engagement(s) to a community business organization or union on the benefits of hiring qualified Veterans
    - Speaking engagements will be to groups where five or more employers are expected to be present;
    - Speaking engagement will focus on the benefits of hiring Veterans
    - Employers attending the speaking engagements will be followed up within two business days
  - b. Plan and/or participate in career fairs/hiring events within a 90 mile radius of Lincoln
    - Coordination between the LVER and the partner programs will take place to coordinate each staffs’ roles in the event

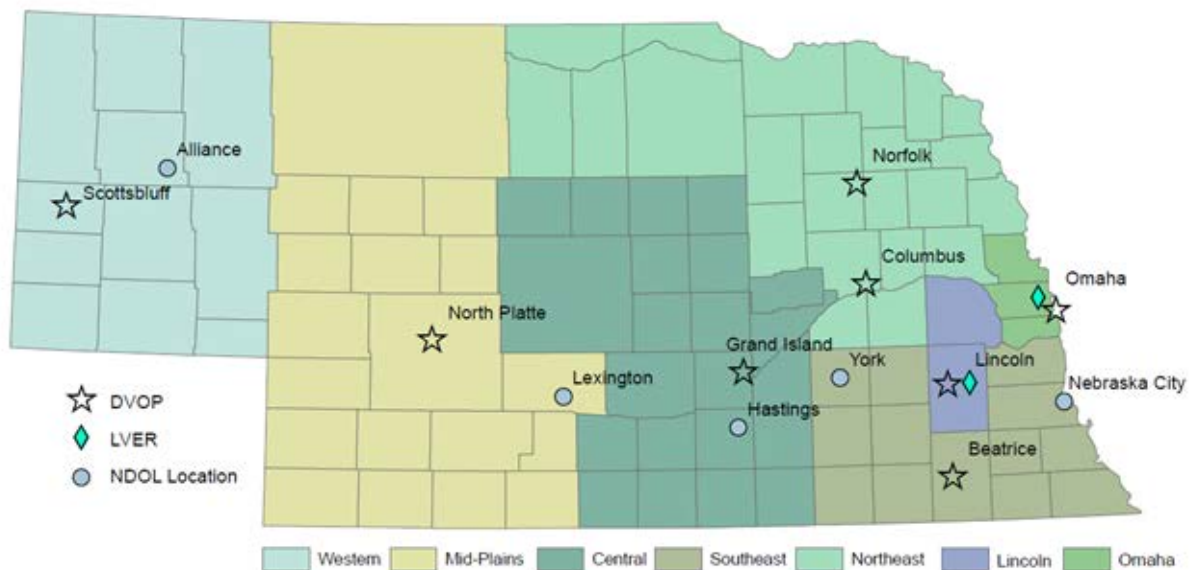
- LVER will engage employers in conversation about the benefits of hiring Veterans.
- LVER will partner with Wagner-Peyser to promote services offered to job seekers
- Interested job seekers will be followed up within 2 business days of the event to review the Veteran's job skills, abilities, goals, and any limitations
- Labor market information and vocational guidance will be reviewed with the job seeker

### (c) Integration of DVOP Specialists and LVER Staff

The manner in which DVOP specialists and LVER staff are integrated into the State's employment service delivery system or one-stop delivery system partner network;

The Nebraska Department of Labor currently hosts 1 American Job Center (AJC) and 14 NDOL locations across the state. NDOL will locate 9.5 grant funded DVOPs in Scottsbluff, North Platte, Grand Island, Beatrice, Norfolk, Columbus, Omaha and Lincoln and 3 LVERs between Lincoln and Omaha as identified in Map 4 and in Table 16 below.

**Map 4: Deployment of JVSG Staff within Nebraska Department of Labor**



**Table 16: Deployment of JVSG Staff within Nebraska Department of Labor**

Region	Program	Number of Staff	Number of Counties
Western	DVOP	1.0	11
Mid-Plains	DVOP	1.0	19
Central	DVOP	1.0	22

Region	Program	Number of Staff	Number of Counties
Southeast	DVOP	1.0	13
Northeast	DVOP	1.5	23
Lincoln	DVOP	1.0	2
Omaha	DVOP	3.0	3
Omaha	LVER	1.0	3 (same as DVOP)
VSU	LVER	1.0	Statewide
Administration	LVER	1.0	Program Support

In the Omaha area, two DVOPs provide services from the “F” Street NDOL location with an additional DVOP providing service at the Omaha American Job Center (operated by Heartland Workforce Solutions, serving the same three counties). One LVER staff will operate from the Virtual Service Unit and a LVER Supervisor will be located at the Omaha “F” street NDOL location. The JVSG Program Coordinator will operate as a LVER from the NDOL administrative location in Lincoln.

NDOL will work to fill any DVOP or LVER vacancies as expeditiously as possible. When notified of a potential opening or staff intent to vacate a position, managers will seek approval or authorization from senior management to hire as soon as possible. This may include filling vacant positions with temporary or interim positions. Additionally, NDOL makes every attempt to satisfy the requirement in 38 U.S.C. 4102A(c)(8), stating that all newly assigned DVOP and LVER staff will receive training from the National Veterans’ Training Institute within 18 months of assignment. Nebraska will do this by scheduling mandated courses at the time the DVOP/LVER has successfully completed their initial six-month probationary period upon hire.

#### **(d) Incentive Award Program**

The Incentive Award program implemented using the 1% grant allocation set aside for this purpose, as applicable;

NDOL uses monetary incentive awards program to recognize employees that provide exceptional service to Veterans. The NDOL will use 1% of the JVSG funding for Veterans Performance Incentive Awards.

The main objective of the program is to encourage our employees to be more attuned to the needs of our Veterans and to motivate them to provide each Veteran with outstanding service. A second and equally important goal is to ensure there is improvement to the overall system of providing services to Veterans.

#### **Exceptional Customer Service**

- Success stories - The monthly success stories submitted over the course of the previous year will be reviewed and the best story selected. The DVOP that

provided the best success story will be awarded \$4,500 for use at his/her NDOL location.

### Operational Excellence

- This award will be presented to the office that has successfully case managed the highest average number of Veterans into employment in the previous 12 months as measured by NEworks (calculated by the number of successful employment placements of an office divided by the number of DVOPs). Measured from July 1 to June 30. The office or region that has successfully transitioned the greatest number of Veterans into employment will be awarded \$4,500.

Awards will occur annually on the following timeline: Application deadline: July 14. Announcement of winning NDOL location by July 21. All allocated funds must be obligated by September 30. The JVSG Program Coordinator, the Employment & Training Administrator, and the Director of the Office of Employment & Training will function as the selection committee for these awards.

The funds awarded will be used to support the JVSG activities at the NDOL location where recipients are assigned. These funds can be used for activities that support the goals of the JVSG to include expenditures on advertisement, training, and improved equipment and technology.

### **(e) Populations of Veterans to be Served**

The populations of Veterans to be served, including any additional populations designated by the Secretary as eligible for services, and any additional populations specifically targeted by the State Workforce Agency for services from one-stop delivery system partners (e.g., Native American Veterans; Veterans in remote rural counties or parishes);

In accordance with Veteran Program Letter (VPL) 03-14 Change 2, VPL 04-14, and VPL 08-14 Nebraska is placing emphasis on service to Veterans in need of basic and individualized career services. In order to easily identify Veterans most in need, all American Job Centers (AJCs) & NDOL offices will conduct “first point of contact” initial assessments. Veterans are afforded the opportunity to voluntarily disclose information that allows AJC & NDOL staff to determine if there is a need for individualized career services. If there is a need, the Veteran is referred to a DVOP to deliver individualized career services per the guidelines established in Veterans Program Letter (VPL) 07-10, VPL 03-14 Change 2, VPL 04-14, VPL 08-14, and VPL 03-14 change 1. DVOP staff will serve those with Significant Barriers to Employment (SBE) as defined by VPL 03-13 and target populations as defined by VPL 04-14 and VPL 08-14 listed below:

- 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;
- Homeless, as defined in Section 103(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(a));
- A recently-separated service member, as defined in 38 U.S.C § 4211(6), who at any point in the previous 12 months has been unemployed for 27 or more weeks;
- An offender, as defined by WIOA Sec. 3 (38)1, who is currently incarcerated or who has been released from incarceration;
- Lacking a high school diploma or equivalent certificate; or
- Low-income (as defined by WIOA at Sec. 3(36)).
- Veterans and Transitioning Service Members between the ages of 18-24;
- Members of the armed forces who are wounded, ill, or injured and receiving treatment in a Military Treatment Facility (MTF) or Warrior Transition Unit (WTU); or,
- The spouse or other family caregivers of such wounded, ill, or injured members

In addition to Veterans assessed at “first point of contact,” DVOPs routinely receive referrals from other agencies working with Veterans with disabilities such as State Vocational Rehabilitation (VR), VA Vocational Rehabilitation (VR&E), and Nebraska’s Vets Centers. For Veterans not identified at “first point of contact,” Wagner-Peyser staff will search NEworks, Nebraska’s management information system, for new Veteran registrations and refer Veterans to the DVOPs as appropriate.

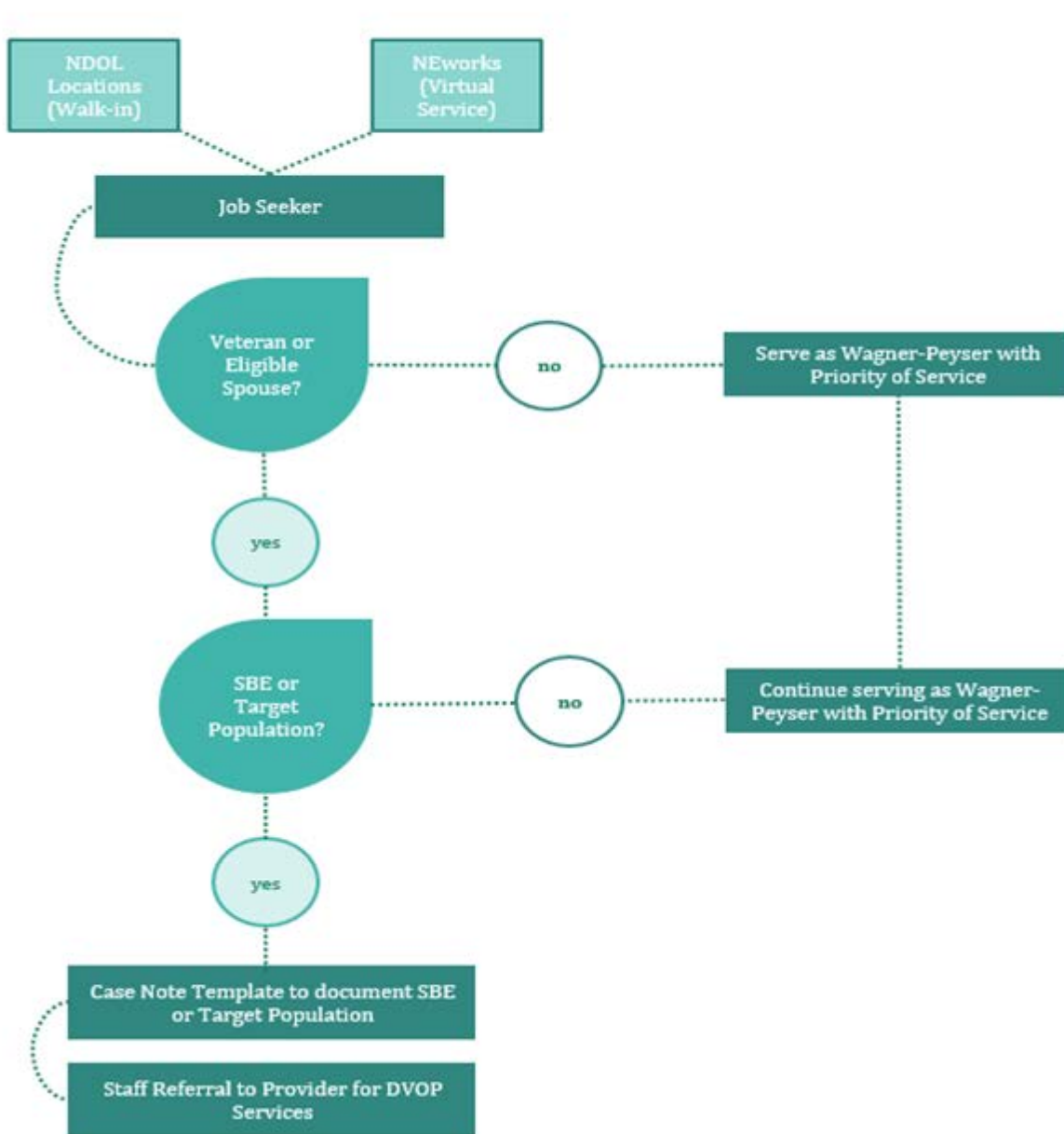
Nebraska hosts three AJCs. These are located in Grand Island, Lincoln, and Omaha. The NDOL operates the AJC in Grand Island, but does not operate the AJCs in Omaha and Lincoln; instead NDOL acts as a partner to offer DVOP services. The encouraged referral process between partner program and DVOP staff is:

The documented referral process between partner program and DVOP staff is:

#### Wagner-Peyser and DVOP Referral Process

1. Job Seekers are identified by either directly contacting an NDOL Location (walk-in, phone, email) or via data mining of NEworks (State’s labor exchange system).
2. Veteran or Eligible Spouse status is determined.
  - a. No, not a Veteran or Eligible Spouse, then serve as Wagner-Peyser
  - b. Yes a Veteran or Eligible Spouse, then determine if have Significant Barrier to Employment (SBE) or Target Population
    - i. No, does not have SBE/Target Population, then serve as Wagner-Peyser with Priority of Service
    - ii. Yes, does have SBE/Target Population, then staff referral to DVOP services

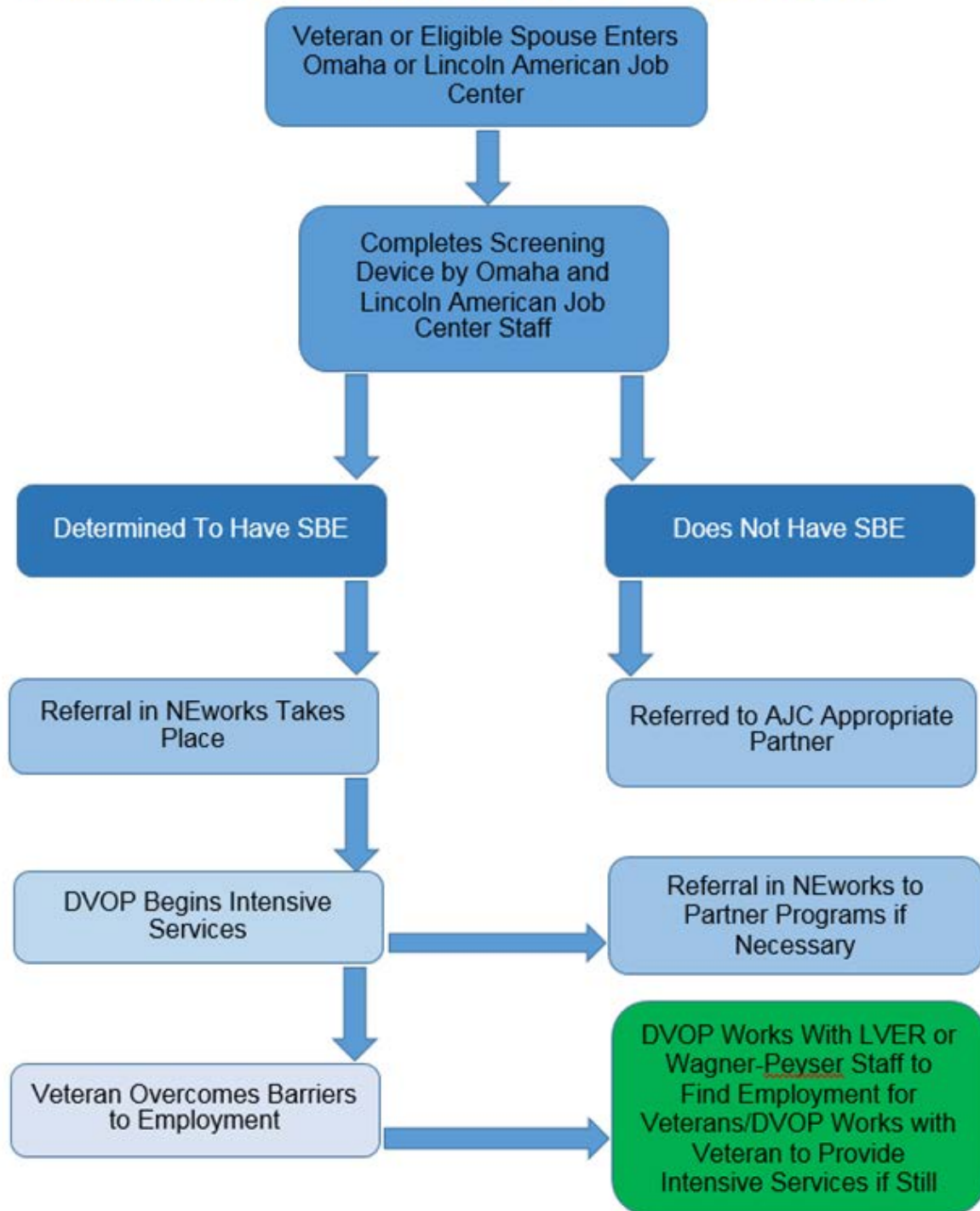
## Illustration 9: Wagner-Peyser and DVOP Referral Process



## Omaha and Lincoln American Job Center Referral Process for DVOP Services

1. Job Seekers are identified by directly contacting an AJC (walk-in, phone, email).
2. Veteran or Eligible Spouse status is determined via screening devices by Omaha and Lincoln American Job Center staff.
  - a. No, not a Veteran or Eligible Spouse, then referred to AJC Appropriate Partner.
  - b. Yes a Veteran or Eligible Spouse, then determine if have Significant Barrier to Employment (SBE) or Target Population:
    - iii. No, does not have SBE/Target Population, then referred to AJC Appropriate Partner.
    - iv. Yes, does have SBE/Target Population, then referral to DVOP services.
3. DVOP makes referral in NEworks to Partner Programs if necessary
4. Veterans overcome barriers to employment.
5. DVOP works with LVER or Wagner-Peyser staff to find employment for Veterans
6. DVOP work with Veteran to provide individualized career services if still necessary.

Illustration 10: Omaha and Lincoln AJC to DVOP Referral



DVOPs in Nebraska deliver basic and individualized career services to Veterans with Significant Barriers to Employment (SBE) and qualified spouses. These services include but are not limited to: resume preparation, education on proper work/interview attire, education on interviewing skills, job search assistance, job coaching, assistance finding housing, and referrals to supportive services offered by other Federal, State, and non-profit organizations.

NEworks provides self-service options to resources and website links that Veterans and eligible spouses can access from their residence or any accessible public computer. NEworks provides Veterans access to a vast range of job opportunities from corporate job posting boards and external job search engine websites that are imported into NEworks on a daily basis.

As prescribed by the VR&E counselor, Chapter 31 Veterans may receive a wide range of services to include: labor market information, assessment, career guidance, and counseling. DVOPs provide case management services as needed, especially for those in need of placement services or other services to become “job ready”. Case management services include the development of an Individual Employment Plan (IEP), in-depth assessments, and regularly scheduled communication or follow-up until the Veteran no longer requires DVOP services or the VR&E counselor closes the Veteran’s file.

#### **(f) Priority of Service to Covered Persons**

**How the State implements and monitors the administration of priority of service to covered persons;**

Priority of Service (POS) to Veterans has been incorporated into all local WIOA plans and a specific Veterans Priority Provisions policy has been developed for all AJCs and NDOL locations. . Priority of service means that a Veteran or an eligible spouse either receives access to a service earlier in time than a non-covered person, or if the resource is limited, the Veteran or eligible spouse receives access to the service instead of or before the non-covered person.

When accessing a NDOL location, Veterans and eligible spouses are made aware of their right to priority of service through well-advertised and conspicuous signage. Identification of such Veterans or covered persons will be made by “first point of contact” initial assessment as well as referrals from other partner or program staff. NDOL will maintain POS signage promoting priority of service in all NDOL locations. NDOL will also maintain updated Veteran focused brochures or pamphlets outlining POS and other employment and training services available for Veterans through the NDOL locations.

Veterans and eligible spouses referred to other DOL programs will receive priority over non-Veterans in terms of eligibility determination and enrollment. For workforce programs that operate or deliver services to the public as a whole without targeting specific groups, Veterans and eligible spouses will receive priority of service over all other program

participants. For example, the primary universal access services are the basic career services delivered through the AJC system under the Wagner-Peyser, WIOA, and all other NDOL E&T programs. Veteran populations targeted for special consideration in accordance with VPL 03-14 as well as Chapter 31 Veterans will receive priority for DVOP individualized career services.

Priority of service is further supported through the state labor exchange system, NEworks, which automatically matches qualified applicants to available jobs. When a job search is run against any job opening, a list of qualified job seekers is created. All eligible Veterans are placed at the top of the list and will be notified of job openings before non-Veterans. NDOL staff are responsible for reviewing job orders for qualified eligible Veterans and making referrals.

Priority of Service will be monitored through existing report mechanisms such as quarterly and federal reporting and NEworks reports. These reports provide information at a state, regional, or local perspective through which the percentage or ratio of service delivery of Veterans to non-Veterans may be compared. NDOL administrative and managerial staff will be responsible for conducting and tracking the monitoring efforts. As with the quarterly reports submitted to the DVET, the Veterans Program Coordinator will also conduct monthly monitoring of the service delivery systems through case file reviews. These enhanced monitoring efforts will ensure ALL NDOL programs are within federal regulations, as well as promote continuous quality assurance.

## **(g) Provision and Measurement of Services**

How the State provides or intends to provide and measure, through both the DVOP and one-stop delivery system partner staff:

### ***1. Job and job training individualized career services,***

The State will provide Job and Job Training individualized career services by providing 1-on-1 services to Veterans with SBEs and other eligible persons. These 1-on-1 services will center on formal and informal assessments to determine the skills, strengths and barriers faced by the participant.

An Individual Employment Plan (IEP) will outline the identified barriers and plan to overcome these barriers to gain sustainable employment. The IEP will be developed in coordination with the participant to ensure greater success through their agreement and “buy-in” of the plan. Additional services will be provided based on the needs of the individual. Referrals to service provider is a key aspect of ensuring a participant receives individualized services. Program staff will follow up with service provider referrals to determine the success and benefit to the customer of such referrals.

Coordination with partner programs that have Job Training funds is key to the successful upskilling of Veterans. Co-enrollment and leveraging of resources will allow Veterans to receive the greatest amount of services. Communication between partners will occur on

a formal and informal basis to allow continual support of Veterans through job training programs. Release of Information documentation will be collected when necessary, in order to allow this communication to occur between the programs and not require the Veteran to repeatedly provide the same information multiple times to partnering programs.

## ***2. Employment placement services, and***

Employment placement services will be leveraged through the Wagner-Peyser program, including the NEworks website and Employment Service staff. Veterans will be shown the benefits of job search, posting a resume, setting up a Virtual Recruiter, and other self-service options with in NEworks to maximize the opportunities for employment.

In addition to self-service options, participants will receive the benefits of Employment Service staff. Employment Service staff will provide Veterans with priority of service when they make job referrals for job postings within NEworks.

LVER and DVOP staff will coordinate with Employment Services (business services and job seeker services) staff promote qualified Veterans as part of the hiring pool in Nebraska. New served Veterans will have the opportunity to leverage their recently obtained employment skills to work for employers in their community.

NDOL staff also conduct outreach to Federal Contractors to offer assistance with meeting the requirements of Office of Federal Contract Compliance Programs (OFCCP). This assistance includes recruitment and referral of qualified Veterans for their job openings, as well as promoting job development opportunities with employers.

## ***3. Job-driven training and subsequent placement service program for eligible Veterans and eligible persons;***

Job-driven training and placement services are coordinated with job training providers and other service and training providers in each region. Veterans are provided Labor Market Information (LMI) from a variety of sources, in including: the NEworks website; Career One-Stop resource; H3 website (h3.ne.gov) which provides information on High Wage, High Skill, High Demand jobs at a local, regional and statewide level in Nebraska. This LMI provides insight on the current and growing opportunities available to Veterans and other job seekers. Veterans are counseled with this information to determine in-demand opportunities and job-driven trainings that may assist them in achieving these employment goals.

Veterans are referred to one-stop partners with job training funds to assist the Veterans in receiving the job-driven training. Veterans are also referred to other financial assistance providers, such as Financial Aid Offices, the GI Bill, EducationQuest Foundation (a non-profit organization with a mission to improve access to higher education in Nebraska), as well as other local resources.

Placement services are leveraged between DVOPs and the partnering programs, such as WIOA, Wagner-Peyser, Vocational Rehabilitation, etc. The program staff that have served the Veteran or other eligible person, communicate with each other to maximize placement services to achieve the greatest possible outcome of sustainable employment.

The items above are measured through:

- Federal reporting of the Veterans Entered Employment Rate (EER)
- Referrals to Service Provider through the NEworks system
- File reviews for quality of services provided and IEPs developed

This information can be quantified and assessed for quality programming. Areas for improvement will be identified and staff training for program improvement will be conducted.

## (h) Hire Dates and Mandatory Training Completion Dates

The hire date along with mandatory training completion dates for all DVOP specialists and LVER staff; and

*Table 17: Hire Date and Mandatory Training Completion Dates for all DVOP Specialists and LVER Staff*

Staff	Program	Hire Date*	Mandatory Training Completion Date
Dave Alder	DVOP	12/16/2013	6/3/2014
Cody Christ	DVOP	9/15/2015	3/14/2017
Art Davis	DVOP	8/12/1996	8/30/2011
Leah Good	DVOP	3/23/2015	9/22/2016
Sandy Grigg	DVOP	3/3/1997	1/12/1998
Jose Palacios	DVOP	7/27/2015	3/1/2016
Brady Plunkett	DVOP	1/11/2016	10/10/2016
Dave Rangeloff	DVOP	8/12/1996	2/2/1998
Nina Rogers	DVOP	12/26/2009	11/22/2014
Alan Trook	DVOP	1/12/2015	7/31/2015
Josh Whited	DVOP	8/11/2014	6/5/2015
Terry Eklund	LVER	11/15/2014	12/4/2015
Harvey Hudson	LVER	1/17/2006	2/14/2012
Liem Tran	LVER	6/29/2015	3/1/2016

*\*Hire Date for State of Nebraska may not align with start date as a DVOP/LVER.*

Additional NVTI training is made available to DVOP and LVER staff as schedules allow. NVTI Training is prioritized for new hires in order to be compliant with training mandates.

## **(i) Additional Information**

Such additional information as the Secretary may require.

Nebraska's unemployment rate for May 2014 of 3.4% percent reflects a 0.4% decrease from the May 2013 rate of 3.8% and remains as one of the lowest rates in the nation. Nebraska's Veterans compare favorably to non-Veterans in the percent of individuals below poverty and in the labor force participation rate according to the 2012 American Community Survey 3-year estimates. In Nebraska, the percent of Veterans below the poverty rate was 5.8%, and for non-Veterans the rate was 12.0%. The rates for both Veterans and non-Veterans falling below the poverty line were below the national average. The labor force participation rate for Veterans (81.2%) is slightly lower than for non-Veterans (83.0%). The rates for the U.S. were 75.0% for Veterans and 75.9% for non-Veterans.

### Ten Year Outlook: Nebraska's Super-Sector Industries

Nebraska's projected fastest growing industry for the 2012-2022 time period is Construction, with 2.27% annual growth and an additional 10,613 jobs. Professional and Business Services follows with an annual growth rate of 1.71% and job growth of 19,642 over the same period. Education and Health Services is expected to be the third fastest growing industry with an annual growth rate of 1.39% and an additional 34,402 jobs. Only two of the state's industries, Natural Resources and Mining and Information, are projected to lose jobs. It is expected that Natural Resources and Mining will shed 5,419 jobs in the ten-year period at a rate of -1.11% annually. Information, with jobs in publishing industries, broadcasting, and telecommunications, is projected to lose 272 jobs, a -0.16% annual loss.

### Nebraska Industry Sub Sectors Industries

Found within the Education and Health Services super-sector, Ambulatory Health Care Services is expected to add the most jobs by 2022 (11,531, 2.88% annually). In fact, four out of the top ten industries are found in this super-sector.

Education Employment for private, state and locally run schools, Nursing and Residential Care Facilities, and Social Assistance also make the list. These increases are due in part to the aging population of the state; as people age, their health care needs tend to increase. Another factor is many workers in this field are reaching retirement age. According to Quarterly Workforce Indicators data provided by the Census in the third quarter 2013, 31.1% of workers in Educational Services were 55 and over and 22.8% of workers in Health Care and Social Assistance were 55 or over. In comparison, 21.7% of workers in the state were 55 or over.

All three of the industries that make up the Professional and Business Services super sector are in the top ten growing industries. Professional, Scientific and Technical Services are expected to add 9,425 jobs and grow 2.02% annually. Administrative and

Support Services are expected to grow by 4,848 jobs, a 1.09% change annually. Management of Companies and Enterprises are expected to add 4,844 jobs and increase 2.30% annually.

Only thirteen of the ninety-three sub-sector industries are expected to decline. The largest decline is expected in Crop Production where a loss of 3,268 jobs is expected, a -1.67% annual decline.

### Ten Year Occupational Growth Outlook

The fastest growing occupation of the top 25 ranked high-wage, high-skill, and high-demand (H3) occupations is Market Research Analysts and Marketing Specialists with a projected percentage increase of 30.4% adding 955 jobs in the next 10 years. The second fastest growing top 25 H3 occupation is Physical Therapists by 29.7% adding 443 jobs by 2022.

The number one ranked overall H3 occupation is Heavy and Tractor-Trailer Truck Drivers with an estimated increase of 4,716 jobs, a 16.8% increase. Registered Nurses come in at number two on the list adding 2,739 jobs, a 12.4% increase. Carpenters come in at number three, with the fastest growth rate of the top five anticipated to increase by 23.2% and adding 2,274 jobs. Rounding out the top five H3 occupations are Accountants and Auditors (13.4%; 1,323 jobs) and General and Operations Managers (12.0%; 1,334 jobs).

In general, this data appears to support a positive employment outlook for Nebraskans. However, upon analysis, training duration, licensure requirements, work environment, geographic location, and regional wage projections vary greatly between these occupations, presenting challenges to the state's Veteran population.

Collectively, job orders posted in PY2013 increased 19.5% over PY2012 while Veteran labor exchange registrations decreased by nearly 7% respectively. Veteran registrations posted through June 2013 comprise approximately 2% of all NDOL location registrations showing a decrease of 2% from the previous year.

Employer services are a priority for the Nebraska Department of Labor and are tracked through the public labor exchange statewide management information reporting system, NEworks. All NDOL locations have one or more (dependent on service area size) Wagner-Peyser Staff whose primary responsibilities include conducting employer outreach, developing business relationships, networking and providing employment, training and placement information for all NDOL partners with targeted employers and their associations.

Wagner-Peyser staff emphasize the benefits of hiring Veterans when talking to employers. Disabled Veterans Outreach Program Specialist (DVOP) and Local Veteran Employment Representatives (LVER) staff, as appropriate, offer an additional level of support to Wagner-Peyser staff by providing detailed information and assistance regarding the local Veteran labor pool or individual Veterans seeking employment. The above strategies will assist NDOL with the promotion, hiring and retention of Nebraska Veterans.

## **Unemployment Insurance (UI)**

The Unemployment Insurance (UI) program requires a State Quality Service Plan (SQSP) on a 2-year planning cycle that is a condition of receipt of administrative funding to administer the program. The SQSP is the State's UI performance management and planning process that allows for an exchange of information between Federal and State partners to enhance the UI program's ability to reflect their joint commitment to performance excellence and client-centered services. A formal two-year SQSP is submitted biennially. On the off years, States may be required to modify the SQSP with additional corrective action plans and narrative if they are failing any new performance measures, and they are required to provide updated budget documents, certifications, and assurances. ETA Handbook No. 336, 18th Edition provides detailed guidance for the preparation and submittal of the SQSP and supplemental guidance is provided in an annual UIPL, issued as UIPL 21-14 for the FY 2015 SQSP. The Social Security Act (SSA) sections 302 and 303 authorize the Secretary of Labor to provide funds to administer the UI program and govern the expenditure of those funds. States that choose the option to include UI in a WIOA Combined State Plan will be required to submit their SQSP through the Combined State Plan process. The SQSP must be prepared in accordance to the instructions in ET Handbook 336, 18th Edition and there are no changes to the established SQSP cycle if a State chose to submit their SQSP through the Combined State Plan process.

### **(a) Contents of a complete UI SQSP package**

A complete UI SQSP package includes the following documents, as described in Chapter 1, ETA Handbook 336, 18th Edition:

## 1. Transmittal Letter

A cover letter to the appropriate Regional Office (RO) transmitting all the required SQSP documents.



**Pete Ricketts**  
Governor

### STATE OF NEBRASKA

**DEPARTMENT OF LABOR**  
John H. Albin, Commissioner  
P.O. Box 94600 • Lincoln, NE 68509-4600  
Phone: 402.471.9000 • dol.nebraska.gov

September 4, 2015

Ms. Betsy Schloesser  
United States Department of Labor  
Employment & Training Admin  
230 South Dearborn, Room 602  
Chicago, IL 60604

Dear Ms. Schloesser:

The Nebraska Unemployment Insurance State Quality Service Plan (SQSP) has been prepared in accordance with the guidelines established by the United States Department of Labor, Employment, and Training Administration; contained in ET Handbook No. 336, 18<sup>th</sup> Edition (UIPL 17-14) and Additional Planning Guidance for the Fiscal Year (FY) 2015 Unemployment Insurance (UI) State Quality Service Plan (SQSP) (UIPL 21-15).

Transmitted with this letter is an electronic copy of the Nebraska Unemployment Insurance SQSP for Fiscal Year 2016.

The Nebraska Department of Labor staff is available for discussion, and clarification of this document. Please contact Bennie Shobe, Unemployment Insurance Tax Program Analyst at 402-471-9881 with any questions.

Sincerely,

John H. Albin  
Commissioner of Labor

Enclosures

*An Equal Opportunity Employer/TDD:800.833.7352*

## ***2. Budget Worksheets/Forms***

Budget worksheets/forms and plan for program administration based on projected allocations received from the Federal partner. These forms include Worksheet UI-1 and SF 424, SF 424A and SF 424B. The SF 424A is only required if the State vary the quarterly distribution of base claims activity staff years.

Application for Federal Assistance SF-424		
<b>* 1. Type of Submission:</b> <input type="checkbox"/> Preapplication <input checked="" type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application		
<b>* 2. Type of Application:</b> <input type="checkbox"/> New <input checked="" type="checkbox"/> Continuation <input type="checkbox"/> Revision		
<b>* If Revision, select appropriate letter(s):</b> <input type="text"/> <b>* Other (Specify):</b> <input type="text"/>		
<b>* 3. Date Received:</b> 10/01/2015		<b>4. Applicant Identifier:</b> <input type="text"/>
<b>5a. Federal Entity Identifier:</b> <input type="text"/>		<b>5b. Federal Award Identifier:</b> <input type="text"/>
<b>State Use Only:</b>		
<b>6. Date Received by State:</b> <input type="text"/>		<b>7. State Application Identifier:</b> <input type="text"/>
<b>8. APPLICANT INFORMATION:</b>		
<b>* a. Legal Name:</b> Nebraska Department of Labor		
<b>* b. Employer/Taxpayer Identification Number (EIN/TIN):</b> 47-0491233		<b>* c. Organizational DUNS:</b> 8780724460000
<b>d. Address:</b>		
<b>* Street1:</b> 550 South 16th Street		
<b>Street2:</b> <input type="text"/>		
<b>* City:</b> Lincoln		
<b>County/Parish:</b> Lancaster		
<b>* State:</b> NE: Nebraska		
<b>Province:</b> <input type="text"/>		
<b>* Country:</b> USA: UNITED STATES		
<b>* Zip / Postal Code:</b> 68509-4600		
<b>e. Organizational Unit:</b>		
<b>Department Name:</b> Department of Labor		<b>Division Name:</b> Unemployment Insurance
<b>f. Name and contact information of person to be contacted on matters involving this application:</b>		
<b>Prefix:</b> Mr.		<b>* First Name:</b> John
<b>Middle Name:</b> <input type="text"/>		
<b>* Last Name:</b> Albin		
<b>Suffix:</b> <input type="text"/>		
<b>Title:</b> Commissioner of Labor		
<b>Organizational Affiliation:</b> <input type="text"/>		
<b>* Telephone Number:</b> 402-471-9912		<b>Fax Number:</b> 402-471-2318
<b>* Email:</b> John.Albin@nebraska.gov		

Application for Federal Assistance SF-424	
<b>* 9. Type of Applicant 1: Select Applicant Type:</b> <input type="text" value="A: State Government"/>	
<b>Type of Applicant 2: Select Applicant Type:</b> <input type="text"/>	
<b>Type of Applicant 3: Select Applicant Type:</b> <input type="text"/>	
<b>* Other (specify):</b> <input type="text"/>	
<b>* 10. Name of Federal Agency:</b> <input type="text"/>	
<b>11. Catalog of Federal Domestic Assistance Number:</b> <input type="text" value="17-225"/> <b>CFDA Title:</b> <input type="text"/>	
<b>* 12. Funding Opportunity Number:</b> <input type="text"/> <b>* Title:</b> <input type="text"/>	
<b>13. Competition Identification Number:</b> <input type="text"/> <b>Title:</b> <input type="text"/>	
<b>14. Areas Affected by Project (Cities, Counties, States, etc.):</b> <input type="text"/> <input type="button" value="Add Attachment"/> <input type="button" value="Delete Attachment"/> <input type="button" value="View Attachment"/>	
<b>* 15. Descriptive Title of Applicant's Project:</b> <input type="text" value="Nebraska UI Base Grant FY 2016"/>	
Attach supporting documents as specified in agency instructions. <input type="button" value="Add Attachments"/> <input type="button" value="Delete Attachments"/> <input type="button" value="View Attachments"/>	

Application for Federal Assistance SF-424															
<b>16. Congressional Districts Of:</b> <div style="display: flex; justify-content: space-between;"> <span>* a. Applicant <input style="width: 100px;" type="text" value="NE 1-3"/></span> <span>* b. Program/Project <input style="width: 100px;" type="text" value="NE 1-3"/></span> </div>															
Attach an additional list of Program/Project Congressional Districts if needed. <div style="display: flex; align-items: center;"> <input style="width: 150px; height: 20px;" type="text"/> <div style="margin-left: 10px;"> <input type="button" value="Add Attachment"/> <input type="button" value="Delete Attachment"/> <input type="button" value="View Attachment"/> </div> </div>															
<b>17. Proposed Project:</b> <div style="display: flex; justify-content: space-between;"> <span>* a. Start Date: <input style="width: 100px;" type="text" value="10/01/2015"/></span> <span>* b. End Date: <input style="width: 100px;" type="text" value="09/30/2016"/></span> </div>															
<b>18. Estimated Funding (\$):</b> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">* a. Federal</td> <td style="border: 1px solid black; text-align: right;">14,214,759.00</td> </tr> <tr> <td>* b. Applicant</td> <td style="border: 1px solid black; text-align: right;">0.00</td> </tr> <tr> <td>* c. State</td> <td style="border: 1px solid black; text-align: right;">0.00</td> </tr> <tr> <td>* d. Local</td> <td style="border: 1px solid black; text-align: right;">0.00</td> </tr> <tr> <td>* e. Other</td> <td style="border: 1px solid black; text-align: right;">0.00</td> </tr> <tr> <td>* f. Program Income</td> <td style="border: 1px solid black; text-align: right;">0.00</td> </tr> <tr> <td>* g. TOTAL</td> <td style="border: 1px solid black; text-align: right;">14,214,759.00</td> </tr> </table>		* a. Federal	14,214,759.00	* b. Applicant	0.00	* c. State	0.00	* d. Local	0.00	* e. Other	0.00	* f. Program Income	0.00	* g. TOTAL	14,214,759.00
* a. Federal	14,214,759.00														
* b. Applicant	0.00														
* c. State	0.00														
* d. Local	0.00														
* e. Other	0.00														
* f. Program Income	0.00														
* g. TOTAL	14,214,759.00														
<b>* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?</b> <div style="margin-left: 20px;"> <input type="checkbox"/> a. This application was made available to the State under the Executive Order 12372 Process for review on <input style="width: 100px;" type="text"/>.  <input type="checkbox"/> b. Program is subject to E.O. 12372 but has not been selected by the State for review.  <input checked="" type="checkbox"/> c. Program is not covered by E.O. 12372.         </div>															
<b>* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)</b> <div style="margin-left: 20px;"> <input type="checkbox"/> Yes      <input checked="" type="checkbox"/> No            If "Yes", provide explanation and attach  <input style="width: 150px; height: 20px;" type="text"/> <div style="margin-left: 10px;"> <input type="button" value="Add Attachment"/> <input type="button" value="Delete Attachment"/> <input type="button" value="View Attachment"/> </div> </div>															
<b>21. "By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)</b> <div style="margin-left: 20px;"> <input checked="" type="checkbox"/> ** I AGREE  <small>** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.</small> </div>															
<b>Authorized Representative:</b> <div style="margin-left: 20px;">           Prefix: <input style="width: 100px;" type="text" value="Mr."/>      * First Name: <input style="width: 150px;" type="text" value="John"/>            Middle Name: <input style="width: 150px;" type="text"/>            * Last Name: <input style="width: 200px;" type="text" value="Albin"/>            Suffix: <input style="width: 100px;" type="text"/> </div>															
* Title: <input style="width: 200px;" type="text" value="Commissioner of Labor"/>															
* Telephone Number: <input style="width: 150px;" type="text" value="402-471-9912"/> Fax Number: <input style="width: 150px;" type="text" value="402-471-2318"/>															
* Email: <input style="width: 250px;" type="text" value="John.Albin@nebraska.gov"/>															
* Signature of Authorized Representative: <div style="display: flex; align-items: center;"> <input style="width: 200px; height: 40px;" type="text"/> </div>															
* Date Signed: <input style="width: 100px;" type="text" value="09/04/2015"/>															

[View Burden Statement](#)**BUDGET INFORMATION - Non-Construction Programs**OMB Number: 4040-0006  
Expiration Date: 06/30/2014**SECTION A - BUDGET SUMMARY**

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		\$	\$	\$ 14,214,759.00	\$	\$ 14,214,759.00
2.						
3.						
4.						
5. Totals		\$	\$	\$ 14,214,759.00	\$	\$ 14,214,759.00

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### SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	\$ <input style="width: 100px;" type="text"/>	\$ <input style="width: 100px;" type="text"/>	\$ <input style="width: 100px;" type="text"/>	\$ <input style="width: 100px;" type="text"/>	\$ <input style="width: 100px;" type="text"/>
b. Fringe Benefits	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>
c. Travel	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>
d. Equipment	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>
e. Supplies	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>
f. Contractual	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>
g. Construction	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>
h. Other	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>
i. Total Direct Charges (sum of 6a-6h)	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	\$ <input style="width: 100px;" type="text"/>
j. Indirect Charges	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	<input style="width: 100px;" type="text"/>	\$ <input style="width: 100px;" type="text"/>
k. TOTALS (sum of 6i and 6j)	\$ <input style="width: 100px;" type="text"/>	\$ <input style="width: 100px;" type="text"/>	\$ <input style="width: 100px;" type="text"/>	\$ <input style="width: 100px;" type="text"/>	\$ <input style="width: 100px;" type="text"/>
7. Program Income	\$ <input style="width: 100px;" type="text"/>	\$ <input style="width: 100px;" type="text"/>	\$ <input style="width: 100px;" type="text"/>	\$ <input style="width: 100px;" type="text"/>	\$ <input style="width: 100px;" type="text"/>

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SECTION C - NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8. <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
9. <input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
10. <input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
11. <input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
12. TOTAL (sum of lines 8-11)	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	\$ 14,214,759.00	\$ 3,580,817.00	\$ 3,526,562.50	\$ 3,526,562.50	\$ 3,580,817.00
14. Non-Federal	\$ <input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
15. TOTAL (sum of lines 13 and 14)	\$ 14,214,759.00	\$ 3,580,817.00	\$ 3,526,562.50	\$ 3,526,562.50	\$ 3,580,817.00

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (YEARS)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16. <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>
17. <input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
18. <input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
19. <input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
20. TOTAL (sum of lines 16 - 19)	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>	\$ <input type="text"/>

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges: <input type="text"/>	22. Indirect Charges: <input type="text"/>
23. Remarks: <input type="text"/>	

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### ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

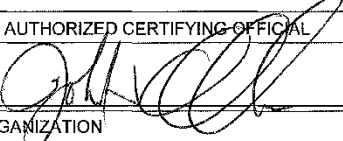
**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

**NOTE:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.
19. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. 7104) which prohibits grant award recipients or a sub-recipient from (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL  John H. Albin	TITLE Commissioner of Labor
APPLICANT ORGANIZATION Nebraska Department of Labor	DATE SUBMITTED 09/04/2015

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### *3. The State Plan Narrative*

The State Plan Narrative is a vital element of the SQSP that provides a vehicle for sharing with the Federal partner State-specific efforts that affect the administration of the UI Program. The State Plan Narrative allows the State to describe in a single narrative: a) State performance in comparison to the Government Performance Review Act goals; b) actions planned to correct deficiencies regarding UI programs, UI program reviews and reporting requirements; and c) results of customer satisfaction surveys (optional).

#### A – Overview

FY 2015 saw a continued decrease in workloads from FY 2014 levels. Nebraska has made processing benefit claims accurately and timely priorities as well as continued improvement in all performance measures. UI Program Integrity continues to be an area of emphasis in Nebraska as is demonstrated through the Integrity Action Plan included in this submittal.

During FY 2015 the State Information Data Exchange System (SIDES) was enhanced and employer participation has increased. Both broker and SIDES E-Response went in production midway through FY 2014. The Nebraska Claims Center implemented new Interactive Voice Response (IVR) technology in September, 2014. The system is an enterprise solution supported by the Nebraska Office of Chief Information Officer (OCIO) and provides a modernized, digital platform for UI claimants to communicate with benefits staff.

In 2015 the UI Tax system continued development of the Tax Management System (TMS) and UIConnect to implement the Treasury Offset Program (TOP). Implementation of TOP for Tax is scheduled for end of CY 2015 with the first collection activities expected in early 2016. LB 961 passed the Nebraska legislature and was signed by the Governor during the 2014 legislative session. The legislation creates the Short Time Compensation (STC) program—workshare—to Nebraska statute. UI staff are currently in developing business and technical requirements. Implementation is expected to occur on time with the statutorily defined effective date of October 1, 2016.

Nebraska focused UI Program integrity efforts on decreasing improper payments resulting from Job Service Registration, Work Search Issues, and Separations. As a result of several integrity initiatives in collaboration with IT, improper payments attributable to registration and separations have seen remarkable declines, as well as an overall decrease in Nebraska's improper payment rate. Nebraska's overall improper payment rate has decreased from 13.9% in December, 2013, to 9.84% in December, 2014. While these numbers indicate progress has been made toward restoring the public trust in UI, Nebraska recognizes there is still more work to be done. Preliminary BAM statistics indicate Nebraska experienced an increase in Benefit Year Earnings (BYE) improper payments in FY 15 as a result of the pivot in integrity projects from detection and recovery to long-term solutions in prevention and reduction. Nebraska intends to refocus in FY16 on significant projects aimed at a continued decrease in improper

payments while sustaining high levels of achievement in core measures, notably overpayment detection and recovery.

UIConnect, Nebraska's employer portal allows employers to register for a UI Account, file and pay UI Combined Tax and Wage reports, file UI Benefits separations, Appeals and Benefit Payment Audits. In early 2015 employers were given the opportunity to register for SIDES E-Response through UIConnect and by August, 2015, 1,224 employers had enrolled. Nebraska employers may file UI Combined Tax Reports electronically using UIConnect or Bulk filing or by paper. For the first quarter 2015, 47,517 combined tax reports (85%) were filed electronically of which 28,948 (60.92%) were filed via UIConnect. Approximately 90% of payments were received electronically and 97% of wage items.

Nebraska recognizes the importance of maintaining a solvent trust fund. An array system has been used since CY 2006 to determine employer combined tax rates. The trust fund balance dropped below the solvency range for the CY 2010 and 2011 rates. The trust fund balance returned to solvent range for CY 2012 and above the solvency range for CY 2013 through 2015 allowing for the expected yield to fall below prior year benefit payments.

## B – Federal Emphasis and GPRA Performance Goals

### *Improving State Capacity to Administer and Operate the UI Program Effectively*

During FY 2015 Nebraska experienced a reduction in workload trending levels consistent with a TUR less than 3%. This has given the state an opportunity to update system processes and technologies that were delayed during the Great Recession. The UI Benefits program began using the state IVR solution replacing a system that was functioning on obsolete equipment.

Recent Supplemental Budget Request opportunities have given Nebraska the funding to expand and improve our integrity efforts as outlined in our Integrity Action Plan. During FY 2015, the use of additional merit staffing to detect and recover improper payments have assisted in improving Nebraska's performance.

The increased workloads over the past few years have reduced capacity to maintain training efforts at a desired level. Nebraska recognizes the importance of maintaining a knowledgeable UI staff and the risk of loss as senior staff begin to retire. A renewed emphasis on training began in FY15 as REX and other technologies were deployed.

### *Improving Prevention, Detection, and Recovery of UI Improper Payments*

Integrity is a high priority in Nebraska. FY 2015 was the third year for the Treasury Offset Program (TOP). Supplemental Budget Requests have provided an opportunity to continue detection methods enhancements. As outlined in the FY 2015-2016 UI Program Integrity Action Plan, the various detection and recovery efforts which were developed and tested are on schedule for deployment in FY16.

### *Improving Program Performance Nationally*

Nebraska experienced a decrease in performance during the Great Recession similar to other states. Over the course of FY 2015 work continued to meet performance standards. The Field Audit—total wages changed measure continues to improve but has not yet met the desired standard. Additional methods to detect total wages changed will be explored during FY 2016. Program performance continues to be a priority in Nebraska and we will continue to work to exceed performance targets.

### *Reemployment of UI Claimants*

Reemployment Services continues to be provided through the service delivery system at the American Job Centers. Employment and Training staff at the Nebraska Department of Labor is committed to continuous improvement and collaboration with Unemployment Insurance staff.

Process improvements to utilize reemployment services throughout the claim were begun midway through FY2015. During second quarter, Employment and Training reached acceptable levels of performance. Work continues to increase employment levels for claimants and reduce the number of benefit weeks experienced.

### *Addressing Worker Misclassification*

The detection of misclassified workers continues to be a high priority in Nebraska. Beginning in 2003, Nebraska has utilized the resources made available through the IRS 1099 Extract File. Identifying employers that are typically problematic in specific industries by use of NAICS Codes and cross referencing to the 1099 Extract File, Nebraska has been successful in locating misclassified workers. This process also lends to the opportunity of educating the employer community regarding correct classification of workers. In addition, misclassified workers are also detected and reclassified through the obstructed UI claims process.

The misclassified worker information is shared with the IRS through the Questionable Employment Tax Practices (QETP) program. Nebraska is one of twenty nine states that shares information through this process. The misclassified information is also shared with the Nebraska Department of Revenue and the Nebraska Contractor Registration so that all phase of worker misclassification are addressed.

### *GPRA Goals*

#### *Make Timely Benefit Payments: Target – 87%; Nebraska Performance – 89.2%*

Nebraska continues to place a high level of emphasis on timely benefit payments. During the recent recession Nebraska struggled as most states have with timely benefit payments. During FY 2015 the GPRA performance has been met with Nebraska meeting the 87% target in seven of ten months through July, 2015.

*Detection of Overpayments: Target – 54.2%; Nebraska Performance 65.89%*

Nebraska continues to focus on goals to meet this measure. Nebraska's Benefit Payment Control Unit (BPC) has been actively involved in the UI Integrity Cross-Functional Task Force since fall 2011. As a result, BPC management and employees have engaged in cross-sectional analyses and discussion of integrity related issues, including furthering employee understanding of BAM, benefits adjudication, fraud determinations and the importance of clear messaging when communicating with employers and claimants. This process has provided for increased focus on detecting overpayments earlier and more efficiently, evidenced by an overall increase in the overpayment detection rate since October 1, 2011.

*Establish Tax Accounts Promptly: Target – 88.9%; Nebraska Performance – 92.6%*

Prompt status determinations continue to be a priority in Nebraska.

*Facilitate the Reemployment of Claimants: Target – 70%; Nebraska Performance – 70.8%*

Reemployment Services will continue to be provided through the service delivery system at NDOL Locations, American Job Centers (AJCs), and through the virtual service unit. Development and coordination of NEres begun. NEres is an integrated reemployment model that will effectively utilize resources and offer employment services at a larger capacity and within an effective timeframe. Employment and Training staff at the Nebraska Department of Labor is committed to continuous improvement and collaboration with Unemployment Insurance staff.

NEres will provide uniform services to all WPRS and REA profiled individuals with a long-term goal of serving all initial UI claimants with NEres services. NEres activities will be monitored via the Management Information System. Program Administration and Management will provide oversight of activities and services provided to target populations. Reports will be run from the MIS on a regular basis to ensure data integrity and program compliance.

C - Program Review Deficiencies

Not applicable

D – Program Deficiencies

Not applicable

## E – Reporting Deficiencies

### *Report Timeliness – ETA 9057 Lower Authority Appeals Quality Review—MET in FY15*

Changes made during FY2014 continue to ensure timely filing of quarterly reports. The data compilation process was streamlined by allow tribunal staff to manage sample extraction. This change allowed for reports and related documents to be retrieved timely. Additionally, due dates are now calendared electronically to ensure timely review and submittal of reports.

## F – Customer Service Surveys

Not applicable

## G – Other

Background: On August 5, 2010, the Nebraska Department of Labor (NDOL) received a Supplemental Budget Request (SBR) award of \$432,142.00 to improve unemployment insurance (UI) information technology (IT) contingency plans and UI IT security. The application for the award specifically referenced NDOL's security risks as identified by audits. The award allowed NDOL to address four components of UI IT security, as follows:

1. Update and test the UI IT contingency plan according to the NIST SP 800-34 and conduct an Independent Verification and Validation (IV&V) on the updated plan
2. Conduct an IT Security Assessment in accordance with the FIPS 200/NIST SP 800-53 and NIST SP 800-53A for the assessment of Security Control Effectiveness. The assessment will include an update of *iSecure 2007*
3. Address priority risk areas identified in the *iSecure* update
4. Upgrade the authentication and verifications systems utilized for UI

In accordance with ET Handbook 336, 18th Edition, Change 2, NDOL instituted plans or measures to comply with SQSP Assurance requirements, as follows:

### Assurance H – Assurance of Contingency Planning

Utilizing 2010 SBR funds, NDOL contracted with a CIP-certified IT consulting company to update and test the UI IT contingency plan according to the NIST SP 800-34 standard. The project was completed in November 2011, and the contingency plan was updated to document processes and procedures to recover and protect the UI data, assets and facilities in the event of a disaster. 2010 SBR funds were also used to procure hardware and software for implementation of a UI IT disaster recovery (DR) cold site at The University of Nebraska Medical Center (UNMC) in Omaha, NE, situated 50 miles away from our primary data center. Implementation of the DR site was completed in September 2012, and the contingency plan was updated and tested to include the addition of the disaster recovery site. In 2012, NDOL contracted services for an Independent Verification & Validation (IV&V) of the UI IT contingency plan, which was completed in December 1,

2012. The UI IT contingency plan is updated uniformly with changes in the UI IT environment, but at least annually so as to be in a ready state for use immediately upon notification.

NDOL conducted table top DR exercises on November 16, 2012 and put the structure in place to review, update, and test the UI IT Contingency Plan annually to ensure availability of critical assets and overall operational readiness for unexpected disruptions. NDOL had an unplanned test of the UI IT Contingency plan on April 23, 2013 due to a 2-hour power outage. The incident was fully documented and outcomes included action to be taken for improvement. NDOL procedures include Table Top DR, Functional and Full-Scale tests, which are scheduled in compliance with IRS Publication 1075 and NIST requirements and strengthen the agency's ability to recover in the event of an emergency or system disruption.

NDOL also conducts scheduled inspections of the state Data Center, off-site storage and disaster recovery site annually, in compliance with IRS Publication 1075 and NIST requirements to ensure security protocols are in place for the protection of information and information systems.

Under UIPL 13-14, NDOL applied for SBR funds to update the UI Contingency Plan. In November 2014, NDOL's security team conducted meetings with business users in each of the program area sections to review areas of the existing UI Contingency Plan that require update due to programmatic changes. This is an ongoing initiative that is completed as changes occur and reviewed at least annually. NDOL will contract for a third-party security assessment prior to September 30, 2016, which will include a review of the UI Contingency Plan.

#### Assurance J - Assurance of Automated Information Systems Security

Background - Over the last nine (9) years, NDOL completed several initiatives that have been valuable to the security needs of the agency. The first initiative, Strategic Technical Architecture Roadmap, STAR – V2.0 provided a point-in-time assessment of the current level of technical maturity and recommendations on how to achieve a future state technical architecture. Other initiatives, iSecure 2004 and subsequent iSecure 2007 IT Security Risk Self-Assessment, used the security section of STAR as a springboard to perform the high level analysis and review of the security environment of the agency.

Utilizing 2010 SBR funds, NDOL contracted with an independent, CIP-certified firm to conduct an update of iSecure 2007. iSecure 2011 was completed on November 10, 2011, including documented policies and procedures, along with recommendations for addressing deficiencies and security management effectiveness. The iSecure Assessment is in accordance with the FIPS 200/NIST SP 800-53 and NIST SP 800-53A security guidelines.

In February 2012, NDOL hired an independent consultant to facilitate the process of conducting the NIST Self-Assessment and completing the System Security Plan (SSP).

The self-assessment identified additional controls, policies and procedures to be addressed in NDOL's Plan of Action and Milestones (POA&M) documentation. The SSP documents each control and responsible parties. This ongoing process documents all corrective actions identified during internal inspections and security assessments and assigns a risk category to each so the most critical are addressed immediately, with measured progress towards resolving all defined gaps or findings. NDOL uses security and risk assessments as a best practice to ensure that appropriate levels of controls exist, they are being managed, and they are compliant with all federal and state laws or statutes.

NDOL performs ongoing monitoring of all UI systems in accordance with documented policies and procedures from the iSecure 2011 update. All documentation is reviewed and updated at a minimum annually. Every three years, NDOL conducts a formal independent UI IT security risk assessment ensuring vulnerability management and policy compliance. Under UIPL 13-14, NDOL applied for SBR funds to complete iSecure 2014, the security risk assessment for 2014, aligning with our three-year requirement.

NDOL uses security tools. The Veracode tool identifies software vulnerabilities across UI systems. This tool helps to prevent threat posed by hackers who are targeting software vulnerabilities to gain access to critical data. NDOL conducted a series of scans on UI systems, which provide categorized analytics to improve performance. NDOL uses the outcomes to mitigate application risk at the code level. NDOL's system security plan clearly defines procedures and timelines for conducting scans for risk management and audit compliance. The LogRhythm tool collects a complete set of data from the IT environment for processing and analysis of relevant information from multiple dimensions, allowing NDOL to perform real time threat management. Logs are reviewed continually to detect and respond to breaches and threats. Microsoft System Center Configuration Manager is used for remote control, patch management, software distribution, operating system deployment, network access protection, and hardware and software inventory capabilities.

NDOL's security team meets monthly to review the POA&M and discuss security-related projects or activities. Changing technology requires conscientious and steady assessment of the System Security plan. In strict compliance with legislation, regulations and other applicable requirements, NDOL is committed to compliance with NIST SP 800-53 Recommended Security Controls for Federal Information Systems and Organizations. NDOL's security team meets monthly with State security officials and the open systems team from the Office of the Chief Information Officer to review security-related projects and initiatives that are being worked on jointly to satisfy IRS requirements. The IRS review conducted in July 2014 highlighted areas for improvement. NDOL submits corrective actions to the IRS every six months and has made significant progress in addressing findings.

NDOL's security and risk assessment policy addresses purpose, scope, roles, responsibilities, management commitment, coordination among agency entities, and compliance; and procedures to facilitate the implementation of the risk assessment policy

and associated risk assessment controls. The policy is reviewed and updated every three years; procedures at least annually.

NDOL completed a new hire to the security team in September 2014. We utilized SBR funds to obtain training and security certifications required for this position. NDOL's Infrastructure Supervisor, who is SANS certified, was appointed as Agency Security Officer and reappointed on July 1, 2015. He currently supervises the security team.

#### ***4. Corrective Action Plans (CAPs)***

Corrective Action Plans (CAPs): CAPs are expected as a part of the SQSP when State's annual performance does not meet the established criteria for core measures, Secretary's Standards, UI program, assurances, and other program deficiencies identified in the annual SQSP guidance provided by the Department. The CAP must list both specific milestones for key corrective actions or improvement activities, and the completion date for each milestone.

**Effective Audit Measure Summary Continued**

Tax Management System (TMS). When matches didn't occur a status assignment is created. We have had some success setting up new employers, that success did not translate into a significant change in total wages.

CY 2014 will show some gains in the audit measures but the change in total wages will continue to be an issue. Nebraska has a very limited number of large employers thus we will never have the WOW factor other states have experienced. We plan to expand the use of the 1099 Extract File to include Nebraska employers who issue 1099s but do not have a UI Account Number assigned to them. We will perform the audit concurrently with the status investigation. The expected result will be an increase in the percent of Total Wages changed from the audit as the liable employer previously filed nothing.

	Completion Date*							
	12/31	03/31	06/30	09/30	12/31	03/31	06/30	09/30
1. The UI Tax Section will work closely with the Contractor Registration program to explore potential misclassified workers and changes in total wages.	✓	✓	✓	✓	✓	✓	✓	✓
2. Expand the use of the 1099 Extract File in audit process to include employers that don't have a Nebraska UI Account Number.	✓	✓	✓	✓	✓	✓	✓	✓
3. The UI Data Warehouse will be utilized to potential under reporting based on employer characteristics found in audits.	✓	✓	✓	✓	✓	✓	✓	✓
4. The Effective Audit Measures will be emphasized in the annual Field Meeting.			✓				✓	
5. Individual Field Representative performance for all four audit measures will be monitored. Individual audit goals will be established to achieve a passing score for all Effective Audit Measures.	✓	✓	✓	✓	✓	✓	✓	✓

## CORRECTIVE ACTION PLAN

<b>State:</b> <div style="text-align: center;"><b>NEBRASKA</b></div>	<b>Federal Fiscal Years:</b> <div style="text-align: center;"><b>FY 2015 – FY 2016</b></div>	<b>MEASURE/PROGRAM AREA:</b> <div style="text-align: center;">Facilitate Reemployment <del>–MET</del></div> <b>Criteria:</b> 70.0%																
<b>Current Performance Level:</b> <div style="text-align: center;">65%</div>	<b>Projected Performance Levels:</b> <table style="width: 100%; text-align: center; border-top: 1px solid black; border-bottom: 1px solid black;"> <tr> <td><u>65.4%</u></td> <td><u>65.8%</u></td> <td><u>66.2%</u></td> <td><u>66.5%</u></td> <td><u>66.9%</u></td> <td><u>70.82%</u></td> <td></td> <td></td> </tr> <tr> <td>12/31/14</td> <td>3/31/15</td> <td>6/30/15</td> <td>9/30/15</td> <td>12/31/15</td> <td>3/31/16</td> <td>6/30/16</td> <td>9/30/16</td> </tr> </table>		<u>65.4%</u>	<u>65.8%</u>	<u>66.2%</u>	<u>66.5%</u>	<u>66.9%</u>	<u>70.82%</u>			12/31/14	3/31/15	6/30/15	9/30/15	12/31/15	3/31/16	6/30/16	9/30/16
<u>65.4%</u>	<u>65.8%</u>	<u>66.2%</u>	<u>66.5%</u>	<u>66.9%</u>	<u>70.82%</u>													
12/31/14	3/31/15	6/30/15	9/30/15	12/31/15	3/31/16	6/30/16	9/30/16											
<p>A. Percentage of claimant finding employment before benefit exhaustions did not meet Acceptable Performance Levels.</p> <p>B. NERes is an integrated reemployment model</p> <p>C. This CAP was in place during the previous fiscal year. Outreach to claimant and was limited. Refinement of the profiling model should increase the pool of candidates.</p> <p>D. Reports will be run from the MIS on a regular basis to ensure data integrity and program compliance. Coupled with enhancement to the Integrity Data Warehouse, a better understanding of service needed by claimant to achieve a quicker return to the labor force.</p> <p><b>SUMMARY:</b> Reemployment Services will continue to be provided through the service delivery system at NDOL Locations, American Job Centers (AJCs), and through the virtual service unit. Development and coordination of NERes begun. NERes is an integrated reemployment model that will effectively utilize resources and offer employment services at a larger capacity and within an effective timeframe. Employment and Training staff at the Nebraska Department of Labor is committed to continuous improvement and collaboration with Unemployment Insurance staff.</p> <p>NERes will provide uniform services to all WPRS and REA profiled individuals with a long-term goal of serving all initial UI claimants with NERes services. NERes activities will be monitored via the Management Information System. Program Administration and Management will provide oversight of activities and services provided to target populations. Reports will be run from the MIS on a regular basis to ensure data integrity and program compliance.</p> <p>{✓} If continued, check box</p>																		

Facilitate Reemployment Continued	Completion Date*							
	12/31	03/31	06/30	09/30	12/31	03/31	06/30	09/30
1. Development of NERes to provide uniform services to all WPRS and REA profiled individuals with a long-term goal of serving all initial UI claimants with NERes services.	✓							
2. Implement WPRS portion of NERes.	✓							
3. Implement REA portion of NERes.	✓							
4. Begin work on serving all initial UI Claimants with NERes services; to be identified by their initial claim filing.	✓	✓	✓	✓	✓	✓	✓	✓
5. Eventually transition to allowing all job seekers and discretionary grant participants to receive NERes services.	✓							
6. Identify initial UI claimants registered in NEworks in a timely fashion in order to provide early intervention and employment services.		✓	✓	✓	✓	✓	✓	✓
7. Promote online services to better serve the needs of jobseekers that do not have direct access to American Job Centers or NDOL locations.	✓	✓						
8. Conduct initial staff training to implement NERes. Includes, but is not limited to: client services and activities; NEworks; reporting; assessments; referrals; target populations, etc.	✓	✓	✓	✓	✓	✓	✓	✓
9. Provide resources and training to Employment Services staff to allow them to better serve the unemployed job seeker and promote a more immediate timeframe in which the claimants can	✓	✓	✓	✓	✓	✓	✓	✓
{✓} If continued, check box								

<b>Facilitate Reemployment Continued</b> reenter the workforce.								
10. Maintain relationships with UI to share information and data to aid in the outreach and identification of UI claimants	✓	✓	✓	✓	✓	✓	✓	✓

## CORRECTIVE ACTION PLAN

State: NEBRASKA	Federal Fiscal Years: FY 2016				MEASURE/PROGRAM AREA: Non-Monetary Determination Time Lapse— NEW Criteria: 80%			
Current Performance Level: 79%	Projected Performance Levels:							
	12/31/14	3/31/15	6/30/15	9/30/15	80% 12/31/15	80% 3/31/16	80% 6/30/16	80% 9/30/16
<b>SUMMARY:</b> Following the end of EUC, the UI Benefits program returned to normal fluctuations in higher workload seasons (November-February and July-August). However, with the end of EUC, staffing levels decreased and the program experienced higher staff turnover rates and retirements creating structural management challenges to meet workload demands. In the last year Nebraska has taken steps to meet performance expectations on Non-Monetary Determination Time Lapse, including increased training and BAM/BTQ analysis. In the FY15 to date, the overall Non-Monetary Time Lapse measure is 80.8%, and 88.9% since March, 2015. As these figures demonstrate, normalized workload and staffing conditions have regulated Nebraska’s time lapse.								
The following strategies are ongoing to prevent future breakdowns in Non-Monetary Determination Time Lapse.								
	Completion Date*							
	12/31	03/31	06/30	09/30	12/31	03/31	06/30	09/30
1. Implement standardized adjudication procedures using the OnBase claims workflow technology.					✓			
2. Development of refresher training modules for current staff and updating new employee training modules for consistency.						✓	✓	✓
3. Create matrix for predictive workload increases and hire accordingly.						✓		

## CORRECTIVE ACTION PLAN

<b>State:</b> <b>NEBRASKA</b>	<b>Federal Fiscal Years:</b> <b>FY 2016</b>				<b>MEASURE/PROGRAM AREA:</b> <b>Non-Monetary Determination Quality—</b> <b>Separations—NEW</b> <b>Criteria: 75%</b>			
<b>Current Performance Level:</b> 72.2%	<b>Projected Performance Levels:</b>							
	<u>12/31/14</u>	<u>3/31/15</u>	<u>6/30/15</u>	<u>9/30/15</u>	<u>75%</u> <u>12/31/15</u>	<u>75%</u> <u>3/31/16</u>	<u>75%</u> <u>6/30/16</u>	<u>75%</u> <u>9/30/16</u>
<b>SUMMARY:</b> Nebraska has experienced an increase in staff turnover and retirements of long-term UI Benefits staff. The result has been an increase in new staff and a renewed focus on retention and training. In the end of 2014, and following the end of EUC, staffing levels normalized, allowing management to conduct careful BTQ and BAM data analysis on persistent issues in adjudication. As a result of this research, several training devices have been and are being developed, including online, interactive modules scheduled to be deployed in fall, 2015.								
Nebraska's increased attention to BTQ standards has resulted in three consecutive quarters of meeting this performance metric in FY15 (4Q14: 78%; 1Q15: 75.86%; 2Q15: 76.67%). The following strategies will be implemented to maintain and increase performance in FY16.								
	<b>Completion Date*</b>							
	<b>12/31</b>	<b>03/31</b>	<b>06/30</b>	<b>09/30</b>	<b>12/31</b>	<b>03/31</b>	<b>06/30</b>	<b>09/30</b>
1. Quarterly all-staff BTQ review and training.					✓	✓	✓	✓
2. Integration of new technologies (REX) and associated training modules designed to increase staff awareness and quality in issue detection and adjudication.						✓		
3. Monthly BAM case review among management to determine trends and training needs.					✓	✓	✓	✓

## CORRECTIVE ACTION PLAN

<b>State:</b> <div style="text-align: center;">NEBRASKA</div>	<b>Federal Fiscal Years:</b> <div style="text-align: center;">FY 2016</div>	<b>MEASURE/PROGRAM AREA:</b> <div style="text-align: center;"> <b>UI Integrity Measure—Benefit Year Earnings (BYE) –NEW</b>  <b>Criteria: 2.87%</b> </div>																		
<b>Current Performance Level:</b> <div style="text-align: center;">3.91%</div>	<b>Projected Performance Levels:</b> <table style="width: 100%; text-align: center; border-top: 1px solid black; border-bottom: 1px solid black;"> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td><u>5.0%</u></td> <td><u>4.5%</u></td> <td><u>3.5%</u></td> <td><u>2.5%</u></td> </tr> <tr> <td>12/31/14</td> <td>3/31/15</td> <td>6/30/15</td> <td>9/30/15</td> <td>12/31/15</td> <td>3/31/16</td> <td>6/30/16</td> <td>9/30/16</td> <td></td> </tr> </table>							<u>5.0%</u>	<u>4.5%</u>	<u>3.5%</u>	<u>2.5%</u>	12/31/14	3/31/15	6/30/15	9/30/15	12/31/15	3/31/16	6/30/16	9/30/16	
					<u>5.0%</u>	<u>4.5%</u>	<u>3.5%</u>	<u>2.5%</u>												
12/31/14	3/31/15	6/30/15	9/30/15	12/31/15	3/31/16	6/30/16	9/30/16													
<p><b>SUMMARY:</b> Nebraska realizes the importance of accurate Benefit Year Earnings reporting. As the Benefit Payment Control Unit (BPCU) continues to focus on recovery, as has been the case since the implementation of TOP in 2013, the program realizes improvement in structure and procedure is needed to increase overpayment detection.</p> <p>Nebraska experienced significant turnover in key management areas as well as personnel duty changes in FY15, including the expiration of SBR funds then utilized to provide state merit staff to BPCU (September, 2014). Additionally, BPCU launched several IT and workforce management structural changes during the same period requiring staff diversion from traditional duties in the Unit.</p> <p>BPCU will be deploying current IT projects in development aimed at increasing detection and prevention and decreasing staff time required for auditing and investigating improper payments. Among these technologies is the deployment of the Benefits Investigation Tracking System (BITS), scheduled for deployment before the end of FY15; the integrated Benefits Audit Tracking System (BATS), scheduled in 2016; enhanced NDNH detection and claim tracking during weekly certification; and the expanding the SIDES Earnings Verification (EV) to a broader employer base.</p> <p>BYE will become a renewed focus for the Department. Based in internal BAM data through June, 2015, the BYE measure is expected to increase before the end of CY15. However, the strategies below will be implemented with current operational standards in an effort to meet the performance level criteria. Nebraska UI Benefits management will continue to regularly monitor BAM BYE and improper payment data as a diagnostic to assess the effectiveness of strategies listed below.</p> <p>Some challenges the following strategies will aim to overcome are communication between Units, additional training of new employees, structuring new procedures for auditing around new technologies being implemented in 2015 and 2016, and use of existing BAM data to drive corrective procedures.</p> <p>{✓} If continued, check box</p>																				

BYE Continued	Completion Date*							
	12/31	03/31	06/30	09/30	12/31	03/31	06/30	09/30
<p>1. Increased analysis of BAM findings and communication between the Units. Launch the BAM/BPC data review workgroup. This workgroup will commence in a formal capacity prior to 12/31/15 and meet on a monthly throughout 2016. Once data is reviewed, the workgroup will provide assessment and recommendations to BPCU and UI Benefits management staff for appropriate action.</p> <p>2. Revision of BPCU training manual.</p> <p>3. Implementation of new Benefit Audit Tracking System (BATS) and Benefit Investigation Tracking System (BITS), including caseload balancing and reassignment.</p> <p>{✓} If continued, check box</p>					✓	✓	✓	

<b>BYE Continued</b>								
<p>4. Exploration of new cross-match opportunities to increase prevention and detection. Among these are the deployment of enhanced NDNH detection measures. Additional projects sought include enhancement of the recently started prisoner crossmatch to include SSA data. IP Capture reports have been implemented and are being reviewed weekly. Utilizing the Integrity Data Warehouse and predictive analytics software to run various cross matches to prevent fraudulent claims. Coordinating with the Vital Statistics and Motor Vehicles Departments to implement new, automated crossmatch data, including ID verification and death records matching.</p> <p>5. Employer outreach on the importance of completing and returning timely requests for audit information. Campaigns include push messaging requirements of timely reporting to NDNH. Message to employers on level of false claims and costs to other states on false claims by not responding to earnings audits and separation requests. Message importance of employers to monitor the quarterly charging reports for possible improper payments to claimants and identity theft.</p>						✓		
								✓

## CORRECTIVE ACTION PLAN

State:  NEBRASKA		Federal Fiscal Years:  FY 2015 – FY 2016				MEASURE/PROGRAM AREA: Improper Payments Measure <del>MET</del> -will continue to monitor  Criteria: <10%			
Current Performance Level:		Projected Performance Levels:							
FY15 18.16%		<10%	<10%	<10%	<10%	<10%	<10%	<10%	<10%
FY16 9.84%		12/31/14	3/31/15	6/30/15	9/30/15	12/31/15	3/31/16	6/30/16	9/30/16
SUMMARY:									
<p>Nebraska has worked diligently to decrease the Improper Payment rate in UI Benefits since 2011. Focusing on IT solutions to deficient operational areas causing improper payments, including JS Registration (5.18%) and Work Search (10.12%), as well as recovery operations in 2013, UI Benefits improper payments fell from 24.13% in IPIA year 2012 to 18.16% in IPIA year 2013.</p> <p>While such a reduction shows progress, Nebraska has taken additional steps to meet the Improper Payments Measure in FY13 and first part of FY14, yielding an IPIA Improper Payment rate of 9.114% by the end of CY13. Nebraska is confident that continued analysis combined with SBR-funded IT and programmatic development will improve on this vital integrity measure. Such analysis is but one action of many which will be undertaken to improve performance, including specific data warehouse research and analysis for prevention activities; work search auditing and analysis to determine areas of weakness in the operational requirement and future messaging based on these findings; targeted information campaigns increasing awareness of registration requirements; and recovery methodology analysis and enhancements.</p> <p>The FY15-16 SQSP is the first time Nebraska has been under a corrective action plan for this measure.</p> <p>Success will be measured for this plan not just by the completion of the milestones below and the attainment of an improper payments measure of &lt;10% but, as well, by the ongoing sustainment of a low rate. To achieve this vision, Nebraska BPCU and Internal Security personnel will be responsible for monitoring, analyzing, and assessing data and projects in the near and long-term future. Findings will be reported directly to the UI Administrator for Benefits Operations including status updates on current improper payments as well as recommendations for program development oriented towards keeping Nebraska’s improper payments measure well below the established criteria requirement.</p>									

	Completion Date*							
MILESTONES	12/31	03/31	06/30	09/30	12/31	03/31	06/30	09/30
1. Ongoing focus on recovery activity: Nebraska currently recovers >73% of established overpayments, in large part due to structural efficiencies in the Benefit Payment Control Unit. Nebraska will continue to emphasize recovery as a priority, consistent with the Secretary's National Priorities.	√	√	√	√	√	√	√	√
2. Quarterly assessment of BAM data with UI Benefits management staff.	√	√	√	√	√	√	√	√
3. Research and analysis of enhanced recovery options. Nebraska plans to implement online credit card payment options in FY15. Additionally, if awarded SBR funding in 2014 (pending approval), Nebraska will immediately utilize data warehouse query capability to enhance targeted collection measures.	√	√	√	√	√	√	√	√
4. Analysis of CY14 IPIA data		√						
5. Development and implementation of enhanced recovery solutions (e.g., online credit card payments), pending approval of 2014 SBR application.				√	√			
6. Analysis of FY15 IPIA/BAM data.						√		
7. Analysis of CY15 IPIA data						√		

## CORRECTIVE ACTION PLAN

<b>State:</b> <div style="text-align: center;"><b>NEBRASKA</b></div>	<b>Federal Fiscal Years:</b> <div style="text-align: center;"><b>FY 2015 – FY 2016</b></div>	<b>Measure/Program Area:</b> <div style="text-align: center;">Data Validation <b>NO CHANGE</b></div> <b>Criteria: Submissions June 10, 2014</b>																										
<b>Current Performance Level:</b> Benefits Populations: <i>Submitted but Failed Benefits Population 14</i>	<b>Projected Performance Levels:</b> <table style="width: 100%; text-align: center;"> <tr> <td colspan="2"></td> <td colspan="2"><u>Pass 14</u></td> <td colspan="2"></td> <td colspan="2"><u>Pass 14</u></td> <td colspan="2"></td> </tr> <tr> <td><b>12/31/14</b></td> <td><b>3/31/15</b></td> <td><b>6/30/15</b></td> <td><b>9/30/15</b></td> <td><b>12/31/15</b></td> <td><b>3/31/16</b></td> <td><b>6/30/16</b></td> <td><b>9/30/16</b></td> <td colspan="2"></td> </tr> </table>										<u>Pass 14</u>				<u>Pass 14</u>				<b>12/31/14</b>	<b>3/31/15</b>	<b>6/30/15</b>	<b>9/30/15</b>	<b>12/31/15</b>	<b>3/31/16</b>	<b>6/30/16</b>	<b>9/30/16</b>		
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<b>SUMMARY:</b> <p>Nebraska submitted all required Benefits Populations for Data Validation timely in VY14 (due June 10, 2014 for the period April, 2013-March, 2014). Population 14 failed due to discrepancies between reported and validation in groups 14.01 and 14.02, specifically 227 reports cells corresponding in both groups with Accounts receivable &gt;=451. Sample validation passed in both groups. Notably, Nebraska has applied for 2014 SBR funds to address this specific Data Validation issue from a programmatic and IT perspective. In FY15 and FY16, Nebraska will continue research and analysis on both the report cells and extract files to determine an IT solution to discrepancies.</p> <p>All populations due will be submitted by June, 2015, and June, 2016 (if required).</p>																												
<b>MILESTONES (Numbered Sequentially)</b>				<b>Completion Date*</b>																								
				<b>12/31</b>	<b>03/31</b>	<b>06/30</b>	<b>09/30</b>	<b>12/31</b>	<b>03/31</b>	<b>06/30</b>	<b>09/30</b>																	
1. Ongoing review of ET227 data (quarterly)				√	√	√	√	√	√	√	√																	
2. Establishment of a BPCU Data Integrity Workgroup				√																								
{✓} If continued, check box																												

<b>Data Validation Measure Continued</b>								
3. Data analysis of VY14 extracts and quarterly ET227 (April, 2013-March, 2014), section E, and ET 401 manual, sections IV-3-2 through IV-3-17 (as revised January, 2012)		√						
4. Extracts and Reports Development/VY15 submission			√					
5. Data analysis of VY15 extracts and quarterly ET227 (April, 2014-March, 2015).				√				
6. Ongoing analysis and development of ET227 reports and populations 12-15 (specifically those that fail in VY15)				√	√	√	√	√

## CORRECTIVE ACTION PLAN

<b>State:</b> <div style="text-align: center;">NEBRASKA</div>	<b>Federal Fiscal Years:</b> <div style="text-align: center;">FY 2015 – FY 2016</div>	<b>MEASURE/PROGRAM AREA:</b> <span style="background-color: #cccccc;">MET will continue to monitor</span> <div style="text-align: center;">BAM Criteria: Outside of -10.0 and 5.0</div>																						
<b>Current Performance Level:</b>  <div style="text-align: center;"> <b>Benchmark Population</b>  outside of the control   <b>Paid Claims -13.01%</b> </div>	<b>Projected Performance Levels:</b> <table style="width: 100%; text-align: center;"> <tr> <td><u>-12.5</u></td> <td><u>-12.0</u></td> <td><u>-11.5</u></td> <td><u>-11.0</u></td> <td><u>-10.5</u></td> <td><u>-10.0</u></td> <td><u>-9.5</u></td> <td><u>-9.0&lt;BP&gt;5</u></td> </tr> <tr> <td>12/31/14</td> <td>3/31/15</td> <td>6/30/15</td> <td>9/30/15</td> <td>12/31/15</td> <td>3/31/16</td> <td>6/30/16</td> <td>9/30/16</td> </tr> </table>								<u>-12.5</u>	<u>-12.0</u>	<u>-11.5</u>	<u>-11.0</u>	<u>-10.5</u>	<u>-10.0</u>	<u>-9.5</u>	<u>-9.0&lt;BP&gt;5</u>	12/31/14	3/31/15	6/30/15	9/30/15	12/31/15	3/31/16	6/30/16	9/30/16
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<p><b>SUMMARY:</b> A) At the time the SQSP was issued, Paid Claim Benchmark populations were outside the control -10 and +5%. B) It is apparent paid weeks had been incorrectly excluded from the BAM populations. The BAM Supervisor, IT staff and UI Administrator have undertaken a thorough analysis of paid weeks included and excluded from the BAM population in order to identify where the error(s) may exist. C) We have identified that out-of-state and commuter county residence addresses had been excluded, despite NE liable indicators and changes to the program were implemented effective 5/21/2014. While 4<sup>th</sup> quarter 2014 was outside the acceptable boundaries, 1<sup>st</sup> quarter 2015 actual performance of -9.57% is within the acceptable range. Official benchmark statistics for 2<sup>nd</sup> Quarter were not available from the Regional Office at the time this report was prepared, however, preliminary estimates by the State BAM supervisor show 2<sup>nd</sup> quarter 2015 will also be acceptable. D) We propose to continue our review of weeks included and excluded to identify any other exclusions in an attempt to improve on our results. We continue to monitor our BAM population against the 5159 weeks paid following the end of each quarter and additional program adjustments will be made based on this analysis to ensure the BAM population remains within tolerance parameters. If unexplained results persist BAM will communicate with regional/nation office for further technical support</p>																								
<b>Completion Date*</b>																								
	12/31	03/31	06/30	09/30	12/31	03/31	06/30	09/30																
1. Implementation of inclusion interstate / commuter county address.	√	√	√	√	√	√	√	√																
2. Analysis of weeks paid and dollars payable from quarterly 5159 and BAM extract file comparable weeks	√	√	√	√	√	√	√	√																
{✓} If continued, check box																								

<b>Benchmark Population outside of the control</b> <b>Measure Continued</b> 3. Continued issues into program year will result in consultation with program experts for technical support								
		√	√	√	√	√	√	

## CORRECTIVE ACTION PLAN

<b>State:</b> <div style="text-align: center;">NEBRASKA</div>	<b>Federal Fiscal Years:</b> <div style="text-align: center;">FY 2015 – FY 2016</div>	<b>MEASURE/PROGRAM AREA:</b> <del>MET in part; will</del> <div style="text-align: center;"> <u>continue to monitor</u>  <b>BAM Benchmark Population outside of the control</b>  <b>Criteria: &gt;±15%</b> </div>																																																														
<b>Current Performance Level:</b> Benchmark Population outside of the control <b>Denied Monetary</b> - 46.35% <b>Denied Separation</b> - 21.15% <b>Denied Non-Separation</b> - 20.25%	<b>Projected Performance Levels:</b> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="text-align: center;"><u>-46.35%</u></td> <td style="text-align: center;"><u>-30.00%</u></td> <td style="text-align: center;"><u>-27.00%</u></td> <td style="text-align: center;"><u>-25.00%</u></td> <td style="text-align: center;"><u>-22.00%</u></td> <td style="text-align: center;"><u>-20.00%</u></td> <td style="text-align: center;"><u>-17.00%</u></td> <td style="text-align: center;"><u>+/-</u></td> </tr> <tr> <td style="text-align: center;"><u>14.00%</u></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;"><u>-21.15%</u></td> <td style="text-align: center;"><u>-20.00%</u></td> <td style="text-align: center;"><u>-19.00%</u></td> <td style="text-align: center;"><u>-18.00%</u></td> <td style="text-align: center;"><u>-17.00%</u></td> <td style="text-align: center;"><u>-16.00%</u></td> <td style="text-align: center;"><u>-15.00%</u></td> <td style="text-align: center;"><u>+/-</u></td> </tr> <tr> <td style="text-align: center;"><u>14.00%</u></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;"><u>-20.25%</u></td> <td style="text-align: center;"><u>-20.00%</u></td> <td style="text-align: center;"><u>-19.00%</u></td> <td style="text-align: center;"><u>-18.00%</u></td> <td style="text-align: center;"><u>-17.00%</u></td> <td style="text-align: center;"><u>-16.00%</u></td> <td style="text-align: center;"><u>-15.00%</u></td> <td style="text-align: center;"><u>+/-</u></td> </tr> <tr> <td style="text-align: center;"><u>14.00%</u></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">12/31/14</td> <td style="text-align: center;">3/31/15</td> <td style="text-align: center;">6/30/15</td> <td style="text-align: center;">9/30/15</td> <td style="text-align: center;">12/31/15</td> <td style="text-align: center;">3/31/16</td> <td style="text-align: center;">6/30/16</td> <td style="text-align: center;">9/30/16</td> </tr> </table>								<u>-46.35%</u>	<u>-30.00%</u>	<u>-27.00%</u>	<u>-25.00%</u>	<u>-22.00%</u>	<u>-20.00%</u>	<u>-17.00%</u>	<u>+/-</u>	<u>14.00%</u>								<u>-21.15%</u>	<u>-20.00%</u>	<u>-19.00%</u>	<u>-18.00%</u>	<u>-17.00%</u>	<u>-16.00%</u>	<u>-15.00%</u>	<u>+/-</u>	<u>14.00%</u>								<u>-20.25%</u>	<u>-20.00%</u>	<u>-19.00%</u>	<u>-18.00%</u>	<u>-17.00%</u>	<u>-16.00%</u>	<u>-15.00%</u>	<u>+/-</u>	<u>14.00%</u>								12/31/14	3/31/15	6/30/15	9/30/15	12/31/15	3/31/16	6/30/16	9/30/16
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<p><b>SUMMARY:</b> A) At the time the SQSP was issued, all three Denied Claim Benchmark populations were outside the control +/- 15%. B) It is apparent denials had been incorrectly included and excluded from BAM denial populations. The BAM Supervisor, IT staff and UI Administrator have undertaken a thorough analysis of denials included and excluded from the BAM populations in order to identify where the error(s) may exist. C) We identified out-of-state and commuter county residence addresses had been excluded, despite NE liable indicators and changes to the program were implemented effective 5/21/2014. We identified some denials were being excluded from the population based on an error regarding the transaction date. We have corrected that error in the program effective 5/21/2014 so denials that fall into the batch period are now being included. We identified monetary denials due to administrative action had been incorrectly included in the population, requiring deleted cases once they had been sampled. These initial corrections have impacted our variance on Monetary Denials, Separations and Non-Separations. Monetary population benchmarks have improved to -34.17% for 1<sup>st</sup> Quarter 2015. Separation and Nonseparation populations were within the acceptable range beginning 4<sup>th</sup> quarter 2014 and remained within an acceptable range for 1<sup>st</sup> quarter 2015 with Separations at -3.46% and Nonseparations at -.72%. Official statistics on 2<sup>nd</sup> quarter 2015 were not available from the Regional Office at the time the report was prepared, however, based on State BAM supervisor estimates, 2<sup>nd</sup> quarter 2015 Separation and Nonseparation populations will also be within an acceptable range. Monetary Benchmark has improved but continues to be outside an acceptable range. In addition to review of BAM monetary population we are investigating the populations that make up the Benchmark. D) We propose to continue our review of DCA populations and Benchmarks quarterly to ensure the Separation and Non-separation populations {✓} If continued, check box</p>																																																																

<b>BAM Benchmark Population outside of the control Criteria: &gt;±15% Continued</b>								
remain within tolerance parameters. In order to bring the Monetary population within tolerance parameters, additional adjustments will be made based on those regular quarterly analyses. If unexplained results persist, BAM will communicate with regional/national office for further technical support.								
	<b>Completion Date*</b>							
	<b>12/31</b>	<b>03/31</b>	<b>06/30</b>	<b>09/30</b>	<b>12/31</b>	<b>03/31</b>	<b>06/30</b>	<b>09/30</b>
1. Implementation of inclusion interstate /commuter county address.	√	√	√	√	√	√	√	√
2. Implementation of inclusion of correct Transaction date {✓} If continued, check box	√	√	√	√	√	√	√	√
3. Analysis of denial populations and benchmark Populations	√	√	√	√	√	√	√	√
4. Continued issues into program year will result in consultation with program experts for technical support	√	√	√	√	√	√	√	√

## ***5. UI Program Integrity Action Plan (UI IAP)***

The UI IAP outlines the strategies the State will undertake during the planning period regarding the prevention reduction and recovery of UI improper payments.

## Unemployment Insurance (UI) Program Integrity Action Plan

State: NEBRASKA	Federal Fiscal Year: 2015-2016
<p><b>Root Causes:</b>  The top three root causes of improper payments in Nebraska for the most recent IPIA period and percentage change for each cause compared to the prior year's IPIA rate.</p> <p><b>2013 IPIA (BAM Batches 201227-201326, 18.16% overall rate) and the percent change from IPIA 2012:</b>  Work Search Issues 10.12% (+8.97%)  Job Service Registration 5.18% (-10.1%)  Benefit Year Earnings 2.79% (-0.89%)</p> <p><b>2014 IPIA (BAM Batches 201327-201426, 7.89% overall rate) and the percent change from IPIA 2013:</b>  Work Search Issues 4.67% (-5.45%)  BYE 3.26% (+.47%)  Separations 2.35% (-.40%)</p>	
<p><b>Accountable Agency Official(s):</b>  Evan E. Littrell, UI Administrator, Benefits</p> <p><b>Summary:</b>  Nebraska has enhanced the 2014 integrity action plan for FY16 that moves forward with short-term and long-term, substantive integrity actions designed to decrease and stabilize the UI Benefits improper payment rate. Consistent with themes of prevention, detection, reduction, and recovery, the plan offers initiatives driving a structural build combining elements of detection and recovery (short-term) and prevention and reduction (long-term). This two-tiered strategic plan blends the resources available from Program and IT professionals in an effort to maximize and effect lasting positive changes to the integrity of the Nebraska UI Benefit Program. Nebraska is dedicated to reducing improper payments not simply on the top three root causes but, rather, across all causes of improper payments for which the agency is a responsible party.</p> <p>Recognizing the inherent advantages of transparency and communication, Nebraska will provide the Integrity Action Plan for FFY 2015-2016 to all UI Benefits staff, incorporating front-line and management staff in project planning, training sessions, and sectional team meetings. Beyond the UI Benefits program, the Nebraska Commissioner of Labor will be provided with executive level updates as deemed appropriate by the UI Administrators for Tax and Benefits, encouraging a single agency integrity message. Finally, public press releases and employer information dissemination will be provided at the Commissioner's discretion to increase public confidence in the Nebraska Department of Labor's UI Program integrity.</p> <p>Outcomes in FY 2014 IAP have been largely successful. Several strategies have been or will soon be implemented. Due to project timelines, several strategies have been combined into the REX project to create a single front-end to UI and ES in Nebraska. REX has incorporated the following strategies: language translation, earnings calculator, BRI language and fact-finding enhancements, and other UI/ES cooperative projects. The master project is scheduled for completion in 2016. Finally, resource overlap was the single greatest barrier to project completion in 2014 and 2015. Nebraska has implemented a Project Management Office (PMO) to streamline project management, from initiation to completion.</p> <p>The strategies below indicate (as appropriate) SBR funds already awarded.</p>	

Strategies	Actions	Targets and Milestone	Resources
Improper Payment Cross Functional Task Force	Continue assembly of the Cross Functional Task Force (IPCFTF) on a quarterly basis to enhance agency knowledge and participation in Everyone Owns Integrity Campaign.	Quarterly meetings of primary contacts from high-level management across the agency and front-line employees in UI Benefits and Tax.	IT, UI, and ES personnel  Representative from the Office of the Commissioner of Labor
Prevention/Reduction, Detection/Recovery (BYE, Fraud): Integrity Data Warehouse Enhancements (2014 SBR submission)	Contract an industry expert to enhance and analyze the current Nebraska Integrity Data Warehouse in an effort to equip NDOL staff with the skills and knowledge to create and maintain complex integrity queries.	Contractor and software procurement by December, 2014-Complete  Implementation: March, 2015 -Complete  Ongoing research, development, and analysis: January 2015-September, 2016	IT personnel  BPC personnel  UI Benefits management/Data Users Group  Outside vendor (for contractor/software)
Prevention (Staff/Data Integrity): Self-evaluation of programmatic and IT activity including Data Validation and Reports (2014 SBR submission)	Conduct research and implement IT solutions to improve the data quality of UI federal reports and data validation populations.	Research and development: March, 2015 (and ongoing)  Implementation: June, 2015	IT personnel  BPC personnel  UI Benefits management/Data Users Group
Prevention (BYE, Work Search, JS Registration, Separations): Develop an integrity messaging campaign for employers and claimants (2014 SBR submission)	Design targeted information campaigns for employers and claimants aimed at reducing improper payments through understanding and cooperation. Actions will be ongoing and revised for effectiveness.	Ongoing development of targeted messaging campaigns, 2014-2016	Agency Public Information Officer  Agency Procurement office  Outside vendor for creation/distribution of media  UI Benefits personnel and management  IT resources as needed
Prevention (Separations): Implementation of SIDES Web-services and E-response (SBR 13-03, enhanced messaging, 2014 SBR submission)	Develop an employer messaging campaign aimed to increase SIDES e-response participation to 35% of initial claim employers.	Campaign commence: March, 2015 -Complete  Milestone: 35% employer participation in SIDES: March, 2016	IT personnel on the Benefit Payment System (BPS)  UI Benefits management and personnel

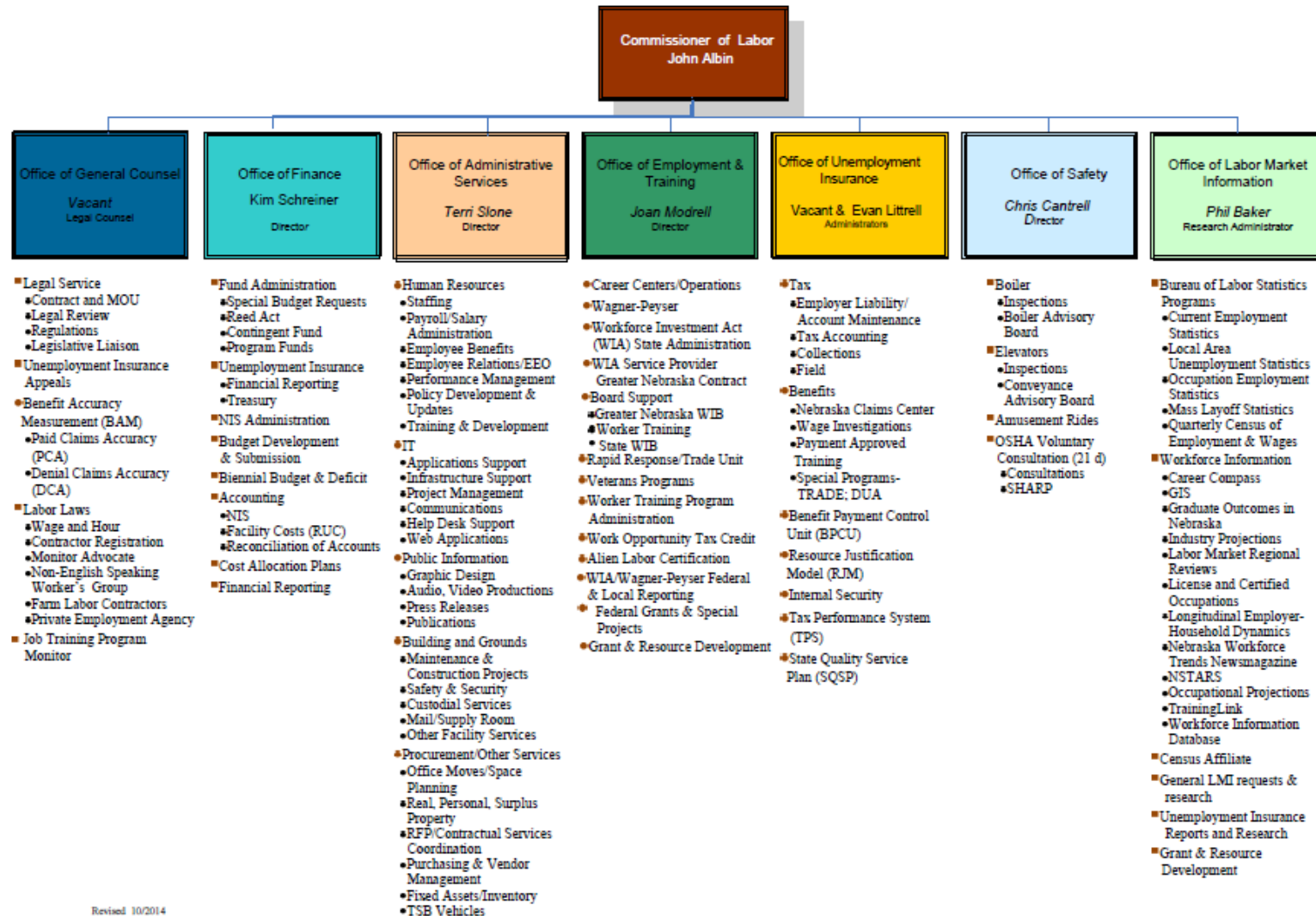
Prevention/Detection (Work Search): Work Search auditing (2014 SBR submission)	Increase Call Center and Adjudication staff resources dedicated to Work Search audits/verification.	Implementation: December, 2014 - Complete	IT personnel on the Benefit Payment System (BPS)  Nebraska Claims Center Personnel
Prevention/Detection (Fraud/ID Theft): Integrity training utilizing the UI Benefits Online Training Center (OTC, initial build using SBR 13-01; enhancement to integrity specific staff training using 2014 SBR submission).	Using the Online Training Center (OTC) created from 2013 SBR funds, and requested funds in 2014 SBR submission, create training modules specific to integrity issues, including staff awareness of ID Theft indicators and other potential schemes intended to defraud UI Benefits.	Module design: December, 2015  Development: March, 2016  Implementation: July, 2016	BPC and UI Benefits personnel  Contractor/vendor (for module design)
Prevention/Detection (BYE): Enhance NDNH detection measures. (2014 SBR submission)	Enhance the existing NDNH processing to include the immediate stoppage of payment for continued weeks filed following an NDNH report date.	Research, requirements, and development: March, 2015 -Complete  Implementation: October, 2015	IT personnel on the Benefit Payment System (BPS)  BPC Personnel
Prevention/Detection: IP Address Capture. This project will allow BPC personnel to investigate claims with suspicious IP Addresses allowing for earlier and effective detection of individual and collective fraud schemes. (SBR 13-04)	Develop an IT solution for capturing, storing, and conducting queries of IP Addresses from initial claims, weekly certifications, additional claims, claimant contact and demographic details changes, and other elements changing data on an UI claim.	Expected impact on improper payments: reduction in fraud related weeks and claims, early detection of fraudulent schemes.  Implementation: June, 2015 -Complete	IT personnel on the Benefit Payment System (BPS) team;  BPC personnel  Outside vendor (as needed) for software
Detection (BYE): Implement enhanced crossmatches (SBR 13-04)	In conjunction with the BATS modernization project, expand cross-matching capability including the use of Nebraska Crime Commission (NCC) prisoner data, Do Not Pay portal, and ad hoc detection matches/investigations	Ongoing development: 2014-2015  Full implementation: October, 2015 (phased approach) –Complete; additional phases commenced	IT personnel for BATS and BPS  IT Business Analyst  BPC personnel and management

	from the Integrity Data Warehouse queries.		
Detection/Reduction (BYE): Modernize legacy Benefits Audit Tracking System (SBR 13-04).	Utilizing SBR funds awarded in 2013, this project is ongoing to migrate the legacy Benefits Audit Tracking System (BATS) into the Benefits Payment System (BPS). This upgrade will enhance user abilities to detect and reduce UI Benefits overpayments.	Ongoing development: 2014-2015  Implementation: Spring, 2016	IT personnel for BATS and BPS  IT Business Analyst  BPC personnel and management
Reduction (BYE): Decrease the number of weeks and dollar amounts established in a BPC case established.	Utilizing the Integrity Data Warehouse (IDW) queries and implementation of BPC procedures and policy, reduce the number of weeks and dollar amounts per case established.	Policy implementation (completed; revisions pending success rates using ongoing ET227 data analysis). -Complete  IDW enhancements	IT and Contractor resources as necessary for IDW.  BPC management and program analysts
Recovery: Enhanced collection methods such as Credit Card/Online payments.	Implement a methodology to accept credit card payments online. Adjust billing and collection techniques as appropriate	Research and implement credit card transaction capability, September, 2015.	IT Resources and Contractor/Vendor (to be determined).  BPC management and program analysts/collections staff.

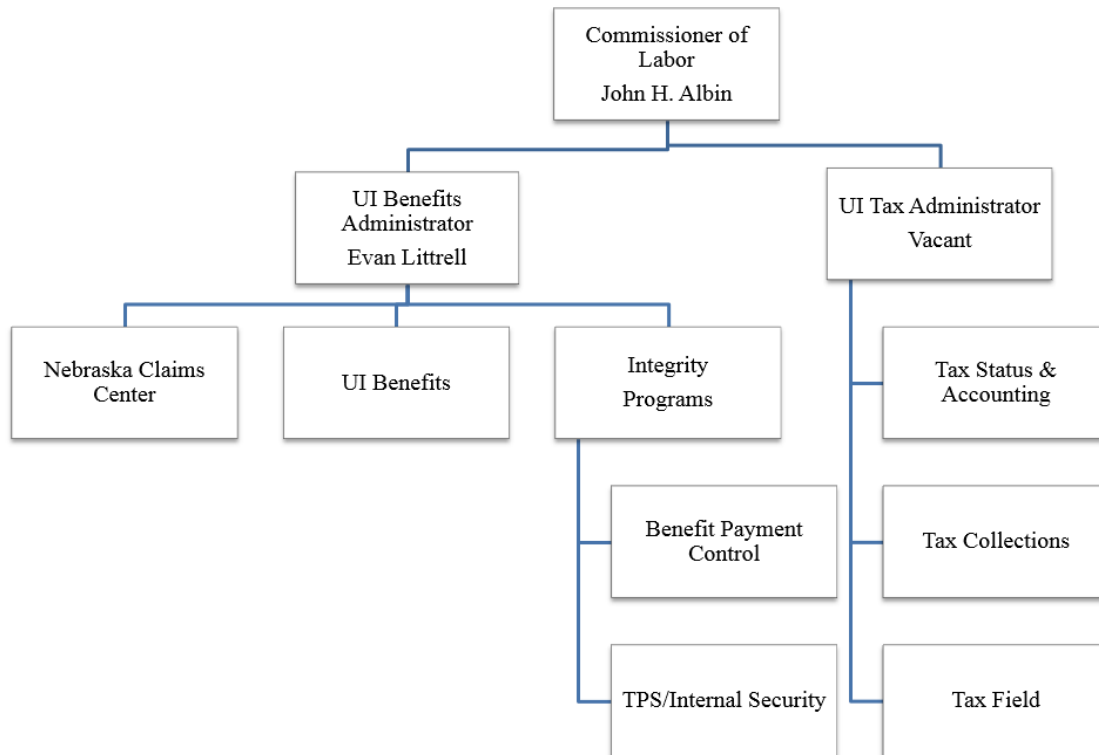
## **6. *Organizational Chart***

The organization chart must conform to the requirement for delivery of service through public employment offices, or such other designated providers as the Secretary may authorize; show the State's configuration from the Governor of the State down to the point of Employment Service and UI customer service delivery; and provide sufficient detail to show each organizational unit involved and the title of the unit manager.

# Nebraska Department of Labor



**Nebraska Department of Labor  
Unemployment Insurance  
September 2015**



## 7. SQSP Signature Page

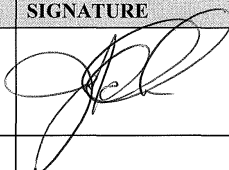
The State administrator must sign and date the SQSP Signature Page. By signing the Signature Page, the State administrator certifies that the State will comply with all the assurances and activities contained in the SQSP guidelines.

U.S. Department of Labor

### SQSP SIGNATURE PAGE

OMB Approval No. 1205-0132

Expires 12/31/2017

U.S. DEPARTMENT OF LABOR Employment and Training Administration	FEDERAL FISCAL YEAR 2016	STATE NE
<b>UNEMPLOYMENT INSURANCE STATE QUALITY SERVICE PLAN SIGNATURE PAGE</b>		
<p>This Unemployment Insurance State Quality Service Plan (SQSP) is entered into between the Department of Labor, Employment and Training Administration, and</p> <p style="text-align: center;"><u>NEBRASKA</u> (STATE'S NAME)</p> <p>The Unemployment Insurance SQSP is part of the State's overall operating plan and, during this Federal fiscal year, the State agency will adhere to and carry out the standards set forth in Federal UI Law as interpreted by the DOL, and adhere to the Federal requirements related to the use of granted funds.</p> <p>All work performed under this agreement will be in accordance with the assurances and descriptions of activities as identified in the SQSP Handbook and will be subject to its terms.</p>		
<b>TYPED NAME AND TITLE</b>	<b>SIGNATURE</b>	<b>DATE</b>
STATE ADMINISTRATOR  John H. Albin		9/4/2015
DOL APPROVING OFFICIAL		
DOL APPROVING OFFICIAL		

**(b) Requirements for States electing to include UI in the Combined State Plan**

States that elect to include UI in the Combined State Plan must:

***1. Submit an SQSP in the following manner depending on their timing in the SQSP cycle:***

- (A) If a State is in the first year of their 2-year cycle, a complete SQSP package must be submitted. A complete SQSP package will include the Transmittal Letter, Budget Worksheets/Forms, State Plan Narrative, CAPs (including the milestones and the completion date for each milestone), the UI IAP, Organizational Chart, and the SQSP Signature Page. One of the key goals for the UI program is to ensure that claimants are able to successfully return to work. As such, the SQSP State Plan Narrative must provide a discussion of the plan coordination with other WIOA Combined Plan programs to ensure a coordinated effort and integrated service delivery.
  - (B) If a State is in the second year of the 2-year cycle, the State is required to submit the most recently approved complete SQSP package with a modification that must include the Transmittal Letter, Budget Worksheets/Forms, Organizational Chart, and the SQSP Signature page. The modification may also include CAPs for new identified performance deficiencies, and any required modifications to existing CAPs. The CAP must list both specific milestones for key corrective actions or improvement activities, and the completion date for each milestone.
- 2. Submit the required off-year SQSP components as a modification to the Combined State Plan on the same cycle as the regular SQSP process which must be approved by September 30th each year.***

## **Senior Community Service Employment Program (SCSEP)**

At minimum, in the SCSEP stand-alone submission and the SCSEP portion of the Combined State Plan, States should comprehensively cover the following elements.

### **(a) Economic Projections and Impact**

States must:

- 1. Discuss long-term projections for jobs in industries and occupations in the State that may provide employment opportunities for older workers. (20 CFR 641.302(d))(May alternatively be discussed in the economic analysis section of strategic plan.)***

The long-term projections for jobs in industries and occupations in Nebraska that may provide employment opportunities for older workers is discussed in the economic analysis section of the strategic plan portion of Nebraska's Combined State Plan.

- 2. Discuss how the long-term job projections discussed in the economic analysis section of strategic plan relate to the types of unsubsidized jobs for which SCSEP participants will be trained and the types of skill training to be provided. (20 CFR 641.302(d))***

The State Department of Labor data offers the state's top 10 occupations that have above average job prospects. Occupations addressing our aging population's long term care support needs are prominently featured.

*2010 — 2022 Occupational Projections Top 10 Most Annual Openings for Postsecondary Non-degree Award Education Level with Entry Wages from the Occupational Employment Statistics Survey*

SOC Code	Standard Occupation Classification (SOC) Title	Average Annual Openings	Entry Wage
29-2061	Licensed Practical and Licensed Vocational Nurses	293	\$16.37
31-1014	Nursing Assistants	459	\$10.47
31-9092	Medical Assistants	147	\$11.90
39-5012	Hairdressers, Hairstylists, and Cosmetologists	142	\$8.32
47-2111	Electricians	155	\$14.37
47-2152	Plumbers, Pipefitters, and Steamfitters	132	\$15.93
51-4041	Machinists	144	\$12.93
51-4121	Welders, Cutters, Solderers, and Brazers	153	\$13.15
53-3032	Heavy and Tractor-Trailer Truck Drivers	920	\$14.40
53-3033	Light Truck or Delivery Services Drivers	105	\$9.45

Source: Nebraska Department of Labor, Office of Labor Market Information 2010 — 2022 Long Term Occupational Projections and the Occupational Employment Statistics Survey updated to third quarter 2015

The State Department of Labor notes that the most common job vacancies are for Production, Office and Administrative Support, Sales and Related, Transportation and Material Moving and Food Preparation and Serving Related occupations. Some of the most common job vacancies, such as office and administrative support, match the interest of some women over 55 years of age seeking employment. The Senior Community Service Employment Program's (SCSEP) host agencies provide the location and the skills training to support participants' development of job skills for meeting their goal of locating a position in the workforce. Office work and food service are the most common types of training opportunities offered through Nebraska's host agencies.

Host agency training may need further supplementation by SCSEP the subgrantee and the Workforce Innovation and Opportunity Act (WIOA) partners to provide local employers with job-ready employees. The office jobs currently available require a working knowledge of computers. This technological experience is often underdeveloped in persons over 55 years of age. Computer skill-building classes are offered to participants of SCSEP through a job-certified training developed by Omaha's Workforce Development Board (WDB).

***3. Discuss current and projected employment opportunities in the State (such as by providing information available under §15 of the Wagner-Peyser Act (29 U.S.C. 491-2) by occupation), and the types of skills possessed by eligible individuals. (20 CFR 641.325(c))***

The current and projected employment opportunities in Nebraska and the types of training possessed by eligible individuals is discussed in the economic analysis section of the strategic plan portion of Nebraska's Combined State Plan.

**(b) Service Delivery and Coordination**

States must:

***1. Provide a description of actions to coordinate SCSEP with other programs***

This may alternatively be discussed in the State strategies section of the strategic plan, but regardless of placement in document, must include:

***(A) Actions to coordinate activities of SCSEP grantees with WIOA title I programs, including plans for using the WIOA one-stop delivery system and its partners to serve individuals aged 55 and older. (20 CFR 641.302(g), 641.325(e))***

The development of Nebraska's Senior Community Employment Program State Plan, as a chapter of the Combined State Plan, involved the insight and participation of a variety of interested persons and groups. This planning process involved multiple steps and opportunities for various opinions to impact the plan. A brief summary includes:

1. State Title V Agency developed the framework and initial draft of the State Plan. State SCSEP coordinator attended focus group meetings held by the workforce development agency to gather input on the combined state plan.
2. Nebraska's Title V program includes Experience Works which operates in 82 counties. Experience Works recruits, locates community service training and helps program participants locate unsubsidized jobs.
3. State Department of Labor and workforce development partners provide job-search and work-skills development. The Department of Labor collaborates with the Departments of Economic Development and Education to develop a strategic approach to developing a local workforce with the skills needed for current jobs as well as future opportunities. The Department of Labor provides a wide variety of support services for job seekers. Their workforce development activities include job-training for adults. Some SCSEP participants receive additional training through this program.
4. Workforce development partners are regional agencies which work with schools, employers and other training partners to provide necessary skills training for persons seeking employment. Nebraska's Senior Community Service Employment Program is an active partner in the WIOA's One Stop Centers/American Job Centers. Some SCSEP participants also benefit from training opportunities available through the WIOA's adult training programs.
5. Area Agencies on Aging provide a wide variety of support services to help persons over 60 years of age live independently within their communities. SCSEP participants often have significant constraints limiting their ability to find and keep a job. Addressing factors such as affordable housing, transportation and caregiver support are necessary also. Their familiarity with community supports makes Area Agencies on Aging important partners for Nebraska's Senior Community Service Employment Programs.
6. Community service organizations provide training to SCSEP participants. These organizations range from senior service organizations, such as senior centers, to community services including schools and hospitals.
7. Nebraska's Combined State Plan was posted on the Nebraska Department Health & Human Services web site [dhhs.ne.gov/aging](http://dhhs.ne.gov/aging) and published for comment by the Nebraska Department of Labor.

Nebraska is a vast geographic area of 76,358 square miles which means that technology is critical in coordinating services among programs and in providing services to employers and job seekers. To enhance coordination and communication, SCSEP will partner in the Combined State Plan to utilize a single case management and Management Information System. This technology is called NEworks. NEworks is a powerful online labor exchange system that integrates workforce services with job seeker and employer candidate recruitment.

Nebraska has a NEworks Mobile APP available for job seekers to view jobs located near them with the "Job Nearby" feature, search for jobs by company, job title, and location, save their favorite jobs, share jobs via email, Facebook, or Twitter and access Nebraska's most comprehensive resource for full-time and part-time jobs.

The SCSEP program will work with the workforce development partners in developing sector strategies that will focus on industries that are essential to the economic vitality of the state's regions and support the businesses and offer employment opportunities to Nebraskans 55 and over who are structurally unemployed with barriers to employment such as low income, homeless, and other disadvantaged populations.

SCSEP subgrantee(s) will continue to work with the Nebraska Department of Labor (NDOL) One-Stop delivery system to prepare participants for in-demand industries and occupations. Nebraska hosts a website, [H3.ne.gov](http://H3.ne.gov) that utilizes "real time" job postings and job seeker information from NEworks, Nebraska's job search system, to list Today's Hot Jobs that are updated weekly. The Nebraska Departments of Labor, Economic Development and Education collaborated on this initiative to provide educators, economic developers, students and their parents, community leaders and job seekers information on the states' high skill, high wage and high demand occupations. Today's Hot Jobs are defined as High Wage, High Demand and High Skill (H3). High wage is determined when an occupation has wages at or above the median. High demand is determined by the number of annual openings, the net change in employment, and the growth rate for the specific occupation. High Skill is defined as occupations which require some form of training and education beyond high school. All three factors must be present to be an H3 Occupation.

Career Pathways is a strategy that will support Nebraska's vision and goals for workforce development. In 2008, the Nebraska Department of Education/Career Technical Education adopted and implemented the National Career Pathway Model developed by the Office of Vocational and Adult Education. The model includes six career fields: 1) Business, Marketing & Management; 2) Agriculture, Food, and Natural Resources; 3) Communication and Information Systems; 4) Human Services and Education; 5) Health Sciences and 6) Skilled and Technical Sciences. The six career fields entail several professions and jobs. Career Pathways is discussed in further detail under State Strategies in the Combined State Plan.

**(B) Actions to coordinate activities of SCSEP grantees with the activities to be carried out in the State under the other titles of the OAA. (20 CFR 641.302(h))**

The SCSEP will coordinate with the area agencies on aging, senior centers and other community organizations on activities carried out under other titles of the Older Americans Act (OAA). Collaboration with these agencies will include recruitment of new participants, establishing host agency sites with the agencies and integrating the SCSEP with the agencies' other services under the Older Americans Act. This includes collaborating with the Aging and Disability Resource Center (ADRC) with a SCSEP presence on the ADRC website ([nebraska.networkofcare.org](http://nebraska.networkofcare.org)), collaborating with transportation services provided by the agencies for SCSEP participants that need supportive services and working with agencies that serve minorities including Native Americans under Title VI of the OAA. The aging network's familiarity with community supports makes the Area Agencies on Aging important partners for Nebraska's Senior Community Service Employment Program.

**(C) Actions to coordinate SCSEP with other private and public entities and programs that provide services to older Americans, such as community and faith-based organizations, transportation programs, and programs for those with special needs or disabilities. (20 CFR 641.302(i))**

To meet the basic support needs outside of training for employment, provide training to match older worker's employment goals, and matching older worker's to jobs available with local employers will require coordination with a number of organizations. These organizations include human service, employment and training agencies and employers.

The inadequacy of basic supports such as housing, transportation and possible care needs of a frail spouse or parent will lower a SCSEP participant's chances of completing training, finding and keeping a job. Human service organizations such Nebraska's Aging & Disability Resource Centers, the Nebraska Department of Health and Human Services and Area Agencies on Aging will be central to addressing these basic support needs.

The Department of Health and Human Services (DHHS) offers a wide variety of supports to help maintain individuals within their community. Specific programs which address common support needs include the Social Services Block Grant, Disabled Persons and Family Support, Lifespan Respite and Medicaid Waivers. A sampling of possible support services includes: transportation, energy assistance, housing, telephone assistance, Supplemental Nutrition Assistance Program (SNAP, formerly known as food stamps), adult day care for caregivers and covering the Medicare premiums for eligible low-income beneficiaries. DHHS also coordinates the Ticket to Work program which encourages persons receiving Social Security Disability to rejoin the workforce. Ticket to Work also provides benefits counselors to help people understand whether participation impacts eligibility for other public benefits.

The local Area Agencies on Aging are familiar with the support needs of the elderly and are experienced in organizing community resources to address those needs. Nebraska currently has one program subgrantee, Experience Works. Experience Works was selected through a Request for Proposal process in 2015. Experience Works is also a national grantee whose service area covers all of Nebraska. Experience Works relies upon the staff of each of the eight Area Agencies on Aging to address non-employment support needs of SCSEP trainees.

The program is also participating in the development of the Nebraska's Aging and Disability Resource Centers (ADRC). This partnership will be able to provide information to address a variety of human services as well as a referral to local agencies which provide assistance to our targeted population. The ADRC website provides linkages to a wide variety of community resources for the SCSEP participants. Coordination with ADRC will be enhanced after the selection of pilot organization(s) in the state in early 2016.

One significant barrier to employment is an inadequate availability of public transit. The State Unit on Aging has established a Senior Transportation Coalition with the substantial support from Nebraska Easter Seals and Nebraska AARP. Nebraska's efforts have

focused upon the development of local coordinated transportation initiatives and regional coordinated transportation systems. Interest in this initiative has come from human service, transportation providers and State agencies (Departments of Health and Human Services, Labor, Roads and the Public Service Commission) and indicates a continuing commitment to improve the availability and effectiveness of public transportation services.

Affordable housing is necessary to rebuild or maintain the economic life of program participants. Housing issues range from locating affordable housing to accessing community supports such as energy assistance and weatherization. Both Area Agencies on Aging and Community Action Programs are familiar with available affordable housing resources. Program participants are often caregivers for a parent, spouse or grandchild. Nebraska's Lifespan Respite Program, Care Management Program and the Older Americans Act's Caregiver Support Program assist these caregivers. The Area Agencies on Aging are partners with the Lifespan Respite Program. The Area Agencies on Aging also provide Care Management and operate Caregiver Support Programs.

This older worker initiative focuses by design on an economically at-risk population. As noted earlier, 95% of participants have incomes below the poverty level, 81% receive public assistance benefits and 64% are at-risk of homelessness. A functional partnership between SCSEP, local aging, housing and community service organizations is necessary to address multiple needs of the program's participants.

The State Unit on Aging has worked with Experience Works to maintain functional partnerships within the WIOA system. Nebraska's subgrantee is active with the local One-Stop Centers. This includes participation on Workforce Development Boards (WDB) and their committees. The subgrantee has current Memoranda of Understanding with the WDBs.

The Nebraska Partner Council will continue to work together to find skill gap solutions, resource solutions, work readiness solutions and other innovative workforce solutions. The Partner Council will receive timely and valuable information from the Industry Councils and local and regional employer representatives on work and skill readiness needs. Depending on labor market demands and skill sets needed, any one or all of the partners may participate in a work readiness initiative. The Partner Council will work collaboratively to address some of Nebraska's most challenging workforce issues identified by subpopulations. The State SCSEP Coordinator's participation on the Partner Council will help ensure that subpopulations and minority populations are being afforded good work opportunities and employers have a diverse and ready workforce.

**(D) Actions to coordinate SCSEP with other labor market and job training initiatives. (20 CFR 641.302(j))**

SCSEP will coordinate with labor market and job training initiatives in the state to promote access and distribute essential information to individuals 55 and over facing barriers to employment. For those wishing to investigate training options and approved training providers, a self-service web-based tool that displays Workforce Innovation and

Opportunity Act approved training programs is scheduled to become available in 2016. Through this tool, users will be able to access the statewide list of eligible training providers and their performance information.

**(E) Actions the State will take to ensure that SCSEP is an active partner in the one-stop delivery system and the steps the State will take to encourage and improve coordination with the one-stop delivery system. (20 CFR 641.335)**

Nebraska's SCSEP is an active partner in the WIOA's One Stop Centers/American Job Centers. Some SCSEP participants also benefit from training opportunities available through the WIOA's adult training programs. SCSEP will work with the WIOA system in developing a common Intake system. SCSEP will participate in joint planning sessions with WIOA core partners in building a system approach to delivery of services. As a mandatory one-stop partner, the SCSEP grantee will continue to participate in the state and local Workforce Development Boards to work on program alignment, system building and service deliver design/coordination. Many of the subgrantees' offices are co-located with American Job Centers or collaborate with them. This helps strategically serve the needs of SCSEP participants in finding unsubsidized employment. SCSEP participants will have access to online resources at the American Job Centers.

The Nebraska Department of Labor provides a wide variety of support services for job seekers. Their workforce development activities include job training for adults. Some SCEP participants receive additional training through this program. SCSEP will coordinate the development of OJEs with the Department of Labor's OJT program to enhance job development initiatives with employers.

**(F) Efforts the State will make to work with local economic development offices in rural locations.**

The Nebraska subgrantee will build partnerships with local economic development offices in rural areas. This will be a critical strategy as Nebraska moves SCSEP positions from urban centers to rural areas. Local collaboration will be enhanced with the five economic development field offices as well as with the Latino Business Office in the Department of Economic Development.

**2. Describe the long-term strategy for engaging employers to develop and promote opportunities for the placement of SCSEP participants in unsubsidized employment. (20 CFR 641.302(e)) (Alternately, the State may discuss this in the State strategies section of strategic plan if submitting a Combined Plan.)**

Nebraska's long-term strategy to engage employers to develop and promote opportunities for placement of SCSEP participants in unsubsidized employment is discussed elsewhere in this plan. NEworks and Nebraska Career Connections sites contain resources specific to employers. SCSEP will continue to expand OJE opportunities with employers for the SCSEP participants. Employer outreach will be enhanced with the development of a new employer brochure, *Hire an Older Worker*

rotating billboards in large metropolitan areas and television and radio advertisements highlighting the value of the SCSEP.

**3. *Describe the long-term strategy for serving minorities under SCSEP. (20 CFR 641.302 (c))***

Nebraska's long-term strategy for serving minority older individuals under SCSEP will include ongoing collaboration with agencies serving the minority population such as the Latino Centers and Migrant Seasonal Farmworkers, utilizing television and radio ads in Spanish and Vietnamese and continued use of printed materials in Spanish. Moving some SCSEP positions from urban centers to counties with large Native American population is being considered.

**4. *List needed community services and the exact places where these services are most needed. Specifically, the plan must address the needs and location(s) of those individuals most in need of community services and the groups working to meet their needs. (20 CFR 641.330)***

In the rural areas of Nebraska, community service training opportunities are limited to local schools and government agencies. Larger towns offer broader training options which include health care and a wider range of community service organizations. Lincoln and Omaha have the widest range of community service possibilities including government offices (state, federal and local governments), hospitals (local, regional and university), to cultural centers, ethnic, minority and neighborhood organizations.

A wide variety of community service organizations provide training for program participants and have the benefits of a part-time worker. Community service needs addressed through SCSEP includes educational activities, environmental quality, health care, housing, employment assistance, cultural and recreational services, as well as senior services such as nutrition sites, outreach and referral, and transportation.

The State, along with its subgrantee(s) will continue to discuss community service needs with the organizations addressing those needs. The opportunities created by a growing need in the health services area appears promising across the State. SCSEP participants will find opportunities as in-home or health facility care providers. These opportunities will require specialized skills development through classroom training offered by community colleges (with some preparation through on-line course work for persons living in remote areas) or on-the-job training for potential hospital maintenance workers or certified nurse assistants.

**5. *Describe the long-term strategy to improve SCSEP services, including planned long-term changes to the design of the program within the State, and planned changes in the use of SCSEP grantees and program operators to better achieve the goals of the program. This may include recommendations to the Department as appropriate. (20 CFR 641.302(k))***

Program improvement over the next four years will increasingly focus upon growing industries, developing a closer working relationship with human service organizations, supporting employers and equitably distributing SCSEP positions across our State. Suggestions include:

1. Increase SCSEP focus upon Nebraska's Hot Jobs. Through partnerships with other Workforce Innovation and Opportunity Act organizations develop classroom and on-the job training to address our growth industries. Long term care will be a growth industry as the Baby Boom generation increasingly needs a variety of supportive services.
2. Develop a closer working relationship between SCSEP, Ticket to Work and the Centers for Independent Living.
3. Continue relationships between SCSEP, Nebraska's Aging Network (Aging and Disability Resource Center and Area Agencies on Aging) and the State Department of Health and Human Services to address the multiple support needs common among SCSEP participants.
4. Work with Medicaid to review program guidelines which count SCSEP training income when determining program eligibility. Current rules require interested older persons to choose between training and Medicaid.
5. Review the distribution of positions to be proportional to the eligible population of persons over 55 years of age, commuting patterns, industry concentrations and education systems (community colleges) in the newly designated economic regions in the state. Distribution within rural areas will be monitored to assure equitable distribution of SCSEP positions. Shifting positions will be accomplished gradually as participants leave this program.
6. Work with SCSEP providers to assure timely reporting of participant activity into SPARQ (US Department of Labor web-based reporting system).

**6. *Describe a strategy for continuous improvement in the level of performance for SCSEP participants' entry into unsubsidized employment, and to achieve, at a minimum, the levels specified in OAA Section 513(a)(2)(E)(ii). (20 CFR 641.302(f))***

Nebraska's Combined State Plan includes the Senior Community Service Employment Program (SCSEP) State Plan.

The SCSEP provides training for aging workers through community service organizations (host agencies). Common training locations are provided at schools, hospitals and senior service organizations. Nebraska's SCSEP program has a working relationship with a wide

variety of community organizations. These include local non-profits, senior service organizations, senior centers and local Area Agencies on Aging. Additional partnerships have been formed with supporting employment training organizations such as One-Stops and the Workforce Development Boards and local employers. Once completed, a new partnership will also include Nebraska's Aging and Disabilities Resources Center.

Communication is vital for Nebraska's SCSEP. Program adjustments (due to revised regulations, processes, program performance measures or employment niches for older workers) may be required for substantial changes in program operations. These developments are discussed with Nebraska's project sponsors during regular contacts or as needs arise.

Under SCSEP, the project sponsors receive grants to create and pay for part-time (usually 18 hours a week) community service positions for low-income persons over 55 years of age at local public or private nonprofit organizations. The program has a dual purpose to provide useful community service assignments for the enrollees while promoting transition to unsubsidized employment. Local public and private nonprofit organizations which provide training opportunities also benefit through the work completed by SCSEP enrollees.

#### Use of Funds

Each enrollee is offered a minimum of an 18-hour work week. Enrollees placed in part-time community service employment currently receive a wage not less than what is established by the State Minimum Wage Law and receive fringe benefits. Host agencies, private nonprofit employers, and public employers provide skill training through subsidized part-time employment in the fields of social services, recreational activities, library services, legal services, health care, education, economic development, conservation, maintenance and restoration of natural resources, community beautification, and other services within communities. A host agency must be a governmental or nonprofit, nonpartisan organization. Examples of host agencies include schools, senior centers, food banks, housing authorities, libraries, community foundations and health agencies.

#### Participant Eligibility

Eligible individuals are at least 55 years of age, and have an income not greater than 125 percent of the poverty level, or are a member of a family that receives regular cash public benefit payments. Income eligibility must be certified annually. All participants must reside within Nebraska. There is no minimum period of residency for determining eligibility. Subgrantees may not impose additional eligibility requirements beyond those imposed by federal law. The enrollment priorities for filling vacant authorized positions are as follows:

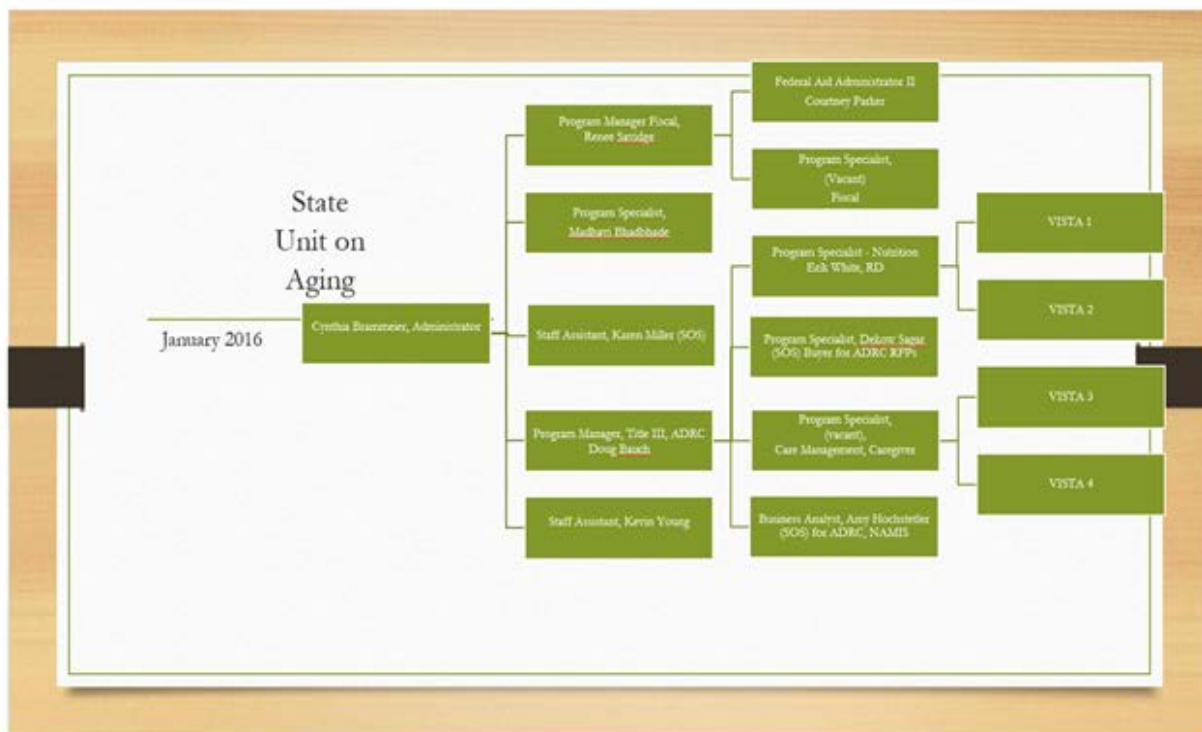
1. Veterans and qualified spouses.
2. Individuals with the greatest economic need (incomes at or below the poverty level).
3. Those 65 years of age or older.
4. Those seeking re-enrollment following termination of a job through no fault of their own due to illness or engaging in unsubsidized employment, provided that re-enrollment is sought within one year of termination.
5. Individuals with limited English proficiency.
6. Anyone with a disability.
7. Those with low employment prospects.
8. Those at-risk of homelessness.
9. Individuals that live in rural areas.

### Administrative

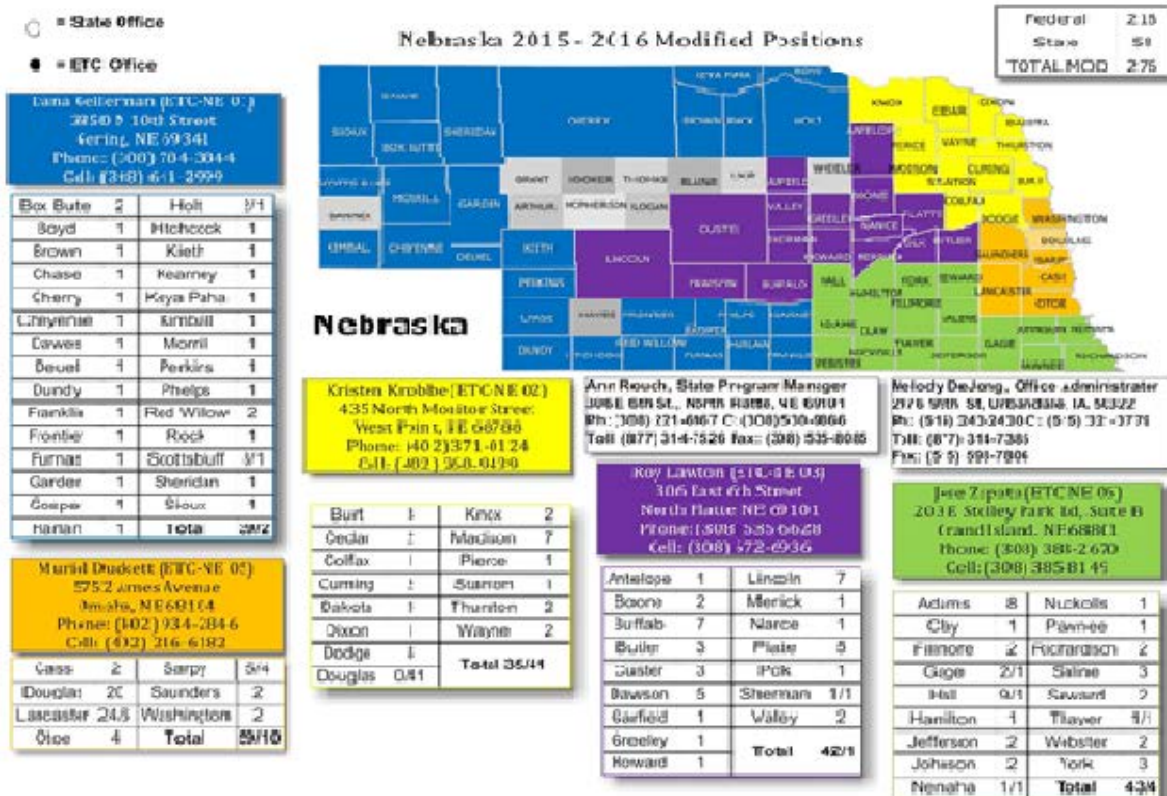
The State Unit on Aging within the Nebraska Department of Health and Human Services, Division of Medicaid and Long-Term Care is responsible for the state Senior Community Service Employment Program (SCSEP). The SCSEP coordinator has the primary responsibility to oversee the program and spends 40% of her time administering and guiding the program. The SPARQ (SCSEP Performance and Results) system is reviewed on a monthly basis to ensure that data is being entered correctly and that there are no rejects. Periodic meetings, monitoring visits and conference calls with the subgrantee and host agencies will be held to share new requirements and changes to the program and review program operation and service delivery. Monitoring the subgrantee will include both programmatic and fiscal monitoring. State SCSEP coordinator will conduct onsite monitoring at host agencies and interview participants and their supervisor. Data Validation is also one of the responsibilities of the program which is done on an annual basis. The SCSEP coordinator will work closely with the NDOL Office of Employment and Training during the WIOA implementation. Joint training for staff in One-stop Centers and Experience Works will be explored and coordinated with the NDOL, Office of Employment and Training using cost share between NDOL and SCSEP. The subgrantee will hold quarterly meetings with participants and host agencies' supervisors. Experience Works staff attend training provided by their corporate office and will also explore additional training on cultural competency.

The Nebraska SCSEP currently has one subgrantee, *Experience Works*. Experience Works covers 82 counties. Experience Works was selected in 2015 after a RFP process. Nebraska has 68 authorized positions and 58 modified positions for PY 2015. If a new provider were to be selected to serve in the State in the future, we would comply with the requirements to transfer participants ensuring a smooth transition and limiting disruption to services and participants. The organizational chart of the State Unit on Aging is provided in Illustration 11 along with a listing of Experience Works staff by location and number of slots in Map 5.

Illustration 11: State Unit on Aging Organizational Chart



## Map 5: Nebraska 2015-2016 Modified Positions



## Recruitment

Grantee and subgrantee will utilize television, radio and print media to recruit program participants in addition to coordinating with community agencies and partners including the one-stop delivery system. Participants will be selected in compliance with priority of service guidelines as outlined earlier in this chapter.

## Income Eligibility

Participant income will be certified for eligibility during initial enrollment and every year thereafter as long as the participant remains enrolled in the SCSEP. Eligibility records are maintained at the subgrantee office in secured file cabinets with access limited to the SCSEP staff.

## Orientation

*Participants:* SCSEP Orientation is provided to all new enrollees within 10 days of enrollment and before they begin a community service assignment. Enrollees are compensated for their attendance. Program orientation includes review of the following:

1. Goals and objectives of the SCSEP
2. Durational limits
3. Causes for termination from SCSEP
4. Community service assignments
5. Available supportive services
6. Availability of free physical examinations
7. Participant's rights and responsibilities
8. Role of the Host Agency Supervisor
9. Training Opportunities
10. Reporting lack of training and supervision
11. Job search responsibilities
12. Time and Attendance
13. Wage and Fringe Benefits
14. Participant and Host Agency visitations
15. Annual recertification
16. Reporting changes to income and family size
17. Requirement to notify staff if employer
18. Obligation to seek unsubsidized employment
19. Customer service and satisfaction surveys
20. Assessments of enrollees' employment skills, knowledge and abilities
21. Individual Employment Plan and plans for transition to unsubsidized employment
22. Permitted and prohibited political activities
23. An overview of the authorities listed in this policy document
24. Termination/Exit, Complaint and Grievance policy and procedures
25. Subgrantee's Drug and Alcohol Policy

*Host Agencies:* Orientation to the host agency is held during normal business hours and includes the following:

1. Community Service assignment location, description, schedule, and supervisor's name
2. Administrative procedures
3. Plans for transition to unsubsidized employment

The orientation for host agencies is an opportunity to explain to employers the benefit of hosting a SCSEP participant for not only the individual, but for the organization that gains a part-time worker at no cost their organization. The organization has the added benefit of considering the participant for hire once they've had the opportunity to understand their skills, abilities and fit for the job.

### Durational Limits

Eligible individuals may participate in SCSEP for a period not to exceed 48 months from date of enrollment. The 48-month participation time limit:

- Includes any and all enrollments a participant may have had with one or more grantees.
- Currently Nebraska does not provide durational waivers.

### Assessments

Assessment and reassessment are essential for monitoring the progress of the participant and are completed in accordance with the participant's Individual Employment Plan (IEP). Prior to enrollment, the applicant is provided with an overview to the program and formally assessed to determine gaps in employment skills prior to being assigned to a community service training opportunity.

1. Assessments is completed no less frequently than two times during a twelve-month period (including the initial assessment).
2. The host agency supervisor's input is included on all re-assessments.

Acceptable tools used include, but not limited to the following resources:

1. One-stop Career Center - NEworks ([networks.nebraska.gov](http://networks.nebraska.gov))
2. O\*Net ([online.onetcenter.org/](http://online.onetcenter.org/))
3. Web-based Assessment Tools

The assessment shall be in consultation with the applicant and must consider the following:

1. The individual's strengths and barriers to employment.
2. The individual's preference of occupational category, work history, skill gaps, talents, aptitudes and physical capabilities.
3. Need for supportive services.
4. Required training needed to overcome barriers and the potential for performing community service training assignment duties.
5. Potential for transitioning to unsubsidized employment.
6. Subgrantees are to assess and document information regarding most-in-need factors. The most-in-need measure reports the average number of barriers to employment per participant. The regulation allows credit for a total of 13 barriers to employment in two separate categories.

All activity in relationship to assessments is recorded in detail in case notes and maintained in the participant's file.

### Community Service Assignments

Training may be provided before or during a community service assignment. A viable community service assignment based on the participant's IEP must exist for any program services and training to occur. Individuals who have exited the program are not eligible for SCSEP funded training.

1. Community service training is provided through a host agency and offers the participant an opportunity to receive the needed skill training detailed in their assessments and IEP. Participant's skills needs are matched with the skills the community service training can provide. Community Service training is a participant-friendly approach to serving those who are most in need. Community service training is practical, working with real tasks, with actual equipment and dealing with current issues.
2. Nebraska has 58 modified slots where participants are placed for community service assignments.
3. Host agencies used include public agencies, government offices, hospitals, culture centers and ethnic/minority and neighborhood organizations. Host agencies are selected based on the skills training they can provide that best matches the skills needed by participants, the supervision they can provide while ensuring that the agencies understand the Maintenance of Efforts requirement. Community Service training is developed with the SCSEP staff, the participant and the host agency supervisor. Community Service Assignment Descriptions are not job descriptions. Each Community Service Assignment Description is tailored to each participant.
4. Currently, the number of hours participants work is 18 hours.
5. The subgrantee will provide fringe benefits such as Worker's Compensation.
6. The host agency agreement outlines the requirements for adequate supervision of participants and timely submission of timesheets to the subgrantee to ensure

participants are paid wages on time. The subgrantee and the State grantee will conduct onsite monitoring of host agencies and interview the host agency supervisor and the participant to ensure adequate supervision is being provided.

## Training

### *General Training*

1. General training is designed to enhance or refresh a participant's basic skills. It includes skills training, class room training, lectures, seminars and individual training.
2. General training must be consistent with the participant's IEP and the costs are reasonable and made uniformly available to all participants.
3. General training may be combined with other training activities, such as community service, specialized training, on-the job experience, or other general training options.

### *Specialized Training*

1. Specialized training is designed to prepare a participant for a particular job or industry.
2. The participant's assessment, IEP and assignment determine the training and skills needed to enhance the participant's opportunity to obtain unsubsidized employment.
3. After completion of the specialized training, the participant may be placed into job search or job club, directly into unsubsidized employment, back into a community service assignment or arrange for on-the-job experience if on-job-experience is offered through the state grant per Section 502 (e) of the Older Americans Act.

The SCSEP provides coordination with other training and placement programs through the Workforce Innovation and Opportunity Act (WIOA) One-Stop System. The WIOA creates a seamless service delivery system for individuals seeking workforce development services by linking the One-Stop partners in the One-Stop Delivery System.

1. The SCSEP is a required partner program under the Workforce Innovation and Opportunity Act. As such, it is a part of the One-Stop Delivery System. SCSEP grantees are required to follow all applicable rules under WIOA and its regulations.
2. SCSEP subgrantees are to coordinate with the local One-Stop Delivery System to provide eligible and ineligible individuals with access to other activities and programs carried out by other One-Stop partners.

All participant training related activities are documented in case notes and maintained as part of the participant's permanent file.

## Supportive Services

Subgrantees are required to assess all participants' need for supportive services and to make every effort to assist participants in obtaining needed supportive services.

Subgrantees may provide directly or arrange for supportive services that are necessary to enable a participant to successfully participate in SCSEP.

Support services are funded through the Other Participant Costs (OPC) funding category. To the extent practicable, the subgrantee should arrange for the payment of these expenses from other resources.

The need for any supportive services is to be consistent with and documented in the participants IEP and in case notes with appropriate supporting documentation (formal assessments, etc.) including the justification, cost and source of the service and the length of time the service for which the service is authorized.

Subgrantees are to ensure participants understand that supportive services are not an entitlement for the length of participation.

All supportive services are to be made available on an equitable basis to all participants within a subgrantee's area of service.

Subgrantees may use SCSEP funds to meet obligations under § 504 of the Rehabilitation Act of 1973 as amended, and the Americans with Disabilities Act of 1990 as amended and any other applicable federal disability nondiscrimination laws to provide physical and programmatic modifications accessibility and reasonable accommodation/modifications for and effective communication with individuals with disabilities.

## Termination

Participants may be terminated from the program under circumstances described in the SCSEP Final Rule 20 CFR 641.580(a) - (e). Participants will not be terminated based on age; there is no upper age limit for participation in the SCSEP. In the case of serious violations, participants will receive progressive discipline and an opportunity for corrective action before a formal termination notice is issued. In all cases, participants will receive a 30-day termination letter notifying them of the date of exit, the reason for the termination, and the right to appeal under the subgrantee's grievance procedure. A copy of the grievance procedure will be attached to the termination letter. Participants are given both a copy and a verbal explanation of the Involuntary Termination Policy during orientation.

## Complaint and Grievances

Any Participant has the right to file a grievance. A copy of the Grievance Procedure is given to the Participant at Orientation. The grievance process is as follows.

1. For a grievance involving the Host Agency, a SCSEP participant must first go through the established grievance procedure of the Host Agency training site.
2. If the SCSEP participant is not satisfied with the decision and action offered by the Host Agency, the participant should contact the SCSEP subgrantee where staff will attempt to work with the SCSEP participant and the Host Agency to broker a resolution to the grievance. This may include face to face meetings and discussions between all involved parties to resolve the grievance.
3. If the SCSEP participant is still dissatisfied, the participant may take the grievance to the State Unit on Aging within the Department of Health and Human Services.

### Maximizing Enrollment

Subgrantee will over-enroll participants through ongoing recruitment efforts. Participants on waiting list will be enrolled based on their most-in-need criteria while balancing with the equitable distribution requirements. SPARQ will be monitored to gauge the service level of minorities, homeless, people with disabilities and other targeted populations. The services levels will be considered in enrolling participants to balance the equitable distribution requirements.

### Performance

The performance indicators required by SCSEP include: Entered employment, employment retention, average earnings, service level, service to most-in-need and community services. The State grantee performance goals for PY 2015 are listed below. The State grantee will negotiate performance levels with USDOL in subsequent program years and in subsequent plan modifications.

#### *PY 2015*

- Entered Employment 39.4%
- Employment Retention 72.7%
- Average Earnings \$7,123
- Service Level 157.5%
- Service to most-in-need 2.63%
- Community Service 75%

### Administrative Costs

The allowable 13.5% is used to cover administrative costs at the state and local service provider levels. Nebraska SCSEP has not requested an increase in administrative costs.

## **(c) Location and Population Served, including Equitable Distribution**

States must:

- 1. Describe the localities and populations for which projects of the type authorized by title V are most needed. (20 CFR 641.325 (d))***

### **Nebraska Demographics**

According to the Nebraska Department of Labor, two-thirds of Nebraska's counties are not included in a Metropolitan Statistical Area (MSA) or a Micropolitan Statistical Area (MC). According to the U.S. Department of Agriculture, Economic Research Service, in 2012, there were 49,969 farms covering 92.2% of Nebraska. Yet, according to the Bureau of Economic Analysis, only 4.2% of Nebraskans were employed in the Agriculture industry in 2014.

Twenty-eight of Nebraska's 93 counties are either part of the Omaha, Lincoln, or Grand Island MSA, or are part of a MC. The greatest percentage of employing industries in Nebraska are Health Care and Social Assistance (14.3%), Retail Trade (11.4%), Manufacturing (10.2%), Educational Services (9.2%), Accommodation and Food Services (7.8%), and Finance and Insurance (5.7%). The top industries with the highest number of job openings are very similar, with Health Care and Social Assistance, Retail Trade, Administrative and Waste Services, and Manufacturing topping the list. (*Sources: Nebraska Department of Labor, Labor Market Information, Quarterly Census of Employment and Wages. United States Department of Agriculture, Economic Research Service, State Fact Sheets: Nebraska. Job Source: Nebraska Department of Labor Online advertised jobs data*)

According to the US Census, Nebraska's population of those 55 years of age or above represents 505,881 individuals or 26.9% of the state's population. According to the US Census, Nebraska's population of those 65 years of age or above represents 270,989 individuals or 14.4% of the state's population. The first of the baby boom generation reached 65 years of age in 2011. The population over 65 will increase dramatically over the next 15 years as baby boomers continue to age.

### **Special Populations**

The Older Americans Act requires this program provide priority in enrollment for eligible individuals who are Veterans or spouses of Veterans, those with greatest economic need, individuals who are minorities, and individuals with greatest social need, individuals who failed to find employment using available WIOA services, individuals who are homeless or at-risk of homelessness and those living in rural areas.

2. *List the cities and counties where the SCSEP project will take place. Include the number of SCSEP authorized positions and indicate if and where the positions changed from the prior year.*

**Nebraska 2015 - 2016 Modified Positions**

Type of Position	Number
Federal	218
State	58
TOTAL MOD	276

Ann Rouch, State Program Manager, 306 East 6th Street, North Platte, NE 69101, Phone 308.221.6967, Cell 308.530.9866, Toll free 877.314.7526, Fax 308.535.8085

Melody DeJong, Office Administrator, 2976 99th Street, Urbandale, IA 50322, Phone 515.243.2430, Cell 515.321.3779, Toll free 877.314.7385, Fax 515.598.7806

**SCSEP Project Cities and Counties by Region**

Dana Gellerman (ETC-NE 01), 3350 North 10th Street, Gering, Nebraska 69341, Phone 308.784.3844, Cell 308.641.2999

Nebraska County	Number of Positions
Box Butte	2
Boyd	1
Brown	1
Chase	1
Cherry	1
Cheyenne	1
Dawes	1
Deuel	1
Dundy	1
Franklin	1
Frontier	1
Furnas	1
Garden	1
Gosper	1
Harlan	1
Holt	2/1
Hitchcock	1
Keith	1
Kearney	1
Keya Paha	1
Kimball	1

Nebraska County	Number of Positions
Morrill	1
Perkins	1
Phelps	1
Red Willow	2
Rock	1
Scottsbluff	8/1
Sheridan	1
Sioux	1
Total	39/2

Kristen Knobbe (ETC-NE 02), 435 North Monitor Street, West Point, NE 68788, Phone 402.371.0124, Cell 402.260.9439

Nebraska County	Number of Positions
Burt	3
Cass	2
Cedar	2
Colfax	1
Cuming	2
Dakota	3
Dixon	1
Dodge	8
Knox	2
Lancaster	24/6
Madison	7
Otoe	4
Pierce	1
Saunders	2
Stanton	1
Thurston	2
Wayne	2
Total	67/6

Roy Lawton (ETC-NE 03), 306 East 6th Street, North Platte, NE 69101, Phone 308.535.6628, Cell 308.672.6936

Nebraska County	Number of Positions
Antelope	1
Boone	2
Buffalo	7
Butler	3
Custer	3
Dawson	5
Garfield	1
Greeley	1
Howard	1
Lincoln	7
Merrick	1
Nance	1
Platte	5
Polk	1
Sherman	1/1
Valley	2
Total	42/1

VACANT (ETC-NE 05), 5752 Ames Avenue, Omaha, NE 68104, Phone 402.934.2846, Cell 402.216.6182

Nebraska County	Number of Positions
Douglas	20/41
Sarpy	5/4
Washington	2
Total	27/45

Jose Zapata (ETC-NE 06), 203 East Stolley Park Road, Suite B, Grand Island, NE 68801, Phone 308.383.2670, Cell 308.385.8149

Nebraska County	Number of Positions
Adams	8
Clay	1
Fillmore	2
Gage	2/1
Hall	9/1
Hamilton	1
Jefferson	2
Johnson	2

Nebraska County	Number of Positions
Nemaha	1/1
Nuckolls	1
Pawnee	1
Richardson	2
Saline	3
Seward	2
Thayer	1/1
Webster	2
York	3
Total	43/4

## 2014 SCSEP Equitable Distribution Report

[The Equitable Distribution (ED) State Report form 8705A shows the number of *authorized positons by county as determined by the Census data and the number of enrollments by county as determined by the data in SPARQ. The state report should include all grantees that operate in a particular state. The tables in SCSEPED provide various calculations of the variance between the authorized position and the number of current enrollments by county. Please use the table from [SCSEPED.org](http://SCSEPED.org) to fill out the values below and use those calculations to answer the two questions about the variance: What is its significance; and what, if any, actions the grantees will take to come into better compliance with the equitable distribution requirements. Submit the completed report to your FPO with a copy to grants, SCSEPdocs@dol.gov.]*

**State:**

### I. Summary of Variance

	Number of Counties	Percent of All Counties	Average Percentage of Variance
Under-service	4	40	27.8
Over-service	4	40	128.6
Combined Total Under- and Over-service	8	80	35.3

### II. Discussion: reasons for and significance of the variance

*[Please describe any significant variance and explain the possible reasons for the variance]*

Since July 2014, Nebraska currently has only one subgrantee, Experience Works. Previous subgrantee Eastern Nebraska Office on Aging (ENOA) did not enroll from April 2014 to June 2014. Experience Works did not get staff hired for Douglas County previously covered by ENOA until October 1, 2014.

### III. Plan to improve statewide ED during program year

*[Please explain your plans to reduce the variance in your state during the program year.]*

State will make efforts to continually improve ED during the program year through subgrantee advertisements in the media to recruit for positions in underserved counties. Moreover, as subgrantee gets new employee trained in Douglas County, there should be no variance.

### IV. Attach copy of state ED table from SCSEPED.org.

*[The Equitable Distribution (ED) Grantee Table 8705B shows the number of authorized positions by county as determined by the Census data and the number of enrollments by county as determined by the data in SPARQ. The grantee report should include all states in which the grantee operates. The tables in SCSEPED.org provide various calculations of the variance between the authorized position and the number of current enrollments by county. Please use the tables from SCSEPED.org to fill out the values below and use those calculations to answer the two questions about the variance: What is its significance; and what, if any, actions the grantee will take to come into better compliance with the equitable distribution requirements. Submit the completed report to your FPO with a copy to grants.SCSEPdocs@dol.gov.]*

#### Grantee

#### I. Summary of Variance

	Number of Counties	Percent of All Counties	Average Percentage of Variance
Under-service	4	40%	---
Over-service	2	20%	---
Combined Total Under- and Over-service	---	---	---

#### II. Discussion: reasons for and significance of the variance

*[Please describe any significant variance and explain the possible reasons for the variance]*

Previous subgrantee ENOA did not enroll from April 2014 to June 30, 2014. Current subgrantee Experience Works did not get someone hired for Douglas County until October 1, 2014 therefore Douglas County is under-enrolled by 18 as of 10-31-14. EW staff is going through the waiting list now and should be fully enrolled by 12-31-14. State wide under enrolled is 12 out of 68 positions or 17.6% under enrolled

### III. Plan to improve ED in your grant during program year

*[Please explain your plans to reduce the variance in your grant during the program year.]*

As subgrantee trains new employees in Douglas County, there should be no variance.

#### **3. *Describe any current slot imbalances and proposed steps to correct inequities to achieve equitable distribution.***

The grantee believes the slot imbalances are currently prevalent between rural and urban areas with most of the slots in urban areas. The grantee has submitted a request to USDOL to move some positions from urban to rural areas and include some in the county with a large Native American population. This request is on hold with USDOL until the RFP process for national grantees is completed.

#### **4. *Explain the State's long-term strategy for achieving an equitable distribution of SCSEP positions within the State that:***

##### **A. *Moves positions from over-served to underserved locations within the State in compliance with 20 CFR 641.365.***

The Nebraska Equitable Distribution (ED) Report provides a basis for determining a fair allocation of program positions with the State. This report is useful for determining where to locate new positions, fill vacant positions, or reduce positions, as necessary. The most recent Nebraska Equitable Distribution Report prepared in 2014 is provided below. In February 2016, the U.S. Department of Labor, Employment and Training Administration released the PY 2016 Equitable Distribution for all states including Nebraska. The new ED, which is effective July 1, 2016, is based on the latest Census data for distribution of the SCSEP-eligible population within each state. **The total PY 2016 allocation of positions for Nebraska is the same as the PY2015 authorized positions.**

##### **B. *Equitably serves both rural and urban areas.***

The distribution of Nebraska's SCSEP positions has supported the rural counties. Until the last few years Douglas County, which includes Omaha, had substantially fewer positions than were equitable. During this period, Experience Works shifted a number of their positions into Douglas County. Future Equitable Distribution discussions will focus upon the adequacy of position distribution within the urban and rural counties. Nebraska is working with the U.S. Department of Labor to move some positions from urban centers to rural counties and counties serving the Native American population. The request is on hold until national grantees are selected.

**C. Serves individuals afforded priority for service under 20 CFR 641.520. (20 CFR 641.302(a), 641.365, 641.520)**

**Recruitment**

Enrollment priority will be given to Veterans and qualified spouses, eligible individuals having the greatest economic need and eligible individuals over 65 years of age. Nebraska's grantee has a history of focusing their efforts upon older individuals both with incomes below the poverty level and those with greatest social need. The State SCSEP program provides 54% of its positions to minority individuals. Over 95% of Nebraska's grantee's enrollees have annual incomes below the poverty level. Thirty-one percent of these enrollees are Veterans. Among program participants, 81% are receiving public assistance and 64% are at risk of homelessness. Women over the age of 55 represent 42% of the total program enrollment.

**Increasing Placements to Employment**

Increasing the placement of trainees requires that a variety of support services be focused upon all SCSEP trainees as they approach job-ready status. This may be in the form of participation in job-clubs or specialized training through Workforce Development Board partners. Other approaches include trial employment or on-the-job training (OJE) with potential employers. Initiatives such as the Omaha Chamber of Commerce-Workforce Development Board (WDB) job-certified training for Mutual of Omaha and Blue Cross/Blue Shield will be utilized as they become more available. Trial employment or on-the-job training opportunities will be for a limited time with the expectation of a high rate of hiring by participating employers. This strategy will support resume development, interview skills and applying on-line for area jobs. Nebraska will utilize new strategies to reach employers and conduct job development such as distributing employer brochures, airing television and radio ads and using print media.

High growth industries in Nebraska include customer service representatives (for organizations such as Pay Pal, Sitel, Mutual of Omaha and Blue Cross/Blue Shield) and entry-level health care positions. These opportunities provide a livable wage for Nebraskans and a chance for advancement in growing organizations. Office support is another opportunity which matches the interest of many persons over the age of 55; however, all of these opportunities require a working knowledge of computers which is supported by training offered through the program.

Continued success in meeting performance goals will require maintenance and further development of partnerships within Workforce Development Board and business community. Omaha's job-certified training program will be increasingly more common throughout Nebraska. Similar efforts are necessary to fulfill the Nebraska SCSEP's goal of providing trained workers for the State's high growth industries.

Program participants who locate employment will continue to receive program support. This support will consist of regular follow-ups with former participants and their employers.

The purpose of follow-ups is to address any issues and support these workers in their new jobs.

**5. *Provide the ratio of eligible individuals in each service area to the total eligible population in the State. (20 CFR 641.325(a))***

Nebraska's eligible population over 65 years of age based on poverty level in the state is **19,050**. The ratio of eligible individuals in each service area to the total eligible population in the state is provided in the table below.

*Table S1701: Ratio of Eligible Individuals in each service area to the total eligible population in the State*

Nebraska Service Areas	Eligible Population	Ratio of Eligible to Eligible Population in the State
Central	1,762	.092
Grand Island MSA	984	.051
Lincoln MSA	1,860	.097
Mid Plains	1,583	.083
Northeast	3,434	.180
Omaha Consortium	5,717	.300
Panhandle	1,289	.067
Sandhills	654	.034
Southeast	1,767	.092

Source: United State Census Bureau, 2010 - 2014 American Community Survey 5-year Estimates

**6. *Provide the relative distribution of eligible individuals who:***

**A. Reside in urban and rural areas within the State**

According to population estimates from the Census from 2010-2014, much of the State's population growth has been in its urban counties. More remote counties have lost population. Sarpy County, part of the Omaha MSA, has grown rapidly in the last few years. The 2010 Census notes that 35% of the Nebraska population over 60 years of age lives in rural areas. While bio-technology, internet commerce and transportation services are growing rapidly in the eastern cities, most of Nebraska is rural with an economy that is heavily farming and ranch dominated.

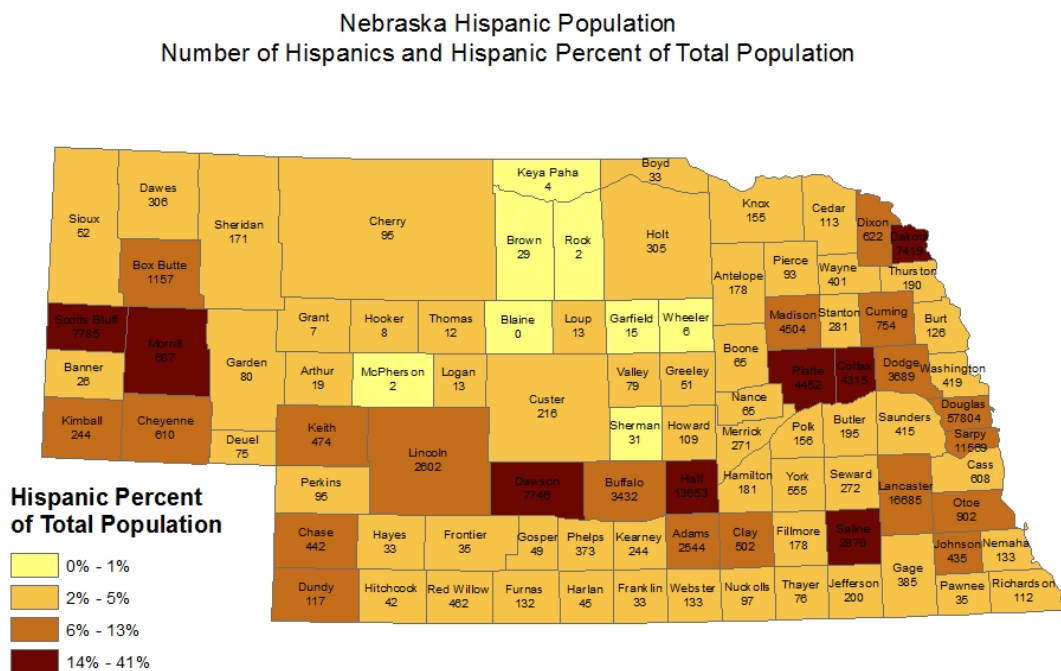
**B. Have the greatest economic need**

The term greatest economic need is defined as persons at or below the poverty level established by the US Department of Health & Human Services. Nebraska's population over fifty-five years of age includes 34,473 individuals with incomes below the poverty level, and 19,050 individuals over 65 years of age with incomes below the poverty level (Source: U.S. Census Bureau, 2010-2014 American Community Survey 5-Year Estimates).

### C. Are minorities

According to the U.S. Census, there were about 16,163 Native Americans living in Nebraska. Population totals for other races, according to the U.S. Census were: White: 1.64 million, Black: 86,423, Asian: 35,696, Native Hawaiian: 1,150, and Two or more Races: 41,316. There were 180,448 Hispanics or Latinos living in Nebraska. Thirty-three percent of Whites living in Nebraska who were foreign born had become naturalized citizens. This compares with 33.2% of Blacks, 45.7% of Asians, and 26.8% of Hispanics. Hispanics were the largest category of foreign born population, at 66,077, and had the lowest rate of becoming naturalized US citizens.

For Nebraska's SCSEP, the term "minorities" includes American Indians or Alaskan Natives, Asians, Blacks or African-Americans, Hispanics or Latino Americans and Asians or Pacific Islanders. The majority of Nebraska's African-American population lives in Omaha and Lincoln. The distribution of Nebraska's Hispanic population is broader with a presence in many of the smaller cities such as Norfolk, Lexington and Scottsbluff. These figures are supported by Map 6 and are outlined below.



*Nebraska Hispanic Population: Hispanic Population by County and Percentage of County Population*

Nebraska County	Hispanic Population	Percent of Total County Population
Hall	13,653	14% - 41%
Scotts Bluff	7,785	14% - 41%
Dawson	7,746	14% - 41%
Dakota	7,419	14% - 41%
Platte	4,452	14% - 41%
Colfax	4,315	14% - 41%
Saline	2,870	14% - 41%
Morrill	687	14% - 41%
Douglas	57,801	6% - 13%
Lancaster	16,685	6% - 13%
Sarpy	11,569	6% - 13%
Madison	4,504	6% - 13%
Dodge	3,689	6% - 13%
Buffalo	3,432	6% - 13%
Lincoln	2,602	6% - 13%
Adams	2,544	6% - 13%
Box Butte	1,157	6% - 13%
Otoe	902	6% - 13%
Cuming	754	6% - 13%
Dixon	622	6% - 13%
Cheyenne	610	6% - 13%
Clay	502	6% - 13%
Keith	474	6% - 13%
Chase	442	6% - 13%
Johnson	435	6% - 13%
Kimball	244	6% - 13%
Dundy	117	6% - 13%
Cass	608	2% - 5%
York	555	2% - 5%
Red Willow	462	2% - 5%
Washington	419	2% - 5%
Saunders	415	2% - 5%
Wayne	401	2% - 5%
Gage	385	2% - 5%
Phelps	373	2% - 5%
Dawes	306	2% - 5%
Holt	305	2% - 5%
Stanton	281	2% - 5%
Seward	272	2% - 5%

Nebraska County	Hispanic Population	Percent of Total County Population
Merrick	271	2% - 5%
Kearney	244	2% - 5%
Custer	216	2% - 5%
Jefferson	200	2% - 5%
Butler	195	2% - 5%
Thurston	190	2% - 5%
Hamilton	181	2% - 5%
Antelope	178	2% - 5%
Fillmore	178	2% - 5%
Sheridan	171	2% - 5%
Polk	158	2% - 5%
Knox	155	2% - 5%
Nemaha	133	2% - 5%
Webster	133	2% - 5%
Furnas	132	2% - 5%
Burt	126	2% - 5%
Cedar	113	2% - 5%
Richardson	112	2% - 5%
Howard	109	2% - 5%
Nuckolls	97	2% - 5%
Cherry	95	2% - 5%
Perkins	95	2% - 5%
Pierce	93	2% - 5%
Garden	80	2% - 5%
Valley	79	2% - 5%
Thayer	76	2% - 5%
Deuel	75	2% - 5%
Boone	65	2% - 5%
Nance	65	2% - 5%
Sioux	52	2% - 5%
Greeley	51	2% - 5%
Gosper	49	2% - 5%
Harlan	45	2% - 5%
Hitchcock	42	2% - 5%
Frontier	35	2% - 5%
Pawnee	35	2% - 5%
Boyd	33	2% - 5%
Franklin	33	2% - 5%
Hayes	33	2% - 5%
Banner	26	2% - 5%
Arthur	19	2% - 5%

Nebraska County	Hispanic Population	Percent of Total County Population
Logan	13	2% - 5%
Loup	13	2% - 5%
Thomas	12	2% - 5%
Hooker	8	2% - 5%
Grant	7	2% - 5%
Sherman	31	0% - 1%
Brown	29	0% - 1%
Garfield	15	0% - 1%
Wheeler	6	0% - 1%
Keya Paha	4	0% - 1%
McPherson	2	0% - 1%
Rock	2	0% - 1%
Blaine	0	0% - 1%

Source: US Census Bureau

#### **D. Are limited English proficient.**

The characteristics of the limited-English-proficient population in Nebraska is discussed in the economic analysis section of the strategic plan portion of Nebraska's Combined State Plan.

#### **E. Have the greatest social need. (20 CFR 641.325(b))**

The term greatest social need is defined as needs caused by non-economic factors such as physical and mental disabilities, language barriers and cultural, social, or geographic isolation, including isolation brought about by racial or ethnic status. For purposes of this plan, greatest social need is defined as persons with physical and mental disabilities who are 55 years of age or older. Nebraska's population over 55 years of age includes 128,754 persons with greatest social need (Source: U.S. Census Bureau, 2014 American Community Survey 1-Year Estimates B21007).

#### **7. *Describe the steps taken to avoid disruptions to service for participants to the greatest extent possible, when positions are redistributed, as provided in 20 CFR 641.365; when new Census or other reliable data becomes available; or when there is over-enrollment for any other reason. (20 CFR 641.325(i), 641.302(b))***

Communication is vital for Nebraska's SCSEP. Program adjustments may be necessary for a variety of reasons. Reasons vary from the population shift documented by a new Census to an adjustment in funds available to support this program. Modest program adjustments (such as yearly Equitable Distribution position level changes) will not have an impact on current individual enrollees. Actual program shifts would occur as participants leave the program for unsubsidized jobs or for other reasons. A decrease in

program funding will also require similar action. A substantial cut in funding will require a more significant program adjustment such as a reduction in the weekly participant's training hours. All participants will continue to receive program support during a program adjustment period. These developments are discussed with Nebraska's project sponsors during regular contacts or as needs arise.

## SCSEP Assurances

The State Plan must include assurances that where SCSEP is included in the Combined Workforce Plan, the State has established a written policy and procedure to obtain advice and recommendations on the State Plan from:

Representatives of the State and area agencies on aging;	<b>Yes</b>
State and local boards under WIOA;	<b>Yes</b>
Public and private nonprofit agencies and organizations providing employment services, including each grantee operating a SCSEP project within the State, except as provided under section 506(a)(3) of OAA and 20 CFR 641.320(b);	<b>Yes</b>
Social service organizations providing services to older individuals;	<b>Yes</b>
Grantees under Title III of OAA;	<b>Yes</b>
Affected Communities;	<b>Yes</b>
Unemployed older individuals;	<b>Yes</b>
Community-based organizations serving older individuals;	<b>Yes</b>
Business organizations; and	<b>Yes</b>
Labor organizations.	<b>Yes</b>

## State Comments on SCSEP Assurances

**None**

## Appendix 1. Performance Goals for the Core Programs

Include the State's expected levels of performance relating to the performance accountability indicators based on primary indicators of performance described in section 116(b)(2)(A) of WIOA.

### Instructions: Performance Goals for the Core Programs

Each State submitting a Unified or Combined Plan is required to identify expected levels of performance for each of the primary indicators of performance for the first two years covered by the plan. The State is required to reach agreement with the Secretary of Labor, in conjunction with the Secretary of Education on state adjusted levels of performance for the indicators for each of the first two years of the plan.

**Table 1. Employment (Second Quarter after Exit)**

Program	PY 2016 Proposed/ Expected Level	PY 2016 Negotiated/ Adjusted Level	PY 2017 Proposed/ Expected Level	PY 2017 Negotiated/ Adjusted Level
Adults	72.00	78.00	72.00	78.00
Dislocated Workers	87.00	87.00	87.00	87.00
Youth	61.00	78.00	62.00	78.00
Adult Education	0.00	Baseline	0.00	Baseline
Wagner-Peyser	67.00	69.00	67.00	69.00
Vocational Rehabilitation</	Baseline	Baseline	Baseline	Baseline

**User remarks on Table 1**

In compliance with the Workforce Innovation and Opportunity Act, the Nebraska Department of Labor released performance goals for this primary indicator of performance for the Adult, Dislocated Worker, Youth, and Wagner-Peyser Employment Services programs and sought public comment for a 30-day period beginning July 21, 2016 and ending August 20, 2016. No public comments were received.

**Table 2. Employment (Fourth Quarter after Exit)**

Program	PY 2016 Proposed/ Expected Level	PY 2016 Negotiated/ Adjusted Level	PY 2017 Proposed/ Expected Level	PY 2017 Negotiated/ Adjusted Level
Adults	75.00	79.00	75.00	79.00
Dislocated Workers	89.00	88.00	89.00	88.00
Youth	Baseline	77.00	Baseline	77.00
Adult Education	0.00	Baseline	0.00	Baseline
Wagner-Peyser	69.00	73.00	69.00	73.00
Vocational Rehabilitation	Baseline	Baseline	Baseline	Baseline

**User remarks on Table 2**

In compliance with the Workforce Innovation and Opportunity Act, the Nebraska Department of Labor released performance goals for this primary indicator of performance for the Adult, Dislocated Worker, Youth, and Wagner-Peyser Employment Services programs and sought public comment for a 30-day period beginning July 21, 2016 and ending August 20, 2016. No public comments were received.

**Table 3. Median Earnings (Second Quarter after Exit)**

Program	PY 2016 Proposed/ Expected Level	PY 2016 Negotiated/ Adjusted Level	PY 2017 Proposed/ Expected Level	PY 2017 Negotiated/ Adjusted Level
Adults	5,000.00	5,500.00	5,500.00	5,500.00
Dislocated Workers	7,500.00	7,200.00	7,500.00	7,200.00
Youth	Baseline	Baseline	Baseline	Baseline
Adult Education	0.00	Baseline	0.00	Baseline
Wagner-Peyser	5,535.00	5,000.00	5,590.00	5,000.00
Vocational Rehabilitation	Baseline	Baseline	Baseline	Baseline

**User remarks on Table 3**

In compliance with the Workforce Innovation and Opportunity Act, the Nebraska Department of Labor released performance goals for this primary indicator of performance for the Adult, Dislocated Worker, Youth, and Wagner-Peyser Employment Services programs and sought public comment for a 30-day period beginning July 21, 2016 and ending August 20, 2016. No public comments were received.

**Table 4. Credential Attainment Rate**

Program	PY 2016 Proposed/ Expected Level	PY 2016 Negotiated/ Adjusted Level	PY 2017 Proposed/ Expected Level	PY 2017 Negotiated/ Adjusted Level
Adults	Baseline	56.00	Baseline	56.00
Dislocated Workers	Baseline	60.00	Baseline	60.00
Youth	Baseline	68.00	Baseline	68.00
Adult Education	0.00	Baseline	0.00	Baseline
Wagner-Peyser	n/a	n/a	n/a	n/a
Vocational Rehabilitation	Baseline	Baseline	Baseline	Baseline

**User remarks on Table 4**

In compliance with the Workforce Innovation and Opportunity Act, the Nebraska Department of Labor released performance goals for this primary indicator of performance for the Adult, Dislocated Worker, Youth, and Wagner-Peyser Employment Services programs and sought public comment for a 30-day period beginning July 21, 2016 and ending August 20, 2016. No public comments were received.

**Table 5. Measurable Skill Gains**

Program	PY 2016 Proposed/ Expected Level	PY 2016 Negotiated/ Adjusted Level	PY 2017 Proposed/ Expected Level	PY 2017 Negotiated/ Adjusted Level
Adults	Baseline	Baseline	Baseline	Baseline
Dislocated Workers	Baseline	Baseline	Baseline	Baseline
Youth	Baseline	Baseline	Baseline	Baseline
Adult Education	35.00	35.00	36.00	36.00
Wagner-Peyser	n/a	n/a	n/a	n/a
Vocational Rehabilitation	Baseline	Baseline	Baseline	Baseline

**User remarks on Table 5**

None

**Table 6. Effectiveness in Serving Employers**

Program	PY 2016 Proposed/ Expected Level	PY 2016 Negotiated/ Adjusted Level	PY 2017 Proposed/ Expected Level	PY 2017 Negotiated/ Adjusted Level
Adults	Baseline	Baseline	Baseline	Baseline
Dislocated Workers	Baseline	Baseline	Baseline	Baseline
Youth	Baseline	Baseline	Baseline	Baseline
Adult Education	0.00	Baseline	0.00	Baseline
Wagner-Peyser	Baseline	Baseline	Baseline	Baseline
Vocational Rehabilitation	Baseline	Baseline	Baseline	Baseline

**User remarks on Table 6**

None

**Table 7. Combined Federal Partner Measures**

Measure	PY 2016 Proposed/ Expected Level	PY 2016 Negotiated/ Adjusted Level	PY 2017 Proposed/ Expected Level	PY 2017 Negotiated/ Adjusted Level

**User remarks on Table 7**

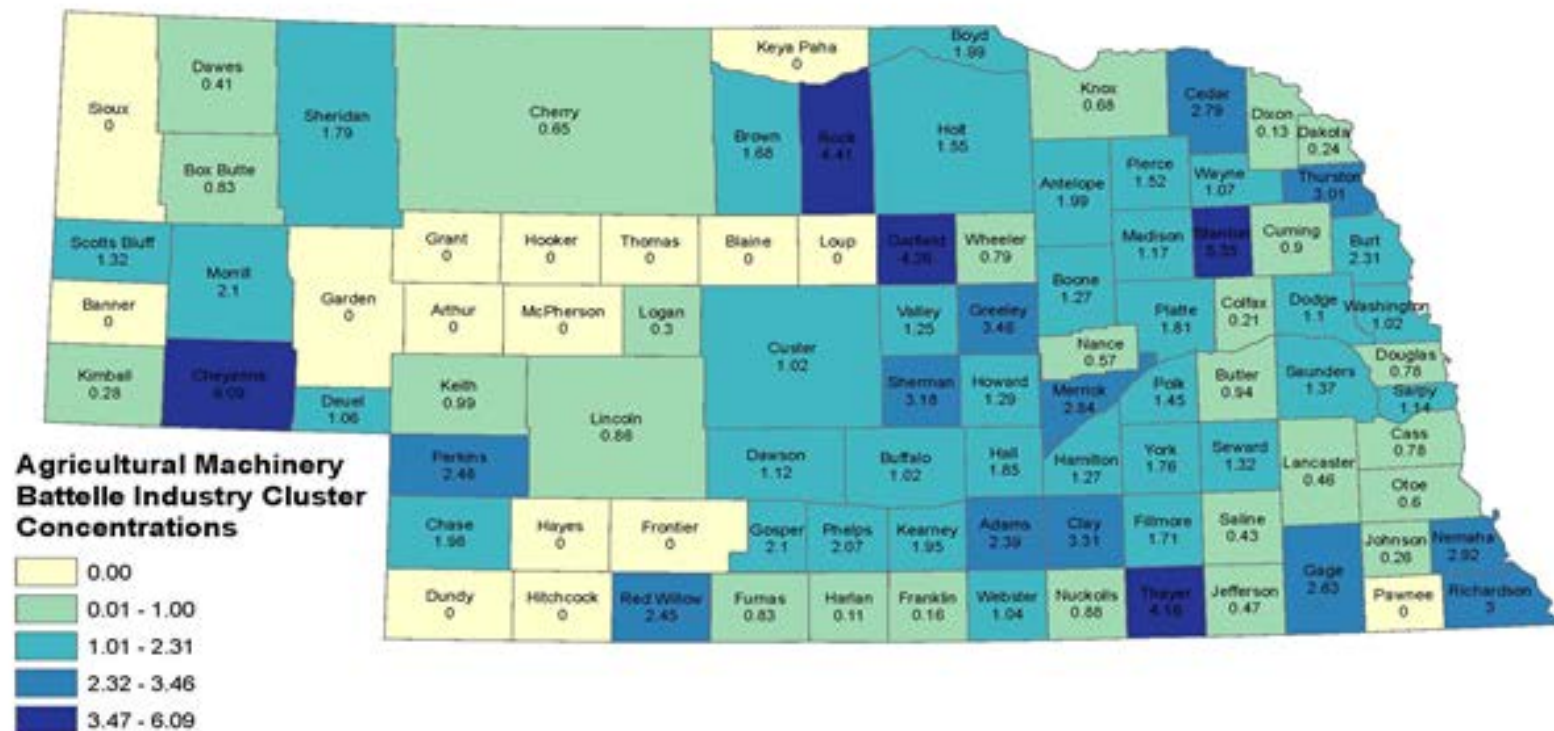
No Federal partner

## **Appendix 2. Other State Attachments (Optional)**

### **Appendix 2A: 2010 Battelle Report - Industry Cluster Location Quotient Concentration Maps**

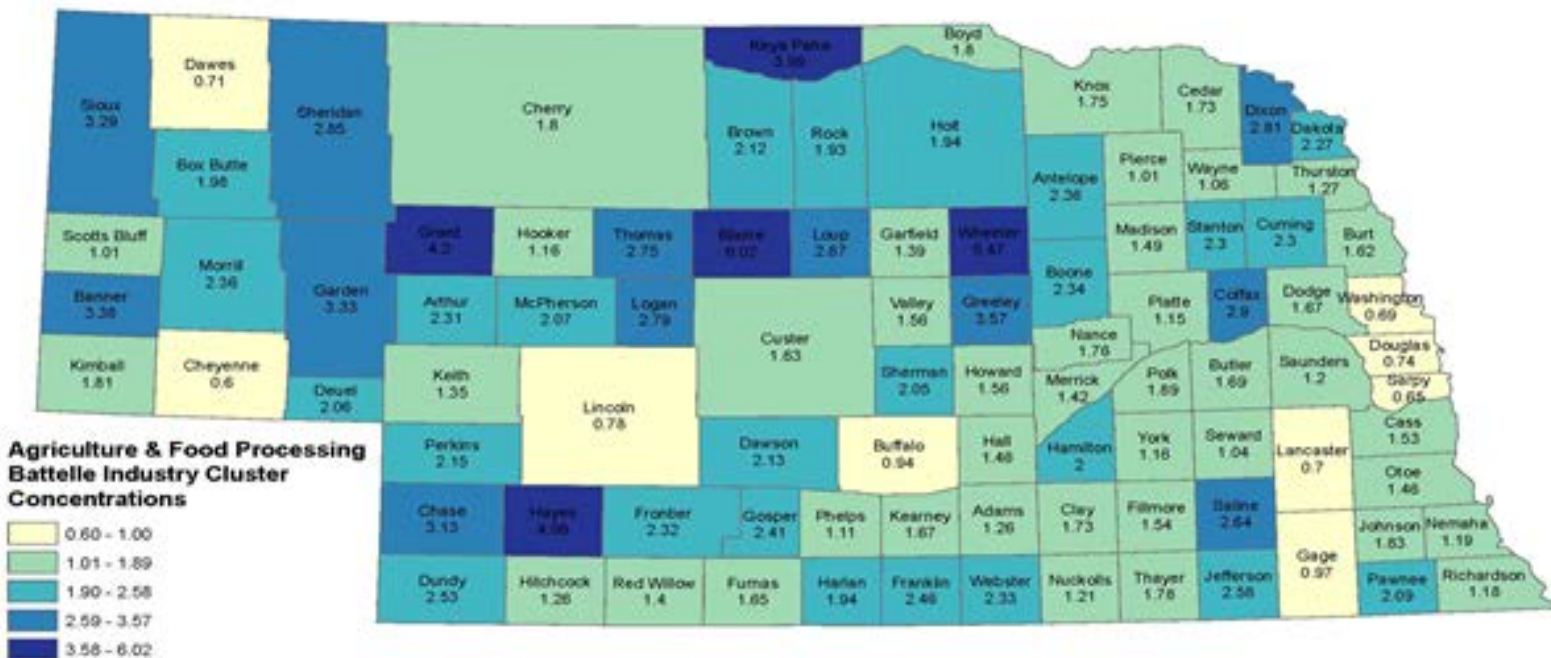
The complete 2010 Battelle Report titled *Growing Jobs, Industries, and Talent: A Competitive Advantage Assessment and Strategy for Nebraska* is accessible at [http://www.neded.org/files/businessdevelopment/battelle/Main\\_Report\\_NE\\_Competitive AdvantageAssessment\\_v8a.pdf](http://www.neded.org/files/businessdevelopment/battelle/Main_Report_NE_Competitive_AdvantageAssessment_v8a.pdf).

### Map 7: Agricultural Machinery Battelle Industry Cluster Concentration Map



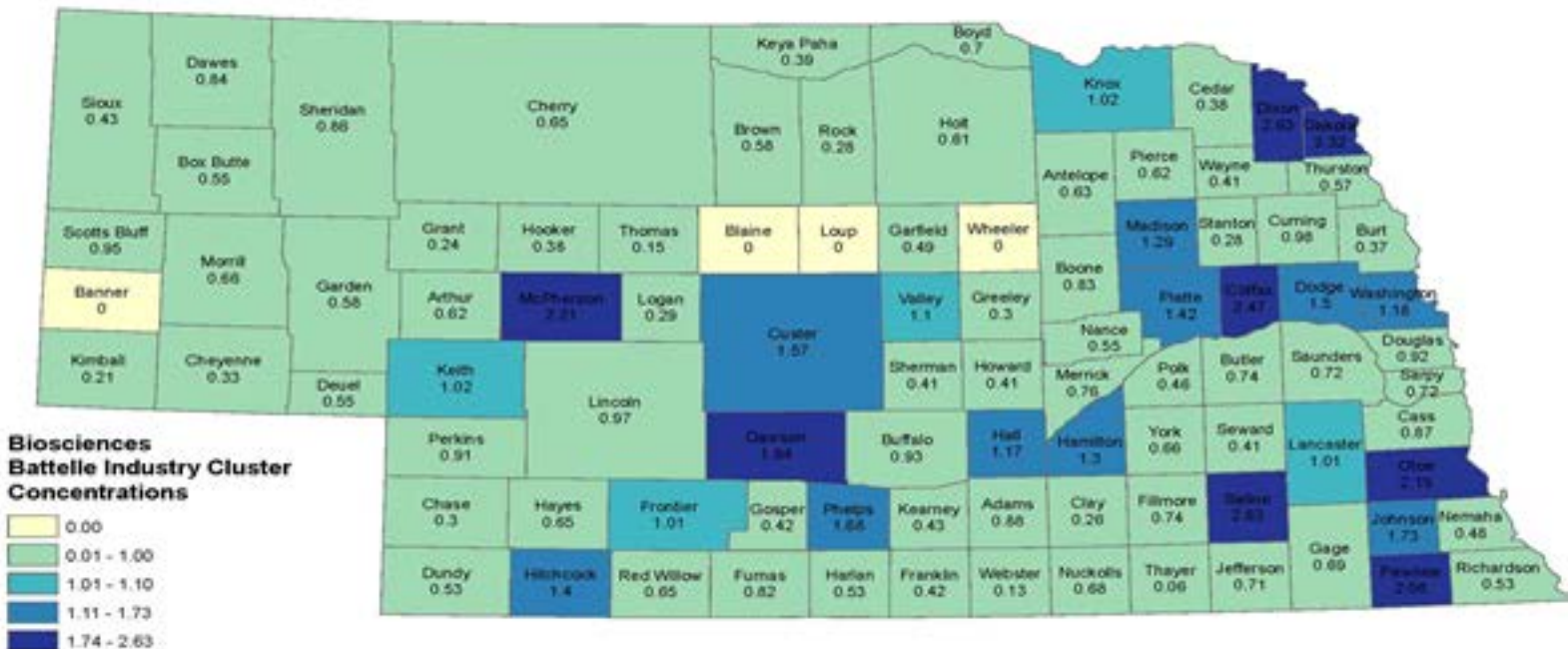
Colors from [www.ColorBrewer.org](http://www.ColorBrewer.org) by Cynthia A. Brewer, Geography, Pennsylvania State University

## Map 8: Agriculture and Food Processing Battelle Industry Cluster Concentration Map



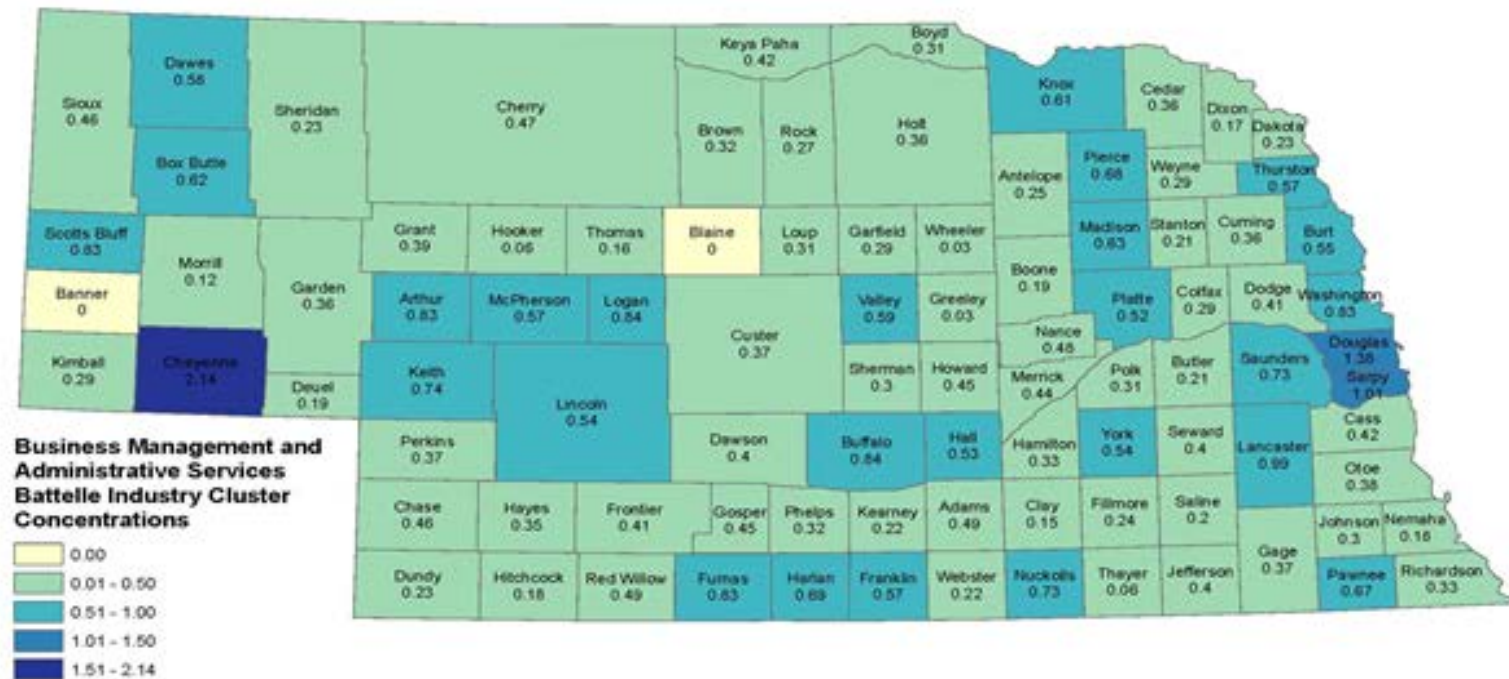
Colors from [www.ColorBrewer.org](http://www.ColorBrewer.org) by Cynthia A. Brewer, Geography, Pennsylvania State University.

## Map 9: Biosciences Battelle Industry Cluster Concentration Map



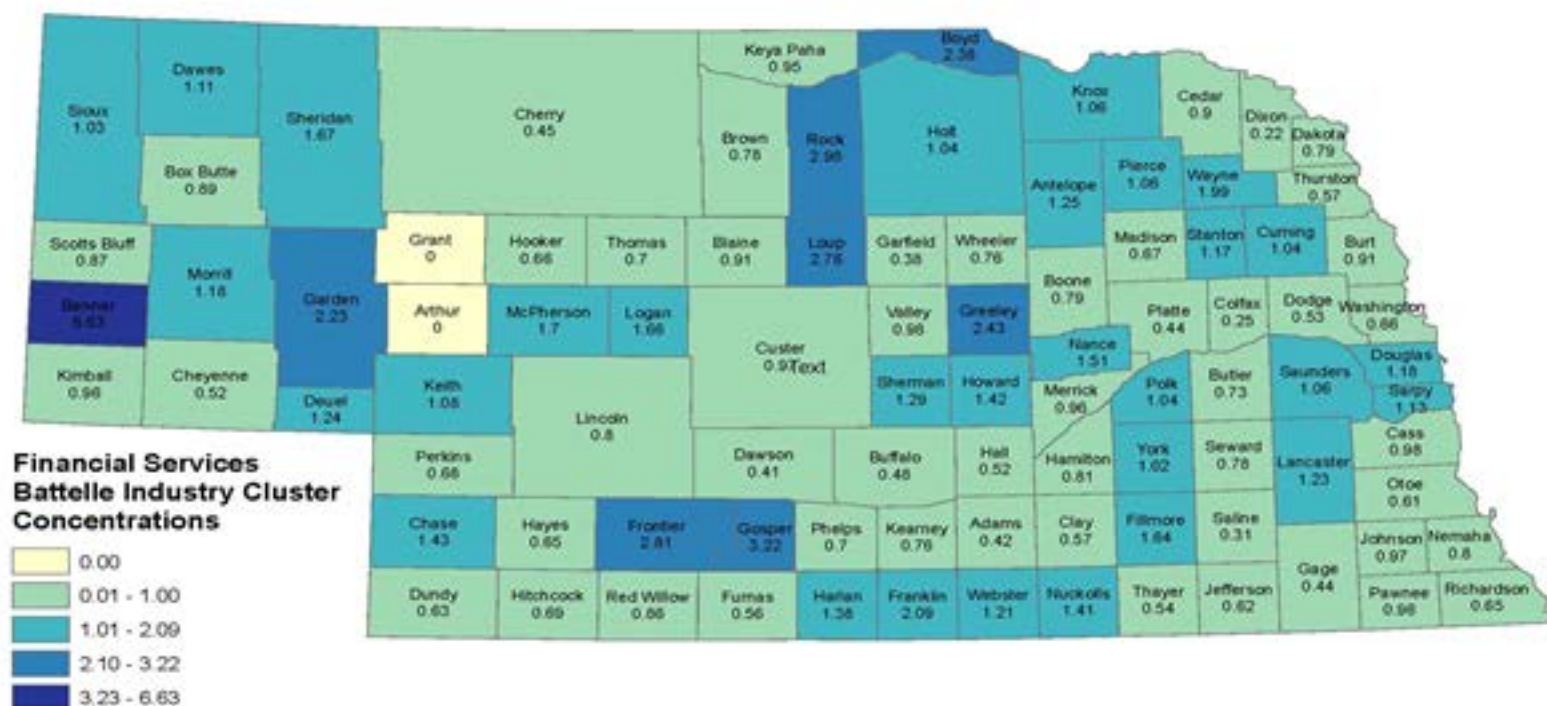
Colors from [www.ColorBrewer.org](http://www.ColorBrewer.org) by Cynthia A. Brewer, Geography, Pennsylvania State University.

Map 10: Business Management and Administrative Services  
Battelle Industry Cluster Concentration Map



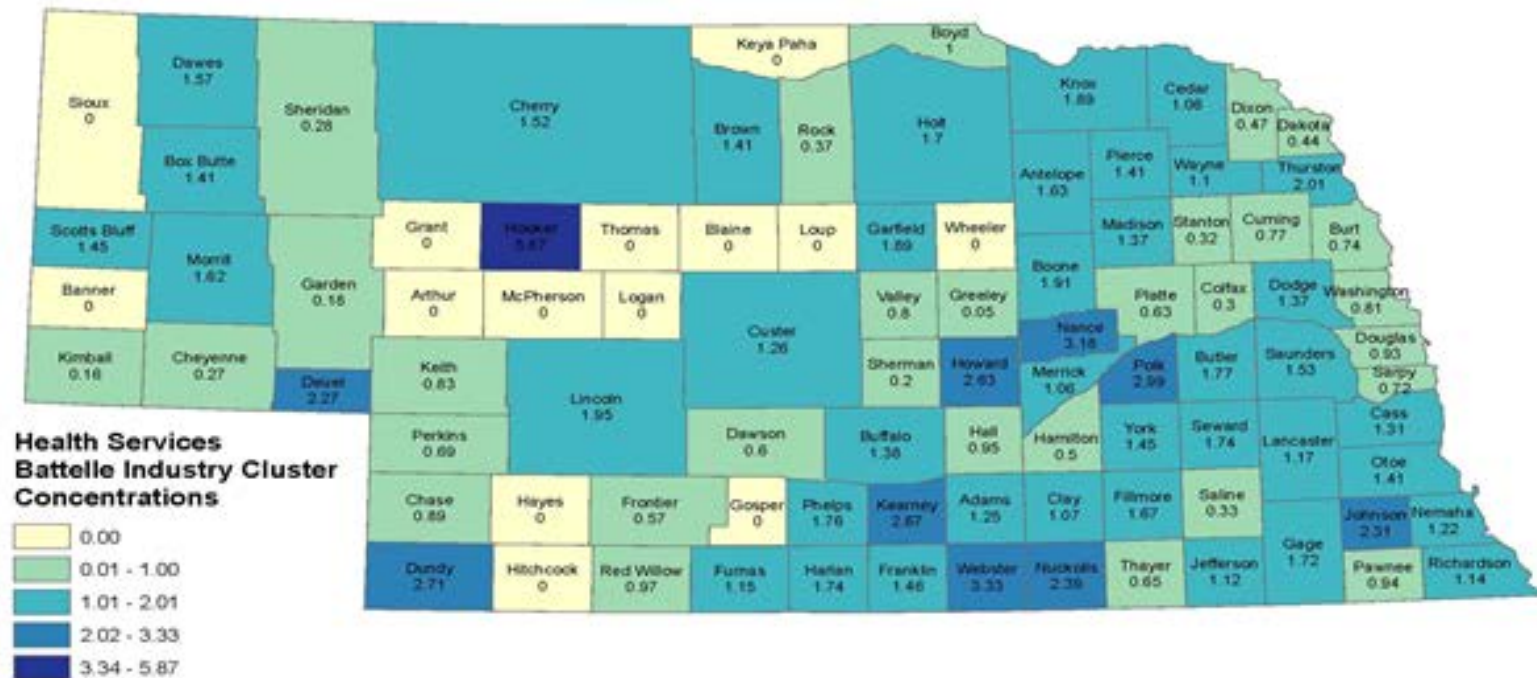
Colors from [www.ColorBrewer.org](http://www.ColorBrewer.org) by Cynthia A. Brewer, Geography, Pennsylvania State University.

### Map 11: Financial Services Battelle Industry Cluster Concentration Map

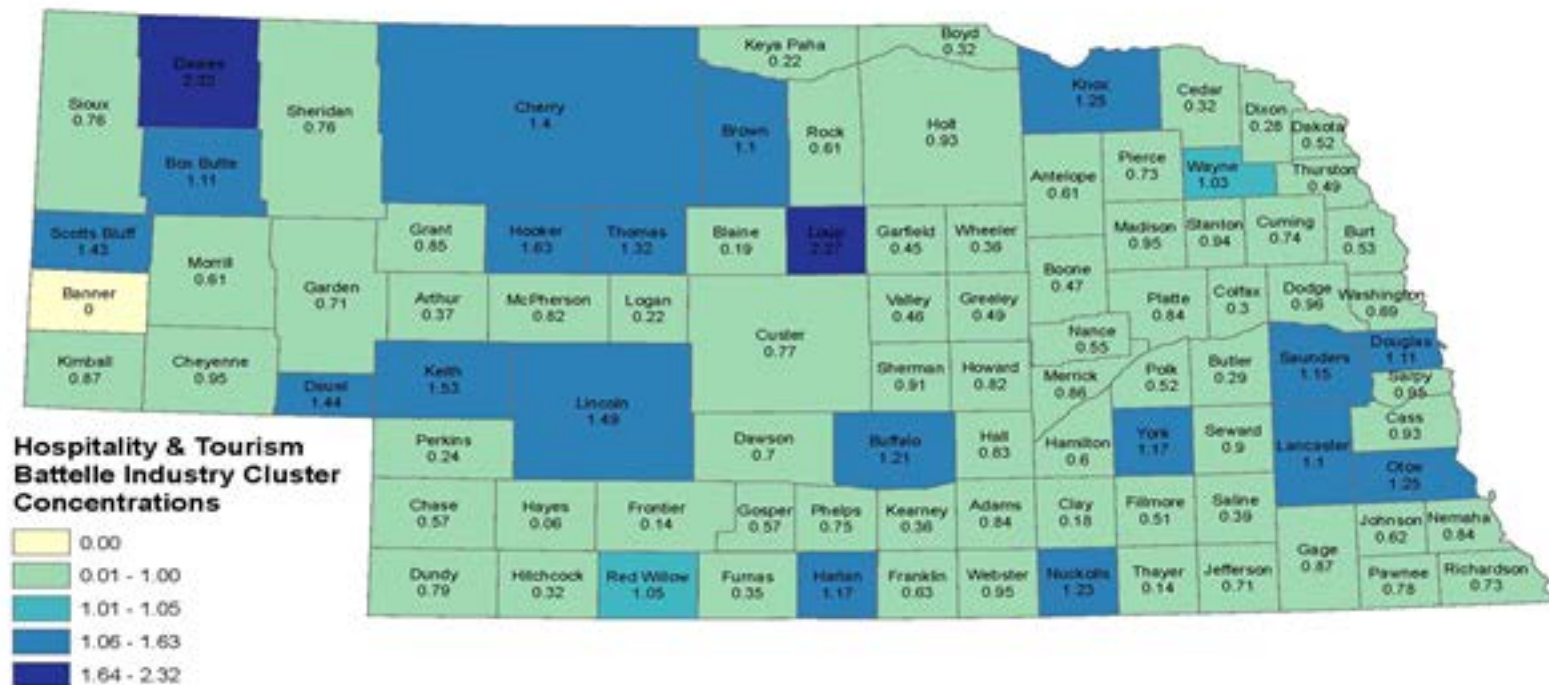


Colors from [www.ColorBrewer.org](http://www.ColorBrewer.org) by Cynthia A. Brewer, Geography, Pennsylvania State University.

## Map 12: Health Services Battelle Industry Cluster Concentration Map

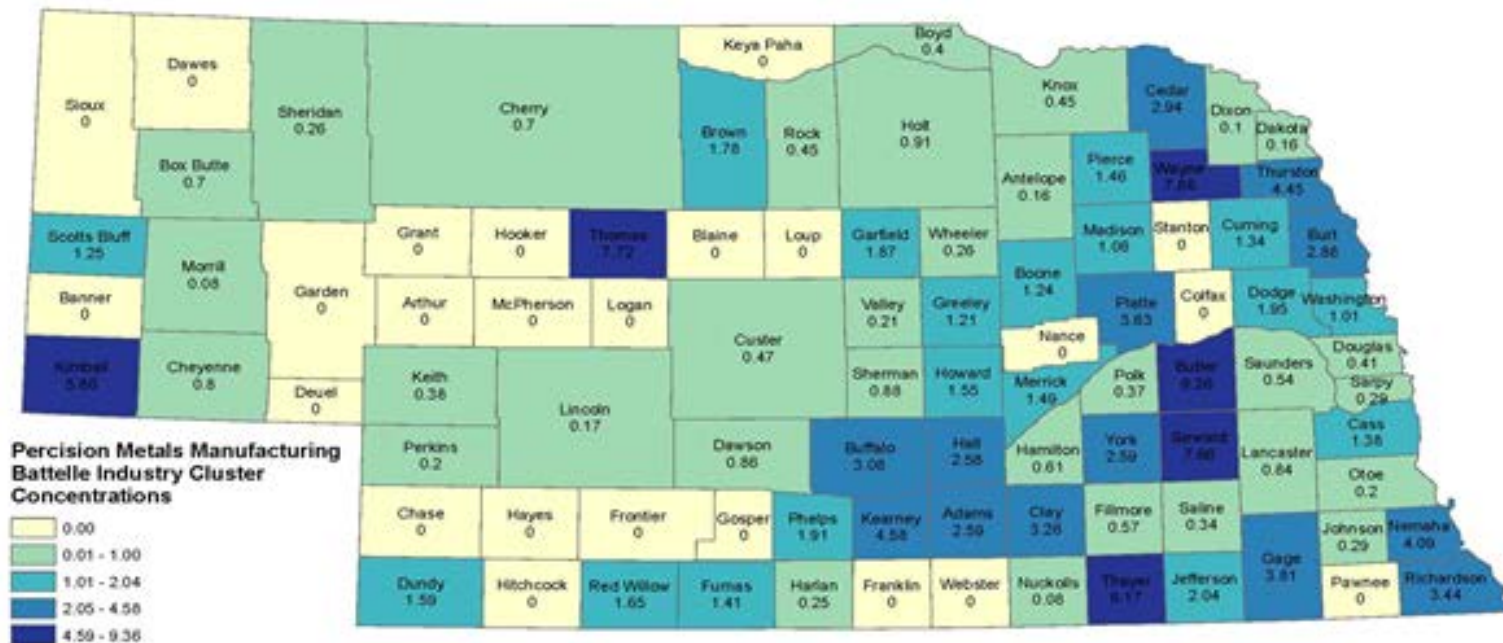


### Map 13: Hospitality and Tourism Battelle Industry Cluster Concentration Map



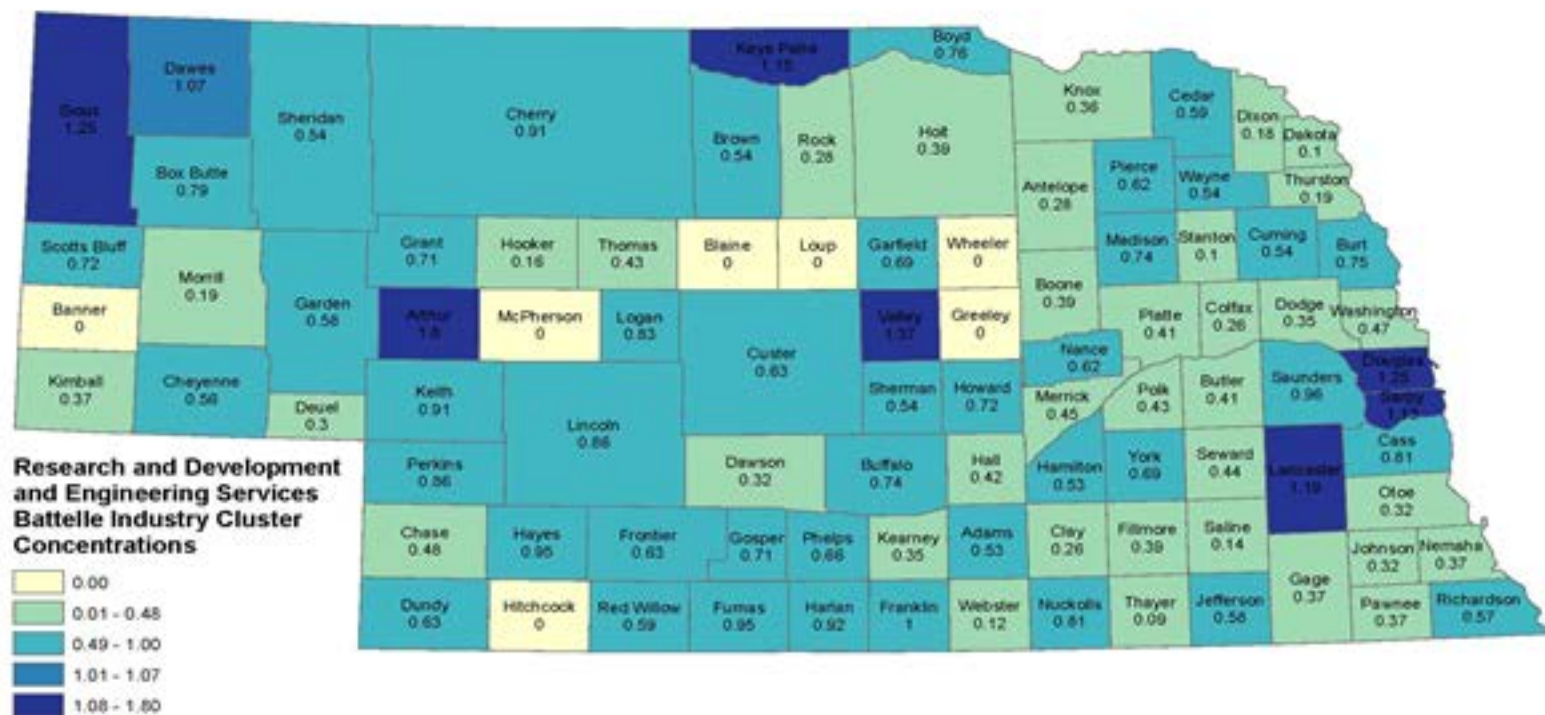
Colors from [www.ColorBrewer.org](http://www.ColorBrewer.org) by Cynthia A. Brewer, Geography, Pennsylvania State University

## Map 14: Precision Metals Manufacturing Battelle Industry Cluster Concentration Map



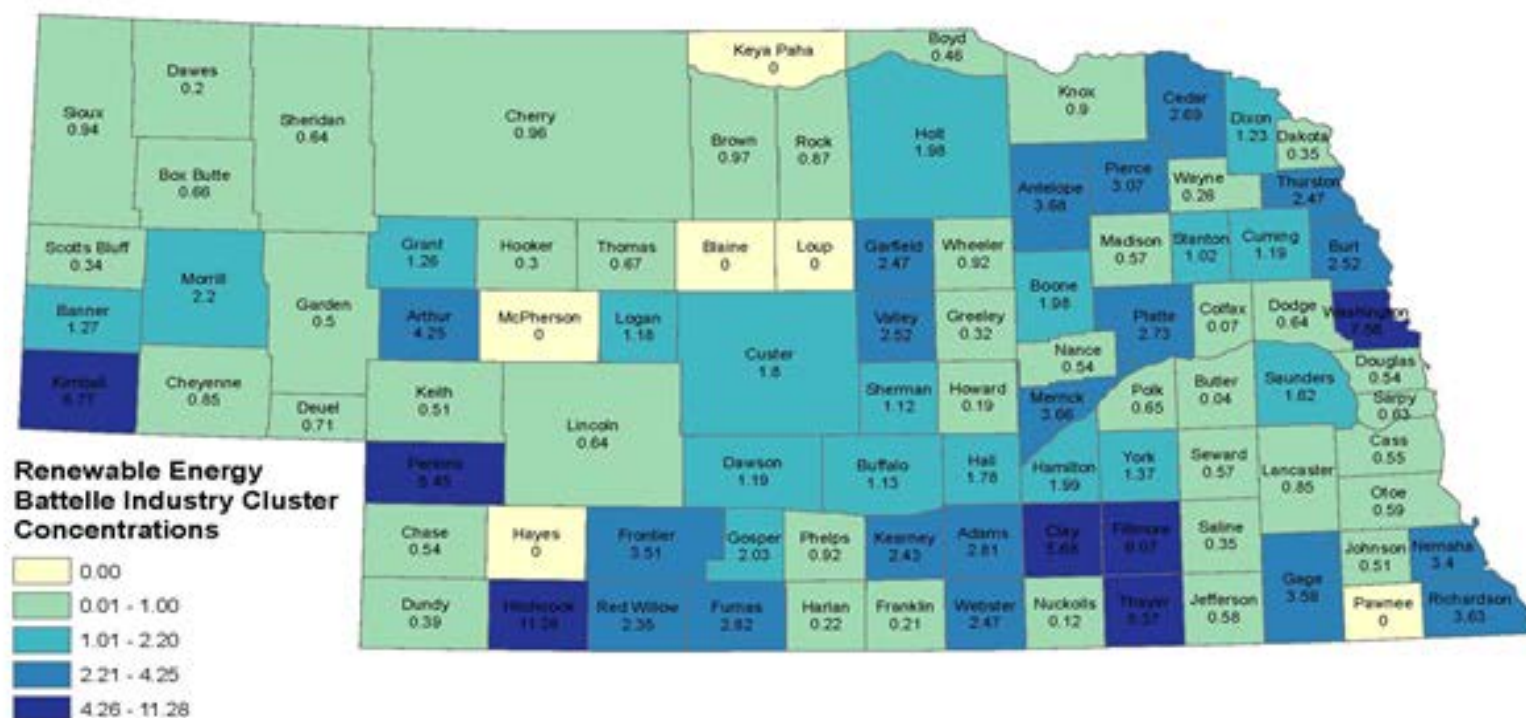
Colors from [www.ColorBrewer.org](http://www.ColorBrewer.org) by Cynthia A. Brewer, Geography, Pennsylvania State University.

## Map 15: R & D and Engineering Services Battelle Industry Cluster Concentration Map



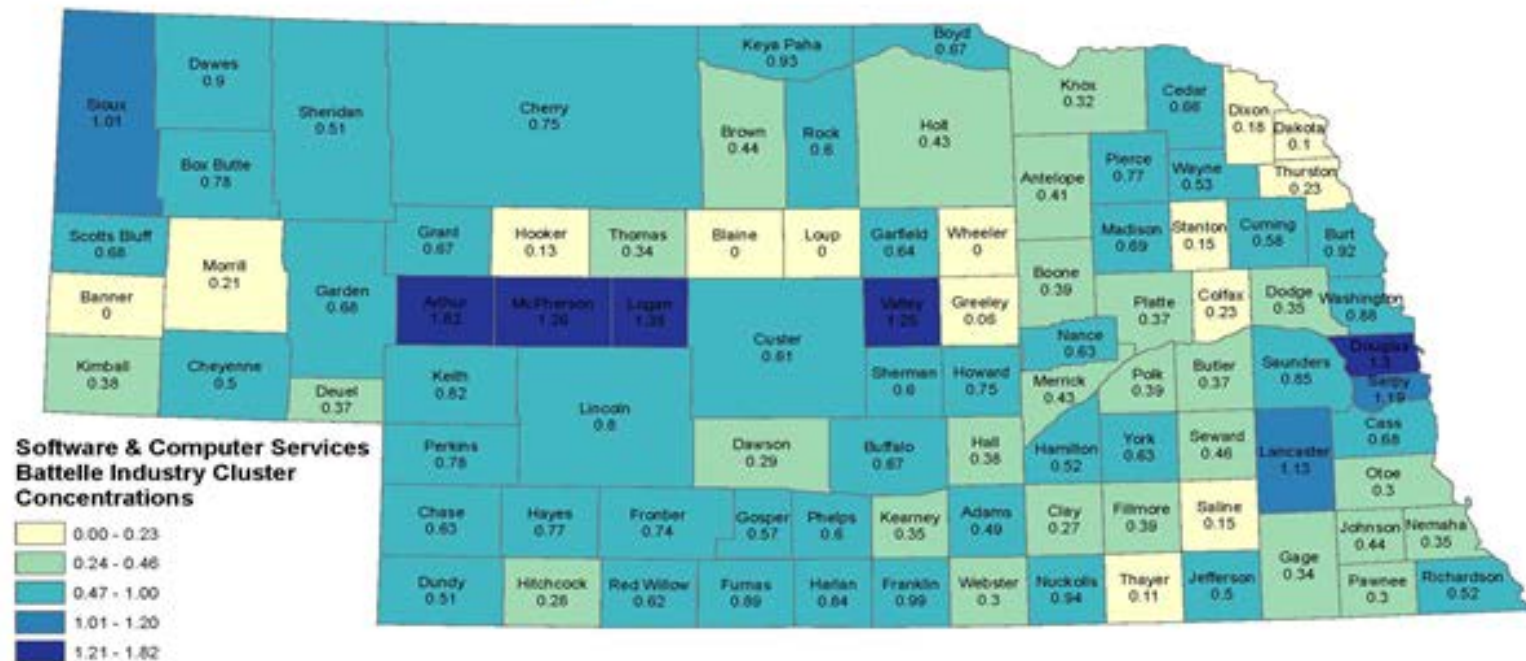
Colors from [www.ColorBrewer.org](http://www.ColorBrewer.org) by Cynthia A. Brewer, Geography, Pennsylvania State University.

### Map 16: Renewable Energy Battelle Industry Cluster Concentration Map



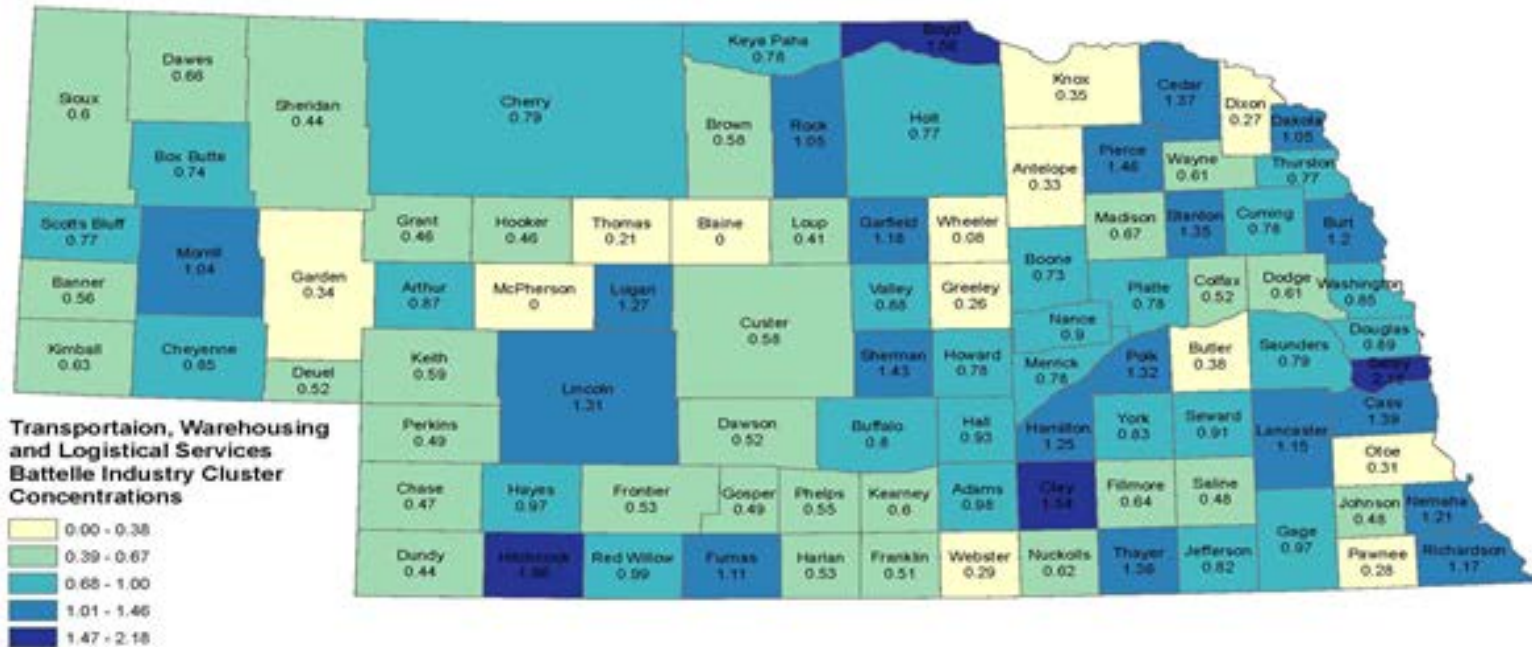
Colors from [www.ColorBrewer.org](http://www.ColorBrewer.org) by Cynthia A. Brewer, Geography, Pennsylvania State University.

### Map 17: Software and Computer Services Battelle Industry Cluster Concentration Map



Colors from [www.ColorBrewer.org](http://www.ColorBrewer.org) by Cynthia A. Brewer, Geography, Pennsylvania State University

## Map 18: Transportation, Warehousing and Logistical Services Battelle Industry Cluster Concentration Map



Colors from [www.ColorBrewer.org](http://www.ColorBrewer.org) by Cynthia A. Brewer, Geography, Pennsylvania State University.

## **Appendix 2B: 2015 Battelle Report (Target Industry Report)**

August 6, 2015

### **Target Industry Report**

In support of the Nebraska Department of Economic Development's (DED) strategic planning and economic development ecosystem assessment, the NDED Research Division is providing this updated report of Nebraska's targeted industries. This report will identify Nebraska's targeted industries and related industry clusters, and provide data on these industries and industry groups. The targeted industry groups identified in the 2010 Battelle Technology Partnership Practice report, *Growing Jobs, Industries, and Talent: A Competitive Advantage Assessment and Strategy for Nebraska*, and will be reviewed and updated with data from 2008 through 2014—from the start of the Great Recession through the most current complete reporting year. Data used in this report are the most recent available data as of June 30, 2015.

The Battelle report identified over 240 primary industries that exist or could exist in Nebraska, based on the North American Industry Code System (NAICS). These industries were then combined into 12 primary industry clusters, and then provided measures of the performance of these industry groups in Nebraska from 2001 through 2007. The end date of 2007 was chosen to coincide with the end of the business cycle that began in 2001, with the trough occurring in November of that year [National Bureau of Economic Research, Business Cycle Dating Committee, 2012]. The approach taken in this report will be, whenever possible, to append data to that used in the Battelle report. Rather than omit the period of the Great Recession, from the US economy's peak in December 2007 through June 2009, when the US economy began its most recent recovery, this report will append the 2008-14 data to any revisions of the 2001-07 data used by Battelle. There may be a natural tendency to prefer to use a period of recovery from the end of one recession to the year of the next peak; however, there are some advantages to reporting how the state's industries fared through the entire business cycle. This is especially true as Nebraska appeared to have weathered the last recession better than most states.

Standard measures such as location quotients and shift-share analyses will be used to update the list of Nebraska's targeted industry groups, using Battelle's targeting analysis for prioritizing economic development efforts among industries in these industry groups.

This report will also include comparisons of Nebraska to other states in terms of such factors as industrial specialization, tax climates, population, cost of labor, measures of innovation, access to capital, and education programs. Finally, this report will provide a great deal of 50-state data for the purpose of comparing Nebraska's economic performance, and for the purpose of proposing a set of states for benchmarking Nebraska's future performance.

The NDED Research Division was not able to recreate all of the tables and metrics used by Battelle in their report. Most often this was due to Battelle's use of proprietary data, which NDED does not have access to. This inability to extend Battelle's work is greatest where the 2010 report used IMPLAN to model the value-added impacts of the industry clusters to Nebraska's economy. In most cases, alternative sources of data are available for extending the review through the current period.

## Assessment of Nebraska's Primary Industry Groups

In 2010, the Battelle Technology Partnership Practice conducted a detailed assessment of the building blocks of Nebraska's economy, focusing on the position of the state's industry clusters, its innovation preparedness, and its talent development. This assessment involved in-depth quantitative analysis of a wide variety of data sources on Nebraska's industries, technology drivers, and talent base. Through this effort Battelle identified 12 primary industry clusters that drive Nebraska's economic growth.

The Battelle report focused on identifying primary industries - basic industries that support the export market, or alternatively, reduce the local demand for imported goods - rather than service industries that support local markets. Export meaning that the goods or services produced in Nebraska are sold outside Nebraska, either nationally or internationally. Supporting this approach, the Battelle report notes that "the most effective way to advance the economic development of primary industries is to focus on the industry clusters found within a state's economic base industries" [Battelle, 2010, p.8].

### *Drivers of Economic Growth*

Twelve primary industry clusters were identified as drivers of economic growth in Nebraska. Because there is no standard list of industry clusters defined for all states, defining a set of industry clusters for Nebraska required a detailed analysis of industries found across the state that is focused on economic base activities, and then deciding how and where industries fit into a cluster. This was done in consultation with the Nebraska Department of Economic Development and an advisory committee made up of economic development stakeholders. From this process Battelle identified more than 240 detailed primary industries involved in economic base activities in Nebraska and organized them into the 12 primary industry clusters identified below. A complete list of industries is included in Battelle 2010 Appendix A.

Battelle's 2010 Nebraska Industry Clusters	Battelle's 2010 Nebraska Industry Clusters
Agricultural Machinery	Agriculture & Food Processing
Biosciences	Business Management & Administrative Services
Financial Services	Health Services
Hospitality & Tourism	Precision Metals Manufacturing
Renewable Energy	Research, Development, & Engineering Services
Software & Computer Services	Transportation, Warehousing, & Distribution Logistics

Battelle noted that even though health services are not normally viewed as an economic base activity, it is included in the list of industry clusters because “health services are widely considered a critical economic and workforce driver in regional economies across Nebraska, and serve to attract patients from neighboring states” [Battelle, 2010, p. 10]. Another of the Battelle clusters, renewable energy, was counted as a cluster, even though there was not enough activity in any industry other than ethanol production to measure.

Service industries are not typically viewed as an economic base activity, as they primarily consist of businesses that typically serve local Nebraska customers. Like retail stores, service industries are important for serving local needs and ensuring a high quality of life in the state. However, they are not considered to be wealth-creating sectors of the economy, as they typically do not result in additional exports nor do they reduce import costs for the state. In short, the report included health services cluster in their list of primary industry clusters because they “are widely considered a critical economic and workforce driver in regional economies across Nebraska and serve to attract patients from neighboring states, this sector was included as a primary industry driver” [Battelle, 2010, p. 10].

### *Concentration of Industry Clusters*

After identifying Nebraska’s primary industry clusters, Battelle assessed the performance of the industry groups in terms of the concentration of the industry cluster in the state, employment, and economic output.

Relative concentration of an industry cluster is a measure of how specialized an industry cluster is in a specific region compared to the nation, and is an indication of the “competitive advantage” for the cluster relative to the nation. The measure of this specialization is the location quotient (LQ), which is found by dividing the proportion of a region’s employment in an industry cluster by the same proportion on the national level. That is,  $LQ_i = (e_i/e)/(E_i/E)$ , where  $e_i$  is the regional employment in industry  $i$ ,  $e$  is total employment in the region,  $E_i$  is national employment in industry  $i$ , and  $E$  is total employment at the national level. An LQ less than 1 indicates that the ratio of employment at the regional level is less than the ratio at the national level, which implies that the region is underrepresented in the industry. An LQ greater than 1 indicates a higher relative concentration of the industry locally, and “an LQ greater than or equal to 1.20 denotes an employment concentration significantly above the national average, and thus [the industry is] considered ‘specialized’” [Battelle 2010, p. 10].

The other performance measures used by Battelle are more straightforward. The report looked at whether an industry cluster had gained or lost employment between years. The third metric used to assess performance is the relative employment growth of the local industry cluster compared with the growth of the same cluster at the national level between two time periods. The choice of time periods may be the most difficult part of the analysis. “It is best to compare changes in employment over an entire national business cycle (peak to peak) to ensure an ‘apples to apples’ comparison” [Battelle, 2010, p. 10].

For their performance assessment, the Battelle study compared data from 2001 and 2007, even though the 2008 data were available. The Battelle report's timing was fortuitous in terms of the ability to pick an entire business cycle. On December 1, 2008, the NBER's Business Cycle Dating Committee announced that the peak of the post-2001 expansion occurred in December 2007, and further, on September 20, 2010, the committee announced that the recession that began in January 2008 officially ended in June 2009; hence Battelle knew before they completed their work that the 2001 through 2007 period constituted a completed business cycle.

The current review does not have the benefit of that knowledge. While there are data available through 2014, it is unknown at this time when the current business cycle will end. Even taking the unofficial definition of a recession as two consecutive quarters of negative real Gross Domestic Product (GDP) growth, the negative growth reported in the first quarter 2015 does not necessarily mean that the US economy is in recession, nor does it provide a date for the end of the expansion that started in mid-2009. Even if 2015 should mark the end of the last expansion, it is unlikely that the NBER would officially date the end of the most recent business cycle anytime this year. Rather than attempt to compare industry data from one business cycle to industry data from another, possibly incomplete business cycle, NDED's Research Division chose to append the 2008-14 data to the 2001-07 data used by Battelle.

Another reason for using appended data, beyond not knowing the timing of the business cycle, is the relative severity of the 2008-09 recession. Of the 11 post-war US recessions, the most recent recession was the worst, both in terms of the length of the downturn and the depth of the decline in economic output of the US economy. The Great Recession lasted 18 months, and real GDP declined 4.2%, whereas the average post-war recession lasted 11.1 months and real GDP declined by 1.1% [NBER, BEA]. Nebraska's real GDP grew at an annual compounded rate of 2.3% from 2008 through 2014, the third fastest of all the states, and for the entire 2001-14 period, Nebraska's annual compounded growth rate was 2.4%, the seventh fastest of the states. This compares to 2.7% and a rank of 21<sup>st</sup> for the entire 2001-14 period. The two faster-growing states in the 2008-14 period, North Dakota and Texas, benefited significantly from growth in their energy sectors. The US economy grew at a 1.2% rate over the 2008-14 period, and six states still have negative annual growth rates five years after the end of the recession.

Given that Nebraska appeared to do better than most states during the recession, reviewing the performance of the state's primary industry groups over a long period, through the last complete business cycle to the present, may shed some light on why the Nebraska economy performed better than most other states. [BEA State GDP Comparison]. In addition, looking at the long series should not penalize those industry groups that tend to do poorly during recessions or reward those that tend to be recession-proof.

## Employment-Based Trends and Target Assessment of Nebraska's Industry Clusters

The Battelle report found that between 2001 and 2007 the industry clusters identified in the report performed strongly in employment measures. A full three-quarters of the clusters fared well, based on employment criteria. Five of the 12 clusters were classified as current strengths, three were classified as emerging strengths or emerging opportunities, and the remaining four were classified as retention targets.

The employment-based target assessment criteria are based on three measures. The first is the location quotient, used to determine if the industry is specialized in Nebraska. Specialized industries have an LQ greater than or equal to 1.2. The second criterion is employment growth over the time span of the analysis. The third criterion is whether employment in the local industry grew faster or slower than the same industry at the national level.

### *Specialized Industry Clusters*

Industry clusters that were specialized in Nebraska, and that generated additional employment in Nebraska between 2001 and 2007, and had rates of employment growth greater than the national growth rate for the same industry were classified as current strengths. The five industry clusters that met all three of the criteria were financial services; transportation, warehousing, and distribution logistics; precision metals manufacturing; biosciences; and renewable energy.

### *Emerging Strengths and Opportunities*

Next, industry clusters that were not specialized in Nebraska, but had increased employment locally, were classified as emerging strengths or emerging opportunities, depending upon their relative employment growth compared with national employment growth in those clusters. Battelle identified three clusters that met these criteria. "Of these three, R&D and engineering services stands out because it outpaced the national employment growth rate, while the other two—health services and hospitality and tourism—grew but below the national average" [Battelle, 2010, p.11].

*Table 1. Nebraska Primary Industry Clusters, Target Assessment, Battelle 2010, page 12.*

Industry	Degree of Specialization, 2008 (LQ)	NE Employment Change, 2001-07	US Employment Change, 2001-07	Competitive Share Gain or Loss, 2001-07 (% Pt. Change vs. US)	Target Assessment
Total Employment	1.00	3.60%	4.30%	-0.7	Not applicable
Agricultural Machinery	7.43	-4.4%	-4.6%	0.1	Retention

Industry	Degree of Specialization, 2008 (LQ)	NE Employment Change, 2001-07	US Employment Change, 2001-07	Competitive Share Gain or Loss, 2001-07 (% Pt. Change vs. US)	Target Assessment
Agriculture & Food Processing	2.26	-4.8%	-4.3%	-0.5	Retention
Biosciences	1.21	20.6%	15.3%	5.3	Current Strength
Business Management & Administrative Services	1.22	6.3%	9.1%	-2.8	Retention
Financial Services	1.38	9.5%	6.4%	3.1	Current Strength
Health Services	1.01	8.0%	14.0%	-6	Emerging Opportunity
Hospitality & Tourism	0.84	1.0%	1.6%	-0.6	Emerging Opportunity
Precision Metals Manufacturing	1.15	4.6%	-10.2%	14.9	Current Strength
Research, Development, & Engineering Services	0.56	34.2%	5.5%	28.7	Emerging Strength
Software & Computer Services	1.14	-16.8%	1.3%	-17.5	Retention
Transportation, Warehousing, & Distribution Logistics	1.98	27.4%	3.3%	24.1	Current Strength
Renewable Energy (Biofuels)	28.45	547.2%	116.2%	431	Current Strength

Source: Battelle analysis of Bureau of Labor Statistics, QCEW data from IMPLAN. Note: Competitive Share changes calculated on unrounded numbers. LQ = Location Quotient.

Finally, four Nebraska primary industry clusters identified by Battelle, which were specialized but either did not increase Nebraska employment between 2001 and 2007 or grew Nebraska employment at a rate slower than the industry nationally, were identified as retention targets. Of these four clusters, only business management and administrative services enjoyed increased employment in Nebraska, and only one of the four enjoyed a greater rate of employment growth in Nebraska than nationally. The other two retention targets, agriculture and food processing, and software and computer services, lost employment and ended the 2001-2007 business cycle with slower employment growth in Nebraska than at the national level. The table below, reproduced from the 2010 Battelle report, provides the information used in Battelle's target assessment for Nebraska's primary industry clusters.



### *Employment Levels and Growth Rates: Primary Industry Clusters*

Table 2 presents employment levels and growth rates for Battelle's primary industry clusters for Nebraska and for the US for 2008 and 2014. The data for this time period represented in Table 2 will be appended to the original Battelle report. In addition, the Nebraska and US growth rates are shown for the 2008-2014 period.

For some of the clusters, there are some notable differences in employment growth trends between the time periods. For example, note that the rate of employment growth in the agricultural machinery cluster was negative for both Nebraska and the US as a whole between 2001 and 2007; however, employment in both areas was positive in the 2008-2014 period. Conversely, in the Financial Services and Business Management and Administrative Services clusters, Nebraska and US employment changed from positive for both areas in the early period to negative for both in the later period. Agriculture and Food Processing in Nebraska reversed a negative employment trend and started positive growth since the beginning of the recession. The US trend for this industry group remained negative in the later period, however. Some industry clusters that showed positive employment growth in the early period, both at the state and national level, retained this trend in the later period; these clusters included Health Services, Software and Computer Services, and Renewable Energy. The Research and Development cluster saw rapid growth in Nebraska in the early period, but saw the trend reverse in the later period.

*Table 2. Employment Levels and Growth by Targeted Industry Group, 2008-2014*

Target Industry Title	NE 2008	NE 2014	US 2008	US 2014	NE % Change 2008-14	U.S. % Change 2008-14
Total Employment	766,991	786,782	113,188,643	115,557,595	2.6%	2.1%
Agricultural Machinery	10,058	11,153	199,835	206,697	10.9%	3.4%
Agriculture & Food Processing	54,889	55,746	3,055,208	2,461,387	1.6%	-19.4%
Biosciences	7,500	5,950	1,244,361	1,695,204	-20.7%	36.2%
Business Management & Administrative Services	43,557	41,178	5,276,384	5,048,338	-5.5%	-4.3%
Financial Services	50,799	48,782	5,199,538	5,044,404	-4.0%	-3.0%
Health Services	56,509	59,428	8,019,696	8,804,768	5.2%	9.8%
Hospitality & Tourism	12,545	15,190	2,890,443	2,426,488	21.1%	-16.1%
Precision Metals Manufacturing	16,495	10,484	2,111,649	1,501,099	-36.4%	-28.9%
Research, Development, & Engineering Services	6,213	5,765	1,078,876	1,614,488	-7.2%	49.6%

Target Industry Title	NE 2008	NE 2014	US 2008	US 2014	NE % Change 2008-14	U.S. % Change 2008-14
Software & Computer Services	15,244	16,748	1,966,971	2,374,820	9.9%	20.7%
Transportation, Warehousing, & Distribution Logistics	38,077	36,933	3,671,257	3,574,590	-3.0%	-2.6%
Renewable Energy (Biofuels)	1,770	1,884	9,182	10,582	6.4%	15.2%

Source: Data from BLS, QCEW, 2015; Calculations by NDED, 2015

Note: Employment is from published BLS data, which may not be complete for Nebraska. In the case of incomplete data, US employment for that industry is dropped, to provide consistent results.

Table 3 presents employment levels and growth rates for Battelle's primary industry clusters for Nebraska and for the US for 2008 and 2014. In addition, the Nebraska and US growth rates are shown for the 2008-2014 period.

*Table 3. Employment Levels and Growth by Targeted Industry Group, 2001-2014*

Target Industry Title	NE 2001	NE 2014	US 2001	US 2014	NE % Change 2001-14	US % Change 2001-14
Total Employment	735,492	786,782	109,304,802	115,557,595	7.0%	5.7%
Agricultural Machinery	9,762	11,153	207,292	206,697	14.2%	-0.3%
Agriculture & Food Processing	55,484	55,746	3,096,356	2,461,387	0.5%	-20.5%
Biosciences	5,143	5,950	805,222	1,454,514	15.7%	80.6%
Business Management & Administrative Services	38,245	41,178	4,498,429	5,048,338	7.7%	12.2%
Financial Services	44,406	48,782	5,008,173	5,044,404	9.9%	0.7%
Health Services	51,462	59,428	6,877,555	8,804,768	15.5%	28.0%
Hospitality & Tourism	14,687	15,190	2,239,602	2,426,488	3.4%	8.3%
Precision Metals Manufacturing	16,081	10,484	2,462,129	1,468,803	-34.8%	-40.3%
Research, Development, & Engineering Services	4,532	5,765	1,401,954	1,614,488	27.2%	15.2%
Software & Computer Services	18,138	16,748	1,865,492	2,374,820	-7.7%	27.3%
Transportation, Warehousing, & Distribution Logistics	29,897	36,933	3,384,696	3,092,953	23.5%	-8.6%

Target Industry Title	NE 2001	NE 2014	US 2001	US 2014	NE % Change 2001-14	US % Change 2001-14
Renewable Energy (Biofuels)	277	1,884	3,254	10,582	580.1%	225.2%

Source: USDOL, BLS, QCEW, 2015; Calculations by NDED, 2015

Note: Employment is from published BLS data, which may not be complete for Nebraska. In the case of incomplete data, US employment for that industry is dropped, to provide consistent results.

In the original Battelle report three of the clusters experienced negative employment growth during the period of the study. During the 2008-2014 period, half of the clusters experienced a loss of employment between the start of the Great Recession and 2014 (Table 2). Extending the time period of the study to 2014 results in only two of the Nebraska industry group experiencing negative employment growth. Except for Precision Metals Manufacturing and Software and Computer Services, all 12 industry groups saw positive employment growth between 2001 and 2014. However, four of the 12 clusters experienced negative employment growth at the national level. Table 4 presents the data needed to update the target assessment for the industry clusters identified in the Battelle report. The time frame for the updated assessment is 2001 through 2014.

**Table 4. Nebraska Primary Industry Groups, Target Assessment Update, 2001-2014**

Target Industry Title	Location Quotient: Degree of Specialization 2014 (LQ)	Employment Growth Analysis, 2001-2014: Nebraska Employment Change	Employment Growth Analysis, 2001-2014: US Employment Change	Employment Growth Analysis, 2001-2014: Competitive Share Gain or Loss, 2001-14 (% Pt. Change vs. US)	Employment Growth Analysis, 2001-2014: Target Assessment
Total Employment	1.00	7.0%	5.7%	1.3%	Not applicable
Agricultural Machinery	7.93	14.2%	-0.3%	14.5%	Current Strength
Agriculture & Food Processing	3.33	0.5%	-20.5%	21.0%	Current Strength
Biosciences	0.60	15.7%	80.6%	-64.9%	Emerging Opportunity
Business Management & Administrative Services	1.20	7.7%	12.2%	-4.6%	Retention
Financial Services	1.42	9.9%	0.7%	9.1%	Current Strength
Health Services	0.99	15.5%	28.0%	-12.5%	Emerging Opportunity

Target Industry Title	Location Quotient: Degree of Specialization 2014 (LQ)	Employment Growth Analysis, 2001-2014: Nebraska Employment Change	Employment Growth Analysis, 2001-2014: US Employment Change	Employment Growth Analysis, 2001-2014: Competitive Share Gain or Loss, 2001-14 (% Pt. Change vs. US)	Employment Growth Analysis, 2001-2014: Target Assessment
Hospitality & Tourism	0.92	3.4%	8.3%	-4.9%	Emerging Opportunity
Precision Metals Manufacturing	1.05	-34.8%	-40.3%	5.5%	Emerging Strength
Research, Development, & Engineering Services	0.52	27.2%	15.2%	12.0%	Emerging Strength
Software & Computer Services	1.04	-7.7%	27.3%	-35.0%	Emerging Opportunity
Transportation, Warehousing, & Distribution Logistics	1.75	23.5%	-8.6%	32.2%	Current Strength
Renewable Energy (Biofuels)	26.15	580.1%	225.2%	354.9%	Current Strength

In the original Battelle report, these five Nebraska industry clusters were identified as current strengths in the target assessment; Biosciences; Financial Services; Precision Metals Manufacturing; Transportation, Warehousing, and Distribution Logistics; and Renewable Energy (Table 1). In the expanded time frame, five clusters are again classified as current strengths, using the same scoring criteria as the 2010 Battelle report, with only Financial Services and Research, Development, and Engineering Services remaining as current strengths. Two industries dropped from current strengths to emerging opportunities; these were Biosciences and Precision Metals Manufacturing. The Business Management and Administrative Services cluster remained a retention target. The Precision Metals Manufacturing cluster dropped from a current strength based on the 2001-2014 data to an emerging strength based on the expanded data, due to a reduction in the location quotient, which now indicates that this cluster is no longer an area of specialization in Nebraska's economy. For the same reason, Software and Computer Services slipped from a retention target to an emerging opportunity.

## A Shift-Share Analysis of Nebraska's Targeted Industry Groups

In addition to using location quotients for updating the target assessment of the industry clusters identified in the Battelle report, NDED's Research Division decided to make use of shift-share analysis, another common metric in regional analysis. While Battelle did not appear to make explicit use of this tool, the target assessment in the 2010 report relied on results that are important parts of a shift share analysis.

### *Methodology*

Shift share is a method of attributing changes in a regional industry's employment level to three components: (1) a national growth component (NS) defined as the share of local employment growth attributed to growth of the national economy); (2) an industrial mix component (IM) defined as the share of local employment growth attributed to growth within that cluster nationally; and (3) a competitive, or regional, share (RS) defined as the local growth rate in the industry cluster relative to the national growth rate in the cluster—the share of local employment growth attributed to unique local factors that have caused growth or decline in a cluster.

In a shift-share analysis, the total change in employment between two periods for an industry is equal to the sum of the three components. The formula for the shift share is  $e_i^{t+n} - e_i^t = NS_i + IM_i + RS_i$ , where  $e_i^t$  is employment for industry  $i$  at time  $t$  and  $n$  is the number of years in the analysis.

The first component, national growth or national share, shows how much of the regional industry's growth is explained by the overall health of the national economy. The formula for determining the national share is  $NS_i = e_i^t \times (G)$ , where  $G$  is equal to the employment growth rate of the entire national economy for the period of the analysis.

The industrial mix component represents the share of regional industry employment growth that is explained by the growth of the industry at the national level. If a particular industry were growing at a faster rate than the economy as a whole, the industry mix would be greater than the national share component. The formula for determining the industrial mix is  $IM_i = e_i^t \times (G_i - G)$ , where  $G_i$  is equal to the employment growth rate of industry  $i$  at the national level for the period of the analysis.

The regional share component determines the share of the change in regional employment due to competitive advantages of the region for the industry in question. A regional comparative productive advantage could be due to factors such as higher productivity, local raw materials or inputs, deployment of advanced technologies, better management or market access, human capital advantages, and so on. The formula for determining the industrial mix is  $RS_i = e_i^t \times (g_i - G_i)$ , where  $g_i$  is equal to the employment growth rate of industry  $i$  at the regional level for the period of the analysis.

### *Results*

A shift-share analysis was performed using the Nebraska industry clusters identified in the Battelle report for the 2001-2014 period. Table 5 presents the results of this analysis along with the location quotients for the beginning and end of the study period.

The regional, or competitive, share is shown in the third column of the shift-share analysis. If the competitive share is positive, it signals that the region has a comparative productive advantage. The number for each industry represents the number of jobs in the region that are due to the comparative advantage. The Nebraska industry clusters with a comparative advantage over the study period include Agricultural Machinery; Agriculture and Food Processing; Financial Services; Precision Metals Manufacturing; Research, Development, and Engineering Services; Transportation, Warehousing, and Distribution Logistics; and Renewable Energy.

The last column under the shift-share subheading is labeled Total Job Growth and represents the total change in employment for each industry over the study period. It also represents the sum of the national share, industry mix, and regional shift. Note that all Nebraska industry groups experienced increased employment between 2001 and 2014, except Precision Metals Manufacturing and Software and Computer Services.

*Table 5. Location Quotients and Shift Share Analysis by Targeted Industry Group, 2001-2014*

Target Industry Title	Location Quotient: 2001	Location Quotient: 2014	Shift-Share Analysis, 2001-2014: National Share	Shift-Share Analysis, 2001-2014: Industry Mix	Shift-Share Analysis, 2001-2014: Regional - Competitive Shift	Shift-Share Analysis, 2001-2014: Total Job Growth
Agricultural Machinery	7.00	7.93	558	(586)	1,419	1,391
Agriculture & Food Processing	2.66	3.33	3,174	(14,552)	11,640	262
Biosciences	0.95	0.60	294	3,853	(3,340)	807
Business Management & Administrative Services	1.26	1.20	2,188	2,487	(1,742)	2,933
Financial Services	1.32	1.42	2,540	(2,219)	4,055	4,376
Health Services	1.11	0.99	2,944	11,477	(6,455)	7,966
Hospitality & Tourism	0.97	0.92	840	385	(723)	503
Precision Metals Manufacturing	0.97	1.05	920	(7,408)	891	(5,597)
Research, Development, &	0.48	0.52	259	428	546	1,233

Target Industry Title	Location Quotient: 2001	Location Quotient: 2014	Shift-Share Analysis, 2001-2014: National Share	Shift-Share Analysis, 2001-2014: Industry Mix	Shift-Share Analysis, 2001-2014: Regional - Competitive Shift	Shift-Share Analysis, 2001-2014: Total Job Growth
Engineering Services						
Software & Computer Services	1.44	1.04	1,038	3,915	(6,342)	(1,390)
Transportation, Warehousing, & Distribution Logistics	1.31	1.75	1,710	(4,287)	9,613	7,036
Renewable Energy (Biofuels)*	12.65	26.15	16	608	983	1,607
Target Industry Totals	16,482	-5,900	10,545	21,127		

Source: Data from BLS, QCEW, 2015; Calculations by NDED, 2015

\*Battelle includes only one sector (ethyl alcohol manufacturing) in this cluster.

The precision metals cluster experienced a significant drop (-7,408) in the industry mix component, which indicates that this cluster had slower growth in Nebraska than these industries had in the rest of the county. Yet at the same time, this cluster appears to have some competitive advantages in Nebraska, because the regional shift component remained positive.

The Software and Computer Services cluster experienced a drop of 6,342 jobs in the regional shift component of the analysis. This indicates a decline in productivity. This could be due to limited market access in Nebraska, or it could be due to a shift between clusters resulting in reduced employment in one cluster and expanding employment in one or more other clusters. One possibility is that employees in software and computer businesses have found their skills in higher demand in financial and business management businesses, or that owners of software and computer businesses have found it advantageous to specialize as support services for particular industries, especially in Financial Services and Business Management & Administrative Services. This could explain why the location quotient for Software and Computer Services dropped, along with employment in this industry.

Table 5 also presents location quotients for each industry cluster, indicating the degree of specialization of the cluster in Nebraska in 2001 and 2014. Comparing the measure for the two dates indicates whether the Nebraska industry cluster has become more or less specialized over time. Five clusters are considered specialized ( $LQ \geq 1.2$ ) in 2001 and have increased their level of specialization during the 14-year study period. These are the

Agricultural Machinery; Agriculture and Food Processing; Financial Services; Transportation, Warehousing, and Distribution Logistics; and Renewable Energy clusters. Two industry groups, Precision Metals Manufacturing and Research, Development, and Engineering Services, while not specialized in Nebraska, became more specialized during the study period. Two groups which were specialized in 2001 became less specialized during the study period. The Business Management and Administrative Services cluster had saw its LQ drop from 1.26 to 1.20, but it remains an area of specialization in Nebraska. However, the Software and Computer Services cluster dropped from an initial LQ of 1.44 to 1.04 in 2014, and, while still concentrated, is no longer considered to be an area of specialization in Nebraska. Finally, three industry groups that were not specialized in Nebraska in 2001, Biosciences, Health Services, and Hospitality and Tourism, experienced a reduction in the level of concentration during the study period.

## Conclusions

The performance of the targeted industry groups identified in the 2010 Battelle Technology Partnership Practice report, *Growing Jobs, Industries, and Talent: A Competitive Advantage Assessment and Strategy for Nebraska*, was reviewed based on updated data available to the Nebraska Department of Economic Development's Research Division. The primary industry clusters identified by Battelle, for the most part, held up well through the 2008-2014 period. Even in cases where a specific industry or cluster of industries performed poorly since the Battelle report was issued, it would seem premature to suggest changes to the clusters.

First of all, the clusters were defined through a multifaceted process that has not been repeated in this review. There does not appear to be any case where a strong argument can be made to move industries in or out of the current definition of a cluster or to move industries between clusters. Second, even where an argument could be made that a particular cluster does not represent a primary industry, the industries that define that cluster still appear to belong in the same group. For these reasons, the Research Division does not suggest making changes to the Battelle clusters at this time. However, any future revisions to NAICS codes should be reviewed in order to determine whether a new industry is defined or whether an existing industry becomes two or more new industries through the division of a current code into two or more new codes, and to determine which clusters the new industries might belong.

## Recommendations

Despite our recommendations for no changes at this time, a case could be made for reviewing the Health Services and Biosciences clusters. Battelle cautioned that the Health Services cluster perhaps did not meet the strict definition of a primary industry cluster, as many of the industries served local markets. These industries are important to local labor markets and the quality of life in their communities; however, many of the industries included in the cluster do not serve large percentages of consumers from outside the state. However, this may change for portions of the Health Services cluster, as defined

by Battelle. For example, the University of Nebraska Medical Center (UNMC) announced the building of the Buffett Cancer Center, a \$323 million, 575,000-square-foot hospital and research laboratory. This project has the potential for bringing in patients and research funding from outside Nebraska. In addition, UNeMed, the technology transfer arm of UNMC, has been successful in increasing the number of new inventions from 161 in 2000-04, to 404 in 2010-14 [UNeMed, 2014 Annual Report, p. 8]. In addition, UNMC and the University of Nebraska-Omaha announced the launch of the Nebraska Advanced Biomedical Innovation and Discovery Institute, a new partnership that should help put new innovations on the market and help spin out startup businesses.<sup>8</sup> On the other hand, the Biosciences sector has seen some employment growth during the 2001-2014 period, but appears to have lost some employment due to competitiveness factors, and has seen its location quotients drop between 2001 and 2014. When the Biosciences cluster was specialized in Nebraska, with a LQ of 1.21 for 2008, Battelle made a case for this cluster as a current strength in its targeting analysis. It might seem appropriate to drop Health Services as a targeted industry group in Nebraska and move some of the industries from that cluster that have a stronger claim to being primary industries to the Biosciences cluster. This would include moving some NAICS industries currently included in the Health Services cluster to the Biosciences cluster.

This highlights one of the difficulties with defining industry clusters by industry category—some industry definitions contain businesses that potentially belong in more than one cluster. In this case, the primary activity at the Buffett Cancer Center would most likely continue its classification as a hospital, even though the location will have a heavy research orientation. If the Health Services cluster was dropped and hospitals were rolled into Biosciences, this would result in all hospitals being part of biosciences, which would create a tendency for biosciences in Nebraska to look like it was not specialized in Nebraska. Unfortunately, there is not a feasible way to define industry clusters location by location. There is likely to be a similar problem with University partnerships. The coding of industries will tend to classify government and educational institutions in those categories, rather than in industries that define biosciences. However, it is very likely that the businesses spun out of these facilities and partnerships will be classified in the Biosciences cluster, as the startup businesses are organized. Due to these difficulties, it seems best to retain the current clusters and their definitions at this time.

This does not mean that all of the clusters identified by Battelle deserve to have an equal weight in a targeted industry plan. Should policymakers decide to target particular industries for recruitment or retention, or decide to provide additional incentives to further a desired economic development outcome, differential weights could be identified and applied to the clusters identified in the Battelle report and reviewed in this report. These weights could be used in a qualification test, where a scoring rule is developed for determining qualification or level of assistance in an economic development incentive plan.

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<sup>8</sup> [UNMC, January 9, 2015, [http://app1.unmc.edu/PublicAffairs/TodaySite/sitefiles/today\\_full\\_print.cfm?match=16298](http://app1.unmc.edu/PublicAffairs/TodaySite/sitefiles/today_full_print.cfm?match=16298)]

*Battelle 2010 Appendix A: Primary Industry Cluster Defined by Industry - Part 1*

NAICS Code	NAICS Title/Description
Cluster:	Agricultural Machinery
33311	Agricultural Implement Manufacturing
333241/294	Food Product Machinery Manufacturing
423820	Farm and Garden Machinery and Equipment Merchant Wholesalers
Cluster:	Agriculture & Food Processing
111	Crop Production
112	Animal Production
1151	Support Activities for Crop Production
1152	Support Activities for Animal Production
3222	Converted Paper Product Manufacturing
4245	Farm Product Raw Material Merchant Wholesalers
32611	Plastics Packaging Materials and Unlaminated Film and Sheet Manufacturing
Cluster:	Agricultural Machinery
33311	Agricultural Implement Manufacturing
333241/294	Food Product Machinery Manufacturing
423820	Farm and Garden Machinery and Equipment Merchant Wholesalers
Cluster:	Agriculture & Food Processing
111	Crop Production
112	Animal Production
1151	Support Activities for Crop Production
1152	Support Activities for Animal Production
3222	Converted Paper Product Manufacturing
4245	Farm Product Raw Material Merchant Wholesalers
32611	Plastics Packaging Materials and Unlaminated Film and Sheet Manufacturing

*Battelle 2010 Appendix A: Primary Industry Cluster Defined by Industry - Part 2*

NAICS Code	NAICS Title/Description
Cluster:	Biosciences
311221	Wet Corn Milling
311222	Soybean Processing
311223	Other Oilseed Processing
325193	**Ethyl Alcohol Manufacturing
325199	All Other Basic Organic Chemical Manufacturing
325221	Cellulosic Organic Fiber Manufacturing
325311	Nitrogenous Fertilizer Manufacturing
325312	Phosphatic Fertilizer Manufacturing
325314	Fertilizer (Mixing Only) Manufacturing
325320	Pesticide and Other Agricultural Chemical Manufacturing

NAICS Code	NAICS Title/Description
325411	Medicinal and Botanical Manufacturing
325412	Pharmaceutical Preparation Manufacturing
325413	In Vitro Diagnostic Substance Manufacturing
325414	Biological Product (except Diagnostic) Manufacturing
334510	Electromedical and Electrotherapeutic Apparatus Manufacturing
334516	Analytical Laboratory Instrument Manufacturing
334517	Irradiation Apparatus Manufacturing
339112	Surgical and Medical Instrument Manufacturing
339113	Surgical Appliance and Supplies Manufacturing
339114	Dental Equipment and Supplies Manufacturing
339115	Ophthalmic Goods Manufacturing
339116	Dental Laboratories
541380	*Testing Laboratories
541711	Research and Development in Biotechnology
621511	Medical Laboratories
621512	Diagnostic Imaging Centers
<b>Cluster:</b>	<b>Business Management &amp; Administrative Services</b>
5418	Advertising Public Relations and Related Services
55111	Management of Companies and Enterprises
56141	Document Preparation Services
56142	Telephone Call Centers
56143	Business Service Centers
56144	Collection Agencies
56145	Credit Bureaus
56149	Other Business Support Services
511140	Directory and Mailing List Publishers
541110	Offices of Lawyers
541120	Offices of Notaries
541191	Title Abstract and Settlement Offices
541199	All Other Legal Services
541430	Graphic Design Services
541613	Marketing Consulting Services
541910	Marketing Research and Public Opinion Polling
561110	Office Administrative Services
561210	Facilities Support Services

*Battelle 2010 Appendix A: Primary Industry Cluster Defined by Industry - Part 3*

NAICS Code	NICS Title/Description
Cluster:	Financial Services
521110	Monetary Authorities Central Bank
522110	Commercial Banking
522120	Savings Institutions
522130	Credit Unions
522190	Other Depository Credit Intermediation
522210	Credit Card Issuing
522220	Sales Financing
522291	Consumer Lending
522292	Real Estate Credit
522293	International Trade Financing
522294	Secondary Market Financing
522298	All Other Nondepository Credit Intermediation
522310	Mortgage and Nonmortgage Loan Brokers
522320	Financial Transactions Processing Reserve & Clearinghouse Activities
522390	Other Activities Related to Credit Intermediation
523110	Investment Banking and Securities Dealing
523120	Securities Brokerage
523130	Commodity Contracts Dealing
523140	Commodity Contracts Brokerage+B112
523210	Securities and Commodity Exchanges
523910	Miscellaneous Intermediation
523920	Portfolio Management
523930	Investment Advice
523991	Trust Fiduciary and Custody Activities
523999	Miscellaneous Financial Investment Activities
524113	Direct Life Insurance Carriers
524114	Direct Health and Medical Insurance Carriers
524126	Direct Property and Casualty Insurance Carriers
524127	Direct Title Insurance Carriers
524128	Other Direct Insurance (except Life Health and Medical) Carriers
524130	Reinsurance Carriers
524210	Insurance Agencies and Brokerages
524291	Claims Adjusting
524292	Third Party Administration of Insurance and Pension Funds
524298	All Other Insurance Related Activities
525110	Pension Funds
525120	Health and Welfare Funds
525190	Other Insurance Funds
525910	Open-End Investment Funds

NAICS Code	NICS Title/Description
525920	Trusts Estates and Agency Accounts
525990	Other Financial Vehicles
Cluster:	Health Services
621410	Family Planning Centers
621420	Outpatient Mental Health and Substance Abuse Centers
621491	HMO Medical Centers
621492	Kidney Dialysis Centers
621493	Freestanding Ambulatory Surgical and Emergency Centers
621498	All Other Outpatient Care Centers
621610	Home Health Care Services
621910	Ambulance Services
621991	Blood and Organ Banks
621999	All Other Miscellaneous Ambulatory Health Care Services
622110	General Medical and Surgical Hospitals
622210	Psychiatric and Substance Abuse Hospitals
622310	Specialty (except Psychiatric and Substance Abuse) Hospitals
623110	Nursing Care Facilities
623210	Residential Mental Retardation Facilities
623220	Residential Mental Health and Substance Abuse Facilities

*Battelle 2010 Appendix A: Primary Industry Cluster Defined by Industry - Part 4*

NAICS Code	NAICS Title/Description
Cluster:	Hospitality & Tourism
487110	Scenic and Sightseeing Transportation Land
487210	Scenic and Sightseeing Transportation Water
487990	Scenic and Sightseeing Transportation Other
561510	Travel Agencies
561520	Tour Operators
561591	Convention and Visitors Bureaus
561599	All Other Travel Arrangement and Reservation Services
561920	Convention and Trade Show Organizers
712110	Museums
712120	Historical Sites
712130	Zoos and Botanical Gardens
712190	Nature Parks and Other Similar Institutions
713110	Amusement and Theme Parks
713120	Amusement Arcades
713210	Casinos (except Casino Hotels)
713290	Other Gambling Industries
713910	Golf Courses and Country Clubs
721110	Hotels (except Casino Hotels) and Motels

NAICS Code	NAICS Title/Description
721120	Casino Hotels
721191	Bed and Breakfast Inns
721199	All Other Traveler Accommodation
<b>Cluster:</b>	<b>Precision Metals Manufacturing</b>
3323	Architectural and Structural Metals Manufacturing
3327	Machine Shops; Turned Product; and Screw Nut & Bolt Mnfg
3328	Coating, Engraving, Heat Treating
3329	Other Fabricated Metal Product Manufacturing
3335	Metalworking Machinery Manufacturing
3362	Motor Vehicle Body and Trailer Manufacturing
3363	Motor Vehicle Parts Manufacturing
3369	Other Transportation Equipment Manufacturing

*Battelle 2010 Appendix A: Primary Industry Cluster Defined by Industry - Part 5*

NAICS Code	NAICS Title/Description
<b>Cluster:</b>	<b>Research Development &amp; Engineering Services</b>
541330	Engineering Services
541380	Testing Laboratories *
541710	Research and Development in the Physical, Engineering, and Life Sciences *
541712	*Research & Development in the Physical Engineering & Life Sciences (except Biotech)
<b>Cluster:</b>	<b>Software &amp; Computer Services</b>
511210	Software Publishers
518210	Data Processing, Hosting, & Related Services
541511	Custom Computer Programming Services
541512	Computer Systems Design Services
541513	Computer Facilities Management Services
541519	Other Computer Related Services
<b>Cluster:</b>	<b>Transportation Warehousing and Distribution Logistics</b>
33392	Material Handling Equipment Manufacturing
481111	Scheduled Passenger Air Transportation
481112	Scheduled Freight Air Transportation
481211	Nonscheduled Chartered Passenger Air Transportation
481212	Nonscheduled Chartered Freight Air Transportation
481219	Other Nonscheduled Air Transportation
482111	Line-Haul Railroads
482112	Short Line Railroads
483111	Deep Sea Freight Transportation
483112	Deep Sea Passenger Transportation
483113	Coastal and Great Lakes Freight Transportation

NAICS Code	NAICS Title/Description
483114	Coastal and Great Lakes Passenger Transportation
483211	Inland Water Freight Transportation
483212	Inland Water Passenger Transportation
484110	General Freight Trucking Local
484121	General Freight Trucking Long Distance Truckload
484122	General Freight Trucking Long Distance Less than Truckload
484220	Specialized Freight (except Used Goods) Trucking Local
484230	Specialized Freight (except Used Goods) Trucking Long Distance
488111	Air Traffic Control
488119	Other Airport Operations
488190	Other Support Activities for Air Transportation
488210	Support Activities for Rail Transportation
488310	Port and Harbor Operations
488320	Marine Cargo Handling
488330	Navigational Services to Shipping
488390	Other Support Activities for Water Transportation
488490	Other Support Activities for Road Transportation
488510	Freight Transportation Arrangement
488991	Packing and Crating
488999	All Other Support Activities for Transportation
492110	Couriers and Express Delivery Services
493110	General Warehousing and Storage
493120	Refrigerated Warehousing and Storage
493130	Farm Product Warehousing and Storage
493190	Other Warehousing and Storage
Cluster:	Renewable Energy
325193	Ethyl Alcohol Manufacturing

## **Appendix 2C: 2015 Battelle Report (Review of Nebraska's Innovation Drivers)**

August 8, 2015

### **Review of Nebraska's Innovation Drivers**

The 2010 Battelle report addressed the question of how well Nebraska performs in measures of innovation and entrepreneurial development. Over time, an economy must remain competitive to be successful. Innovation is the “means—perhaps the only means—by which a high skill, high wage economy can successfully compete with high skill, lower wage economies without reducing its standard of living” [NGA, Innovate America: Final Report, 2007, p.1].

A set of measures was developed by Battelle to determine if Nebraska has the presence of innovation activities needed to support overall innovation and entrepreneurial development. These included measures of talent, entrepreneurial activity, risk capital, research and development, and intellectual property generation and technology transfer.

The Nebraska Department of Economic Development's (NDED) Research Division reviewed and updated Battelle's 2010 report using its own data. NDED is not able to reproduce and extend all of Battelle's innovation measures primarily due to Battelle's use of proprietary data; however, many of these measures exist in other formats. Where it is possible, this report uses Battelle's methods and measures, if not the same data sources.

### **Measuring Innovation in Nebraska**

In this report, the Research Division reviews and updates, where possible, Battelle's assessment of Nebraska's preparedness for an innovation-driven economy. Battelle identified a broad set of measures to determine a state's readiness to develop a successful, innovation-based economy that can remain competitive. These measures involve talent, as measured by academic performance in science and engineering; entrepreneurial activity, measured by business establishment, employment and revenue growth; the availability of risk capital, measured by venture capital and Small Business Innovation Grant awards; research and development, measured by R&D expenditures in academic and industry settings; and intellectual property generation and technology transfer, measured by the number of patents granted and university technology transfers. Where possible, the Research Division reviewed and updated Battelle's innovation-related measures, and when this was not possible, alternative measures were identified.

The 2010 Battelle report identified a group of benchmark states selected to provide geographic balance, peer states, and states identified by NDED to be more advanced in developing an innovation-based economy. Battelle avoided states with large populations and major cities. Battelle identified seven benchmark states: Iowa, Kansas (neighboring states), Oklahoma and Tennessee (identified as peer states in moving toward an

innovation-driven economy), Virginia, Utah, and Wisconsin (states viewed as more advanced in innovation).

To these states, one additional state, Minnesota, was added based on Minnesota's proximity to Nebraska in a number of state rankings. The original seven benchmark states are compared to Nebraska using updated data. This allows for comparison to the previous benchmark states. A new set of five benchmark states is proposed, along much the same lines: Iowa, Utah, Wisconsin, Minnesota, and Wisconsin. The body of the report contains comparison data for both the original Battelle benchmark states, and the proposed five benchmark states, for a total of eight potential benchmark states.

## Innovation Potential Measured as Skilled Talent

Battelle's first measure of Nebraska's preparedness to develop an innovation-driven economy is based on the educational achievements of Nebraska residents. Educational achievement was measured in terms of science and engineering degrees and college graduation rates. The 2010 Battelle report concluded that Nebraska's performance in this measure was mixed, and described it as "generally slightly below the national average—in the type of high-skilled talent needed to fuel innovation in today's knowledge-based economy" [Battelle, 2010, p. 20].

### *All Higher Education Degrees*

The first measure, science and engineering degrees as a share of all higher education degrees, is presented in Table 6a. Nebraska's percentage of these degrees as a share of all higher education degrees, increased from 22.8% in 2001 to 24.1% in 2011, the last year data is available. Nebraska's score on this measure is below the national percentage; however, the measurement was taken at a time when the national share of science and engineering degrees was falling. Nebraska's ranking among the 50 states improved over this time period from 48<sup>th</sup> to 42<sup>nd</sup>. Compared to the benchmark states, Nebraska was lagging behind all in 2001, but had caught Kansas and Tennessee by 2011.

**Table 6a. Key Indicators: Talent/Science and Engineering Education, Percent of Higher Education Degrees**

States	Science & Engineering Degrees as Percentage of Higher Education Degrees: 2001	Science & Engineering Degrees as Percentage of Higher Education Degrees: 2007	Science & Engineering Degrees as Percentage of Higher Education Degrees: 2008	Science & Engineering Degrees as Percentage of Higher Education Degrees: 2011	State Rank of Science & Engineering Degrees as Percentage of Higher Education Degrees: 2001	State Rank of Science & Engineering Degrees as Percentage of Higher Education Degrees: 2007	State Rank of Science & Engineering Degrees as Percentage of Higher Education Degrees: 2008	State Rank of Science & Engineering Degrees as Percentage of Higher Education Degrees: 2011
United States	29.6%	28.9%	28.9%	29.3%				
Nebraska	22.8%	23.6%	24.0%	24.1%	48	44	43	42
Iowa	28.1%	27.4%	27.0%	28.3%	28	29	31	27
Kansas	27.4%	25.1%	24.8%	23.2%	30	41	39	46

States	Science & Engineering Degrees as Percentage of Higher Education Degrees: 2001	Science & Engineering Degrees as Percentage of Higher Education Degrees: 2007	Science & Engineering Degrees as Percentage of Higher Education Degrees: 2008	Science & Engineering Degrees as Percentage of Higher Education Degrees: 2011	State Rank of Science & Engineering Degrees as Percentage of Higher Education Degrees: 2001	State Rank of Science & Engineering Degrees as Percentage of Higher Education Degrees: 2007	State Rank of Science & Engineering Degrees as Percentage of Higher Education Degrees: 2008	State Rank of Science & Engineering Degrees as Percentage of Higher Education Degrees: 2011
Minnesota	28.7%	26.1%	26.5%	27.6%	25	33	32	30
Oklahoma	27.3%	25.2%	24.3%	24.7%	31	40	40	41
Tennessee	24.6%	23.8%	24.3%	23.6%	43	43	40	43
Utah	29.2%	32.3%	30.9%	29.4%	23	12	18	22
Virginia	35.3%	33.9%	34.0%	32.8%	6	6	6	12
Wisconsin	28.7%	30.2%	29.6%	29.9%	25	19	20	19

Source: National Science Foundation, National Center for Education Statistics, Integrated Postsecondary Education Data System database, various years.

Note: Higher education degrees include bachelor's, master's, and doctorate levels. Science degrees include physical, computer, agricultural, biological, earth, atmospheric, ocean, and social sciences; psychology; and mathematics.

Comparing 2001 and 2011 data, only three of the other benchmark states—Iowa, Utah, and Wisconsin—joined Nebraska in moving against the national trend of a shrinking percentage of science and engineering degrees as a percentage of all higher education degrees.

### *Doctorate Degrees*

The second measure of educational achievement is science and engineering doctorate degrees as a share of science and engineering degrees. This data, summarized in Table 6b, is similar to the percentage of science and engineering degrees as a share of all higher education degrees discussed above. The national trend between 2001 and 2011 is slightly downward, while Nebraska, ranking below the national figures, increased its share during this time. In 2001 4.9% of science and engineering degrees conferred nationally were doctorate degrees, and it was 4.0% in Nebraska. By 2011, the national rate had dropped to 4.4%, and Nebraska's had risen to 4.4%. Nebraska's ranking among the 50 states in this measure of educational achievement rose from 31<sup>st</sup> to 19<sup>th</sup> during the 2001 to 2011 time period.

In terms of benchmark states, Nebraska was ahead of only Oklahoma and Utah in terms of the percentage of doctorate degrees awarded in science and engineering compared to all science and engineering degrees. By 2011, Nebraska scored better than four benchmark states—Iowa, Oklahoma, Utah, and Virginia—in this measure.

Nebraska and four other benchmark states improved the percentage of science and engineering doctorate degrees as a percentage of all science and engineering degrees conferred between 2001 and 2011. These included Kansas, Oklahoma, Tennessee, and Utah.

In 2001, Nebraska colleges and universities conferred 3,261 science and engineering degrees. This ranked Nebraska 34<sup>th</sup> in the nation in terms of the number of degrees conferred in these fields, but a measure of the number of degree completions per capita, better accounts for population differences in the comparison.

*Table 6b. Key Indicators: Talent/Science and Engineering Education Doctorate Degrees*

State	Science & Engineering Doctorate Degrees as Percentage of Science & Engineering Degrees: 2001	Science & Engineering Doctorate Degrees as Percentage of Science & Engineering Degrees: 2007	Science & Engineering Doctorate Degrees as Percentage of Science & Engineering Degrees: 2008	Science & Engineering Doctorate Degrees as Percentage of Science & Engineering Degrees: 2011	State Rank Science & Engineering Doctorate Degrees as Percentage of Science & Engineering Degrees: 2001	State Rank Science & Engineering Doctorate Degrees as Percentage of Science & Engineering Degrees: 2007	State Rank Science & Engineering Doctorate Degrees as Percentage of Science & Engineering Degrees: 2008	State Rank Science & Engineering Doctorate Degrees as Percentage of Science & Engineering Degrees: 2011
United States	4.9%	5.1%	5.1%	4.6%	Not applicable	Not applicable	Not applicable	Not applicable
Nebraska	4.0%	4.2%	3.9%	4.4%	31	32	39	26
Iowa	5.0%	5.3%	5.1%	3.3%	14	13	15	42
Kansas	4.2%	4.1%	4.1%	5.0%	28	36	33	11
Minnesota	5.7%	6.1%	5.5%	5.3%	8	3	11	4
Oklahoma	3.3%	4.0%	3.4%	3.7%	40	37	44	34
Tennessee	4.5%	4.8%	4.9%	4.7%	24	22	19	17
Utah	3.2%	3.3%	3.5%	3.7%	42	42	43	34
Virginia	4.2%	4.3%	4.4%	4.2%	28	29	28	29
Wisconsin	4.7%	4.8%	5.3%	4.5%	18	22	12	24

Source: National Science Foundation, National Center for Education Statistics, Integrated Postsecondary Education Data System database, various years.

Note: Higher education degrees include bachelor's, master's, and doctorate levels. Science degrees include physical, computer, agricultural, biological, earth, atmospheric, ocean, and social sciences; psychology; and mathematics.

## Graduation Rates

Table 6c presents the number of science and engineering degrees awarded by state per 100,000 persons living in the state. According to this measure, Nebraska was producing more science and engineering graduates per 100,000 population than the nation as a whole, in each of the years presented. Nebraska's rank among the 50 states remained relatively constant in the years presented, increasing from 20<sup>th</sup> to 19<sup>th</sup> between 2001 and 2011. Iowa, Kansas, Utah, Virginia, and Wisconsin, among the benchmark states, produced more science and engineering degrees per capita than Nebraska in 2001. By 2011, Nebraska surpassed Wisconsin on the list.

**Table 6c. Key Indicators: Talent/Science and Engineering Degrees Conferred Annually per Capita**

State	Science & Engineering Degrees Conferred Annually per 100,000 Population: 2001	Science & Engineering Degrees Conferred Annually per 100,000 Population: 2007	Science & Engineering Degrees Conferred Annually per 100,000 Population: 2008	Science & Engineering Degrees Conferred Annually per 100,000 Population: 2011	State Rank Science & Engineering Degrees Conferred Annually per 100,000 Population: 2001	State Rank Science & Engineering Degrees Conferred Annually per 100,000 Population: 2007	State Rank Science & Engineering Degrees Conferred Annually per 100,000 Population: 2008	State Rank Science & Engineering Degrees Conferred Annually per 100,000 Population: 2011
United States	182.6	210.3	214.0	235.3	Not applicable	Not applicable	Not applicable	Not applicable
Nebraska	192.8	216.0	225.2	243.1	20	23	21	19
Iowa	217.9	253.7	272.5	433.8	14	11	9	3
Kansas	206.4	211.1	210.7	209.5	16	26	26	30
Minnesota	187.0	240.7	255.0	296.4	21	16	11	10
Oklahoma	170.6	171.6	166.2	171.7	30	38	37	40
Tennessee	135.4	143.8	146.4	160.1	41	46	46	45
Utah	269.3	322.1	308.8	333.9	4	4	4	5
Virginia	219.8	241.2	251.1	291.9	12	15	15	12
Wisconsin	195.1	228.4	225.7	241.1	19	18	20	22

Source: National Science Foundation, National Center for Education Statistics, Integrated Postsecondary Education Data System database, various years.

Note: Higher education degrees include bachelor's, master's, and doctorate levels. Science degrees include physical, computer, agricultural, biological, earth, atmospheric, ocean, and social sciences; psychology; and mathematics.

In terms of science and engineering doctorates awarded in Nebraska per 100,000 population, Nebraska's share rose from 7.6 per 100,000 in 2001 to 10.6 in 2011, the last year data is available. This compares to 8.9 science and engineering doctorates awarded per 100,000 in the US as a whole in 2001, and 10.9 in 2011. This measure is another where Nebraska lags the nation throughout the 2001 to 2011 time period, but has made progress in the national rankings. In terms of state ranking, Nebraska moved from ranking 26<sup>th</sup> among the 30 states in 2001, to 18<sup>th</sup> in 2011.

**Table 6d. Key Indicators: Talent/Science and Engineering Doctorate Degrees per Capita**

State	Science & Engineering Doctorate Degrees Conferred Annually per 100,000 Population: 2001	Science & Engineering Doctorate Degrees Conferred Annually per 100,000 Population: 2007	Science & Engineering Doctorate Degrees Conferred Annually per 100,000 Population: 2008	Science & Engineering Doctorate Degrees Conferred Annually per 100,000 Population: 2011	Science & Engineering Doctorate Degrees Conferred Annually per 100,000 Population: 2001	Science & Engineering Doctorate Degrees Conferred Annually per 100,000 Population: 2007	Science & Engineering Doctorate Degrees Conferred Annually per 100,000 Population: 2008	Science & Engineering Doctorate Degrees Conferred Annually per 100,000 Population: 2011
United States	8.9	10.8	10.9	10.9	Not applicable	Not applicable	Not applicable	Not applicable
Nebraska	7.6	9.1	8.9	10.6	26	25	25	18
Iowa	11.0	13.4	14.0	14.4	9	7	7	5
Kansas	8.7	8.7	8.5	10.5	19	29	30	19
Minnesota	10.7	14.8	14.1	15.8	11	4	5	4
Oklahoma	5.7	6.9	5.7	6.3	38	38	43	43
Tennessee	6.1	6.9	7.2	7.6	36	38	38	35

State	Science & Engineering Doctorate Degrees Conferred Annually per 100,000 Population: 2001	Science & Engineering Doctorate Degrees Conferred Annually per 100,000 Population: 2007	Science & Engineering Doctorate Degrees Conferred Annually per 100,000 Population: 2008	Science & Engineering Doctorate Degrees Conferred Annually per 100,000 Population: 2011	Science & Engineering Doctorate Degrees Conferred Annually per 100,000 Population: 2001	Science & Engineering Doctorate Degrees Conferred Annually per 100,000 Population: 2007	Science & Engineering Doctorate Degrees Conferred Annually per 100,000 Population: 2008	Science & Engineering Doctorate Degrees Conferred Annually per 100,000 Population: 2011
Utah	8.6	10.5	10.8	12.4	21	18	20	13
Virginia	9.3	10.4	11.1	12.1	14	19	18	14
Wisconsin	9.1	11.0	11.9	10.8	16	16	13	17

Source: National Science Foundation, National Center for Education Statistics, Integrated Postsecondary Education Data System database, various years.

Note: Higher education degrees include bachelor's, master's, and doctorate levels. Science degrees include physical, computer, agricultural, biological, earth, atmospheric, ocean, and social sciences; psychology; and mathematics.

In terms of science and engineering doctorate degrees per capita, all benchmark states improved in the number of these degree awards per capita between 2001 and 2011. In 2001, Nebraska lagged all benchmark states but Oklahoma and Tennessee in this measure, and by 2011 Nebraska had passed Kansas and remained higher than Oklahoma and Tennessee in terms of doctorate degrees awarded in science and engineering fields.

A final measure of educational achievement used by Battelle is the percentage of a state's population with a bachelor's degree or higher. Table 6e presents 5-year data from the US Census' American Community Survey (ACS), and shows both the percentage of the population with at least a bachelor's degree and the state rank, where 1 is the state with the highest percent and 50 is the state with the lowest. The 5-year data were selected because relatively small annual sample sizes in the ACS could cause inconsistent results. In addition, because the starting year for ACS data is 2005 and not 2001, we would not have been able to present data consistent with the time periods chosen for the other measures. Given this, the Research Division chose to present the data with the smallest sampling error.

Once again, Nebraska appears to be behind the national figures, but is closer to the national level at the end of the study period. The percentage of Nebraska residents with at least a bachelor's degree was 27.1% for the period ending in 2009, compared with 27.5% of the US population during the same period. By 2013, that percentage had risen to 28.5% for Nebraska and 28.8% nationally. In terms of 50-state rankings, Nebraska's rank fell from 20<sup>th</sup> to 21<sup>st</sup> during this time period.

**Table 6e. Key Indicators: Talent/Science and Engineering Education, Population with a Bachelors' Degree or Higher.**

State	Population Ages 25 and over with a Bachelor's Degree or Higher: 2009	Population Ages 25 and over with a Bachelor's Degree or Higher: 2013	State Rank, Population Ages 25 and over with a Bachelor's Degree or Higher: 2009	State Rank, Population Ages 25 and over with a Bachelor's Degree or Higher: 2013
United States	27.5%	28.8%	Not applicable	Not applicable
Nebraska	27.1%	28.5%	20	21
Iowa	24.2%	25.7%	36	36
Kansas	28.8%	30.3%	16	15
Minnesota	31.2%	32.6%	10	10
Oklahoma	22.4%	23.5%	41	42
Tennessee	22.4%	23.8%	41	41
Utah	28.7%	30.3%	17	15

### **Innovation Potential Measured as Entrepreneurial Activity**

Battelle's next measure of Nebraska's preparedness to develop an innovation-driven economy is based on entrepreneurial activity in Nebraska. Entrepreneurial activity was measured in terms of the growth in new business establishments, job creation from new business establishments, and *Inc.* magazine's listing of the fastest growing US businesses. The 2010 Battelle report concluded that "[i]n measures of entrepreneurial activity, Nebraska seems to be lagging the nation and benchmark states" [Battelle, 2010, p. 21].

Table 7a presents the average annual growth rate in business establishments for the US, Nebraska, and the benchmark states. The table covers three time periods, 2001-2007, 2008-2012, and the entire 2001-2012. Based on the US Census of Business Dynamics, over the 2001 to 2012 period (the latest years available), Nebraska grew its new business establishments by 9.8%, on average, each year compared with 11.2% for the nation. Nebraska's rate of new business formation was behind other benchmark states, except for Iowa and Wisconsin, during this period.

Breaking the data in to pre-2008 and post-2008 periods, in Table 7a, the relative performance of Nebraska in business establishment growth is similar to the experience of the other benchmark states. Most benchmark states' average annual business establishment growth was about 2 percentage points lower since the start of the Great Recession. The exception is Utah, which lost nearly four percentage points in growth, from 16.0% to 12.3%, between the pre-Great Recession and Great Recession to current time periods. Nebraska's establishment growth rate was higher than only two of the benchmark states in the 2001-2007 period, and was higher than three benchmark states in the 2008-2012 period.

**Table 7a. Key Indicators: Entrepreneurial Activity, Business Establishment Growth**

State	Average Annual Growth in New Business Establishments: 2001-2007	Average Annual Growth in New Business Establishments: 2008-2012	Average Annual Growth in New Business Establishments: 2001-2012
United States	11.2%	9.9%	11.2%
Nebraska	10.6%	8.7%	9.8%
Iowa	10.1%	8.1%	9.2%
Kansas	11.0%	8.6%	10.0%
Minnesota	11.5%	9.1%	10.5%
Oklahoma	11.6%	9.5%	10.7%
Tennessee	11.4%	9.1%	10.5%
Utah	16.0%	12.3%	14.5%
Virginia	12.1%	9.7%	11.1%
Wisconsin	10.2%	8.0%	3.4%

Source: US Census Business Dynamics Statistics, Longitudinal Business Database 1977-2012.

The job creation rate from these new business establishments averaged 4.7% in Nebraska from 2001 through 2012, compared with 5.5% for the nation (Table 7b). Among the benchmark states, Nebraska outperformed Iowa and Wisconsin, but was well behind Utah and Oklahoma, in terms of job creation due to new business establishments.

Breaking the data into pre-2008 and post-2008 periods, in Table 7b, the pattern is similar to that of establishment growth, in that job growth was faster in the earlier period than in the later period. The average annual job creation rate between 2001 and 2007 was 5.3% for Nebraska, which was lower than all of the benchmark states except Iowa and Wisconsin. In the later period, Nebraska's growth rate from new business establishments was 3.9%. This rate was tied with Minnesota, among the benchmark states, but lower than all but Iowa and Wisconsin.

**Table 7b. Key Indicators: Entrepreneurial Activity, Job Creation from New Business Establishments**

State	Job Creation Rate from New Business Establishments: 2001-2007	Job Creation Rate from New Business Establishments: 2008-2012	Job Creation Rate from New Business Establishments: 2001-2012
United States	6.2%	4.7%	5.5%
Nebraska	5.3%	3.9%	4.7%
Iowa	4.7%	3.5%	4.2%
Kansas	5.8%	4.3%	5.2%
Minnesota	5.5%	3.9%	4.8%
Oklahoma	6.3%	4.9%	5.7%
Tennessee	5.8%	4.3%	5.2%
Utah	7.3%	5.2%	6.4%

State	Job Creation Rate from New Business Establishments: 2001- 2007	Job Creation Rate from New Business Establishments: 2008- 2012	Job Creation Rate from New Business Establishments: 2001- 2012
Virginia	6.1%	4.7%	5.5%
Wisconsin	4.9%	3.4%	4.3%

Source: US Census Business Dynamics Statistics, Longitudinal Business Database 1977-2012.

In 1982, *Inc.* magazine began publishing a list of the fastest-growing companies in the US. In 2007 the list was expanded from 500 to 5,000. The list features 5,000 private US-based companies with the highest revenue growth during the previous four-year period. In order to qualify for the list, a business must be privately held, for-profit, and operating as of the first week of January in the first of the four calendar years measured. Nebraska had 28 companies that were included in the *Inc.* 5,000 list for both 2007 and 2014 (Table 7c).

Among the benchmark states, Nebraska had the fewest number of *Inc.* 5,000 businesses. However, Nebraska also has the smallest population of these states. Taking population into account, Nebraska had 1.57 firms per 100,000 populations, in 2007, and 1.49 in 2014. This compares with 1.66 and 1.57 per 100,000 for the US in 2007 and 2014, respectively. Compared to the benchmark states in the 2010 Battelle list, Nebraska was behind all states except Iowa, Oklahoma, and Tennessee. Nebraska ranking among the benchmark states improved on the 2014 list. Only three of the benchmark states, Minnesota, Utah, and Virginia, scored better than Nebraska when the 2014 list is adjusted for state population. While Nebraska's number of *Inc.* 5,000 firms per 100,000 persons decreased between the 2007 and 2014 lists, only two of the benchmark states improved their score, Utah and Virginia.

**Table 7c. Table Key Indicators: Entrepreneurial Activity, Revenue Growth**

State	Inc. 5,000 Firms 2007	Inc. 5,000 Firms 2014	Inc. 5,000 Firms 2007 per 100,000 population	Inc. 5,000 Firms 2014 per 100,000 population	State Rank 2007 per 100,000	State Rank 2014 per 100,000
United States	1.66	1.57	Not applicable	Not applicable		
Nebraska	28	28	1.57	1.49	21	21
Iowa	35	30	1.17	0.97	34	35
Kansas	40	36	1.44	1.24	27	26
Minnesota	115	94	2.21	1.72	10	11
Oklahoma	46	30	1.27	0.77	33	38
Tennessee	87	80	1.41	1.22	28	27
Utah	71	86	2.73	2.92	4	2
Virginia	232	284	2.99	3.41	2	1
Wisconsin	119	70	2.12	1.22	11	28

Source: *Inc.*; US Census; NDED calculations.

*Notes: To qualify for the Inc. 5,000 list, companies are required to be US-based, privately held, for profit, and independent (not subsidiaries or divisions of other companies). The ranking is based on percentage revenue growth over the last four calendar years. The company must have been founded by, and generating revenue in the first week of the year so that four full years of revenue are available.*

Once again, using measures similar to those employed by 2010 Battelle study to measure entrepreneurial activity, the Battelle report's original conclusions about Nebraska remain valid. Nebraska appears to be lagging somewhat behind the nation and the benchmark states in terms of entrepreneurial activity. However, Nebraska has improved somewhat compared to the benchmark states.

### **Innovation Potential Measured as Risk Capital**

Battelle's third measure of Nebraska's preparedness to develop an innovation-driven economy is based on risk capital available for financing emerging businesses. The availability of risk capital is measured in terms of venture capital invested in the state, and Small Business Innovation Research (SBIR) grants awarded to entrepreneurs in the states. In these measures, the 2010 Battelle report concluded that "Nebraska has little in the way of venture financing for emerging firms" [Battelle, 2010, p. 21].

The State Science and Technology Institute (SSTI) publishes annual data from a survey conducted by the National Venture Capital Association and PricewaterhouseCoopers. This information is broken down by state and is reported in terms of the number of dollars invested and the number of venture capital deals. The data from 2009 to 2014 show that over 50% of the venture capital investment in the US occurs in just two states, California and Massachusetts, and those two states received more than 65% of the capital and nearly 51% of the deals in 2014.

Given that, it appears difficult that any relatively small state in the interior of the country would receive much venture capital. However, looking at the amount of venture capital on a per capita basis provides more insight on the relative share of venture capital among the benchmark states. For example, the amount of venture capital investment per capita for the US as a whole is \$575.01 for the 2009-2014 period. This compares to Massachusetts, the 2<sup>nd</sup> ranked state in terms of total dollars invested, but 1<sup>st</sup> in terms of dollars invested per capita, with nearly \$2,873 per resident, and California, 1<sup>st</sup> in terms of dollars invested but 2<sup>nd</sup>, at \$2,485, in terms of investment per capita.

#### *Venture Capital*

Nebraska has the smallest amount of venture capital of the benchmark states at \$67.2 million, ranking 41<sup>st</sup> among all states (Table 8a). In terms of deals, Nebraska's 36 deals between 2009 and 2014 were higher than those in Iowa and Oklahoma among the benchmark states, and ranked 35<sup>th</sup> among all states during that period. On a per capita basis, Nebraska received \$36.47 million in venture capital investment during the 2009-2014 period. This ranked 30<sup>th</sup> among the states, and was lower than any of the benchmark states except Oklahoma (Table 8b). Finally, in venture capital measured as the number of venture capital deals per million population, Nebraska ranked 30<sup>th</sup> among all states,

with 19.5 projects per million persons. Among the benchmark states, this was greater than Iowa, Oklahoma, and Wisconsin.

*Table 8a. Key Indicators: Risk Capital, Venture Capital Invested, and Venture Capital Deals, Cumulative Data 2009-2014*

State	Total Cumulative Venture Capital Invested (\$ Millions)	State Rank, Total Cumulative Venture Capital Invested	Total Cumulative Venture Capital Deals	State Rank, Total Cumulative Venture Capital Deals
United States	\$179,241.5	Not applicable	23,167	Not applicable
Nebraska	\$67.2	41	36	35
Iowa	\$225.8	30	27	39
Kansas	\$238.4	29	132	23
Minnesota	\$1,593.8	16	218	20
Oklahoma	\$99.4	39	32	38
Tennessee	\$600.7	23	281	16
Utah	\$1,981.7	14	232	19
Virginia	\$2,654.1	10	406	10
Wisconsin	\$446.7	26	110	25

Source: National Venture Capital Association/PricewaterhouseCoopers; State Science and Technology Institute.

In terms of Small Business Innovation Research (SBIR) grants awarded to Nebraska businesses, Battelle used the number of grants as a measure of risk capital within their measures of innovation. This is a highly competitive program that encourages domestic small businesses to engage in federal research and development that has the potential for commercialization. “By including qualified small businesses in the nation’s R&D arena, high-tech innovation is stimulated and the United States gains entrepreneurial spirit as it meets its specific research and development needs” [US Small Business Administration, <https://www.sbir.gov/about/about-sbir>]. The size of the program is based on the budgets of 12 federal agencies with R&D budgets.

Because the size of the budget changes from year to year, the number of dollars over time is not a particularly good measure of performance. Furthermore, since the awards can be linked to some extent to the size of their budgets, the number of grants per state may not be the best measure for comparing states to each other or over time. In an attempt to overcome these difficulties, the Research Division developed an index designed to compare each state’s proportion of available grants awarded to each state’s proportion of the US population. This score is multiplied by 100, with a score of 100 meaning that the state’s entrepreneurs received SBIR grants in the same proportion as their state’s share of the population. States with more successful small entrepreneurs per capita have an index greater than 100.

**Table 8b. Key Indicators: Risk Capital, Venture Capital Invested, and Venture Capital Deals per Million Population, Cumulative Data 2009-2014**

State	Total Cumulative Venture Capital Invested per Million Population	State Rank, Total Cumulative Venture Capital Invested per Million Population	Total Cumulative Venture Capital Deals per Million Population	State Rank, Total Cumulative Venture Capital Deals per Million Population
United States	\$575.01	Not applicable	74.3	Not applicable
Nebraska	\$36.47	38	19.5	30
Iowa	\$73.68	33	8.8	42
Kansas	\$83.06	30	46.0	16
Minnesota	\$298.02	14	40.8	18
Oklahoma	\$26.26	42	8.5	43
Tennessee	\$93.88	27	43.9	17
Utah	\$703.90	4	82.4	8
Virginia	\$327.25	11	50.1	14
Wisconsin	\$78.24	31	19.3	31

Source: National Venture Capital Association/PricewaterhouseCoopers; State Science and Technology Institute; US Census, population estimate for 2011 used to determine per capita amounts.

### SBIR Awards

SBIR statistics for benchmark states are presented in Table 8c, and the SBIR index results for benchmark state are presented in Table 8d. Nebraska had the smallest number of SBIR awards between 2001 and 2014. On a per 100,000 population basis, Nebraska was tied with Iowa for the smallest number across the entire 2001-2014 period, and tied with Iowa for the smallest number in the 2001-2007 subperiod. However, Nebraska did better on the basis of grants per 100,000 population in the later, 2008-2014 period. Nebraska tied Iowa and Kansas and had more projects per 100,000 than Tennessee in the later period.

**Table 8c. Key Indicators: Small Business Innovation Research Program**

State	Total Cumulative SBIR Awards: 2001-2014	Total Average SBIR Awards, per 100,000 Population, 2001-2014: 2001-2014	Total Average SBIR Awards, per 100,000 Population, 2001-2014: 2001-2007	Total Average SBIR Awards, per 100,000 Population, 2001-2014: 2008-2014
United States	79,843	1.9	2.1	1.7
Nebraska	132	0.5	0.6	0.5
Iowa	224	0.5	0.6	0.5
Kansas	246	0.6	0.8	0.5
Minnesota	1,102	1.5	1.7	1.3
Oklahoma	284	0.6	0.8	0.4

State	Total Cumulative SBIR Awards: 2001-2014	Total Average SBIR Awards, per 100,000 Population, 2001-2014: 2001-2014	Total Average SBIR Awards, per 100,000 Population, 2001-2014: 2001-2007	Total Average SBIR Awards, per 100,000 Population, 2001-2014: 2008-2014
Tennessee	517	0.6	0.7	0.5
Utah	693	1.9	2.3	1.5
Virginia	4,829	4.4	4.8	4.1
Wisconsin	859	1.1	1.2	1.0

Source: US Small Business Administration, State Summary Reports, various years; NDED calculations.

In terms of the SBIR awards index, Nebraska had the lowest score across the entire study period, and the lowest score in the first subperiod, compared to the benchmark states. Nebraska performed better than Iowa among these states in the second subperiod. In terms of 50-state rankings, Nebraska's rank improved to 42<sup>nd</sup> from 46<sup>th</sup> between the two subperiods, is now ahead of Iowa, and ranks just below Kansas, 41<sup>st</sup>, and Tennessee, 40<sup>th</sup>. This provides some indication that Nebraska is moving in the right direction in its innovation community.

*Table 8d. Key Indicators: Small Business Innovation Research Program Index*

State	Index of SBIR Awards: 2001-2014	Index of SBIR Awards: 2001-2007	Index of SBIR Awards: 2008-2014	State Rank Index of SBIR Awards: 2001-2014	State Rank Index of SBIR Awards: 2001-2007	State Rank Index of SBIR Awards: 2008-2014
United States	100.0	100.0	100.0	Not applicable	Not applicable	Not applicable
Nebraska	27.8	26.7	29.1	45	46	42
Iowa	28.2	27.6	28.7	44	43	44
Kansas	33.2	36.4	29.6	39	38	41
Minnesota	79.9	83.1	76.2	23	22	22
Oklahoma	29.4	36.7	21.1	42	36	48
Tennessee	31.7	33.3	30.0	41	42	40
Utah	100.3	110.3	90.7	16	14	18
Virginia	234.8	230.2	240.4	5	5	5
Wisconsin	58.0	55.9	60.3	27	29	27

Source: US Small Business Administration, State Summary Reports, various years; NDED calculations.

The conclusions of the 2010 Battelle report regarding the availability of risk capital appear to remain valid. There is not a lot of venture capital finding its way to Nebraska, compared to either the nation as a whole or compared to the benchmark states. In terms of SBIR grants, looking at the share of awards based on population, and comparing Nebraska to the benchmark states, Nebraska inventors are becoming relatively more successful in attracting federal grant money.

## **Innovation Potential Measured as Research and Development Expenditures**

Battelle's fourth measure of Nebraska's preparedness to develop an innovation-driven economy is based on R&D expenditures in both the academic and industrial sectors of the economy. In this area of innovation, Battelle concluded that "Nebraska performs well in academic R&D expenditures with respect to both size relative to the state's economy and growth rate, while the state's smaller-than-average industrial R&D base made strong gains during the 2001 through 2007 period" [Battelle, 2010, p. 22].

In terms of academic R&D expenditures, Nebraska's overall level of expenditure was less than every benchmark state except Oklahoma in both 2007 and 2013. In addition, Nebraska had the lowest percentage increase of the benchmark states over that period (Table 9a). However, when the level of academic R&D expenditures is measured as a proportion of the state's economic output, Nebraska academic R&D expenditure is relatively intense. Measuring academic R&D in terms of dollars per \$1,000 of a state's gross domestic product (GDP), Nebraska ranked well against the benchmark states as the Battelle report noted, "Nebraska's level of academic R&D expenditures relative to the state's overall economic output is well above the national level and one of the highest among the benchmark states" [Battelle, 2010, p. 22].

**Table 9a. Key Indicators: Academic R&D Expenditures and Intensity**

State	Academic R&D Expenditure Levels (Millions of Dollars: 2007)	Academic R&D Expenditure Levels (Millions of Dollars: 2013)	Academic R&D Expenditure Levels (Millions of Dollars: PercentChange2007-13)	Academic R&D Expenditure per Thousand Dollars of Gross Domestic Product: 2007	Academic R&D Expenditure per Thousand Dollars of Gross Domestic Product: 2013	Academic R&D Expenditure per Thousand Dollars of Gross Domestic Product: PercentChange2007-13
United States	\$49,406	\$63,370	28.3%	\$3.34	\$4.11	23.1%
Nebraska	\$365	\$420	15.1%	\$4.26	\$4.27	0.1%
Iowa	\$587	\$693	18.1%	\$4.13	\$4.56	10.4%
Kansas	\$376	\$500	33.0%	\$2.98	\$4.17	28.5%
Minnesota	\$637	\$870	36.6%	\$2.38	\$3.06	28.7%
Oklahoma	\$299	\$385	28.8%	\$2.19	\$2.44	16.1%
Tennessee	\$761	\$980	28.8%	\$2.99	\$2.99	20.9%
Utah	\$413	\$673	63.0%	\$3.50	\$5.41	54.5%
Virginia	\$972	\$1,323	36.1%	\$2.38	\$3.10	30.0%
Wisconsin	\$1,067	\$1,278	19.8%	\$4.18	\$4.80	15.0%

Source: National Science Foundation Survey of R&D Expenditures at Universities and Colleges; US Bureau of Economic Analysis; National Science Foundation/Division of Science Resources Statistics, Survey of Industrial Research and Development.

Note: GDP is in chained 2009 dollars. The last three columns of Table 9a present a measure of the intensity of academic R&D expenditures for 2007 and 2013. In 2007, \$4.26 worth of R&D expenditures occurred at Nebraska's academic institutions for every \$1,000 of the state's economic output. This was nearly \$1 more than academic R&D spending in the US as a whole, and more than every benchmark state. In 2013, Nebraska's academic R&D spending per \$1,000 of output increase by one cent, to \$4.27. US spending on this measure increased by 23.1% to \$4.11, and by 2013, Iowa, Utah, and Wisconsin were spending more than Nebraska on academic R&D.

In industrial R&D, Nebraska similarly had a relatively low level of R&D expenditures. In 2010, the Battelle report noted that between 2001 and 2007, Nebraska has a small but fast-growing base. Industry R&D grew 59.6% during this period, compared to the US growth rate of 33.3%. Moreover, only Virginia, among the benchmark states, saw industry R&D grow at a faster rate [Battelle, 2010, p. 23].

Table 9b presents the levels of industry R&D expenditures, the intensity of those expenditures, and the growth rates from 2006 to 2012, the last year data is available for industry R&D spending. In 2006, \$447 million were spent on R&D in an industrial setting, rising by 29.3% to \$578 million in 2012. Industry R&D spending in Nebraska was below all of the benchmark states in 2006, but by 2012 had surpassed one state, Oklahoma. The growth rate over the 2006-2012 period, 29.3%, continued to outpace US growth, and all of the other states except Iowa, Utah, and Wisconsin. During the period of the Great Recession, three benchmark states experienced less R&D in 2012 compared with 2006, and two other states had positive, but nearly flat, growth between those two years.

In terms of intensity, measured as industry R&D spending per \$1,000 of state economic output, Nebraska's experience is more modest. At \$5.29, industry R&D is much less than the \$16.71 rate experienced at the national level. In 2006 Nebraska trailed in the intensity of industry R&D spending compared to the benchmark states, with R&D greater than only \$3.38 in Oklahoma. Growth in Nebraska's industry R&D between 2006 and 2012, at 15.3%, nearly matched the US growth rate, and was greater than five of the benchmark states, which incidentally experienced less industry R&D spending per unit of economic output in 2012 than in 2006.

*Table 9b. Key Indicators: Industry R&D Expenditures and Intensity*

State	Industry R&D Expenditure Levels (Millions of Dollars: 2006)	Industry R&D Expenditure Levels (Millions of Dollars: 2012)	Industry R&D Expenditure Levels (Millions of Dollars: Percent Change 2006-12)	Industry R&D Expenditure per Thousand Dollars of Gross Domestic Product: 2006	Industry R&D Expenditure per Thousand Dollars of Gross Domestic Product: 2012	Industry R&D Expenditure per Thousand Dollars of Gross Domestic Product: Percent Change 2006-12
United States	\$243,853	\$292,675	20.0%	\$16.71	\$19.32	15.6%
Nebraska	\$447	\$578	29.3%	\$5.29	\$6.10	15.3%
Iowa	\$1,055	\$1,763	67.1%	\$7.69	\$11.84	54.3%
Kansas	\$2,064	\$2,072	0.4%	\$17.05	\$15.82	-7.2%
Minnesota	\$6,296	\$6,216	-1.3%	\$23.52	\$22.33	-5.0%
Oklahoma	\$474	\$463	-2.3%	\$3.38	\$2.98	-11.7%
Tennessee	\$1,428	\$1,437	0.6%	\$5.55	\$5.38	-3.0%
Utah	\$1,274	\$2,134	67.5%	\$11.46	\$17.80	55.3%
Virginia	\$4,816	\$4,756	-1.2%	\$11.89	\$11.18	-6.0%
Wisconsin	\$3,020	\$4,135	36.9%	\$11.87	\$15.88	33.8%

Source: National Science Foundation Survey of R&D Expenditures at Universities and Colleges; US Bureau of Economic Analysis; National Science Foundation/Division of Science Resources Statistics, Survey of Industrial Research and Development.

Note: GDP is in chained 2009 dollars.

In terms of R&D expenditure and intensity, Nebraska did reasonably well compared to the benchmark states on this measure of innovation. Nebraska's academic institutions especially appear ready to lead Nebraska to an innovation-driven economy.

## **Innovation Potential Measured as Research and Development Expenditures**

Battelle's final measure of Nebraska's preparedness to develop an innovation-driven economy is based on patent generation and university technology transfer activity. The Research Division is unable to compare patent information directly with the Battelle report, as Battelle used proprietary data to develop their estimates. It appears that differences between the Battelle data and the data used in this report result in similar conclusions.

Table 10a is based on data from the US Patent and Trademark Office. The state from which a patent originates is considered in the tables below to be the state of the first-named inventor on the patent. Between 2001 and 2014, Nebraska inventors were granted 3,143 US patents. This is less than half the number awarded by Oklahoma inventors, the

next closest state. In terms of the number of patents per 100,000 of population, Nebraska fared somewhat better compared to the benchmark states, but still had fewer patents awarded on this measure than all of the benchmark states. The last two columns of the table present the number of patents awarded per 100,000 population in two time periods, 2001-2007 and 2008-2014. Once again, Nebraska's performance appears to have improved in the later period, and Nebraska's performance improved against the benchmark states. Nebraska inventors were awarded more patents per 100,000 residents than Oklahoma and Tennessee between 2008 and 2014.

*Table 10a. Key Indicators: Patents Granted*

State	Total Patents: 2001-2014	Patents per 100,000 Population: 2001- 2014	Patents per 100,000 Population: 2001- 2007	Patents per 100,000 Population: 2008- 2014
United States	1,366,257	451.97	201.65	248.87
Nebraska	3,143	175.02	78.49	96.09
Iowa	10,123	336.25	153.16	182.57
Kansas	8,070	288.06	106.14	180.24
Minnesota	44,472	851.96	373.93	475.50
Oklahoma	6,832	186.65	96.70	90.17
Tennessee	11,113	180.13	84.10	95.60
Utah	11,846	452.78	189.42	258.24
Virginia	18,450	236.94	100.39	135.16
Wisconsin	24,066	429.13	212.92	216.15

*Source: US Patent and Trademark Office. NDED calculations.*

*Note: Origin of a patent is determined by the residence of the first-named inventor.*

The growth rate of patent applications between periods is addressed in Table 10b. In this table, annual growth rates were computed and averaged to determine average growth rates for the entire 2001 to 2014 time period and for the 2001-2007 and 2008-2014 subperiods that were used previously. Note that Nebraska inventors were awarded patents at a growth rate slightly higher rate than the US through the entire time period. However, much of that growth occurred during the later subperiod. Nebraska's rate of patents awarded also grew faster than four of the benchmark states.

Nebraska's average annual growth rate in patents granted declined between 2001 and 2007, but at a much lower average rate than the US as a whole. During this time period only two states, Kansas and Minnesota, saw the average annual rate of growth in patents increase, and Nebraska's average annual patent growth, while negative, was higher than any of the benchmark states that saw negative average annual growth rates during this period.

Through the 2008 to 2014 time period, the average annual growth rate in number of patents issued grew much faster than in the earlier period for the US as a whole and for all of the benchmark states. Between 2008 and 20014 the average annual growth rate of

patent awards to Nebraska inventors, 12.2%, was greater than that for the US and for five of the benchmark states. It is interesting that the later subperiod saw faster average annual patent growth than the earlier subperiod. This is especially interesting since the first period contained a short recession in mid-2001 followed by a normal recovery that lasted through the end of 2007, and the second time period covered a deep recession from January 2008 through June of 2009.

In terms of 50-state rankings, Nebraska's average annual growth rate in number of patents, for any of the periods, is in the top 20 of all states, and Nebraska did relatively better during the 2001-2007 period, climbing to 14<sup>th</sup> best, when the rate of patent growth was slow. For the entire period, Nebraska's average annual growth rate was higher than 32 states, and higher than four of the benchmark states, Iowa, Oklahoma, Tennessee, and Wisconsin.

*Table 10b. Key Indicators: Patents Granted, Average Growth Rates*

State	Patents Granted Average Annual Growth Rate: 2001- 2014	Patents Granted Average Annual Growth Rate: 2001- 2007	Patents Granted Average Annual Growth Rate: 2008- 2014	State Rank Patents Granted Average Annual Growth Rate: 2001- 2014	State Rank Patents Granted Average Annual Growth Rate: 2001- 2007	State Rank Patents Granted Average Annual Growth Rate: 2008- 2014
United States	4.5%	-1.1%	11.3%	Not applicable	Not applicable	Not applicable
Nebraska	4.8%	-0.7%	12.2%	18	14	19
Iowa	2.9%	-2.9%	10.2%	35	31	32
Kansas	10.6%	6.9%	16.1%	2	3	4
Minnesota	5.2%	0.2%	11.1%	13	10	27
Oklahoma	1.2%	-1.7%	6.1%	46	24	46
Tennessee	3.0%	-4.0%	11.3%	34	42	24
Utah	6.0%	-1.0%	13.9%	7	16	8
Virginia	5.8%	-1.3%	13.4%	9	20	13
Wisconsin	1.6%	-3.8%	8.0%	43	42	42

Source: US Patent and Trademark Office. NDED calculations.

Note: Origin of a patent is determined by the residence of the first-named inventor.

The Research Division was unable to follow up on technology transfer activity. The Battelle report used proprietary data to which we do not have access. After reviewing descriptions of the data used, we questioned how this data should be interpreted. Some licensing revenue is the result of "running royalties (royalties earned on sales of products)," while other is based on license issue fees, payments under options, termination payment, annual minimums not supported by product sales, or cash-in equity [AUTM US Licensing Activity Survey FY2013 Highlights, p. 4, [https://www.autm.net/FY2012\\_Licensing\\_Activity\\_Survey/14318.htm](https://www.autm.net/FY2012_Licensing_Activity_Survey/14318.htm)]. Given the size of

running royalties for some universities, it would be hard to know if an increase is due to new technology or larger sales of existing products.

The conclusions of the 2010 Battelle report regarding the development of intellectual property and technology transfer in Nebraska appear to remain valid. In terms of “intellectual property Nebraska has been well below average in terms of patent generation” [Battelle, 2010, p. 23]. Nebraska remains well below average in terms of patent generation both during and after the period of the Battelle report. However, it appears that Nebraska’s performance has improved in the last few years, and the growth rate in the number of patents appears to be increasing faster than average. As far as technology transfer, the Research Division has no new data, but notes that license income to the University of Nebraska appears to have increased dramatically since 2008. A 2012 *Chronicle of Higher Education* story calls Nebraska a “newcomer to the list of big earners. Its revenue from licensing grew from just over \$3.7 million in 2010 to more than \$16.7 million in 2011” [Universities Report \$1.8 Billion in Earnings on Inventions in 2011, *Chronicle of Higher Education* Aug. 28, 2012, <http://chronicle.com/article/University-Inventions-Earned/133972/>].

## Conclusions

This review and update of the 2010 Battelle report’s assessment of Nebraska’s preparedness for an innovation-driven economy came to many of the same conclusions as the original report. Where the Research Division was able to reproduce Battelle’s original work, the update from 2008 through the most recent available year, showed that in many areas Nebraska remained below the nation and most of the benchmark states. However, in a number of areas, Nebraska’s measure has shown some improvement over the original 2001 through 2007 timeframe.

In measures of educational achievement, Nebraska remained below the national averages for science and engineering degrees as a percentage of all higher education degrees, science and engineering doctorate degrees as a percentage of science and engineering degrees, and science and engineering doctorate degrees per 100,000 of population, and the percentage of the population over age 25 with a bachelor’s degree or higher. However, in each of these measures, Nebraska moved closer to the US figures in the later years of the analysis. Nebraska was higher than the national average in terms of science and engineering degrees conferred per 100,000 of population, and Nebraska’s ranking on this measure among all the states also improved between 2007 and 2011.

In measures involving entrepreneurial activity, average annual growth in new business establishments, job creation rate from new business establishments, and the number of high revenue growth businesses, Nebraska again lagged behind the nation as a whole. But once again, Nebraska’s measures improved relative to the national measures in the later time periods, indicating that Nebraska’s entrepreneurial activity was increasing relative to the rest of the country.

The availability of risk capital, measured in terms of venture capital dollars and deals, showed Nebraska to be behind the nation and behind most of the benchmark states in terms of venture capital investment and venture capital deals, and also in terms of per capita venture capital investments and per capita venture capital deals. There was not enough data to look at Nebraska's performance over time, on venture capital measures, so the Research Division cannot say if Nebraska has improved over time on either of these measures. Another measure of risk capital availability used by Battelle is the number of awards through the Small Business Innovation Research program. On a per capita basis, Nebraska was well below the national average in the time periods reviewed, and below most all of the benchmark states in each time period.

In the measures of R&D capability, Nebraska's academic R&D spending levels were below most of the benchmark states in terms of expenditures; however, in terms of R&D intensity—R&D dollars spent per \$1,000 of state economic output—Nebraska ranked higher than the national level, and higher than most of the benchmark states. In measures of Industry R&D spending, Nebraska's expenditure levels were below most of the benchmark states. In terms of the intensity of industry R&D spending, Nebraska was well below the national average and most of the benchmark states. Nebraska did improve in these areas between 2006 and 2012.

## Appendix 2D: Office of Employment and Training Limited English Proficiency Plan - February 2016

### **I. Executive Summary:**

Individuals who do not speak English as their primary language and who have limited ability to read, write, speak, or understand English may incur a barrier to employment and are entitled to language assistance in their effort to enter the workforce. The quality and accuracy of the language is critical to these efforts and shall be provided in a timely manner to ensure maximum access to services. This plan provides individuals with Limited English Proficiency (LEP) access to programs and services provided by the American Job Centers and Nebraska Department of Labor (NDOL) offices on an equitable basis. This plan is applicable to all entities in the NDOL Office of Employment and Training (OET) that receive federal financial assistance, and any subrecipients of such funds. This plan reflects the LEP needs of Wagner-Peyser and Veterans operations statewide and in all local offices.

### **II. Introduction/Background**

#### **a. Planning Committee**

In an effort to provide equitable services to individuals with Limited English Proficiency the OET has established a planning committee consisting of the following team members:

##### *2014 LEP Planning Committee*

Name and location	Name and location
Mary Hinojosa, Scottsbluff (bilingual)	Jose Palacios, Omaha
Steph Den Besten, North Platte	Pablo Colindres-Moreno, Virtual Services Unit (bilingual)
Randy Kissinger, Grand Island	Mary Findlay, LMI
Kari Janssen, Beatrice	Deb Andersen, OET
Ada Sanchez, Columbus (bilingual)	Lorena Hernandez, OET
Sayaka Sato-Mumm, Lincoln (bilingual)	-

#### **b. Purpose**

The planning committee is responsible for: identifying major concentrations of ethnic groups with Limited English Proficiency in each region; staff training needs; inventorying and identifying language assistance aids such as posters, handbooks, forms, handouts, etc.; and making recommendations to OET for development of other language assistance aids to assist with service delivery.

The OET LEP Plan is reviewed and updated on an annual basis with the exception of any major changes in demographics, types of services, program changes, or other factors affecting a specific geographic location. Should any of these changes occur, an

immediate review of the situation, and plan update will be completed. The annual review, as well as any necessary modifications, will be conducted by the LEP committee members. The LEP committee schedules meetings on a quarterly basis to review any issues or concerns potentially affecting the LEP plan or LEP populations.

The Wagner-Peyser Governor's Reserve funds (10% set aside) may be used to support procurement of language assistance materials and to support costs associated with group language assistance training. Individual clients who require language assistance training and are eligible for Workforce Innovation and Opportunities Act (WIOA) programs and services may be funded from the specific program area funds (Adult, Dislocated Worker, and Youth). These determinations will be left to the Workforce Development Areas. Language assistance tools will also be utilized on an as needed basis for the State Rapid Response Activities and the Trade Adjustment Assistant Assistance (TAA) Program.

The goal of this plan is to function as a tool used to assess the effectiveness of OET's service delivery to LEP individuals.

#### **c. Title VI of Civil Rights Act of 1964**

Section 601 of Title VI of the Civil Rights Act of 1964 provides that no person shall "on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." The requirement to provide meaningful access under Title VI applies beyond the education context to include all of the programs and activities of all recipients of Federal financial assistance.

#### **d. Executive Order No. 13166**

On Aug. 11, 2000, President Clinton issued Executive Order No. 13166, entitled "Improving Access to Service for Persons with Limited English Proficiency" (available electronically at <http://www.dol.gov/oasam/regs/statutes/Eo13166.pdf>). This executive order was meant to clarify Title VI of the Civil Rights Act of 1964. The executive order was issued to ensure equal accessibility to federally funded programs and services to otherwise eligible individuals not proficient in the English language. The executive order states that:

Each federal agency shall prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons. Each plan shall be consistent with the standards set forth in the LEP Guidance, and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency's programs and activities.

Executive Order No. 13166 ensures that in addition to federal agencies, recipients of federal financial assistance funds must also comply with Title VI and the LEP guidelines of the agency from which the funds are received. In addition, each agency subject to the requirements of Title VI must publish guidance to its respective recipients clarifying its

obligation. As a recipient of federal funding, this requirement applies to all programs and services offered by OET.

#### **e. United States Department of Labor Guidance**

The United States Department of Labor (DOL) has provided policy guidance to federal financial assistance recipients regarding the Title VI prohibition against national origin discrimination affecting LEP persons. The DOL has created a webpage entitled “LEP Toolkit” which provides numerous resources for recipient agencies to utilize as they create LEP Plans. This webpage is accessible at <http://www.dol.gov/oasam/programs/crc/lepcnt.htm>.

Among the available LEP planning resources provided by DOL, is the “Policy Guidance on the Prohibition of National Origin Discrimination as it Affect Person with Limited English.” This guidance policy was published in the Federal Register on May 29, 2003. The DOL policy guidance states:

Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federally assisted programs and activities.

The DOL policy guidance helps to ensure “that federally assisted programs aimed at the American public do not leave some behind simply because they face challenges communicating in English.” Subrecipients likewise are held to the same standards when federal funds are passed through from one recipient to a subrecipient.

29 CFR part 37 provides regulations for the implementation of policies and procedures that provide equal opportunity and equal access in a nondiscriminatory manner. 29 CFR § 37.35(a) states that where “a significant number or proportion of the population eligible to be served, or likely to be directly affected, by a [WIOA] Title I - [financially] assisted program or activity may need services or information in a language other than English in order to be effectively informed about, or able to participate in, the program or activity”.

The Section 188 regulations require recipients “to take reasonable steps to provide services and information in appropriate languages” [29 CFR 37.35(a)(2)]. Even where there is not a significant number or proportion of LEP persons in the community serviced by the recipient, recipients nonetheless are required to “make reasonable efforts to meet the particularized language needs of Limited-English speaking individuals who seek services or information from the recipient” [29 CFR 37.35(b)].

### **III. The Four-Factor Analysis**

Recipients and subrecipients are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. While designed to be a flexible and fact-dependent standard, the DOL has stated that the starting point is an individualized assessment that balances the following four factors:

#### **Factor 1: The Number or Proportion of LEP Persons Served or Encountered in the Eligible Service Population**

The U.S. Census Bureau has a range of four classifications of how well people speak English. The classifications are (1) 'Very Well,' (2) 'Well,' (3) 'Not Well,' and (4) 'Not At All.' For planning and statistical purposes, we are considering individuals who speak English at any level below "Very Well" as Limited English Proficient (LEP).

As part of this planning process, we have included statistics from the 2012 U.S. Census Bureau American Community Survey 5-Year Estimates Table to illustrate the number of individuals living in the state of Nebraska who speak English less than "Very Well." In addition, this U.S. Census survey indicates the number of individuals in each language group among the total population of individuals who speak English less than "Very Well." These statistics help to identify prominent and/or growing language groups for planning purposes at a state level, region level, and by Workforce Development Area.

#### **Factor 2: The Frequency with Which LEP Individuals Come in Contact with the Program**

The program must be evaluated in relationship to the number of LEP persons who are within the program area and the number of times those persons have frequented the program or activity. NDOL utilizes the NEworks system, the state's public labor exchange system, to provide information to job seekers, to register program applicants and participants, and to list available jobs throughout Nebraska. User statistics have been pulled from NEworks Registered Individuals, which indicate voluntary self-identification information which may help to indicate a potential need for language assistance among individuals.

To help indicate the frequency with which LEP individuals come in contact with NDOL programs, NEworks data for Program Year 2012 (June 30, 2012 to July 1, 2013) has been used. The NEworks data has been localized to each individual office.

#### **Factor 3: The Nature and Importance of the Program, Activity, or Service Provided by the Recipient**

The OET provides a wide range of programs, activities and services. The OET provides Veterans Services, Job Seeker Services, Business Services, Labor Market Information, and a multitude of other services. The OET is responsible for administering numerous programs that receive federal funding, including: Workforce Innovation and Opportunities Act, Wagner-Peyser, Veterans, Trade Adjustment Assistance, Rapid Response, Work

Opportunity Tax Credit (WOTC), and many other programs receiving federal funding or grants.

#### Factor 4: The Resources Available to the Recipient and Costs

OET serves the entire state of Nebraska and is required by federal law to provide access to LEP persons, and to ensure that its sub-recipients also provide such access. The Wagner-Peyser Governor's Reserve funds (10% set aside) may be used to support procurement of language assistance materials and to support costs associated with group language assistance training.

### **IV. Identifying Individuals with Limited English Proficiency:**

To achieve equal access to all programs offered by OET, it is essential to conduct a thorough assessment of the language needs of the populations served by attempting to identify LEP individuals. In order to identify language needs, the LEP committee has reviewed available language data from the U.S. Census American Community Survey and from self-identifying information from NEworks registrants.

In Nebraska, there are an estimated 83,597 individuals or 4.8 percent of the population age 5 years and older speak a language other than English and speak English less than very well according to the 2010-2014 American Community Survey estimates in Table B16001. The highest numbers of people with limited English proficiency reside in the most populous counties in the state with Douglas (32,962), Lancaster (12,863), Hall (6,388) and Sarpy (5,066) counties topping the list.

The majority of the state's limited English speakers speak Spanish or Spanish Creole with nearly seven in 10 or 68.9 percent followed by Vietnamese with 5.9 percent. The top eight categories below account for 90.2 percent of all limited English speakers in Nebraska.

*2014 Number and Percent of Individuals Age 5 and Older Who Speak English Less than "Very Well" by Language or Language Group in Nebraska*

Language/Language Group	Number of Individuals 5 Years and Older Who Speak English Less than "Very Well"	Percent of Limited English Speakers Who Speak English Less than "Very Well"
Spanish or Spanish Creole	57,612	68.9%
Vietnamese	4,973	5.9%
Other Asian languages	3,182	3.8%
African languages	2,738	3.3%
Chinese	2,504	3.0%
Arabic	2,161	2.6%
French (incl. Patois, Cajun)	1,244	1.5%
Other Indic languages	1,001	1.2%
All Other Languages	8,182	9.8%
Total	83,597	100.0%

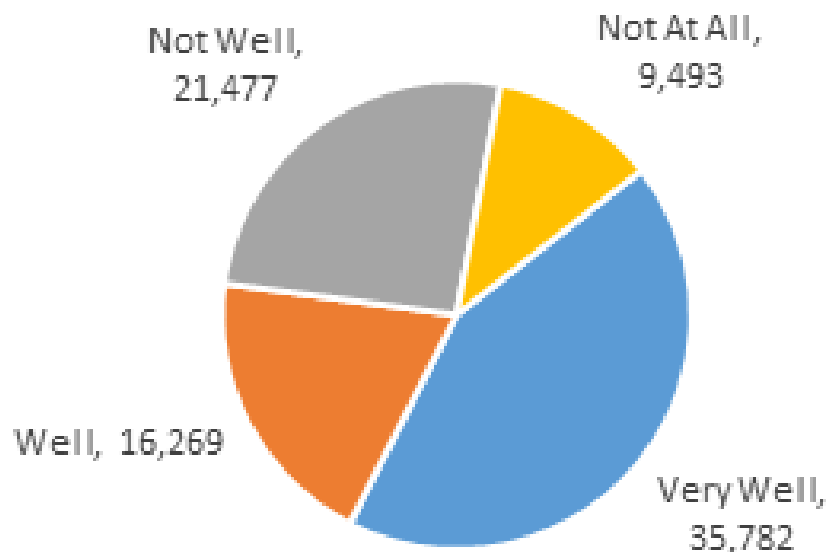
Examples of Other Asian languages include: Malayalam, Telugu, Tamil, and Turkish. Examples of African Languages include: Amharic, Ibo, Yoruba, Bantu, Swahili, and Somali. Other Indic languages include: Bengali, Marathi, Punjabi, and Romany. 2010-2014 American Community Survey estimates in Table B16001

Linguistically isolated individuals account for a significant proportion of the population in several counties when the percent of the total population is considered. In Colfax County more than a quarter (26.0 percent) of the population speak limited English. This is followed by Dawson County with 17.9 percent, Dakota with 17.1 percent, Hall with 11.5 percent and Saline with 11.1 percent. A second group including Chase, Douglas, Platte, Dodge, Madison, Dixon and Johnson counties range from five percent to 6.9 percent, all above the statewide average. This group of 11 counties comprises more than two-thirds (68.0 percent) of all the limited English speakers in the state. Northeast Nebraska has the highest concentration of linguistically isolated individuals with six of the 11 counties listed above.

[illegible]

The American Community Survey 2010-2014 estimates in Table B16004 have more detailed information on Spanish language speakers between the ages of 18 and 64. It has the categories: "Speak Spanish," "Speak Spanish - Speak English Very Well," "Speak Spanish - Speak English Well," "Speak Spanish - Speak English Not Well," and "Speak Spanish - Speak English Not at All." There are an estimated 83,021 people in the state who speak Spanish and of those, 25.9 percent speak English "Not Well" and 11.4 percent do not speak English at all. Unfortunately, Spanish is the only language with these detailed categories by the working age population available.

### *Number of People in Nebraska Ages 18-64 Who Speak Spanish and Speak English*



Over the past five years, when comparing the 2005-2009 American Community Survey estimates to the current 2009-2014 estimates there have been shifts in the number of linguistically isolated individuals by language spoken. Of those individuals who don't speak English very well, African language speakers have increased 74.4 percent, Arabic speakers have increased 58.2 percent, Chinese speakers 31.4 percent, Vietnamese 27.0 percent and Spanish speakers 10.0 percent.

The number of languages or language groups with limited English speakers varies by Workforce Areas within the state. Greater Nebraska has six language or language groups with one percent or more of limited English speakers with Spanish or Spanish Creole topping the list 86.2 percent. Within Greater Nebraska there are marked differences between regions in the linguistically isolated populations. Greater Omaha has 10 language or language groups with one percent or more limited English speakers with Spanish or Spanish Creole with 67.0 percent. The Greater Lincoln area has the highest number (13) of language or language groups with one percent or more limited English speakers. Spanish or Spanish Creole with 31.7 percent followed by Vietnamese with 22.5 percent have the highest percentage of linguistically isolated individuals.

#### **a. Greater Nebraska Workforce Development Area:**

The U. S. Census American Community Survey 2010-2014 estimates, the most recent data available for county level data, show that there were 32,397 individuals in Greater Nebraska age five years and older who speak a language other than English at home and speak English less than "Very Well." Among individuals who speak English less than "Very Well," 86.2 percent speak Spanish.

**2014 Number and Percent of Individuals Age 5 and Older Who Speak English Less than "Very Well" by Language or Language Group in Greater Nebraska**

Language/Language Group	Number of Individuals 5 Years and Older Who Speak English Less than "Very Well"	Percent of Limited English Speakers Who Speak English Less than "Very Well"
Spanish or Spanish Creole	27,928	86.2%
African languages	1,073	3.3%
Vietnamese	549	1.7%
Laotian	433	1.3%
German	365	1.1%
Chinese	357	1.1%
All Other Languages	1,692	5.2%
Total	32,397	100.0%

Examples of African Languages include: Amharic, Ibo, Yoruba, Bantu, Swahili, and Somali. 2010-2014 American Community Survey estimates in Table B16001.

**Map 20: Nebraska American Job Centers and NDOL Locations**



## i. Greater Nebraska Region 1

### *2014 Number and Percent of Individuals Age 5 and Older Who Speak English Less than "Very Well" by Language or Language Group in Greater Nebraska Region 1*

Language/Language Group	Number of Individuals 5 Years and Older Who Speak English Less than "Very Well"	Percent of Limited English Speakers Who Speak English Less than "Very Well"
Spanish or Spanish Creole	1,654	79.4%
Other Pacific Island languages	83	4.0%
Chinese	80	3.8%
German	50	2.4%
Thai	49	2.4%
Korean	34	1.6%
Tagalog	31	1.5%
Other Native North American languages	23	1.1%
Other Asian languages	22	1.1%
All Other Languages	56	2.7%
Total	2,082	100.0%

Examples of Other Pacific Island languages include: Chamorro, Hawaiian, Ilocano, Indonesian, and Samoan. Other Native North American languages include: Apache, Cherokee, Dakota, Pima, and Yupik. Examples of Other Asian languages include: Malayalam, Telugu, Tamil, and Turkish. 2010-2014 American Community Survey estimates in Table B16001

	% Hispanic Ethnicity	% Hispanic Ethnicity
Region 1 Offices	Registered Individuals	WIOA Enrollments
Scottsbluff	18.65%	8.11%
Alliance	12.14%	0.00%

Information from NEworks: self-identified as Hispanic/Latino during Program Year 2014 (7/1/14-6/30/15).

## ii. Greater Nebraska Region 2

*2014 Number and Percent of Individuals Age 5 and Older Who Speak English Less than "Very Well" by Language or Language Group in Greater Nebraska Region 2*

Language/Language Group	Number of Individuals 5 Years and Older Who Speak English Less than "Very Well"	Percent of Limited English Speakers Who Speak English Less than "Very Well"
Spanish or Spanish Creole	4,522	87.8%
African languages	465	9.0%
Chinese	85	1.7%
All Other Languages	77	1.5%
Total	5,149	100.0%

Examples of African Languages include: Amharic, Ibo, Yoruba, Bantu, Swahili, and Somali. 2010-2014 American Community Survey estimates in Table B16001

	% Hispanic Ethnicity	% Hispanic Ethnicity
Region 2 Offices	Registered Individuals	WIOA Enrollments
North Platte	7.49%	7.14%
Lexington	25.45%	100.00%

Information from NEworks: self-identified as Hispanic/Latino during Program Year 2014 (7/1/14-6/30/15).

## iii. Greater Nebraska Region 3

*2014 Number and Percent of Individuals Age 5 and Older Who Speak English Less than "Very Well" by Language or Language Group in Greater Nebraska Region 3*

Language/Language Group	Number of Individuals 5 Years and Older Who Speak English Less than "Very Well"	Percent of Limited English Speakers Who Speak English Less than "Very Well"
Spanish or Spanish Creole	7,747	85.4%
Laotian	199	2.2%
African languages	193	2.1%
Vietnamese	179	2.0%
German	165	1.8%
Arabic	121	1.3%
All Other Languages	467	5.1%
Total	9,071	100.0%

Examples of African Languages include: Amharic, Ibo, Yoruba, Bantu, Swahili, and Somali. 2010-2014 American Community Survey estimates in Table B16001

	% Hispanic Ethnicity	% Hispanic Ethnicity
Region 3 Offices	Registered Individuals	WIOA Enrollments
Grand Island	20.07%	13.51%
Hastings	9.43%	2.94%

Information from NEworks: self-identified as Hispanic/Latino during Program Year 2014 (7/1/14-6/30/15).

#### iv. Greater Nebraska Region 4

##### *2014 Number and Percent of Individuals Age 5 and Older Who Speak English Less than "Very Well" by Language or Language Group in Greater Nebraska Region 4*

Language/Language Group	Number of Individuals 5 Years and Older Who Speak English Less than "Very Well"	Percent of Limited English Speakers Who Speak English Less than "Very Well"
Spanish or Spanish Creole	2,378	76.6%
Vietnamese	170	5.5%
Laotian	149	4.8%
German	98	3.2%
Chinese	51	1.6%
Other West Germanic languages	46	1.5%
Other Pacific Island languages	40	1.3%
Other Slavic languages	39	1.3%
Other Indic languages	33	1.1%
French (incl. Patois, Cajun)	30	1.0%
All Other Languages	69	2.2%
Total	3,103	100.0%

Examples of Other West Germanic languages include: Dutch, Pennsylvania Dutch and Afrikaans. Examples of Other Pacific Island languages include: Chamorro, Hawaiian, Ilocano, Indonesian, and Samoan. Examples of Other Slavic languages include: Czech, Slovak, and Ukrainian. Examples of Other Indic languages include: Bengali, Marathi, Punjabi, and Romany. 2010-2014 American Community Survey estimates in Table B16001

	% Hispanic Ethnicity	% Hispanic Ethnicity
Region 4 Offices	Registered Individuals	WIOA Enrollments
Beatrice	4.96%	4.24%
Nebraska City	7.43%	0.00%
York	4.76%	0.00%

Information from NEworks: self-identified as Hispanic/Latino during Program Year 2014 (7/1/14-6/30/15).

## v. Greater Nebraska Region 5

### *2014 Number and Percent of Individuals Age 5 and Older Who Speak English Less than "Very Well" by Language or Language Group in Greater Nebraska Region 5*

Language/Language Group	Number of Individuals 5 Years and Older Who Speak English Less than "Very Well"	Percent of Limited English Speakers Who Speak English Less than "Very Well"
Spanish or Spanish Creole	11,627	89.5%
African languages	410	3.2%
Vietnamese	190	1.5%
All Other Languages	765	5.9%
Total	12,992	100.0%

Examples of African Languages include: Amharic, Ibo, Yoruba, Bantu, Swahili, and Somali. 2010-2014 American Community Survey estimates in Table B16001

	% Hispanic Ethnicity	% Hispanic Ethnicity
Region 5 Offices	Registered Individuals	WIOA Enrollments
Columbus	34.29%	46.15%
Norfolk	11.83%	20.51%

Information from NEworks: self-identified as Hispanic/Latino during Program Year 2014 (7/1/14-6/30/15).

## b. Omaha Workforce Development Area:

The U. S. Census American Community Survey 2010-2014 estimates show that the Omaha Workforce Development Area has a total of 38,099 individuals that speak English less than "Very Well." The table below displays the top 10 languages or language groups of people who spoke English less than "Very Well." Spanish speakers top the ranking with 67.0% of the population among individuals who speak English less than "Very Well."

### *2014 Number and Percent of Individuals Age 5 and Older Who Speak English Less than "Very Well" by Language or Language Group in Greater Omaha*

Language/Language Group	Number of Individuals 5 Years and Older Who Speak English Less than "Very Well"	Percent of Limited English Speakers Who Speak English Less than "Very Well"
Spanish or Spanish Creole	25,530	67.0%
Other Asian languages	2,406	6.3%
African languages	1,505	4.0%
Vietnamese	1,470	3.9%
Chinese	1,076	2.8%
Arabic	836	2.2%

Language/Language Group	Number of Individuals 5 Years and Older Who Speak English Less than "Very Well"	Percent of Limited English Speakers Who Speak English Less than "Very Well"
Other Indic languages	834	2.2%
French (incl. Patois, Cajun)	768	2.0%
Other and unspecified languages	499	1.3%
Korean	397	1.0%
All Other Languages	2,778	7.3%
Total	38,099	100.0%

Examples of Other Asian languages include: Malayalam, Telugu, Tamil, and Turkish. Examples of African Languages include: Amharic, Ibo, Yoruba, Bantu, Swahili, and Somali. Other Indic languages include: Bengali, Marathi, Punjabi, and Romany. 2010-2014 American Community Survey estimates in Table B16001

	% Hispanic Ethnicity	% Hispanic Ethnicity
Omaha Region	Registered Individuals	WIOA Enrollments
Omaha	9.36%	9.62%

Information from NEworks: self-identified as Hispanic/Latino during Program Year 2014 (7/1/14-6/30/15).

### c. Lincoln Workforce Development Area:

The U. S. Census American Community Survey 2010 - 2014 estimates show that Lincoln Workforce Area has a total of 13,101 individuals who speak English less than "Very Well." The table below displays the languages or language groups of people who spoke English less than "Very Well." Individuals speaking Spanish and Vietnamese are the two most prevalent language groups served by the NDOL Lincoln office.

*2014 Number and Percent of Individuals Age 5 and Older Who Speak English Less than "Very Well" by Language or Language Group in Greater Lincoln*

Language/Language Group	Number of Individuals 5 Years and Older Who Speak English Less than "Very Well"	Percent of Limited English Speakers Who Speak English Less than "Very Well"
Spanish or Spanish Creole	4,154	31.7%
Vietnamese	2,954	22.5%
Arabic	1,171	8.9%
Chinese	1,071	8.2%
Other Asian languages	736	5.6%
Other Indo-European languages	549	4.2%
Russian	401	3.1%
Other Slavic languages	387	3.0%

Language/Language Group	Number of Individuals 5 Years and Older Who Speak English Less than "Very Well"	Percent of Limited English Speakers Who Speak English Less than "Very Well"
French (incl. Patois, Cajun)	331	2.5%
Korean	238	1.8%
Serbo-Croatian	172	1.3%
African languages	160	1.2%
German	133	1.0%
All Other Languages	644	4.9%
Total	13,101	100.0%

Examples of Other Asian languages include: Malayalam, Telugu, Tamil, and Turkish. Examples of Other Indo-European languages include: Albanian, Gaelic, Lithuanian, and Romanian. Examples of Other Slavic languages include: Czech, Slovak, and Ukrainian. Examples of African Languages include: Amharic, Ibo, Yoruba, Bantu, Swahili, and Somali. 2010-2014 American Community Survey estimates in Table B16001

	% Hispanic Ethnicity	% Hispanic Ethnicity
Lincoln Region	Registered Individuals	WIOA Enrollments
Lincoln	5.85%	10.34%

Information from NEworks: self-identified as Hispanic/Latino during Program Year 2014 (7/1/14-6/30/15).

## **V. Individuals Self-Identifying as Hispanic, Latino, or of Spanish origin in Nebraska:**

Because the majority of limited English speakers speak Spanish, it may be helpful for planning purposes to look at the change in the number of individuals who self-identify as Hispanic, Latino, or of Spanish origin in the state. Overall, the state saw a 77% increase in the number of individuals in this self-identifying category from 2000 to 2010. Since then, according to Census American Community Survey 2010, 2011 and 2012 5-year estimates, the population of individuals who self-identify as Hispanic, Latino, or of Spanish origin has continued to increase, with a 7,579 increase between 2010 and 2011 and a 7,605 increase between 2011 and 2012.

## **VI. Local Office Language Assistance Measures:**

Language assistance services are available throughout the State for many languages. NDOL field staff may access these services through coordination with Adult Basic Education English as a Second Language providers (statewide list is attached), local literacy councils, community action agencies, community based organizations (CBOs), and private providers of language assistance which provide specific language assistance such as Spanish, Southeast Asian, African, Sudanese, etc.

Likewise, if a customer enters an NDOL field office with their own interpreter, the OET is accommodating to the customer's desire for their own language interpreter. LEP individuals served by OET staff are responded to in a manner that is respectful and courteous. Staff persons who are contacted either by telephone, written communication, or personal contact will make every effort to provide the necessary language assistance that is required. LEP individuals will receive the same level of service as all customers served by OET.

Brochures, signage, and complaint forms are available in multiple languages in all offices throughout the State. The OET has created an inventory of language assistance resources that are available to NDOL field offices and their customers. Use of these resources ensures that LEP individuals have equitable access to programs operated by the Office of Employment and Training. The OET maintains ongoing efforts to create and provide translation of Equal Employment Opportunity (EEO) brochures, posters, and customer materials.

Assistance may include interpreters, translated versions of NDOL documents/information, referral to English as a Second Language courses, or other appropriate services, which will enable the individual to enter the workforce. Additionally, the OET utilizes web-based translation applications, the Language Line and services. Access to the Language Line resource allows for guaranteed translation services if other, on-site resources are not available.

Specific language assistance available at each NDOL local office or American Job Center is as follows:

### **Omaha Local Offices**

Currently the F Street office has two bilingual (Spanish) employment services staff member and one bilingual (Spanish) Disabled Veterans Outreach Program (DVOP) representative to serve Veterans. Interpreting services for other languages are available through the Language Line phone service and other community resources. Written material such as application forms, job seeker brochures, and assessment forms are also available in Spanish.

## **Lincoln Local Office**

The Lincoln office utilizes the Language Line in situations where translation assistance is needed. Individuals are welcome to bring in personal translators, such as family members or friends, to assist them in communicating with staff. Staff members also utilizes Google Translate to address the language barriers, especially when individuals are comfortable with typing their inquiries and concerns and reading staff members' responses on staff members' computer screens. Staff members also practice basic intercultural communication strategies, including frequently asking individuals if they understood, encouraging them to articulate their interpretation, paraphrasing, and actively choosing simpler words in communication. Additional Spanish resources are available through Virtual Service Unit staff members.

## **Region 1 Local Offices**

### Scottsbluff, Alliance Offices:

The Scottsbluff and Alliance offices utilize bilingual staff (Spanish) from the Scottsbluff office for language assistance. Staff may be contacted by telephone, written communication or personal contact. Assistance includes interpretation, translation of NDOL information and referral to ESL. The Language Line is also an available resource as needed.

## **Region 2 Local Offices**

North Platte Office: The North Platte office has access to the Language Line services. Spanish resources and on-line translation tools, such as Google Translate, are available to assist staff in communicating with non-English speakers.

### Lexington Office:

The Lexington office maintains a list of community resources that provide language assistance. A Minority Health Center is co-located within the resource center and available to assist the Spanish-speaking customers when needed. Spanish-speaking individuals represent the majority of LEP individuals seeking employment as walk-in customers at the Lexington office. Often, LEP individuals in this area bring their own interpreter for assistance. In addition, the language interpretation assistance, Language Line, is used regularly at this office. Spanish-speaking individuals represent the majority of LEP individuals and the Somali population in the area is vastly growing. Often the LEP individuals bring in their own interpreter. However, the Language Line is used regularly, and on-line translation tools such as Google Translate are available to assist staff in communicating with non-English speakers

### **Region 3 American Job Center and Local Office**

Grand Island American Job Center: Utilizes community resources to assist with interpretations and has access to Language Line services as LEP resources when needed. In addition, Google Translate is used to assist individuals. The Central Region's major language barrier is Spanish. Many of the individuals bring in translators, family members, or friends to assist. In addition, the Grand Island American Job Center works with the local Multi-Cultural Coalition office to assist seekers with job posting information, application completion, and information on local job fairs and hiring opportunities. All documents are available in English and Spanish related to NDOL programs. In addition, referrals are made to the local ESL classes in coordination with Central Community College. As of February 2016, The NDOL has added a bi-lingual English\Spanish staff member that will assist with Unemployment Insurance, Filing of initial claims and weekly claims in the resource room. In addition, this individual will provide assistance with individuals needing other work search activities. This is a new partnership between the Unemployment Insurance Division and Employment and Training to provide needed bi-lingual assistance in the American Job Center in Grand Island.

Hastings Office: Utilizes community resources to assist with interpretations and has access to Language Line services as LEP resources when needed. In addition, Google Translate is used to assist individuals. The Central Region's major language barrier is Spanish. Many of the individuals bring in translators, family members, or friends to assist. All documents are available in English and Spanish related to DOL programs. In addition, referrals are made to the local ESL classes in coordination with Central Community College.

### **Region 4 Local Offices**

Beatrice, York, Nebraska City Offices: Staff members utilize the Language Line services as LEP resources when needed. Staff may also use free translation websites such as, freetranslation.com and translate.google.com, when face-to-face with a non-English speaking customer. Beatrice, Nebraska City and York staff members refer customers to local ESL classes. Nebraska City has access to bilingual partner staff working at the Nebraska City Center for Children and Families. The Director for Nebraska City Center for Children and Families may assist with interpreting if necessary.

### **Region 5 Local Offices**

Norfolk Office: On a limited basis, the Norfolk office utilizes bilingual staff from the Columbus office when interpretation services are needed. The Language Line services are used when a translator is not available. NDOL staff refers job seekers to ESL classes, which are held at NECC in Norfolk & O'Neill, at the South Sioux City Library, Student Center at Wayne State, and at area faith-based organizations. Staff also utilize free translation websites such as BabelFish.com & translate.google.com.

Columbus Office: The Columbus office has a staff person who is bilingual in Spanish/English and provides interpretation and/or translation services related to employment services on a daily basis. The Language Line services along with Proteus, Inc. are used when a translator is not available. NDOL staff refers job seekers and applicants to Platte Valley Literacy Association (PVLA), a nonprofit organization which offers ESL classes in coordination with Central Community College (CCC), and the on-site learning center at Cargill Meat Solutions for ESL, GED, computer classes and tutoring programs in an effort to help LEP individuals increase their English language skills. In addition to the learning center, there are bi-lingual services available at the Homestead Center in downtown Schuyler for job seekers. The Columbus Office also works with Centro Hispano Comunitario, which offers computer, ESL and citizenship classes. English classes are also offered at local faith-based organizations.

Both the Norfolk and Columbus offices have multiple brochures explaining services available, along with materials and applications available in Spanish.

### **Virtual Services Unit**

The Virtual Services Unit (VSU) provides email and telephone assistance to LEP job seekers, including assistance with website navigation, password changes, and contact information for the Unemployment Insurance call center. The VSU has bilingual staff members who speak Spanish, Serbo-Croatian, Bosnian, Kurdish, and Arabic. Requests are generated from helpdesk referrals and other internal sources.

The Virtual Services Unit (VSU) provides email and telephone assistance to LEP job seekers, including assistance with website navigation, password changes, and contact information for the Unemployment Insurance call center. The VSU has bilingual staff members who speak Spanish and Vietnamese. Requests are generated from helpdesk referrals and other internal sources. When assisting an LEP individual, the VSU uses (restricted to availability) co-workers or individual's associates able to assist. Services from El Centro De Las Americas can be accessed to assist individuals and also to gain new NEworks customers. Technology assistance comes from [linguee.com](http://linguee.com) for professional uses and Google translate for a starting point.

## **VII. Accessibility of Information Online to LEP Individuals**

### **a. NEworks**

NEworks is the labor exchange, case management and reporting site for the OET programs. At this time, the only available language for NEworks is English. NEworks is accessible at <https://neworks.nebraska.gov/vosnet/Default.aspx>.

### **b. NDOL Website**

The NDOL public website provides information for workers and employers. This includes information about job searching, training, the Workforce Innovation and Opportunities Act,

and many additional programs and services. The NDOL site is accessible at <http://www.dol.nebraska.gov/index.cfm>.

The site features the option of selecting language translation services provided via Google Language Tools. The translation through Google utilizes an automated/computerized translation which serves as an approximation for the site's original content. NDOL has provided a Translation Disclaimer Statement indicating potential issues with the automated translation process. Available languages listed on the NDOL site include: Spanish, Chinese, French, German, Italian, Korean, Russian, Polish, Arabic, Portuguese, Japanese, and Norwegian. The NDOL website provides information on how to contact local field staff for additional assistance.

### **c. Social Media**

OET utilizes multiple social media platforms in order to improve and increase its public outreach. The social media platforms used include Facebook (<http://www.facebook.com/Nebraska.DOL>), Twitter ([http://twitter.com/NE\\_DOL](http://twitter.com/NE_DOL)), and YouTube (<http://www.youtube.com/user/NEDeptOfLabor>).

At this time, all information published to social media platforms is published exclusively in English.

## **VIII. Accessibility of Rapid Response Information to LEP Individuals**

OET manages Nebraska's Rapid Response activities as the designated Dislocated Worker Unit. Rapid Response provides assistance to workers who are dislocated due to plant closures and substantial layoffs, and is a required activity under the Workforce Innovation and Opportunities Act (WIOA).

Rapid Response meetings provide information to dislocated workers about American Job Center services, WIOA training activities, Trade Adjustment Assistance, Unemployment Insurance benefits, LMI, financial counseling, federal financial assistance, and many other job-seeker services and programs. Many of the printed information guides disseminated during Rapid Response meetings are available in Spanish. Rapid Response staff include a bilingual Spanish speaker. Interpreter/translation assistance is provided at Rapid Response events upon request.

## **IX. Training Staff:**

## **X. Dissemination of OET's LEP Plan**

The OET LEP Plan may be assessed on the NDOL website, under the State of Nebraska Five-Year Integrated Workforce Plan, accessible at <http://www.dol.nebraska.gov/center.cfm?PRICAT=3&SUBCAT=8F>.

## **XI. LEP Complaint Procedures**

If you think you have been subjected to discrimination involving LEP, Title VI, and related statutes please contact the Nebraska Equal Opportunity Commission at (402) 471-2024 or 1 (800) 642-6112. If you think that you have been subjected to discrimination under a WIOA Title I financially-assisted program or activity, you may file a complaint within 180 days from the date of the alleged violation with:

Terri Slone, EO Officer  
Nebraska Department of Labor  
550 S. 16<sup>th</sup> Street  
P.O. Box 94600  
Lincoln, NE 68509-4600  
(402) 471-8358  
TDD (800) 833-7352

For Assistance with Unemployment Insurance

TTY (402)471-0016

Auxiliary aids and services are available upon request to individuals with disabilities.

## **XII. Appendices**

- Appendix A: OET Bilingual Staff List
- Appendix B: 2015 Nebraska Adult Education Providers
- Appendix C: Language Line Services Quick Reference
- Appendix D: Language Line Services Language List

## APPENDIX A

### **BILINGUAL STAFF LIST**


Region	Office	Staff	Language
1	Scottsbluff	Elizabeth Garcia-Flores	Spanish
1	Scottsbluff	Mary Hinojosa	Spanish
1	Scottsbluff	Lori Marquez	Spanish
5	Columbus	Ada Sanchez	Spanish
Lincoln	Lincoln	Sayaka Sato-Mumm	Japanese
Omaha	F Street	Omar Correa	Spanish
Omaha	F Street	Tatyana Kolesnikova	Russian
Omaha	F Street	Abelino Ortiz	Spanish
Omaha	F Street	Nina Rogers	Spanish
VSU	VSU	Dawn Carrillo	Spanish
VSU	VSU	Pablo Colindres-Moreno	Spanish
VSU	VSU	Federico Torres	Spanish
2, 3, 4	<i>No bilingual staff available</i>		

### **Other Resources:**

- The Department of Labor Office of Employment and Training utilizes the Language Line service for interpretation.
- International Communications Inc. provides fee-based translation and interpretation services including phone support for over 240 languages, print translation, on-site services and desktop publishing and HTML translations.
- The staff of partner agencies located at the local offices and American Job Centers also provide translation assistance to clients. Partner agencies include; Community Action Agency, and Proteus, INC.

## APPENDIX B

Illustration 12: Nebraska Adult Education Directors Organizational Chart

 <b>Nebraska Adult Education Directors</b> PO Box 94987 • Lincoln, NE 68509 • Phone: 402/471-2295 • Fax: 402/471-8127			
Vicki Bauer, Director 402/471-4807 vicki.l.bauer@nebraska.gov	Jim Lukesh, Consultant 402/471-4806 jim.lukesh@nebraska.gov	Julie Katt, Program Specialist 402/471-4826 julie.katt@nebraska.gov	Jan Drbal, Professional Assistant 402/471-4830 jan.drbal@nebraska.gov
Alliance Public Schools Learning Center Library, Rm. 9 (EL/Civics) 616 Black Hills Avenue	John Miller, Director and Lead Instructor 1604 Sweetwater Alliance, NE 69301	Phone: 308/760-7986 FAX: 308/762-8249 E-mail: jwmiller@bbc.net; jmillier@apschools.org	
Bellevue Public Schools Adult Learning Center	Maureen McNamara, Director 2820 Arboretum Drive Bellevue, NE 68005  Debbie Bose, Office Assistant	Phone: 402/293-4020 FAX: 402/291-2046 E-mail: maureen.mcnamara@bpsne.net Phone: 402/293-5026 E-mail: Deborah.bose@bpsne.net	
Central Community College Area	Ann Chambers, Director PO Box 4903 Grand Island, NE 68802-4903	Phone: 308/398-7446 1/877-222-0780 X7446 FAX: 308/398-7446 E-mail: achambers@cccneb.edu	
Crete Public Schools	Diane Bruha, Director (10/1/14) 920 Linden Crete, NE 68333	Phone: 402/826-7898 FAX: 402/826-5120 E-mail: diane@creteschools.org	
Literacy Center Omaha	Kirsten Case, Executive Director Literacy Center for the Midlands 1823 Harney St., Suite 204 Omaha, NE 68102 Pierre Sagitteh, Program Director	Phone: 402/342-7323 FAX: 402/345-9045 Website: www.midlandsliteracy.org E-mail: kcase@midlandsliteracy.org E-mail: psagitteh@midlandsliteracy.org	
Mid-Plains Community College Area	Robin Rankin, Director 1101 Halligan Drive North Platte, NE 69101	Phone: 308/535-3637 or 1-800-658-4308 FAX: 308/535-3689 E-mail: rankinr@mpcc.edu	
Nebraska Department of Correctional Services	Mark Wentz, Director PO Box 94661 Folsom & W. Prospector Pl Lincoln, NE 68509-4661	Phone: 402/479-5545 Cell: 402/405-3435 FAX: 402/479-5623 E-mail: mark.wentz@nebraska.gov	
Northeast Community College	Nancy Schultz, Director 801 East Benjamin Avenue PO Box 469 Norfolk, NE 68702-0469  Emily Duncan, AE Coordinator	Phone: 402/844-7254 FAX: 402/844-7400 Office Phone: 402/844-7255 E-mail: nancyjs@northeast.edu;  Phone: 402/844-7253 E-mail: emily@northeast.edu	
Omaha Metropolitan Community College	Sue Raftery, Director Building 9, Room 108 PO Box 3777 Omaha, NE 68103	Phone: 402/457-2312 FAX: 402/457-2655 E-mail: sraftery@mccneb.edu	
Plattsmouth Community Schools	Tallie VanWesten, Director 1912 East Highway 34 Plattsmouth, NE 68048	Phone: 402/296-3174 X2315 FAX: 402/296-2910 E-mail: tvanwesten@pcsd.org	
Southeast Community College – Beatrice	Tate Lauer, Director 4771 West Scott Road Beatrice, NE 68310-7042	Phone: 402/228-3468 X1345 FAX: 402/228-2897 E-mail: tlauer@southeast.edu	
Southeast Community College – Lincoln	Diane Vesely Robb, Director 6800 "O" Street Lincoln, NE 68520  Susan Kash-Brown ESL, Assistant Director	Phone: 402/437-2717 FAX: 402/437-2704 E-mail: dveselyrobb@southeast.edu  Phone: 402/437-2722 E-mail: skash-brown@southeast.edu	
Western Nebraska Community College – Scottsbluff	Mary Kay Versen, Director 1601 E. 27 <sup>th</sup> Street Scottsbluff, NE 69361	Phone: 308/635-6769 or 1/800-348-4435 FAX: 308/635-6055 E-mail: versenm@wncc.edu	
York Public Schools York Middle School	Brian Tonniges, Director  Jane VanderTuig, Lead Teacher York Community Education 1730 N. Delaware York, NE 68467	Phone: 402/362-6655, #1 X363 FAX: 402/362-5488  E-mail: brian.tonniges@yorkdukes.org E-mail: jane.vandertuig@yorkdukes.org	

## APPENDIX C

### Illustration 13: Language Line Instructions



#### Quick Reference

When receiving a call:

1. Use Conference Hold to place the non-English speaker on hold.
2. Dial 1-800-874-9426.
3. Enter the 6-digit Client ID: 535010  
Organization Name: State of Nebraska Department of Labor  
Personal Code: 7 Digit Phone Number
4. Press 1 for Spanish  
Press 2 for all other languages  
Press 0 to stay on the line for assistance.
5. Brief the interpreter. Summarize what you wish to accomplish and give any special instructions.
6. Add the non-English speaker to the line.

When placing a call to a non-English speaker:

1. Dial 1-800-874-9426.
2. Enter the 6-digit Client ID: 535010  
Organization Name: State of Nebraska Department of Labor  
Personal Code: 7 Digit Phone Number
3. Press 1 for Spanish  
Press 2 for all other languages  
Press 0 to stay on the line for assistance.
4. Brief the interpreter. Summarize what you wish to accomplish and give any special instructions.
5. Add the non-English speaker to the line.



#### There Are 3 Ways You Can Use Language Line® Over-the-Phone Interpretation Service With Limited English Speakers

Note: Depending on your organization's requirements, the following process may be somewhat different. If you have any questions please contact your account manager or Customer Service at 1-800-752-6096, Option 2.

##### You Receive a Call From a Limited English Speaker

- Place the Limited English Speaker on conference hold.
- Dial the Language Line Services designated toll-free number you have been provided at sign-up.
- Request the language your caller speaks through our easy-to-use interactive voice response (IVR) system.
- When the interpreter is connected, explain the situation.
- Conference in your limited English-speaking caller.

##### You Need to Make a Call to a Limited English Speaker

- Dial the Language Line Services designated toll-free number.
- Request the language your client speaks through our easy-to-use interactive voice response (IVR) system.
- When the interpreter is connected...
- Call your limited English-speaking client...
- Or the interpreter can place the call for you within the U.S. or Canada.

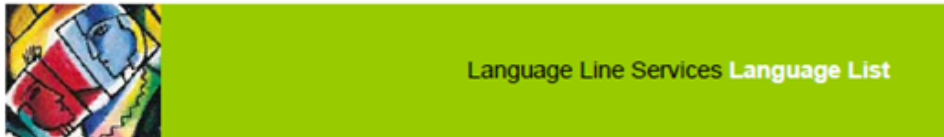
##### You Are Face-to-Face With a Limited English Speaker

- Dial the Language Line Services designated toll-free number.
- Request the language your client speaks through our easy-to-use interactive voice response (IVR) system.
- When the interpreter is connected, use the Language Line® Phone, or your speakerphone, or pass your handset back and forth.

If you have any questions about how telephone interpretation works, please contact your account manager or Customer Service at 1-800-752-6096, Option 2.

## Language Line Services Language List

Illustration 14: Language Line Services Language List



These languages represent approximately 98.6% of all customer requests from the 6,809 languages spoken in the world today. Depending on the availability of qualified interpreters, particularly in rarely requested languages, this list is subject to change and may not match the list you find at [www.language-line.com/languages](http://www.language-line.com/languages). If you do not see the language you need, please contact your account representative or customer service at [wecare@language-line.com](mailto:wecare@language-line.com) to determine if an interpreter is currently available.

We also offer American and Mexican Sign Language through our video interpretation solutions.



Afrikaans	French Canadian	Laotian	Russian
Akan	Fukienese	Latvian	Samoa
Albanian	Fula	Lingala	Sango
Amharic	Fulani	Lithuanian	Serbian
Arabic	Fuzhou	Luganda	Shanghaiese
Armenian	Ga	Luo	Shona
Ashante	Gaddang	Lusoga	Sichuan
Asi	Gaelic	Luxembourgeois	Sicilian
Assyrian	Gaelic - Irish	Maay	Sindhi
Azerbaijani	Gaelic - Scottish	Macedonian	Sinhalese
Azeri	German	Malagasy	Slovak
Bajuni	Gorani	Malay	Slovenian
Bambara	Greek	Malayalam	Somali
Basque	Gujarati	Maltese	Soninke
Behdini	Haitian Creole	Mandarin	Sorani
Belorussian	Hakka	Mandingo	Spanish
Bengali	Hakka - Chinese	Mandinka	Sudanese Arabic
Berber	Hassaniyya	Marathi	Sundanese
Bosnian	Hausa	Marshallese	Susu
Bravense	Hebrew	Mien	Swahili
Bulgarian	Hindi	Mina	Swedish
Burmese	Hmong	Mirpuri	Sylheti
Cambodian	Hungarian	Mixteco	Tagalog
Cantonese	Ibanag	Moldavan	Taiwanese
Catalan	Ibo	Mongolian	Tajik
Chaldean	Islandic	Montenegrin	Tamil
Chamorro	Igbo	Navajo	Telugu
Chao-chow	Ilocano	Neapolitan	Thai
Chavacano	Indonesian	Nepali	Tibetan
Chin	Inuktitut	Nigerian Pidgin	Tigre
Chuukese	Italian	English	Tigrinya
Cree	Jakartanese	Norwegian	Toishanese
Croatian	Japanese	Nuer	Tongan
Czech	Javanese	Oromo	Toucouleur
Dakota	Kanjool	Pahari	Tshiluba
Danish	Karen	Pampangan	Turkish
Dari	Kashmiri	Pashto	Twi
Dinka	Kikuyu	Patois	Ukrainian
Diula	Kinyarwanda	Pidgin English	Ulster-Scotts
Dutch	Kirundi	Polish	Urdu
Estonian	Korean	Portuguese	Uyghur
Ewe	Kosovan	Portuguese Creole	Uzbek
Fante	Kotokoli	Pothwari	Vietnamese
Farsi	Kpelle	Pulaar	Visayan
Fijian Hindi	Krio	Punjabi	Wolof
Finnish	Kurdish	Putian	Yiddish
Flemish	Kurmanji	Quichua	Yoruba
French	Lakota	Romanian	Yupik

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## APPENDIX D

### **International Communications Inc.**

- Cellular: 402-432-8671 Translation and Interpretation
- Interactive Voice Response 877-650-8013
- Email: info@icitranslation.com
- Website: icitranslation.com

### **HOW TO USE INTERACTIVE VOICE RESPONSE (IVR)**

Step 1: Call **1-877-650-8013**

Step 2: Enter your access code, followed by sign

Step 3: Select 1 to be connected directly to a Spanish interpreter

Select 9 for all other languages

(Make sure that you tell them the name of the place/hospital/clinic you are calling from)

\*\*\*If you require a 3<sup>rd</sup> party call, **press 9** to reach a Customer Service Representative

### **IVR FAQ**

#### **What if I do not know my access code?**

You do need this information in order to reach the interpreter directly. Please call ICI, Inc. to get your access code.

#### **What is IVR?**

IVR stands for Interactive Voice Response. IVR system allows a customer to quickly select the language desired for interpretation and to be connected immediately to an interpreter without interaction with a live attendant. The benefit of this is an even faster connect time to your interpreter and better service to your limited English proficient (LEP) client.

#### **What is a 3<sup>rd</sup> party call?**

A 3<sup>rd</sup> party call is when you need ICI, Inc. to call the LEP client then bridge the call together with you and the interpreter.

### **How do I make a 3<sup>rd</sup> party call with ICI, Inc.?**

If you need a 3<sup>rd</sup> party call, **press 9 (even for Spanish)** to reach a Customer Services Representative (CSR) and let the operator know you need a 3<sup>rd</sup> party call. We are happy to assist you with this at no additional charge. ***Our interpreters are not able to make the 3<sup>rd</sup> party call directly.***

### **I need a Hindi interpreter. How do I get a Hindi interpreter on the line?**

**Press 9** for other languages and let the CSR know that you need a Hindi interpreter and they will connect you.

### **Cost**

Only \$1.35/minute. Once you are connected to the interpreter your charges start in 1 minute increments. There is no monthly minimum charge or activation fee.

### **Information needed when placing a call:**

Your access code, name of the place/hospital/clinic you are calling from, your name, language needed, and male/female interpreter.

### **On-Site Interpreters**

This is still done by using our scheduling system or by calling 402-432-8671 or 402-679-6627 (for Omaha clients)

Please contact us if you have any further questions or if you experience any problems.

402-432-8671 or 402-679-6627 (Omaha), or by email: [info@icitranslation.com](mailto:info@icitranslation.com)