



GOBIERNO DE PUERTO RICO

Departamento de Desarrollo Económico
y Comercio

Programa de Desarrollo Laboral

15 de abril de 2020

A TODOS LOS PRESIDENTES DE JUNTAS DE ALCALDES, JUNTAS LOCALES Y
DIRECTORES EJECUTIVOS

Natasha Vazqueztell Codero, JD
Directora

**Re: Consulta al Departamento del Trabajo Federal en relación al Pago de
Nóminas con fondos de WIOA**

En la misiva que emitiera la Junta Estatal de Desarrollo Laboral, el pasado 31 de marzo de 2020, se les notificó de las consultas presentadas al Departamento del Trabajo Federal (USDOL-ETA) en relación al pago de los salarios y beneficios con fondos de WIOA.

Este pasado 13 de abril de 2020, el USDOL-ETA emitió una segunda ronda de preguntas y respuestas y en ella se incluye el tema de los salarios. Sin embargo, la respuesta emitida ataja la consulta desde otro frente, ya que en nuestras circunstancias hay una expresión del ejecutivo que indica que los funcionarios públicos recibirán sus salarios, sin cargo a licencia alguna. De la misma forma, la Oficina de Administración y Transformación de los Recursos Humanos del Gobierno de Puerto Rico, en sus memorandos M-6-20 y M-9-20 han establecido que los Municipios pueden adoptar medidas similares.

El planteamiento del USDOL-ETA es el siguiente (verbatim):

"Q. Are the costs of a grantee's leave policy that provides paid leave to employees (including part-time employees and employees of subrecipients)

when their work hours have been reduced due to COVID-19 closures or disruptions (e.g., if a grantee's offices are shut down due to COVID-19) allowable costs of the Federal grant?

Response: **Yes.** 2 CFR 200.431(b) states that a leave policy is allowable if it is an established, written policy that applies equitably and consistently to all staff regardless of employee class, and if it is reasonable. However, a state or grantee may only charge an employee's paid-time-off to the Federal grant if it is the state's/grantee's overarching policy to pay all employees in this situation, regardless of the funding source used to cover such an expense. **If a grantee amends its existing leave policy or develops a new emergency leave policy applicable to all employees affected by the COVID-19 pandemic, costs incurred under that policy would be allowable provided they meet the requirements in 2 CFR 200.431(b).** For any change in policy that impacts the budget, competitive or discretionary grantees may need to submit a budget realignment request. If the change in policy impacts an approved indirect cost rate or cost allocation plan, the grantee must request a change or obtain an extension from its federal cost negotiator. Grant recipients and subrecipients must maintain appropriate records and cost documentation as required by 2 CFR § 200.302 - Financial management and 2 CFR § 200.333 - Retention requirement of records to substantiate the charging of any salaries and other project activities costs related to interruption of operations or services. Salary and Bonus limitations (Pursuant to P.L. 115-141, Division H, Title I, Section 105) remain in effect. At this time, no additional funds will be provided by ETA to cover these expenses. **Should the need for such leave be longer than 60 days, ETA will provide additional guidance on these paid leave policies."**

Como pueden ver en el texto emitido por el USDOL-ETA, estos indican que el tiempo que un empleado está fuera del área de trabajo por reducción de horas o cierre, como consecuencia del COVID-19, se puede cargar a la propuesta federal (en este caso WIOA) siempre y cuando exista una política pública razonable, por escrito, y que especifique las condiciones bajo las que se concede la licencia y que es de aplicación a todos los empleados, sin excepción.

De la misma forma, establece que el beneficiario de los fondos puede enmendar una política vigente o desarrollar una nueva política de licencia por emergencia, que aplique a todos los empleados afectados por la pandemia del COVID-19, y que los costos incurridos serán permisibles, **siempre y cuando cumplan con los criterios del 2 CFR 200.431 (b).**

Considerando lo antes mencionado, y habiendo recibido asistencia técnica por parte de la Región, hacemos un llamado para que las Juntas de Alcaldes y Juntas Locales consideren sus políticas públicas, relacionadas al disfrute de licencias, así

como sus reglamentos de Recursos Humanos para que incluyan una licencia especial por emergencia.

En el texto pudieran considerar múltiples aspectos como, pero sin limitarse:

- Definición de Emergencia;
- ¿Cuándo comienza la emergencia?;
- ¿Cuándo finaliza la emergencia?
- El rol o consideración que se le da a una Declaración de Estado de Emergencia estatal o federal
- ¿Quién se considera empleado esencial durante la emergencia?
- ¿Cuántos días, si algunos, se pagarán sin cargo a licencia alguna?
- ¿Qué pasa si el periodo de la licencia especial por emergencia excede los 60 días? Ver última oración del texto remitido por USDOL-ETA.

Estas son algunas recomendaciones de asuntos a considerarse en la redacción y evaluación de una enmienda o nuevo reglamento relacionado a la licencia especial por emergencia. Como mencionara previamente, esta política o reglamento tiene que cumplir con los estándares del 2 CFR 431(b).

Estas medidas facilitarán el que podamos cargar a WIOA los salarios de los compañeros que no hayan estado trabajando a distancia, por múltiples razones.

Como siempre, el Programa de Desarrollo Laboral está en la mejor disposición de ofrecer la asistencia técnica que estimen necesaria. Para obtener información adicional, no duden en comunicarse con esta servidora a natasha.vazqueztell@ddec.pr.gov.

cc: Ing. Emilio Colón Zavala, Presidente Junta Estatal

Hon. Manuel Laboy Rivera, Secretario DDEC

Rubén Rivera López, CFO DDEC

Yolanda Rivera Ortiz, Directora de Planificación



ETA Coronavirus (COVID-19) FAQs

The Employment and Training Administration (ETA) has developed a Frequently Answered Questions (FAQs) to address questions related to Coronavirus (COVID-19) to help state and local workforce leaders, and other stakeholders and partners to assist the public workforce system during this crisis.

ALL GRANTS

Updated as of April 13, 2020

New Q. Are the costs of a grantee's leave policy that provides paid leave to employees (including part-time employees and employees of subrecipients) when their work hours have been reduced due to COVID-19 closures or disruptions (e.g., if a grantee's offices are shut down due to COVID-19) allowable costs of the Federal grant?

Response: Yes. 2 CFR 200.431(b) states that a leave policy is allowable if it is an established, written policy that applies equitably and consistently to all staff regardless of employee class, and if it is reasonable. However, a state or grantee may only charge an employee's paid-time-off to the Federal grant if it is the state's/grantee's overarching policy to pay all employees in this situation, regardless of the funding source used to cover such an expense. If a grantee amends its existing leave policy or develops a new emergency leave policy applicable to all employees affected by the COVID-19 pandemic, costs incurred under that policy would be allowable provided they meet the requirements in 2 CFR 200.431(b). For any change in policy that impacts the budget, competitive or discretionary grantees may need to submit a budget realignment request. If the change in policy impacts an approved indirect cost rate or cost allocation plan, the grantee must request a change or obtain an extension from its federal cost negotiator. Grant recipients and subrecipients must maintain appropriate records and cost documentation as required by 2 CFR § 200.302 - Financial management and 2 CFR § 200.333 - Retention requirement of records to substantiate the charging of any salaries and other project activities costs related to interruption of operations or services. Salary and Bonus limitations (Pursuant to P.L. 115-141, Division H, Title I, Section 105) remain in effect. At this time, no additional funds will be provided by ETA to cover these expenses. Should the need for such leave be longer than 60 days, ETA will provide additional guidance on these paid leave policies.



New Q. Can WIOA formula and competitive grants continue to pay wages or stipends if program participants were actively being served prior to the pandemic or if they were in a work experience placement (e.g. subsidized employment, OJT, paid internship) which has been recently cancelled due to COVID-19?

Response: If the program participant's time commitment, stipend structure, and/or other academic or work terms were established prior to the national health emergency declaration, grantees should continue to pay the participant for the remainder of the established term.

New Q. Can states or grantees waive procurement requirements?

Response: In accordance with [OMB Memorandum M-20-17](#), grantees may conduct procurements under the public emergency provision ([2 CFR 200.320\(f\)\(2\)](#)). Grantees can waive the procurement requirements contained in [2 CFR 200.319\(b\)](#) regarding geographical preferences and [2 CFR 200.321](#) regarding contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. Grant recipients are expected to use sound fiscal prudence to maximize value for each taxpayer dollar spent. These exceptions are time limited and will be reassessed by ETA within 90 days of the OMB Memo M-20-17 dated March 19, 2020, that is, by mid-June.

New Q. Can grantees use funds to purchase cleaning supplies?

Response: Yes, to the extent that the supplies are used for the benefit of the grant program (e.g., in grantee spaces, or a proportionate share of shared spaces).

Q. Is it an allowable charge to a grant if an employee works on COVID-19 related functions (i.e. sanitizing the building, etc.) and not grant-related functions?

Response: Assisting in the cleaning and sanitizing of dedicated and common space that is used to house and serve program staff and participants is an allowable grant function.

Q. Should states or local areas suspend all youth and adult work experience during this crisis, or determine the best course of action depending on the youth/adult and employer situations?

Response: States and local areas should follow CDC and state and local government guidance in making determinations related to whether youth and adults should still be participating on work experiences, and should consider the environment in which the work is being conducted, and the chance for virus transmission. ETA understands that many activities including work experience may be suspended or impacted.

Q. Can grantees shift to virtual services, such as e-learning, phone calls, and virtual meetings?

Response: ETA programs provide flexibility to grantees in how they provide services. Grantees can choose the best method of continuing to deliver program services. Security of customer data and its transition as well as ease of customer access must be considered.

New Q. Is there flexibility to offer academic courses and/or training in a distance learning platform?

Response: ETA programs provide flexibility to grantees in how they provide services. Grantees can choose the best method of continuing to deliver program services. The security of customer data and its transmission, as well as ease of customer access, must be considered.

Q. Can grant recipients continue to manage fiscal monitoring of sub-recipients remotely?

Response: Monitoring and oversight can take many forms and may include remote or desk monitoring. The transmission of PII data may be done through encrypted email or cloud services, with the appropriate protections to prevent inappropriate disclosure.

Q. If services are disrupted for a few weeks, will grantees be able to extend the period of performance so we can complete all planned grant activities?

Response: For competitive discretionary grants, ETA understands some grant functions might need to be suspended for health and safety reasons. ETA will consider period of performance extensions. Please contact your Federal Project Officer to request such an extension if your grant ends within the next quarter. Include details about how and why COVID-19 disruptions impact the ability of the grant to finish timely. Otherwise, grantees may wait until they resume normal submit period of performance extension requests when they return to normal operations.

Workforce Innovation and Opportunity Act (WIOA) - General

Q. Will ETA delay State Plan due dates?

Response: Many states have already submitted State Plans. Therefore, ETA does not plan to issue a blanket extension for State Plans. However, states should contact their Federal Project Officer if they are concerned about meeting the April 1, 2020 deadline. Please note that while some state by-laws require the board to vote on the plan before submittal, such a vote, or an in-person vote, is not a WIOA requirement.

Q. Should states continue to provide rapid response services for any layoff event impacting 50 or more employees in light of COVID-19?

Response: States should continue to provide Rapid Response information to affected employees. However, this information can be shared electronically, such as in webinars. States have flexibility to provide this information through virtual or other limited in-person means. States should consult CDC guidance and local government directives about large gatherings.

Q. Our local area uses benchmark timeframes, and contract payments are tied to benchmark attainment. Can USDOL extend these timeframes?

Response: Local areas that established performance-based contracts with sub-recipients can renegotiate benchmarks, following existing state and local policies.

Q. Can ETA ensure funding is received on time this year?

Response: ETA is working to ensure a timely release of the WIOA Allotments guidance providing states with their funding levels. We anticipate that a Training and Employment Guidance Letter (TEGL) will be released in early April 2020.

Q. If services are disrupted for a few weeks, will WIOA formula grantees be able to extend the period of performance so we can complete all planned grant activities?

Response: Unfortunately, for WIOA PY 2017 grants ending June 30, 2020, due to the language in the WIOA statute 189(g)(2)(A), ETA cannot extend the period of performance for these grants.

WIOA Dislocated Worker Grants (DWGs)

Q. Which entities are eligible to apply for a Disaster Recovery DWG under HHS Secretary Azar's public health emergency declaration for COVID-19?

Response: Entities eligible to apply for Disaster Recovery DWGs are:

- ▶ States
- ▶ Outlying areas
- ▶ Indian Tribal Governments as defined in the Stafford Act (42 U.S.C. 5122(6))

Secretary Azar's declaration is "nationwide," so any eligible entity in any location may apply.



New Q. How does a state submit an emergency disaster recovery DWG application?

Response: With the public health declaration and the FEMA emergency declaration, all states, outlying areas and Indian tribal entities under the Stafford Act are eligible to apply for Disaster Recovery DWG funds. Applicants may request Disaster Recovery DWGs through an abbreviated emergency application to facilitate timely delivery of DWG assistance in response to a disaster event. These applications should be submitted to ETA within 15 days of the declaration of a qualifying disaster declaration by FEMA or other Federal agency having jurisdiction over the disaster. With appropriate justification, applicants may request an exception to this requirement, to allow for the submission of the emergency application within a reasonable timeframe after Day 15. Applicants also have the option to submit a full application containing a budget and plan, in lieu of an emergency application. Within 60 business days following an award of Disaster Recovery DWG funds requested via an emergency application, the grantee must modify the grant to provide a full application. This includes a budget, implementation plan, and a list of worksites where the disaster relief work will be performed. ETA may also require the grantee to submit additional information per the special conditions of the initial DWG award. For additional information on the DWG application process, go to the following link:

https://www.doleta.gov/grants/application_howto.cfm (This information also published in TEGL 12-19)

Q. What activities must states carry out with Disaster Recovery DWGs under the COVID-19 public health emergency declaration?

Response: WIOA sec. 170(d) generally requires that Disaster Recovery DWGs include disaster-relief employment, with the option for grantees to also conduct employment and training activities (which may include career, training, and supportive services) for workers eligible to participate in Disaster DWG activities.

Q. Who can be served by Disaster Recovery DWGs under the coronavirus public health emergency declaration?

Response: Eligible Disaster DWG participants for both disaster-relief employment and employment and training activities are:

- ▶ Dislocated workers
- ▶ Workers laid-off as a result of the disaster, including:
 - ▶ workers who are laid off as a result of a quarantine, because they miss work to care for a family member, or because they cannot come to their regular workplace in order to follow socially distance requirements; and
 - ▶ workers laid off after a business closure related to disruptions caused by the outbreak and the efforts to contain it.
- ▶ Self-employed individuals unemployed or underemployed because of the disaster
- ▶ Long-term unemployed individuals



Q. For coronavirus, what types of disaster-relief employment are allowable?

Response: Under WIOA sec. 170, disaster-relief employment is limited to one of two categories: cleanup activities or humanitarian assistance. Under a public health emergency declaration such as the coronavirus, the types of disaster-relief employment allowable might include:

- ▶ **Humanitarian assistance activities:** WIOA's allowance for disaster-relief employment to provide humanitarian assistance provides greatest range of potential disaster-relief employment activities for this public health emergency. Disaster-relief employees may assist in addressing many needs created by this public health emergency and the prolonged social isolation that is necessary to curb it, such as:
 - ▶ Delivering medicine, food, or other supplies to older individuals and other individuals with respiratory conditions and other chronic medical disorders, with appropriate training and precautions. Coronavirus infection has been the most harmful to these populations, and there may be heavy need for such services that traditional volunteer organizations cannot support alone.
 - ▶ Helping set up quarantine areas and providing assistance to quarantined individuals.
 - ▶ Organizing and coordinating recovery, quarantine, or other related activities.
- ▶ **Cleanup activities:** WIOA requires that cleanup activities respond to the impacts of the disaster. While this activity is more typical for tornadoes, fires, and floods, some clean-up activities are relevant to coronavirus response. For instance, cleanup activities can include cleaning schools or sanitizing quarantine or treatment areas after their use. If research determines that coronavirus is more likely to spread under certain physical conditions, Disaster Recovery DWG funds could additionally be used to help remedy these conditions.
 - ▶ By law, disaster-relief employment activities may only respond to or mitigate the impact of the disaster, which means grantees may not use DWG-funded disaster-relief employees to perform work aimed at preventing future disasters. We consider preventative measures—setting up quarantines, cleaning buildings—as mitigation activities because they avoid the further spread of the virus.

Q. In addition to Disaster Recovery DWGs, can states apply for Employment Recovery DWGs in response to layoffs caused by cancellations or shutdowns caused by coronavirus?

Response: Yes. Any layoffs caused by the virus' spread, or other economic causes, could be eligible for Employment Recovery DWGs. WIOA limits Employment Recovery DWGs to providing only employment and training activities.

As already allowed under WIOA statute and regulations, states can apply for Employment Recovery DWGs if the following events occur:

- ▶ If there are 50 or more individuals laid off by one employer.
- ▶ If there are significant layoffs that significantly increase unemployment in a given community, even if the total layoffs are fewer than 50 individuals. For example, a cancellation of a large event may qualify because several different businesses such as hotels, caterers, area restaurants may lay off workers as a result of the event's cancellation.



Q. Can a state use funds from a previous Disaster Recovery DWG to fund disaster relief employment for COVID-19 response activities (e.g. packing food for seniors)?

Response: Generally, Disaster Recovery DWGs may be expanded to include new disaster impacts if they fall within the same program year of the award of the initial disaster (see TEGL 12-19, page 8). If an existing Disaster Recovery DWG was awarded in a prior program year, appropriations law prohibits adding new emergencies to the existing Disaster Recovery DWG project. In such cases, ETA recommends that states requiring additional funding to address the COVID-19 public health emergency consider submitting new applications for DWG funds.

Q. Can ETA release the full amount approved for DWG awards?

Response: With the public health declaration and the FEMA emergency declaration, all states, outlying areas and Indian tribal entities are eligible to apply for Disaster Recovery DWG funds. Applicants may request Disaster Recovery DWGs through an abbreviated emergency application to facilitate timely delivery of DWG assistance in response to a disaster event. These applications should be submitted to ETA within 15 days of the declaration of a qualifying disaster declaration. With appropriate justification, applicants may request an exception to this requirement, to allow for the submission of the emergency application within a reasonable timeframe after Day 15. Applicants also have the option to submit a full application containing a budget and plan, in lieu of an emergency application. Within 60 business days following an award of Disaster Recovery DWG funds requested via an emergency application, the grantee must modify the grant to provide a full application. This includes a budget, implementation plan, and a list of worksites where the disaster relief work will be performed. ETA may also require the grantee to submit additional information per the special conditions of the initial DWG award. For additional information on the DWG application process, go to the following link:

https://www.doleta.gov/grants/application_howto.cfm

WIOA Layoff Aversion Activities

New Q. Can ETA provide clarifications on the use of funds for layoff aversion?

Response: [Training and Employment Guidance Letter \(TEGL\) 19-16](#) contains information on the use of Dislocated Worker (DW) funds for layoff aversion activities. Section 18 of the TEGL covers the Rapid Response program and how Rapid Response funds can and should be used to conduct layoff aversion activities. In addition, DW funds may be used for incumbent worker training (see section 13 of the TEGL). Additionally, states have the flexibility to utilize the Governor's Reserve to conduct layoff aversion activities.





New Q. Can WIOA Adult funds be used to support layoff aversion activities?

Response: A state may use up to 25% of their Dislocated Worker allotment to provide Rapid Response activities, which can be used for layoff aversion activities. States may also leverage the Governor's Reserve to conduct additional rapid response activities. At the local level, Boards may use up to 20% of their combined adult and dislocated worker funds to provide incumbent worker training, which can be used for layoff aversion. ETA will consider waivers of this 20% cap as needed. Individuals involved in layoff aversion activities who meet program eligibility requirements may be served by the Adult and Dislocated Worker programs. States may approve transfers of up to 100% of adult and dislocated worker funds.

New Q. Can On-The-Job Training (OJT) funds be used for layoff aversion activities for current workers in the same company?

Response: Employed workers may be eligible for WIOA-funded OJT if the requirements of [20 CFR 680.710](#) are met. Additionally, rapid response or statewide WIOA funds may be used for layoff aversion activities including incumbent worker training. See TEGL 19-16, Section 18 for current flexibilities related to rapid response activities. States and local areas may also utilize incumbent worker training for layoff aversion activities as discussed in TEGL 19-16 Section 13.

WIOA Youth

New Q. Can states transfer funds from the WIOA Youth program to the WIOA Dislocated Worker program?

Response: Under current law, states may not transfer funds from the WIOA Youth program, but may transfer funds between the WIOA Adult and Dislocated Worker programs. Such transfers are within the WIOA waiver authority under Section 189. ETA will consider any waiver that a state proposes, and evaluates each waiver on a case by case basis according to the criteria specified in statute and listed at <https://www.dol.gov/agencies/eta/wioa/waivers>. States may request waivers for transfers from the Youth program or for any other provisions. However, states should be ready to describe how quality services will still be provided to out-of-school youth.





New Q. Can ETA provide relief on out-of-school youth (OSY) 20% Work Experience expenditure requirement?

Response: ETA acknowledges work experiences for youth during this time period may be harder to provide. Program expenditures on this program element may include more than just wages paid to youth. Allowable expenditures may include items such as:

- ▶ Wages or stipends paid for participation in a work experience;
- ▶ Staff time working to identify and develop a work experience opportunity, including staff time spent working with employers to identify and develop the work experience;
- ▶ Staff time working with employers to ensure a successful work experience, including staff time spent managing the work experience;
- ▶ Staff time spent evaluating the work experience;
- ▶ Participant work experience orientation sessions;
- ▶ Employer work experience orientation sessions;
- ▶ Classroom training or the required academic education component directly related to the work experience;
- ▶ Incentive payments directly tied to the completion of work experience; and
- ▶ Employability skills or job readiness training to prepare youth for a work experience.

When determining the types of expenditures that are allowable to help meet this requirement, additional information can be found in [TEGL 08-15](#) and [TEGL 21-16](#), p.15. If state and local areas do not meet this requirement at the end of their period of performance, the Department will follow standard monitoring procedures for this program element.



WIOA American Job Centers

Q. Since the President has declared a National Emergency, does this mean states are mandated to close the American Job Centers (AJC) if they are open?

Response: No. The operation status of American Job Centers (AJC) is a state decision. However, ETA strongly encourages states to ensure critical services are provided through alternative means such as conference calls, electronic referrals, and video conferencing. Several states are adapting their services to continue to operate virtually.

Q. If we are closing our AJC, should we inform anyone?

Response: Yes, please inform your Regional Office of AJC or State Workforce Agency (SWA) closures. ETA will use this information to update the Service Locator website (<https://www.careeronestop.org/LocalHelp/service-locator.aspx>), and to update information disseminated by the Toll Free Helpline.

WIOA Performance

Q. What steps will ETA take to account for a decrease in performance across programs/states as programs are closed for a significant period of time during the pandemic? Will States be penalized for performance issues?

Response: The Departments of Education and Labor understand the challenges States may face meeting Program Year (PY) 2019 negotiated levels of performance given the circumstances surrounding COVID-19. As a reminder, as noted in ETA's Training and Employment Guidance Letter 11-19, Negotiations and Sanctions Guidance for the Workforce Innovation and Opportunity Act (WIOA) Core Programs the first year for which performance success or failure can be determined, for some of the primary indicators of performance, is PY 2020. No determinations of sanctions will be made based on the PY 2019 performance information. Furthermore, the Departments use a statistical adjustment model to calculate adjusted levels of performance at the end of the program year, which takes into account actual characteristics of participants served and the actual economic conditions experienced. The Departments will continue to closely monitor the effect of the COVID-19 outbreak and its impact on services and performance outcomes.



Q. Will ETA consider delaying negotiations, as state offices may be closed for an unspecified period of time?

Response: At this time, the Department of Labor anticipates that the negotiations process will proceed, and we will conduct negotiations with states. The Department of Labor anticipates that the negotiations between the ETA Regional Administrators and the states will begin in May 2020. The Department of Education has begun negotiations with States, and anticipates the process will continue throughout the Spring of 2020. The Departments anticipate negotiated levels of performance will be included in the approved State Plans. The Departments are aware that some State offices are closed and some States have implemented remote work. The Departments are also aware that State agency leadership and management staff may be involved with COVID-19 response efforts. As a result, the Departments will be as flexible as possible in conducting negotiations, including scheduling meetings at times that meet States' needs.

Q. Does the WIOA statistical adjustment model address unusual situations such as what we are experiencing now with COVID-19?

Response: The statistical model is intended to adjust for changes in economic conditions and participant characteristics; however, it is too soon to estimate the extent to which the models can address the effects of COVID-19 through these parameters. The Departments will closely monitor the impact of COVID-19 on grantee performance and service delivery and take all necessary and available action to ensure objectively fair performance assessments.

Performance – All Grants

Q. COVID-19 will affect the numbers of people my grant can serve, and may impact performance. Will we grantees be held accountable for those performance measures? Will future FOAs that use previous performance as a scoring criteria take the COVID-19 related disruptions into account?

Response: ETA understands there will be disruptions to services to participants that ultimately may impact performance. As ETA monitors these disruptions, ETA will provide guidance for competitive performance measures accordingly. ETA does not anticipate that these potential disruptions will affect current Funding Opportunity Announcements (FOA) awarded by June 30, 2020. These grant competitions generally use prior performance for activities that have already taken place, and would not be impacted by any COVID-19 related disruptions.





Trade Act, or Trade Adjustment Assistance (TAA), Programs

Q. If a school shuts down and an individual cannot participate in online classes, does the state move the individual to a Work Search Status until the individual returns to school?

Response: The State Workforce Agency should request an explanation as to why the individual cannot participate in online classes. If it is due to a lack of supplies (such as a computer), then that could be covered by TAA training funds. If the school is not offering online classes, and is therefore on a break, then the Extended Benefits work test does not apply in this case.

Q. If a TAA participant finds a job during this period, can the individual later return to the training program and resume training, or should the individual apply for a new training program?

Response: The individual may return or resume his or her approved TAA training plan. Amending or modifying that training plan is best addressed on a case by case basis. No individual shall be entitled to more than one training plan under a single certification, in accordance with 20 CFR 617.22(f)(2).

Q. What if an individual is on a waiver from training and stops looking for work because of COVID-19? The individual has not stated that he or she is sick, but the individual does not want to look for work at this time. Does the State Workforce Agency continue to pay benefits?

Response: All Trade Readjustment Allowances (TRA) require the individual to meet the Extended Benefits (EB) work test unless the individual is participating in TAA training. The EB work test provisions within State law govern whether this individual may be eligible. Please refer to 20 CFR 615.8(d), (e), (f), (g).

Q. If the payment of benefits is allowed while an individual is not in school, will the individual be required to satisfy the Extended Benefit (EB) Work Test for each week he or she is not in school?

Response: Without participation in TAA training, only basic TRA payments are allowed. If there is a cessation in TAA training, the EB work test does not apply, but nothing prevents the individual from continuing to seek employment. Additional and Completion TRA are not payable without participation in TAA training. Accordingly, conducting the EB work test is not required but nothing prevents the individual from continuing to seek employment.





Q. How long should State Workforce Agencies continue to pay Additional TRA Benefits?

Response: Benefits are payable if the individual is eligible. Additional TRA is payable for a maximum of 65 weeks after exhaustion of Basic TRA while the individual is in approved TAA training. Additional TRA is payable during the consecutive calendar weeks that occur in the 78-week period that begins immediately following the last week of entitlement to Basic TRA, the first week of approved TAA training if the training begins after the last week of entitlement to Basic TRA, or the first week in which TAA training is approved, if such training already has commenced (although Additional TRA or training costs may not be paid for any week before the week in which the TAA training was approved). See TEGL No. 5-15, Change 1, Attachment A, Section C.6. (Maximum Number of Weeks of TRA and Duration) for more information.

Q. Can TRA be paid to individuals whose full-time training is reduced to part-time due to COVID-19?

Response: Under Sec. 236(g)(2) of the Trade Act of 1974, as amended, individuals cannot receive TRA for part-time training.

Q. Due to COVID-19, if an individual requires a computer to continue his or her classes, even if the computer is not documented as required for all students, will the cost of the computer be covered?

Response: If a training institution requires that students take courses online due to COVID-19 and the individual does not have the equipment needed to continue his or her classes, then a computer is a requirement, and that cost should be covered accordingly. As ever, steps should be taken to set parameters around the reasonable cost of purchasing the computer.

National Farmworker Jobs Program (NFJP)

New Q. Will the National Farmworker Jobs Program competition be waived?

Response: The Workforce Investment Act Section 167(c)(4)(B) provided authority for the Secretary to waive the NFJP grant competition once during a 4-year period if a recipient of such a grant has performed satisfactorily under the terms of the grant agreement. WIOA does not have this provision. At this time, interested organizations should prepare for the competition as planned. MOUs and letters of support may be obtained through email.





Senior Community Service Employment Program (SCSEP)

Q: We are in an area with confirmed cases of novel coronavirus disease (COVID-19) and/or an area that is taking broad public health measures to prevent the spread of the virus. Are we allowed to pay participants whose host agency assignments or paid training activities are impacted by COVID-19, particularly in situations where regional or localized quarantine efforts prevent participants from attending training sites in person?

Response: We recognize that the current COVID-19 outbreak presents unique challenges for SCSEP grantees and participants. The program's participants are particularly vulnerable for several reasons, including their reliance on SCSEP wages and benefits, as well as their age, which appears to place them in higher risk categories for complications due to COVID-19 disease. Grantees can act to minimize disruptions in the payments to participants of SCSEP wages and benefits, and to minimize the exposure risk encountered by SCSEP participants and grant staff. In addition, please refer to the Centers for Disease Control page on the novel coronavirus for the latest updates and medical advice:

<https://www.cdc.gov/coronavirus/2019-ncov/index.html>.

Note that, even in the unusual situation prompted by community transmission of the novel coronavirus, your SCSEP grant remains subject to the laws, regulations, and policies that apply to SCSEP, including the authorizing statute (Older Americans Act, Title V, 42 U.S.C. sec. 3056, et seq., as amended), the Uniform [Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#) (Uniform Grant Guidance at 2 CFR Part 200 and 2 CFR Part 2900), SCSEP regulations (20 CFR Part 641), applicable DOL guidance, and the terms and conditions specified in your grant award. However, depending on the situation in your communities, you have several options that may minimize disruption to SCSEP participants while still adhering to the applicable rules. The options described below, alone or in combination, should help to prevent disruptions to many participants affected by the emergency. However, if for some reason, a participant goes more than three days without pay due to the crisis, such participant must be placed on an approved break until alternative arrangements are made in order to avoid a negative impact to the participant's durational limit calculation.

Use of Paid Sick Leave

In situations where COVID-19 impacts host agencies or paid training activities, or where in-person attendance by SCSEP participants may expose them or others to the risk of viral transmission, grantees can use paid sick leave consistent with their organizations' policies. Paid sick leave may serve as a means of limiting SCSEP participants' public exposure while minimizing disruption in the payment of participant wages and benefits.

The SCSEP regulations at 20 CFR 641.565(b)(1)(vi) state that "Grantees and sub-recipients must provide necessary sick leave that is not part of an accumulated sick leave program, which may be paid or in the form of rescheduled work time." The regulations do not further define what constitutes "necessary sick leave," nor do the regulations place minimums or maximums on the amount of sick leave that may be provided to SCSEP participants. Accordingly, grantees have flexibility to define these parameters through sick leave policies at the grantee level, provided that such policies adhere to applicable rules





governing SCSEP grants, including the “Factors affecting allowability of costs” and “Reasonable costs” specified in Uniform Grant Guidance at 2 CFR 200.403 and 2 CFR 200.404, respectively. In general, consistent with 20 CFR 641.565(b)(1)(i), such policies must ensure uniform treatment of all participants under your project or sub-project. Grantees should already have such policies in place, but in light of the scope of the current situation, we encourage you to either review existing policies and amend them as necessary, or initiate new policies to govern the use of paid sick leave.

Rescheduled Work Time

Consistent with the SCSEP regulations’ treatment of sick leave as cited above, where feasible, you may allow participants to “make up” missed time in a community service assignment or paid training activity by rescheduling the activity to a later date when the site reopens. The SCSEP regulations do not limit the opportunity to make up time to the next payroll period. As noted above, to ensure consistent and equitable treatment of sick leave, we encourage you to ensure that your organization’s sick leave policies address situations in which participants receive paid sick leave versus rescheduled work time.

Assignments in Temporary Host Agencies and/or Remote Training Opportunities

Depending on the situation in your communities, you may also assign participants to perform community service training with temporary host agencies. For example, if you are in an area without broad community transmission, but one host agency must temporarily close due to suspected COVID-19 exposure, it may be appropriate to temporarily assign affected participants to an alternate host agency (note that affected participants would need to be reassigned accordingly in SPARQ).

Alternatively, you may engage participants in permissible online training activities or SCSEP meetings conducted remotely. Any training or supportive services activity that would normally be allowable under SCSEP can be used in an emergency situation such as COVID-19 (in this instance, participants would remain assigned to their current host agencies). Such activity must be reasonable and documented. Keep in mind that specialized training activities must align and be consistent with the participant’s Individual Employment Plan.

Q: To implement the options above, what should my next steps be, and will ETA need to approve my plan?

Response: In many cases, you will be able to implement the activities described above without a formal modification to the grant statement of work (SOW), and without specific additional formal approval from ETA.

In particular, if you decide to amend or change your organization’s sick leave policy (for paid sick leave and/or rescheduled work time) for SCSEP participants affected by COVID-19, this will not require a modification to the grant SOW. While your grant documents include program assurances in which you agreed to maintain policies and procedures covering necessary sick leave, we do not consider such policies part of your SOW; rather, they are policies that your Federal Project Officer (FPO) may review later during grant monitoring (similar to your other policies on fiscal controls, etc.) to ensure compliance with the grant terms and conditions.





Regarding the option to provide temporary host agency assignments to affected SCSEP participants, this activity should generally already be covered by your current SOW, since host agency assignments are a core component of every SCSEP project. Accordingly, a SOW modification would not be required to implement this activity.

Regarding remote training opportunities, these activities may also still fall under your current SOW and budget. However, depending on your current budget and whether or not you have a current Program Year 2019 approval for Additional Training and Supportive Services (ATSS) (per 20 CFR 641.874), you may need to modify your budget and/or submit an ATSS request to ensure that your proposed activities are properly reflected in your grant agreement. As needed, please work with your FPO to determine whether such requests are necessary.



§200.431 Compensation—fringe benefits.

(a) ...

(b) **Leave**. The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, family-related leave, sick leave, holidays, court leave, military leave, administrative leave, and other similar benefits, are allowable if all of the following criteria are met:

- (1) They are provided under established written leave policies;
 - (2) The costs are equitably allocated to all related activities, including Federal awards; and,
 - (3) The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the non-Federal entity or specified grouping of employees.
- (i) When a non-Federal entity uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an employee retires or terminates employment are allowable in the year of payment.
- (ii) The accrual basis may be only used for those types of leave for which a liability as defined by GAAP exists when the leave is earned. When a non-Federal entity uses the accrual basis of accounting, allowable leave costs are the lesser of the amount accrued or funded.