
DEPARTMENT OF LABOR

CFDA 17.207 EMPLOYMENT SERVICE
CFDA 17.801 DISABLED VETERANS' OUTREACH PROGRAM (DVOP)
CFDA 17.804 LOCAL VETERANS' EMPLOYMENT REPRESENTATIVE
PROGRAM (LVER)

I. PROGRAM OBJECTIVES**Employment Service (ES) - General**

The Wagner-Peyser Act, (Act) as amended by the Workforce Investment Act of 1999 (WIA) (Pub. L. No. 105-220), establishes the United States Employment Service (USES) within the Department of Labor and promotes the establishment and maintenance of a national system of public employment service offices (29 USC 49 *et seq.*; 38 USC chapters 41 and 42 (veterans programs)).

The basic purpose of the Employment Service system is to improve the functioning of the nation's labor markets by bringing together individuals who are seeking employment and employers who are seeking workers. The objectives of the Employment Service Program are to: (1) provide employment-related services to unemployed individuals and other job seekers; (2) refer qualified job applicants and provide technical assistance to employers; (3) to perform a variety of employment-related activities to facilitate the provision of basic services to individuals and employers; and (4) to participate in a labor clearinghouse for inter-state activities (20 CFR sections 652.2 and 652.3).

Disabled Veterans' Outreach Program (DVOP)

The objectives of the DVOP are: (1) to provide jobs and job training opportunities for disabled and other veterans through contacts with employers; (2) promote and develop on-the-job training and apprenticeship and other on-the-job training positions within Federal job training (e.g., WIA, VA programs); (3) provide outreach to veterans through all community agencies and organizations; (4) provide assistance to community-based groups and organizations and appropriate grantees under other Federal and Federally funded employment and training programs; (5) develop linkages with other agencies to promote maximum employment opportunities for veterans; and (6) to provide job placement, counseling, testing, job referral to eligible veterans, especially disabled veterans of the Vietnam era, utilizing a case-management approach to services, wherever applicable.

Local Veterans' Employment Representative Program (LVER)

The objectives of the LVER program are to provide job development, placement, and support services directly to veterans and to ensure that there is local supervision of State Employment Service/Job Service compliance with Federal regulations, performance standards, and grant agreement provisions in carrying out requirements of 38 USC 4104 in providing veterans with the maximum employment and training opportunities.

II. PROGRAM PROCEDURES

Federal funds are granted to the States for establishing and maintaining local public employment offices through which the States administer both Federal and state employment service programs.

The state agency responsible for the provision of employment services, generically referred to as the State Employment Security Agency (SESA), must submit an five-year plan for providing services and activities authorized by Section 7(a) of the Act, through the Governor, to the Department of Labor (20 CFR section 652.211). This part of the State plan is submitted under Section 112 of WIA. The Governor has discretion to choose various approaches to planning the utilization of funds reserved by Section 7(b) of the Act.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Labor Exchange* - Funds allotted to each State may be utilized by the SESA for a variety of activities, consistent with an approved plan pursuant to the Act and implementing regulations (20 CFR sections 652.5 and 652.8(d)). At a minimum, each SESA shall provide the basic labor exchange elements defined in 20 CFR section 652.3.
2. *Section 7(a)* - Services and activities provided for by Section 7(a) of the Act are:
 - a. To unemployed individuals and other job seekers: job search, job placement and job information services, including counseling, testing, occupational and labor market information, assessment, and referral to employers;
 - b. To employers: a source for recruitment of qualified job applicants, and technical assistance in resolving workforce problems; and
 - c. The following employment-related activities:
 - (1) Evaluation of programs;
 - (2) Developing linkages between services funded under this Act and related Federal or State legislation, including the provision of labor exchange services at education sites;
 - (3) Providing employment-related services for workers who have received notice of permanent or impending layoff, and reemployment services for workers in occupations which are experiencing limited demand due to technological change, impact of imports, or plant closures;
 - (4) Developing and providing State and local labor market and occupational information;

- (5) Developing a management information system and compiling and analyzing reports therefrom; and
 - (6) Administering the work test for the State unemployment compensation system, and providing job finding and placement services for unemployment insurance claimants (29 USC 49f(a); 20 CFR section 652.210).
3. *Section 7(b)* - Services and activities provided for by Section 7(b) of the Act are:
 - a. Performance incentives for public employment service offices and programs, consistent with performance standards established by the Secretary;
 - b. Services for groups with special needs carried out pursuant to joint agreements between the Employment Service and the local workforce investment board and Chief Elected Official(s), or other public agencies or private nonprofit organizations; and
 - c. Exemplary models for delivering traditional Employment Service Program services under Section 7(a) of the Act (29 USC 49f(b)).

Items a and b listed above may be contracted outside the SESA delivery system.

4. *Section 7(d)* - In addition to the activities described under 2 and 3, above, Section 7(d) of the Act authorizes SESAs to perform such other activities as shall be specified in cost-reimbursement agreements with the Secretary of Labor or with any Federal, State, or local public agency, or WIA administrative entity, or private nonprofit organization. Certain States receive funding from DOL under this Section for such activities as the development of automated labor exchange systems and training (29 USC 49f(d)).
5. *DVOP* - The Disabled Veterans Outreach Program includes a wide variety of services directly related to meeting the employment needs of disabled and other eligible veterans as defined at 38 USC 4103A(b)(1). These services include, but are not limited to, the following:
 - a. Development of job and job training opportunities through contacts with employers;
 - b. Outreach activities to locate eligible veterans;
 - c. Provision of assistance to community-based organizations and appropriate grantees under other Federal and federally funded employment and training programs in providing such services;
 - d. Provision of vocational guidance and vocational counseling services; and
 - e. Provision of services as a case manager.

A complete list of allowable services appears at 38 USC 4103A(c).

6. *LVER* - The Local Veterans' Employment Representative supervises the provision of a variety of services to eligible veterans. These services include, but are not limited to the following:
 - a. Maintain regular contact with community leaders, employers, labor unions, training programs, and veterans' organizations for the purpose of (1) keeping them advised of eligible veterans and eligible persons available for employment and training, and (2) keeping eligible veterans and eligible persons advised of opportunities for employment and training;
 - b. Provide directly, or facilitate the provision of, labor exchange services including intake and assessment, counseling, testing, job-search assistance, and referral and placement; and
 - c. Assist, through automated data processing, in securing and maintaining current information regarding available employment and training opportunities.

A complete list of allowable services appears at 38 USC 4104(b).

7. *Section 7(e)* - Section 7(e) provides that all services authorized under 7(a) shall be provided as part of a one-stop delivery system established by the State (29 USC 49f(e)).

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
2. **Level of Effort** - Not Applicable
3. **Earmarking**

Ten percent of each State's Wagner-Peyser allotment shall be reserved by the SESA to provide services and activities authorized by Section 7(b) of the Act (29 USC 49f(b)).

L. Reporting

1. **Financial Reporting**
 - a. SF-269, *Financial Status Report* - The SF-269 is used for the ES programs. It is not used for the DVOP and LVER programs.
 - b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
 - c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable

- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System. Reporting equivalent to the SF-272 is accomplished through the Payment Management System and is evidenced by the PMS 272 series of reports.
 - e. VETS-300, *Cost Accounting Report, DVOP/LVER Programs (OMB No. 1205-0240)* - A separate quarterly report is required for each of the DVOP and LVER programs.
- 2. Performance Reporting** - Not Applicable
- 3. Special Reporting** - Not Applicable

DEPARTMENT OF LABOR**CFDA 17.225 UNEMPLOYMENT INSURANCE (UI)****I. PROGRAM OBJECTIVES**

The Regular Compensation, Unemployment Compensation for Federal Employees (UCFE), and Unemployment Compensation for Ex-Servicemembers (UCX) programs provide Unemployment Compensation (UC) to unemployed workers for periods of involuntary unemployment and help stabilize the economy by maintaining the spending power of workers while they are between jobs. During periods of high unemployment, the Extended Benefits (EB) program pays UC for an additional (or extended) period of time to eligible unemployed workers who have exhausted their entitlement to Regular Compensation.

States must ensure full payment of UC "when due," and must deny payments when not due (42 USC 503(a)(1)).

II. PROGRAM PROCEDURES

Initially, the UI program consisted solely of the regular State programs. However, UC coverage was extended to Federal civilian employees in 1954 by the UCFE program (Pub. L. No. 83-767), and to ex-members of the Armed Forces in 1958 by the UCX program (5 USC 8501-8525; Pub. L. No. 85-848). The Federal-State Extended Unemployment Compensation Act (EUCA) of 1970 provided for an EB program (26 USC 7805; 20 CFR part 615).

The structure of the Federal-State UI Program partnership is based upon Federal law; however, it is implemented primarily through State law. Unless otherwise noted, responsibilities of the U.S. Department of Labor (DOL) include: (1) allocating available administrative funds among States; (2) administering (U.S. Department of the Treasury) and monitoring activities of the Unemployment Trust Fund (UTF); (3) establishing program performance measures; (4) monitoring State performance; (5) ensuring conformity and substantial compliance of State law and operations with Federal law; and, (6) setting broad overall policy for program administration. State UI program operations are conducted by the State Employment Security Agency (SESA; the generic name for the agency which has responsibility for the State's Employment Security function).

State responsibilities include: (1) establishing specific, detailed policy and operating procedures which comply with the requirements of Federal laws and regulations; (2) determining the State UI tax structure; (3) collecting State UI contributions from employers (commonly called "unemployment taxes"); (4) determining claimant eligibility and disqualification provisions; (5) making payment of UC benefits to claimants; (6) managing the program's revenue and benefit administrative functions; (7) administering the programs in accordance with established policies and procedures; and, (8) enacting State UC law that conforms with Federal UC law.

About 97 percent of all wage and salary workers are covered by UC programs. In addition to the regular State programs, UC includes: the Regular Compensation Program, the EB Program, UCFE, and UCX. Each program has its own eligibility and benefit provisions.

Note: Informal references are frequently made to eligibility for "weeks" of UC. The auditor is cautioned eligibility is actually for DOLLAR AMOUNTS of UC, which is inaccurately referred to as receipt of UC for a given number of weeks.

Program Funding

UC payments to claimants are funded by State UI taxes on covered employers (three States have provisions for employee taxes), and reimbursements from Federal entities, certain State governments, political subdivisions and instrumentalities of the States, and qualified non-profit organizations. While "experience-rated" UI taxes on employers are the primary source of revenue for benefits, some employers make direct reimbursements to the State for UC payments made on their behalf. State governments, political subdivisions and instrumentalities of the States, and qualified non-profit organizations may reimburse the State for UC benefits paid by the SESA; however, they may elect to be contributory employers (i.e., remit State UI taxes) in lieu of reimbursing the State. Also, States are reimbursed from the UTF for UCFE and UCX paid by the SESA on behalf of various Federal entities. Program administration is funded by a Federal UI tax on covered employers (see below). Generally, the employment covered by State UI taxes and Federal UI taxes are the same; however, there are specific differences.

State UI taxes and reimbursements are used almost exclusively for the payment of regular UC and the State share of EB to eligible claimants. All UI taxes and reimbursements remitted by employers to the States are deposited in State accounts in the UTF. SESAs periodically draw funds from their UTF accounts for the purpose of making UC payments.

FUTA imposes a Federal tax on covered employers. Currently, the FUTA tax on covered employment (generally employment subject to a State UI tax) is 6.2 percent of the first \$7,000 of covered employee wages. Employers, however, receive two credits against the FUTA tax. One credit is equal to the amount of State UI tax paid by the employer. The employer receives this credit when the State UI law, and its application, conforms and substantially complies with FUTA requirements. A second credit is awarded only to employers in States which have a federally approved experience-rated State UI tax system. All States currently meet the Federal criteria for both credits to be applicable to the States' employers. The two credits combined cannot exceed 5.4 percent of taxable employee wages.

FUTA revenues from the remaining 0.8 percent are collected by the IRS and deposited into the general fund of the U.S. Treasury, which by statute are appropriated to the UTF. FUTA revenues are used primarily to finance Federal and SESA administrative expenses, the Federal share of EB, and advances to States whose UTF account balances are low or exhausted. DOL allocates available administrative grant funds (as appropriated by Congress) to States based on forecasted workload and costs and adjusted for increases or decreases in workload during the current year.

Synopsis of Regular Compensation Program

The regular compensation program provides UI coverage of most wage and salary workers in each State, the District of Columbia, Puerto Rico, and the Virgin Islands. Except for provisions necessary to comply with Federal law, the provisions of State UI laws vary greatly, including their qualifying requirements and methods used to compute UC amounts.

The period during which a claimant may receive UC is referred to as the "benefit year." In all but one State, a benefit year lasts one year from the effective date of the claim. The total regular UC that a claimant may receive in a benefit year is computed by the SESA in a dollar amount. A claimant may draw UC against the total UC allowable for the benefit year during periods of unemployment that occur during the benefit year. Under State UI laws, the total (maximum) UC a claimant is entitled to varies within certain limits according to the worker's wages in the base period (see Eligibility). Reduced benefits may be paid for weeks of partial unemployment. In some States, the weekly UC benefit payment is augmented by a dependent's allowance.

The entitlement to UC (both regular compensation and EB) is frequently and imprecisely expressed in lay terms as receipt of UC for a given number of weeks.

Synopsis of Extended Benefits Program

An interval of high unemployment at a certain level will "trigger on" a period of not less than 13 weeks during which the State will make extended UC (or EB) payments to eligible unemployed workers who have exhausted their entitlement to regular compensation (20 CFR section 615.11). With certain qualifications, EB is payable at the same rate as the claimant's regular compensation amount (20 CFR section 615.6). The EB period is determined by the State in which the original claim was established (EUCA section 202(a)(2), 20 CFR section 615.2(k)(2)). A reduction in the unemployment rate will "trigger off" the period for the payment of EB.

A claimant may receive EB equal to the lesser of the following amounts: (a) one-half the total amount of regular compensation, including dependent's allowances, (b) 13 times the weekly amount of regular compensation, or (c) 39 times the weekly amount of regular compensation reduced by the amount of Regular Compensation paid to the claimant (EUCA, section 202(a)(2), 20 CFR section 615.7(b)). However, the qualifying and benefit provisions of the EB program change if the unemployment rate assumes a benchmark level established in EUCA. While EB are payable under the terms and conditions of State law, FUTA requires that State UI law conform to certain provisions of EUCA (26 USC 3304(a)(11)).

States are reimbursed with Federal funds for one-half the cost of EB paid to claimants by the SESAs, with the following exceptions: (1) EB paid to former UCFE and UCX claimants are 100 percent reimbursable from Federal funds; and, (2) EB paid to former employees of the State government, and political subdivisions and instrumentalities of the State, are not reimbursable from Federal funds. Reimbursements will be prorated for claimants who had employment in both the private and public sectors during their "base periods." The first week of EB is reimbursable to the State only if the State requires the first week in an individual's benefit year be an unpaid "waiting week" (EUCA section 204; 20 CFR section 615.14). The auditor should refer to 20 CFR section 615.14 for a complete explanation of when EB is not reimbursed to the State.

Employer Experience Rating

States annually compute an "experience-rating" for contributing, or tax-remitting, employers. The experience-rating is the dominant factor in the computation of an employer's State UI tax rate. While methods of computation differ, the key factor in most methodologies is the amount of UC paid by the SESA within a time period specified by State UI law, to claimants who are

former employees of the employer. Also, various methods are used by the SESAs to identify which one or more of the claimant's former employers will be "charged" with the UC paid to the claimant.

Synopsis of UCFE and UCX Programs

For UCFE, the qualifying requirements, determination of UC benefit amounts, and duration of UC are generally determined under the applicable State law, which is generally the State in which the official duty station was located (5 USC chapter 85; 20 CFR part 609).

The UCX program combines elements of the applicable State law and factors unique to the UCX program, such as "schedules of remuneration" (20 CFR section 614.12), which must be considered by the SESA in making its determinations of eligibility, UC benefit amounts and duration (5 USC Chapter 85; 20 CFR part 614).

States are reimbursed from the UTF for UC paid to UCFE and UCX claimants. On a quarterly basis, States report UCFE and UCX paid to the DOL, which is responsible for obtaining reimbursement to the UTF from the appropriate Federal agencies.

Source of Governing Requirements

The Federal-State Unemployment Insurance (UI) program partnership is provided for by Titles III, IX and XII of the Social Security Act of 1935 (SSA) (42 USC 501 *et seq.*) and the Federal Unemployment Tax Act (FUTA) (26 USC 3301 *et seq.*). Program regulations are found in 20 CFR parts 601 through 616.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

Administrative grant funds may be used only for the purposes and in the amounts necessary for proper and efficient administration of the UI program (SSA, section 303(a)(8)).

E. Eligibility

1. Eligibility for Individuals

- a. *Regular Compensation Program* - Under State UI laws, a worker's benefit rights depend on the amount of the worker's wages in covered employment in a "base period." While most States define the base period as the first 4 of the last 5 completed calendar quarters prior to the filing of the claim,

other base periods are used. To qualify for benefits a claimant must have worked a certain number of weeks, or have worked a certain number of weeks or calendar quarters within the base period, or meet some combination of wage and employment requirements. A "waiting period" is a noncompensable period of unemployment in which the worker was otherwise eligible for benefits. Most States require a waiting period of one week of total or partial unemployment before UC is payable.

To be eligible to receive UC, all States provide that a claimant must be able and available for work (i.e., must be in the labor force; unemployment must be caused by lack of suitable work; and the claimant must be legally authorized to work). A claimant must not be unemployed for such acts as leaving voluntarily without good cause, discharge for misconduct connected with work, and refusal of suitable work.

- b. *EB Program* - To qualify for EB, a claimant must have exhausted Regular Compensation (20 CFR section 615.4(a)). To be eligible for a week of EB, a claimant must apply for and be able and available to accept suitable work, if offered. What constitutes suitable work is dependent on a required SESA's evaluation of the claimant's employment prospects. An EB claimant must make a "systematic and sustained effort" to seek work and must provide "tangible evidence" to the SESA that he or she has done so (EUCA section 202(a)(3); 20 CFR section 615.8).
- c. *UCFE and UCX Programs* - For UCFE, the claimant's eligibility and benefit amount will generally be determined in accordance with the UI law of the State of the claimant's last duty station (20 CFR section 609.8). For UCX, a claimant's eligibility is determined in accordance with the UI law of the State in which the claimant files a first claim after separation from active military service (20 CFR section 614.8).

2. Eligibility of Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients - Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching - Shareable Compensation Program (EB)

From its UI tax revenues, the State is required to pay either zero percent (UCFE, UCX), 50 percent (EB) or 100 percent (Regular Compensation) of the UC paid by the SESA to eligible claimants.

The State is required to provide 50 percent of the amounts paid to the majority of eligible EB claimants (those not covered by Federal law or special provisions of State law) (20 CFR sections 615.2 and 615.14(a)). Those EB amounts paid by the

SESA, and which are not the responsibility of the State, are reimbursable to the State from the UTF (20 CFR section 615.14). The first week of EB is reimbursable to the State only if, in addition to other requirements, the State requires the first week of an individual's benefit year to be an "unpaid waiting week" (EUCA section 204; 20 CFR section 615.14).

The 50 percent share of EB for which the State is responsible is prorated for those claimants whose base period includes wages from both public and private sector employment.

2. **Level of Effort** - Not Applicable
3. **Earmarking** - Not Applicable

L. **Reporting**

1. **Financial Reporting**

Instructions for reporting financial and program activities are contained in ETA Handbook 336, *SESA Program and Budget Plan Handbook* and in the *Unemployment Insurance Reports Handbook 401*. The SESA may file certain reports electronically.

- a. SF-269, *Financial Status Report* - A separate SF-269 is submitted for each of the following: UI Administration, UI National Activities (excluding cooperative agreements), Regular Trade Benefits, NAFTA Benefits, and UA Projects (administration and benefits).
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - In accordance with 29 CFR 97.41(c), SESAs are required to submit the SF-272 under the Department of Health and Human Services' Payment Management System. However, SESAs are exempt from submitting the SF-272A Continuation Sheet.
- e. ETA 2112, *UI Financial Transaction Summary (OMB No. 1205-0154)* - A monthly summary of transactions which account for all funds received in, passed through, or paid out of the State unemployment fund (Page II-1-1 of ETA Handbook No. 401).
- f. ETA 581, *Contribution Operations (OMB No. 1205-0178)* - Quarterly report on volume of SESA work, performance in determining the taxable status of employers, and other information pertinent to the overall effectiveness of the tax program (Page II-2-1).

- g. ETA 191, *Financial Status of UCFE/UCX (OMB No. 1205-0162)* - Quarterly report on UCFE and UCX expenditures and the total amount of benefits paid to claimants of specific Federal agencies (Page II-3-1).
- h. ETA 227, *Overpayment Detection and Collection Activities (OMB No. 1205-0173)* - Quarterly report on results of SESA activities in principal detection areas of benefit payment control (Page IV-3-1).

2. Performance Reporting - Not Applicable

3. Special Reporting

- a. ETA 2208A, *Quarterly UI Contingency Report (OMB No. 1205-0132)* - Quarterly report of staff years worked and paid by program category. Key line items are 1 through 7 of Section A. The auditor is not expected to test Sections B through E.

N. Special Tests and Provisions

1. Employer Experience Rating

Compliance Requirement - Certain benefits accrue to States and employers when the State has a Federally-approved experience-rated UI tax system. All States currently have an approved system. For the purpose of proper administration of the system, the SESA maintains accounts, or subsidiary ledgers, on State UI taxes received or due from individual employers, and the UC benefits charged to the employer.

The employer's "experience" with the unemployment of former employees is the dominant factor in the SESA computation of the employer's annual State UI tax rate. The computation of the employer's annual tax rate is based on State UI law (26 USC section 3303).

Audit Objective - To verify the accuracy of the employer's annual State UI tax rate. To determine if the tax rate was properly applied by the State.

Suggested Audit Procedures

- a. Experience rating systems are generally highly automated systems. These systems could contain errors that are material in the aggregate, but which are not susceptible to detection solely by sampling. If detected, sampling may not be the most effective and efficient means to quantify the extent of such errors. For this reason, the auditor should have a thorough understanding of the operation of these systems, and is strongly encouraged to consider the use of computer-assisted auditing techniques (CAATs) to test these systems.
- b. On a test basis, reconcile the subsidiary employer accounts with the State's UI general ledger control accounts.

- c. Trace a sample of taxes received and benefits paid to postings to the applicable employer accounts. Verify the propriety of any non-charging of benefits paid to an employer account.
- d. Trace a sample of postings to employer accounts to documentation of taxes received and benefits paid.
- e. On a test basis, recompute employer experience-related tax rates.

2. Match with IRS 940 FUTA Tax Form

Compliance Requirement - States are required to annually certify for each taxpayer the total amount of contributions required to be paid under the State law for the calendar year and the amounts and dates of such payments in order for the taxpayer to be allowed the credit against the FUTA tax (26 CFR section 31.3302(a)-3(a)). In order to accomplish this certification, States annually perform a match of employer tax payments with credit claimed for these payments on the employer's IRS 940 FUTA tax form (IRS Doc. No. 6581, "Specifications for a Nationwide System for Computerized Certification of State FUTA Credits," Rev. August 1997).

Audit Objective - Determine whether the State properly performed the match to support its certification of State FUTA tax credits.

Suggested Audit Procedures

- a. Ascertain the State's procedures for conducting the annual match.
- b. Ascertain if the match was properly performed by reviewing supporting documentation.

IV. OTHER INFORMATION

State unemployment tax revenues and the government and non-profit contributions in lieu of State taxes (State UI funds) must be deposited to the Unemployment Trust Fund in the U.S. Treasury, only to be used to pay benefits under the Federally-approved State unemployment law. This Compliance Supplement includes several compliance requirements that must be tested with regard to these State UI funds. Consequently, State UI funds as well as Federal funds shall be included in the total expenditures of CFDA 17.225 when determining Type A programs. State UI funds should be included with Federal funds on the Schedule of Expenditures of Federal Awards. A footnote to the Schedule to indicate the individual State and Federal portions of the total expenditures for CFDA 17.225 is encouraged.

DEPARTMENT OF LABOR**CFDA 17.235 SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM****I. PROGRAM OBJECTIVES**

To provide, foster, and promote useful part-time work opportunities (usually 20 hours per week) in community service activities for low income persons who are 55 years of age and older. To the extent feasible, the program assists and promotes the transition of program enrollees into unsubsidized employment. Authorized by the Older Americans Act of 1965 (the Act), as amended (42 USC 3056 et seq; 20 CFR part 641).

II. PROGRAM PROCEDURES

To allot program funds for use in each State, the Department of Labor (DOL) utilizes a statutory formula based on the number of persons aged 55 and over, per capita income, and hold-harmless considerations. Program grants are awarded to eligible applicants, which include States, U.S. Territories, and public and private non-profit entities other than political parties (Section 506 of the Act). The relative amount of funding for each type of eligible applicant has historically occurred at proportions of 22 percent to State agencies and 78 percent to 10 national sponsors. Annual awards, which are currently made to 46 States; the Commonwealth of the Marianas Islands, American Samoa, and Guam; nine non-profit organizations, and the U.S. Forest Service (the national sponsors), are administered by the DOL at the national level. The one-year grant period may be extended up to two months through a grant modification. The program year is July 1 to June 30.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Allowable activities include, but are not limited to: outreach, orientation, assessment, counseling, classroom training, job development, community service assignments, payment of wages and fringe benefits, training, supportive services, and placement in unsubsidized employment.
2. Lobbying and building repairs and acquisition costs, except for (1) labor involved in the minor and necessary remodeling of public facilities for the benefit of the project and/or community and (2) the minor rehabilitation or repair of houses of low income persons by enrollees, are specifically prohibited (20 CFR section 641.403).

E. Eligibility**1. Eligibility for Individuals**

Persons 55 years or older whose family is low-income (i.e., income does not exceed the low-income standards defined in 20 CFR section 641.102) are eligible for enrollment (20 CFR section 641.305(b)). Low-income under 20 CFR section 641.102 means an income of the family which, during the preceding six months on an annualized basis or the actual income during the preceding 12 months, whichever is more beneficial to the applicant, is not more than 125 percent of the poverty levels established and periodically updated by the U.S. Department of Health and Human Services. (The poverty guidelines are issued each year in the *Federal Register* and the Department of Health and Human Services maintains a page on the Internet which provides the poverty guidelines (<http://aspe.os.dhhs.gov/poverty/poverty.htm>.) In addition, an individual who receives, or is a member or a family which receives, regular cash welfare payments shall be deemed to have a low income for purposes of this part. Enrollee eligibility is redetermined on an annual basis (20 CFR section 641.305(e)(1)).

2. Eligibility for Groups of Individuals or Area of Service Delivery - Not Applicable**3. Eligibility for Subrecipients - Not Applicable****G. Matching, Level of Effort, Earmarking****1. Matching**

The grantee must contribute matching, in cash or in-kind, not less than 10 percent of the total cost of the project, except that the Federal government may pay all costs of any project which is:

- a. An emergency or disaster project;
- b. A project located in an economically depressed area as determined by the Secretary of Labor in consultation with the Secretary of Commerce and the Director of the Office of Community Services of the Department of Health and Human Services;
- c. A project which is exempt by law; or
- d. A project serving an Indian reservation that can demonstrate it cannot provide adequate non-Federal resources (20 CFR section 641.407).

2.1 Level of Effort - Maintenance of Effort - Not Applicable

2.2 Level of Effort - *Supplement not Supplant*

Employment of an enrollee shall be only in addition to budgeted employment which would otherwise be funded by the grantee, subgrantee(s) or host agency(ies) without assistance from the Act, and shall not result in employee displacement (including persons in lay-off status) or substitute project jobs for contracted work or other Federal jobs (20 CFR section 641.325).

3. Earmarking

The amount of Federal funds expended for enrollee wages and fringe benefits shall be no less than 75 percent of the grant (20 CFR section 641.405(b)(2)).

The amount of Federal funds expended for the costs of administration during the program year shall be no more than 13.5 percent of the grant (20 CFR section 641.405). A waiver of this requirement to increase administrative expenditures to 15 percent may be granted by the Secretary (20 CFR section 641.405(b)(1)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through PMS and is evidenced by the PMS 272 series of reports.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

DEPARTMENT OF LABOR**CFDA 17.245 TRADE ADJUSTMENT ASSISTANCE--WORKERS (TAA)****I. PROGRAM OBJECTIVES**

The purpose of the TAA and NAFTA-TAA programs is to assist individuals who become unemployed or underemployed as a result of increased imports (or, under the NAFTA-TAA program, a shift of production to Mexico or Canada) to return to suitable employment.

II. PROGRAM PROCEDURES

Funds are provided to State Employment Security Agencies (SESAs) to serve as agents of the U.S. Department of Labor for administering the worker adjustment assistance benefit provisions of the Act. Total program funds for training are capped for each fiscal year. Funds for job search and relocation are appropriated separately.

Through their local offices, SESAs arrange for training and provide weekly trade readjustment allowances (TRA) for program participants. In addition, eligible individuals may receive (1) a job search allowance, (2) a relocation allowance, and (3) a transportation and/or subsistence allowance for the purpose of attending approved training outside the normal commuting distance of their regular place of residence (20 CFR part 617).

Source of Governing Requirements

This program is authorized by the Trade Act of 1974, as amended (19 USC 2271 et. seq; 20 CFR part 617; 29 CFR part 90, subpart B; Pub. L. No. 93-618; and Pub. L. No. 103-182).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

Allowable activities include job search, relocation assistance, training (including payments for transportation and subsistence where required for training), and payment of weekly TRA to eligible participants. TAA funds cannot be used to pay for testing, counseling, and job placement services; however, TAA participants may be receiving these services through other programs (20 CFR part 617).

E. Eligibility

1. Eligibility for Individuals

- a. *Department of Labor Certification* - In order to be eligible for training and other re-employment services, an individual must: (1) be an adversely affected worker covered under a Department of Labor certification and (2) have a qualifying separation which occurred (a) on or after the impact date specified in the Certification as the beginning of the import caused unemployment or underemployment and (b) before the expiration of the two-year period beginning on the date on which the Secretary of Labor issued the Certification for his or her group or, if earlier, before the termination date, if any, specified in the Certification. Regulations governing "Certification of Eligibility to Apply for Adjustment Assistance" are found at 29 CFR part 90.
- b. *Qualifying Wages, Duration of Employment, and Training* - To be eligible for weekly TRA payments, the worker must: (1) have been employed at wages of \$30 or more per week in adversely-affected employment with a single firm or subdivision of a firm for at least 26 of the previous 52 weeks ending with the week of the individual's qualifying separation (up to seven weeks of employer-authorized leave, up to seven weeks as a full-time representative of a labor organization, or up to 26 weeks of disability compensation may be counted as qualifying weeks of employment); (2) have exhausted all Unemployment Compensation to which he or she is entitled; and (3) be enrolled in or have completed an approved job training program, unless a waiver from the training requirement has been issued after a determination is made that training is not feasible or appropriate (waivers from training are not authorized under the NAFTA-TAA program) (20 CFR section 617.11).
- c. *NAFTA-TAA* - To be eligible for weekly TRA payments under the NAFTA-TAA program, workers must meet all the requirements for the regular TAA program. In addition, workers must be enrolled in their approved training within six weeks of the issuance of the Certification or within 16 weeks of their most recent qualifying separation, whichever is later (Pub. L. No. 103-182, section 250(d)(3)(B)).
- d. *Maximum Combined Number of Weeks for Receipt of UC, EB and TRA* - TRA becomes payable to eligible claimants only after they have exhausted their entitlement to regular State unemployment compensation benefits (UC), including extended benefits (EB), if applicable. The maximum combined number of weeks for receipt of UC, EB, and TRA cannot exceed 52 weeks, except that up to 26 additional weeks of TRA may be paid to program participants enrolled in approved training (20 CFR sections 617.14 and 617.15).

- e. *Maximum Number of Weeks for Receipt of Approved Training* - The maximum duration for any approvable training program is 104 weeks, and no individual shall be entitled to more than one training program under a single Certification (20 CFR section 617.22(f)(2)).

2. Eligibility for Groups of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients - Not Applicable

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Data equivalent to that which is required on the SF-272 is submitted electronically by the recipient. A PMS 272-E, *Federal Cash Transaction Report - Major Program Statement*, is issued by the Department of Health and Human Services, Division of Payment Management as confirmation of what was electronically submitted to the Federal government for the SF-272.
- e. ETA 9023, *Trade Adjustment Assistance, Financial Status Report/Request for Funds (OMB No. 1205-0275)* - SESAs are required to furnish this quarterly report to ETA (20 CFR section 617.61; 29 CFR section 97.41).

2. Performance Reporting - Not Applicable

3. Special Reporting

- a. ETA 563, *Quarterly Determinations, Allowance Activities and Reemployment Services Under the Trade Act (OMB No. 1205-0016)* - This report is due quarterly from each SESA. Two reports are submitted, one for the regular TAA program and one for the NAFTA-TAA program (20 CFR section 617.57, 29 CFR section 97.40).
- b. ETA 9027, *(OMB No. 1205-0016)* - This report, due quarterly from each SESA, summarizes training waivers issued and revoked for the regular TAA program only (20 CFR section 617.19).

DEPARTMENT OF LABOR**CFDA 17.250 JOB TRAINING PARTNERSHIP ACT (JTPA Title II)**
CFDA 17.246 EMPLOYMENT AND TRAINING ASSISTANCE—DISLOCATED
WORKERS (JTPA Title III)**I. PROGRAM OBJECTIVES**

The Job Training Partnership Act (JTPA), as amended provides job training services for economically disadvantaged adults and youth, dislocated workers, and others who face significant employment barriers. JTPA, which became effective on October 1, 1983, seeks to move jobless individuals into permanent self-sustaining employment.

The objectives of Title II of the program are to prepare low-income youth and adults facing serious barriers to employment for participation in the labor force by providing job training and other services that will result in increased employment and earnings, increased educational and occupational skills and decreased welfare dependency, thereby improving the quality of the workforce and enhancing the productivity and competitiveness of the nation. The programs are authorized by Titles I and II of JTPA (29 USC 1501 et seq; Pub. L. No. 102-367).

The objective of Title III of the program is to assist dislocated workers in obtaining unsubsidized employment through the provision of training and related employment services which are delivered primarily through a decentralized system of State and local organizations. The program is commonly referred to as EDWAA, or the Economic Dislocation and Worker Adjustment Assistance Act.

Source of Governing Requirements

The program is authorized by: Title III of JTPA, as amended (29 USC 1501 et seq.; Pub. L. No. 97-300); the Defense Economic Adjustment, Diversification, Conversion and Stabilization Act of 1990 (29 USC 1662; Pub. L. No. 101-510); the Defense Conversion, Reinvestment and Transition Assistance Act of 1992 (29 USC 1662; Pub. L. No. 102-484); the Appropriations Bill Act language of Program Year 1995 and 1996; and Clean Air Act of 1990 (29 USC 1662; Pub. L. No. 101-549).

II. PROGRAM PROCEDURES

State and local governments, together with the private sector, have primary responsibility for development, management, and administration of the job training programs under JTPA. Governors have approval authority over locally-developed plans and are responsible for monitoring program compliance. States may have received statutory waivers which apply to activities under the JTPA.

Title I of JTPA's six titles describes the coordination that takes place among the State and local governments and business community to produce partnerships that combine effective program administration and knowledge of the private sector job market. The coordination includes the following major entities:

State Job Training Coordination Councils - appointed by Governors and composed of representatives of business, State agencies, local government, and the unemployed to recommend training components of JTPA. The States also may establish a Human Resource Investment Council representing major Federal and State human service programs. It reviews and coordinates these programs and replaces the various, separate advisory councils.

Service Delivery Areas (SDA) - designated by Governors to receive Federal job training funds. Among the areas automatically eligible to be SDAs are those where the local governments have populations of 200,000 or more. An SDA must submit a two-year job training plan to the Governor as a condition for receiving JTPA funding. The State must allocate 77 percent of its Title II formula allocation to its SDAs.

Private Industry Council (PIC) - appointed by local elected officials to guide and oversee job and training programs at the SDA. PIC's serve as key mechanisms for bringing the private sector into the active management of job training programs. Membership includes representatives from business, education, organized labor, rehabilitation agencies, community-based organizations, economic development agencies, and public employment services. The majority of the members must represent business and industry within the SDA, and the chairperson must be a business representative.

The Department of Labor allocates Title II funds to the States in accordance with statutory allotment formulas. The Secretary of Labor and each Governor enter into an agreement in which each State agrees to comply with the JTPA and applicable rules and regulations. To receive JTPA financial assistance, each State must submit a Governor's Coordination and Special Services Plan covering two program years.

Title II-A authorizes training and services for the economically disadvantaged adults and older individuals who face significant employment barriers. Training is afforded through grants to States for local training and employment programs. States are responsible for further allocating funds to their SDAs and for overseeing the planning and operation of local programs. Program services include an assessment of an unemployed individual's needs and abilities and a strategy of services, such as classroom training, on-the-job training, job search assistance, work experience, counseling, basic skills training, and supportive services.

Title II-B offers economically disadvantaged young people jobs and training during the summer. This includes basic and remedial education, work-experience programs, and support services, such as transportation. Academic enrichment also is a major part of the program and may include basic and remedial education.

Title II-C provides year-round training and employment programs for youth, both in and out of school. Program services may include all authorized adult services, limited internships in the private sector, school-to-work transition services, and alternative high school services.

Title III - the Economic Dislocation and Worker Adjustment Assistance Act authorizes employment and training help for dislocated workers. Workers who lose their jobs in mass layoffs or plant closings, and others who were laid off and are unlikely to return to their jobs can

take advantage of the following services, as set forth in Section 314 of the JTPA: rapid response; basic readjustment services; retraining; supportive services; and needs-related payments.

The Secretary allots 80 percent of the appropriated Title III funds to States by formula, and retains 20 percent for the Secretary's National Reserve Account. Of the funds allotted to each State, at least 60 percent is allocated by formula to substate grantees (which typically correspond to SDAs established to manage Title II programs) that design and manage services at the local level. No more than 40 percent of the State's allotment, called the Governor's Reserve, is used by the Governor for overall administration of the JTPA dislocated worker system, for the provision of rapid response to workers dislocated by plant closures and substantial layoffs, and, where funds are still available, for regular dislocated worker activities. National Reserve Account funds are used for projects in areas of special need, technical assistance and training, exemplary and demonstration programs, and funds reserved for the territories.

Appendix 1, Programs Excluded from the A-102 Common Rule, provides guidance on applicable requirements for the JTPA Cluster.

Transfer of Funds Among Programs

An SDA is permitted to transfer funds among Title II-A, II-B, II-C, and III programs within certain limits. The limits vary according to program and year of funding. Such transfers would also be described in the job training plan and approved by the Governor.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable, and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Title II

A wide variety of allowable services and activities are subsumed under the generic cost classifications of: direct training services; administration; and training-related and supportive services, including outreach, intake, and eligibility determination, in accordance with guidelines issued by the Governor (20 CFR section 627.440).

Generally, authorized services that may be made available to each participant under Title II include:

- a. Direct Training Services, including the personnel and non-personnel costs directly related to:
 - Basic skills training, including remedial education, literacy training, and English-as-a-second-language instruction;

- Institutional skills training;
 - On-the-job training;
 - Assessment of the skill level and service needs of participants;
 - Counseling, such as job counseling and career counseling;
 - Case management services;
 - Education-to-work transition services;
 - Programs that combine workplace training with related instruction;
 - Work experience;
 - Programs of advance career training that provide a formal combination of on-the-job and institutional training and internship assignments that prepare individuals for career employment;
 - Training programs operated by the private sector, including programs operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply;
 - Skill upgrading and retraining;
 - Bilingual training;
 - Entrepreneurial training;
 - Vocational exploration;
 - Training programs to develop work habits to help individuals obtain and retain employment;
 - Attainment of certificates of high school equivalency;
 - Pre-apprenticeship programs;
 - On-site, industry-specific training programs supportive of industrial and economic development;
 - Customize training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training; and
 - Use of advanced learning technology for education, job preparation, and skills training (JTPA Section 204(b)(1)).
- b. Training-Related and Supportive Services, including the personnel and non-personnel costs directly related to:
- Eligibility determination;
 - Job search assistance;
 - Outreach to make individuals aware of, and encourage the use of, employment and training services, including efforts to expand awareness of training and placement opportunities for limited-English proficient individuals and individuals with disabilities;
 - Outreach to develop awareness of, and encourage participation in, education, training services, and work experience programs to assist women in obtaining nontraditional employment, and to facilitate the retention of women in nontraditional employment, including services at the site of training or employment;
 - Specialized surveys not available through other labor market information sources;

- Dissemination of information on program activities to employers;
- Programs coordinated with other Federal employment-related activities;
- Supportive services, as defined in Section 4(24) of JTPA, necessary to enable individuals to participate in the program;
- Needs-based payments and financial assistance;
- Follow-up services with participants placed in unsubsidized employment; and
- Services to obtain job placements for individual participants (JTPA Section 204(b)(2)).

2. Title II-A and II-C

No funds made available under Titles I, II-A, and II-C may be used for:

- Public Service Employment (JTPA Section 141(p); 29 USC 1551(p); 20 CFR section 627.205);
- Sectarian Activities (20 CFR section 627.210(b));
- Relocation of Establishments, if the relocation results in loss of employment at the original location (20 CFR section 627.215);
- Employment Generating Activities (20 CFR section 627.225); or
- Worker Displacement (20 CFR section 627.230).

3. Title II and III

With certain exceptions, on-the-job training reimbursements to employers are limited to 50 percent of wages paid participants, and training is limited to six months or 500 hours (20 CFR section 627.240).

4. Title III

Title III (EDWAA) funds may be used for:

State Activities

Such activities as rapid response assistance, basic readjustment services, retraining services, supportive services and needs-related payments, and coordination with the Unemployment Insurance system (JTPA Section 314; 20 CFR section 631.41).

Local Government Activities

Such activities as basic readjustment services, retraining services, supportive services, and needs-related payments (JTPA Section 314; 20 CFR section 631.51).

5. Governor's Incentive Grants (Five Percent Set-aside)

Local Government Activities

SDAs are to use incentive grant funds for capacity building and technical assistance activities and/or for the conduct of allowable Title II activities (JTPA Sections 202(c)(1)(B) and 262(c)(1)(B); 20 CFR section 628.325).

E. Eligibility

1. Eligibility for Individuals

See the matrix of JTPA Title II eligibility criteria at the end of this section.

a. General Requirements

All JTPA participants must (1) be citizens, nationals, or lawfully admitted permanent resident aliens of the United States, refugees and parolees and other individuals authorized by the Attorney General to work in the United States (JTPA Section 167(a)(5)); and (2) except for the five percent Older Individual program, comply with Section 3 of the Military Selective Service Act (20 CFR section 627.235 (b)). Title II participants shall be residents of the SDA (20 CFR section 628.505(a)(2); JTPA Section 141(e)).

b. Title II-A - Adult and Older Individual Programs

Under written agreements establishing joint programs, individuals determined eligible under Title V, Section 510 of the Older Americans Act of 1965 (42 USC 3056 et seq.; Pub. L. No. 102-375), commonly referred to as Title V, are deemed to have met the JTPA economically disadvantaged criterion (20 CFR section 628.605(e)).

c. Title II-A - Adult Program

Individuals are eligible if they are 22 years of age or older, and economically disadvantaged, as defined in the JTPA, Section 4(8) (20 CFR section 628.605(a)).

Non-economically disadvantaged individuals age 22 years or older may be enrolled provided they have one or more of the barriers noted in Programmatic Earmarking, Title II-A, Adult Programs (JTPA Section 203(c); 20 CFR section 628.605(b)).

d. Title II-A - Five Percent Set-aside for Older Individuals

Individuals are eligible if they are 55 years of age or older, and economically disadvantaged (JTPA Section 204(d)(5); 20 CFR section 628.320(d)).

Non-economically disadvantaged individuals age 55 years or older may be enrolled if they have serious barriers to employment, as identified by the Governor, and meet the income eligibility requirements under Title V (JTPA Section 204 (d)(5)(B); 20 CFR section 628.320(d)).

e. Title II-B - Summer Youth Employment and Training Program

Individuals served under this program must be 14 through 21 years old and either economically disadvantaged or (1) eligible for free school meals under the National School Lunch Act (42 USC 1751), (2) participating in a compensatory education program, or (3) participating in a school-wide project for low income schools (JTPA Section 254(b); 20 CFR section 628.702).

f. Title II-C - Youth Training Program

There are separate eligibility requirements for "out-of-school" and "in-school" youth. An "out-of-school" youth must be 16 to 21 years old and economically disadvantaged. An "in-school" youth must be attending school full time, not yet obtained a high school diploma, and aged 16 through 21 or, if provided in the job training plan, aged 14 through 21. The in-school youth must also be either economically disadvantaged or (1) eligible for free school meals, (2) participating in a compensatory education program or (3) enrolled in a public school that meets the requirements for a school-wide project (JTPA Section 263; 20 CFR section 628.803).

Non-economically disadvantaged youth may be enrolled, provided they have one or more of the barriers noted under item G.3.f., Earmarking (JTPA Section 263(e)).

g. State Education Coordination and Grants, Eight Percent Set-aside

Generally, economically disadvantaged individuals eligible to participate in other JTPA Title II and Title III programs may be served with these funds (20 CFR section 628.325(d)).

Youths aged 14 through 15 who are economically disadvantaged or face any one of the barriers to employment, described under item G.3.f., Earmarking, may also be served. Youth (1) eligible for free school meals under the National School Lunch Act during the most recent school year (CFDA 10.555), (2) participating in a compensatory education program or (3) enrolled in a public school that meets the requirements for a school-wide project, are considered to have met the economically disadvantaged criterion (20 CFR section 628.315(f)).

h. Title III, EDWAA

Eligible individuals are those who: (1) have been terminated or laid off, or received a notice of termination or lay off, and are unlikely to return to their previous industry or occupation; (2) have been terminated, or who have received a notice of termination, as a result of any permanent closure of a plant or facility; (3) are long-term unemployed and have limited opportunity for employment or re-employment in the same or similar occupation in the area in which they reside, including any older individuals who may have substantial barriers to employment by reason of age; or (4) were self-employed and are unemployed as the result of general economic conditions or natural disasters (JTPA Section 301(a)(1); 20 CFR section 631.3).

For the Defense Conversion Adjustment Program (DCAP): individuals who were terminated or laid off, or received a notice of termination or lay off, as a consequence of reductions in expenditures by the Federal Government for defense or by closures of Federal Government military facilities (JTPA Section 325(a) and (e)).

For the Defense Diversification Program (DDP): civilian employees and certain military members who have been terminated or laid off, or have received a notice of termination or lay off, as a consequence of reductions in expenditures by the Government for defense or by closures of Government military facilities (JTPA Section 325A(b)).

For the Clean Air Employment Transition Assistance Program (CAETA): individuals who were terminated or laid off, or received a notice of termination or lay off, as the result of compliance with the Clean Air Act of 1990 (JTPA Section 326(a)(1)).

2. Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients - Not Applicable

G. Matching, Level of Effort, Earmarking**1. Matching**

Subject to exceptions provided in 20 CFR section 628.315(e)(3), the State shall contribute an amount equal to 100 percent of that allotted under Section 123 of JTPA (Governor's eight percent Set-aside for State Education Agencies). The match cannot be from JTPA funds; however, it may include direct costs of employment and training services provided by other Federal agencies, if allowed by laws governing their use (20 CFR sections 628.315(e)(1) and (2)).

2.1 Level of Effort - *Maintenance of Effort* - Not Applicable

2.2 Level of Effort - *Supplement not Supplant*

Generally, States and subrecipients shall not use JTPA funds to duplicate facilities or services available in the area (with or without reimbursement) from Federal, State or local sources (20 CFR section 627.420(a)(5)).

When funds are used for skills upgrading under the Title III, EDWAA, Defense Diversification Program, the grantee shall maintain its expenditures, from all other sources, for skills upgrading at or above the average level of such expenditures for fiscal year 1991 (JTPA Section 325A(c)(1)(D)).

3. Earmarking

Title II of the JTPA contains both financial earmarking requirements (cost limitations) and programmatic earmarking requirements. Programmatic earmarking occurs when the Act stipulates individuals with certain characteristics shall be served at or above a certain percentage in relation to total program participation.

a. State-level Set-asides

State Activities

Specific percentages of each State's Title II allotment must be set-aside (JTPA Section 202(c)) for:

State-level Administration, Management and Auditing Activities	5%
Incentive Grants to SDAs	5%
State Education Coordination and Grants	8%
Older Individual Programs (Title II-A Program)	5%

b. Title II-A - Adult and Older Individual Programs

For both State- and SDA-administered programs, of the funds allocated for any program year, (1) not more than 20 percent shall be expended for the costs of administration, and (2) not less than 50 percent shall be expended for the cost of direct training services (20 CFR section 627.445(a) and (b)).

Local Government Activities

There is an exception to the above requirement. Administrative costs incurred by a community-based organization or nonprofit service provider is not included in the 20 percent limitation, provided:

- (1) Such costs are incurred under an agreement that meets the requirements of Section 141(d)(3)(C)(i) and (ii) of the Act;
- (2) The total administrative expenditures of the SDA, including the administrative expenditures of such community-based organizations or nonprofit service providers, do not exceed 25 percent of the funds allocated to the SDA for the program year of allocation; and
- (3) The total direct training expenditures of the SDA, including the direct training expenditures of such community-based organizations or nonprofit service providers is equal to or exceeds 50 percent of the funds allocated to the SDA for the program year less one-half of the percentage by which the total administrative expenditures of the SDA exceeds 20 percent (20 CFR section 626.445(d)).

c. Title II-B - Summer Youth Employment and Training Program

Of the funds allocated to a SDA for any program year, not more than 15 percent shall be expended for the costs of administration (20 CFR section 627.445(b)(3)).

d. Title II-A - Adult Programs

Local Government Activities

No less than 65 percent of the participants in each SDA shall be "hard-to-serve" individuals who face one or more of the following barriers to employment (JTPA Section 203(b)): (1) Basic skills deficiency, (2) School dropout, (3) Recipient of cash welfare payments, (4) Offender, (5) Individual with disability, (6) Homeless individual, or (7) a SDA-Designated Category (JTPA Section 203 (b); 20 CFR section 628.605(c)).

A minimum of 90 percent of Title II-A participants in each SDA must be economically disadvantaged (JTPA Section 203(c); 20 CFR section 628.605(b)).

e. Title II-A - Five Percent Set-aside for Older Individuals

A minimum of 90 percent of Title II-A Older Individual program participants must be economically disadvantaged (20 CFR section 628.320 (d)).

f. Title II-C - Youth Training Program

Local Government Activities

No less than 65 percent of both the "in-school" and "out-of-school" youth served shall be members of a hard-to-serve group that have one or more barriers to employment. The barriers applicable to each group are: (1) basic skills deficient (in and out-of school), (2) educational attainment that is one or more grades below that appropriate for their age (in-school), (3) pregnant or parenting (in and out-of-school), school dropouts (out-of school), (4) offenders (in and out-of-school), (5) individual with a disability, including those with a learning disability (in and out-of-school), (6) Homeless, or run-away youth (in and out-of-school), (7) Job Corps participant (out-of-school), or (8) SDA-designated category (in and out-of-school) (JTPA Section 263(b) and (c) (20 CFR section 628.803(d)).

A minimum of 90 percent of Title II-C participants in each SDA must be economically disadvantaged (20 CFR section 628.803(f)).

A minimum of 50 percent of Title II-C participants in each SDA shall be "out-of-school" youth (20 CFR section 628.803(h)(1)).

g. State Education Coordination and Grants (Eight Percent Set-aside)

State Activities

At least 80 percent of the eight percent set-aside funds are to be expended on: school-to-work transition services, literacy and other services, and programs promoting women in non-traditional employment (JTPA Section 123(d)(2)(B); 20 CFR section 628.315(d)). Also, no less than 75 percent of these funds (75 percent of the 80 percent) are to be spent on projects for economically disadvantaged individuals who experience barriers to employment (JTPA Section 123; 20 CFR section 628.315 (d)(1)(ii)).

h. Governor's Incentive Grants (Five Percent Set-aside)

State Activities

Not less than 67 percent shall be used to provide incentive grants to SDAs (except for programs for older individuals) exceeding Title II performance standards (JTPA Section 202(c)(3)(A)).

i. Title III, EDWAA

No more than 15 percent of the allocation to the Governor, or any sub-State grantee, shall be expended for the costs of administration (JTPA Section 315(c); 20 CFR section 631.14(c)).

Of the funds allocated to the Governor or to any sub-State grantee, not more than 25 percent may be expended for needs-related payments or other supportive services (JTPA Section 315(b); 20 CFR section

631.14(b)). DOL provided Governors the authority to waive the 25 percent cost limitation in Training and Employment Guidance Letter (TEGL) 12-94, and 12-94 change 1; subsequent appropriations language has extended this authority through program year 1998.

Of the funds allocated to a sub-State grantee, not less than 50 percent shall be expended for retraining services unless granted a waiver by the Governor (JTPA Section 315(a); 20 CFR sections 631.14(a)).

National Reserve Account (NRA) grants have cost limitations as specified by the terms and conditions of the grant (20 CFR section 631.62).

Under DDP, not more than 20 percent of the allocated funds shall be used for administration; conversion planning activities; and to develop and introduce high performance workplace systems, management systems, and workforce participation (JTPA Section 325A (g)).

I. Procurement and Suspension and Debarment

Local Government Activities

Selection of Service Providers - The SDA shall award funds to organizations possessing the ability to perform under the terms and conditions of a proposed subgrant or contract. Determinations of demonstrated performance shall be documented in writing by the JTPA fund recipient (20 CFR section 627.420(a)(6)) and take into consideration such matters as whether the organization has:

- Adequate financial resources or the ability to obtain them;
- The ability to meet the program design specifications at a reasonable cost as well as the ability to meet performance goals;
- A satisfactory record of past performance (in job training, basic skills training, or related activities), including demonstrated quality of training; reasonable drop-out rates from past programs; where applicable, the ability to provide or arrange for appropriate supportive services as specified in the Individual Service Strategy (ISS), including child care; retention in employment; and earnings of participants;
- For Title II programs, 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 operational controls; and
- The technical skills to perform the work (20 CFR section 627.422(d)).

J. Program Income

Program income earned by a recipient or subrecipient may be retained only if used for JTPA activities (20 CFR section 627.450).

The JTPA specifically includes as program income: (1) receipts from goods and services, including conferences; (2) funds provided to a service provider in excess of the costs

associated with the services provided; and, (3) interest income earned on funds received under this Act (29 USC 1551[m]; the Job Training Reform Amendments of 1992, Title I, Part C, Section 141(m)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PMS 272-E, *Major Program Statement*.
- e. ETA 9038, *Dislocated Worker Special Project Report (OMB Number 1205-0318)* - This report is submitted by NRA, DCAP, DDP and CAETA grantees. For NRA, Section I is submitted quarterly, and Section III is submitted at project completion. For DCAP, DDP and CAETA grants, Section I is submitted quarterly, Section II is submitted at the end of each program year and at project completion, and Section III is submitted only at project completion. Beginning October 1, 1994, DCAP, DDP and CAETA projects were funded with NRA funds, therefore, the NRA reporting requirements applied for these grants from this point forward. Key line items are those in Sections I and III. The auditor is not expected to test Section II. Each recipient shall report program outlays on the accrual basis (20 CFR section 627.455(d)(2)).
- f. ETA 9040, *JTPA Quarterly Status Report (OMB No. 1205-0323)* - Key line items are those in Parts I through V. The auditor is not expected to test Part VI. Each recipient shall report program outlays on the accrual basis (20 CFR section 627.455(d)(2)). Reports are to be submitted by program year of appropriation (20 CFR section 627.455(d)(1)).
- g. ETA 9041, *Worker Adjustment Formula Financial Report (OMB Number 1205-0326)* - This reported is submitted for the formula-funded portion of Title III: the Governor's Reserve and the sub-State Grantee (SSG) funds. Title III discretionary activity is reported on an individual grant basis on a separate form ETA 9038, beginning in Program Year (PY) 1993. Reports are submitted quarterly. A final report is submitted for a program year when all funds have been expended, but not later than 90 days after the

expiration of the period of the fund availability. Key line items are those in Sections I, II, and IV. The auditor is not expected to test Section III. Each recipient shall report program outlays on the accrual basis (20 CFR section 627.455(d)(2)).

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

M. Subrecipient Monitoring

State Activities

The Governor is responsible for ensuring that regular examinations of expenditures against the cost categories and cost limitations specified in the Act and regulations are performed for all substate entities. The Governor is also responsible for ensuring that all areas of SDA and SSG operations are monitored regularly, but not less than once annually (20 CFR section 627.475(b)).

Standards for the resolution for audits of all subrecipients and related debt collection policies and procedures are prescribed by the Governor and included in each job training plan (20 CFR section 627.481(c)).

Local Government Activities

Substate entities are required to follow a monitoring plan developed by the Governor and included in the job training plan (20 CFR section 627.475(c)).

MATRIX OF TITLE II JTPA ELIGIBILITY CRITERIA WITH CORRESPONDING JTPA or 20 CFR section 628.xxx CITATIONS

ELIGIBILITY AND HARD-TO-SERVE CRITERIA BY PROGRAM						
CATEGORY/CRITERIA	ADULT 22 & OLDER II-A	SUMMER YOUTH 14-21 II-B	IN-SCHOOL YOUTH 14-21 II-C	OUT-OF-SCHOOL YOUTH 16-21 II-C	5% OLDER INDIVIDUAL 55 & OVER II-A	8% STATE ED. & COORD. GRANTS
GENERAL ELIGIBILITY						
RESIDENCE	141 (e)	141(e)	141(e)	141(e)	141(e)	
CITIZEN OR ELIGIBLE TO WORK	167(a)(5)	167(a)(5)	167(a)(5)	167(a)(5)	167(a)(5)	167(a)(5)
SELECTIVE SERVICE REGISTRANT	604	604	604	604		604
AGE	203(a)(1)	254(b)(1)	263(a)(1)	263(c)(1)	204(d)(7)	628.315(f)
ECONOMIC ELIGIBILITY - One of five categories listed.						
1. ECONOMICALLY DISADVANTAGED §4(8) Any one of the following six elements: A. Cash welfare recipient B. Family income at or below poverty line or 70% of the Lower Living Standard a. family size (§4(34)) b. family members' income C. Receives Food Stamps or was found eligible to receive in last 6 months D. Homeless per §103(a)&(c) of the McKinney Act E. Publicly supported foster child F. Individual with a disability had own income at or below poverty line or 70% of the Lower Living Standard	203(a)(2) OAA Joint Programs 628.605(e)	254(b)(2)(A)	263(a)(2)(A)	263(c)(2)	204(d)(5) OAA Joint Programs 628.320 (d)(2)	123(d)(2)(C)
2. ELIGIBLE FOR FREE MEALS under the National School Lunch Act during the most recent school year		254(b)(2)(B)	263(a)(2)(C)			628.315 (d)(1)(ii)
3. Participating in a COMPENSATORY EDUCATION PROGRAM under Chapter 1 of Title I of the Elementary and Secondary Ed. Act of 1965		628.702 (a)(2)(iii)	263(a)(2)(B)			628.315 (d)(1)(ii)
4. SPECIAL RULES/EXCEPTIONS - Not economically disadvantaged but individual faces one or more serious barriers to employment	203(c) 10%		263(e) 10%	263(e) 10%	204(d)(5)(B) 10% Title V of OAA of 1965	123(d)(2)(C) 25% of the 80% \$
5. SCHOOLWIDE PROJECTS		628.702 (a)(iv)	263(g)			628.315 (d)(1)(ii)

ELIGIBILITY AND HARD-TO-SERVE CRITERIA BY PROGRAM						
CATEGORY/CRITERIA	ADULT 22 & OLDER II-A	SUMMER YOUTH 14-21 II-B	IN-SCHOOL YOUTH 14-21 II-C	OUT-OF-SCHOOL YOUTH 16-21 II-C	5% OLDER INDIVIDUAL 55 & OVER II-A	8% STATE ED. & COORD. GRANTS
65 PERCENT HARD-TO-SERVE REQUIREMENTS FOR TITLE II-A and II-C - Any of the following criteria that is indicated.						
BASIC SKILLS DEFICIENT - §4(31) Skills at or below 8th grade level	203(b)(1)		263(b)(1)	263(d)(1)		
BELOW GRADE LEVEL			263(b)(2)			
PREGNANT OR PARENTING			263(b)(3)	263(d)(3)		
SCHOOL DROPOUT - §4(38)	203(b)(2)			263(d)(2)		
RECIPIENT OF CASH WELFARE	203(b)(3)					
OFFENDER - §4(17)	203(b)(4)		263(b)(6)	263(d)(6)		
INDIVIDUAL WITH A DISABILITY - §4(10)	203(b)(5)		263(b)(4)	263(d)(4)		
HOMELESS OR RUN-AWAY YOUTH	203(b)(6)		263(b)(5)	263(d)(5)		
JOB CORPS PARTICIPANT				628.803 (d)(2)(ii)		
SDA DESIGNATED CATEGORY	203(b)(7)		263(b)(7)	263(d)(7)		

Note: All references are to the Job Training Partnership Act (JTPA) except for references to 628.xxx which are to 20 CFR section 628.xxx.

DEPARTMENT OF LABOR**CFDA 17.247 MIGRANT AND SEASONAL FARMWORKERS****I. PROGRAM OBJECTIVES**

The purpose of the program is to provide job training, job search assistance, employment opportunities, and other supportive services for migrant and seasonal farmworkers and their families who suffer chronic seasonal unemployment and underemployment in the agricultural industry (20 CFR section 633.102(a)). Programs and activities shall enable farmworkers and their dependents to obtain or retain employment, allow participation in other program activities leading to eventual placement in unsubsidized employment, allow activities leading to stabilization in agricultural employment, and provide assistance and supportive services (20 CFR section 633.102(b)).

II. PROGRAM PROCEDURES

Entities eligible to be a migrant and seasonal farmworkers program grantee are:

- (1) Public agencies, and
- (2) Private, non-profit organizations authorized by their charter or articles of incorporation to provide employment and other training services (20 CFR section 633.106).

Program grants are awarded, and the program is administered, at the national level. The Employment and Training Administration (ETA) annually determines the level of program funding on a Statewide basis using a formula. While Statewide programs are encouraged, the Department reserves the right to select eligible applicants which represent less than a State-wide area. The grant year, and program year, is July 1 to June 30.

Grant terms and conditions that are more restrictive than the Title IV, Section 402 of the Job Training Partnership Act (JTPA) program regulations or applicable cost principles shall take precedence.

The Job Training Reform Amendments of 1992, Pub. L. No. 102-367 (specifically in section 141), made certain generic changes to program operations that apply to all Titles of the JTPA, (e.g., prohibition on "economic development" activities; restrictions on certain on-the-job training activities).

Source of Governing Requirements

This program is authorized by Title IV, Section 402 of the JTPA, as amended (Pub. L. No. 97-300; 29 USC 1671 through 1673). Program regulations are at 20 CFR part 633. Additional requirements for on-the-job training are codified at 29 USC 1551.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. The grantee is authorized to provide training activities and supportive services to eligible individuals (20 CFR section 633.302). Permitted training activities include: job search assistance, job development, classroom training, on-the-job training, work experience, and tryout employment. Permitted services include: training-related supportive services (services which are necessary to enable an individual to participate in training (20 CFR section 633.304(c)(3)) and nontraining-related supportive services (services provided to participants who are not engaged in work experience, tryout employment, or a training activity (20 CFR section 633.304 (c)(4)). Services may include the costs of such items as transportation, relocation assistance, health care, meals, shelter and emergency assistance.
2. The hourly allowance for participation in classroom training shall not exceed the higher of the State or Federal minimum hourly wage (20 CFR section 633.305(e)). Participants employed in work experience shall be paid an hourly wage not less than (a) the State, local, or Federal minimum hourly wage, or (b) the prevailing rate of pay for individuals employed in similar occupations by the same employer (20 CFR section 633.305(b)). A participant's enrollment in work experience shall not exceed 1000 hours in a one-year period (20 CFR section 633.302(d)).
3. Payments to employers for the on-the-job training (OJT) of a participant(s) shall not average more than 50 percent of the wages paid by the employer to the participant during the period of the training. The OJT shall be limited to a duration only sufficient to acquire the necessary skills, and shall not exceed six months unless the total number of training hours is less than 500. The length of OJT training shall be based on consideration of recognized references such as the *Dictionary of Occupational Titles*, training content offered by the employer, the participant's skill level, and the service strategy for the participant (Section 141(g) of JTPA; 29 USC 1551(g)).
4. Single unit charges to the "training" cost category are allowable when the contract or agreement between the grantee and a service provider (1) is for classroom training, (2) clearly indicates a fixed unit price method of payment to the service provider, and (3) stipulates that full payment will only be made when (a) the participant completes the training, (b) the participant is placed into unsubsidized employment in the occupation trained for, and (c) at not less than the wage specified in the agreement. Under these conditions, the various costs which

comprise the single unit charge do not have to be allocated or prorated among the several cost categories, and may be charged to training in its entirety (20 CFR section 633.303(f)).

5. Under the authority of Title IV, Section 402 of JTPA, ETA awards a small number of grants exclusively for the purpose of enhancing the housing of migrant and seasonal farmworkers. Since the purpose of these "housing" grants is different from the activities described above, the terms and conditions of the grant are applicable in lieu of the activities described above.

E. Eligibility

1. Eligibility for Individuals

Program participation is limited to those individuals and their dependents who, for any consecutive 12 month period within the 24 month period preceding their application for enrollment (20 CFR section 633.107):

- a. Were a migrant or seasonal farmworker (20 CFR section 633.104),
- b. Earned at least 50 percent of their total earned income or were employed at least 50 percent of their total work time in farm work, and
- c. Are a member of a family which received public assistance, or was a member of a family whose annual family income does not exceed the higher of either the poverty level or 70 percent of the lower living standard income level (LLSIL) (20 CFR section 633.107). The poverty guidelines are issued each year in the *Federal Register* and HHS maintains a page on the Internet which provides the poverty guidelines (<http://aspe.os.dhhs.gov/poverty/poverty.htm>).

2. Eligibility for Group of Individuals or Area of Service Delivery - Not Applicable

3. Eligibility for Subrecipients - Not Applicable

G. Matching Funds, Level of Effort, Earmarking

1. Matching - Not Applicable

2. Level of Effort - Not Applicable

3. Earmarking

- a. Grant expenditures for "training" shall be no less than 50 percent of the total amount of the grant (20 CFR section 633.304(b)(3)).

- b. Grant expenditures for non-training-related supportive services shall not exceed 15 percent of the total amount of the grant (20 CFR section 633.304(b)(2)).
- c. Grant administrative expenditures are limited to and shall not exceed 20 percent of the total amount of the grant (20 CFR section 633.304(b)(1)).

J. Program Income

The JTPA specifically includes as program income (1) receipts from goods and services, including conferences, provided as a result of JTPA-funded activities, (2) JTPA funds provided to a service provider in excess of the costs associated with the services provided, and (3) interest income earned on funds received under JTPA (29 USC 1551(m); JTPA Section 141(m)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through PMS and is evidenced by the PMS 272 series of reports.
- e. ETA 8597, *JTPA Financial Status Report, Title IV-A, Section 402 - Migrant/820D Seasonal Farmworker Program (OMB No. 1205-0215)* - This report is submitted twice a year to cover the semiannual period ending December 31 and the annual period ending June 30.

2. Performance Reporting - Not Applicable

3. Special Reporting - Not Applicable

DEPARTMENT OF LABOR**CFDA 17.251 NATIVE AMERICAN EMPLOYMENT AND TRAINING PROGRAMS****I. PROGRAM OBJECTIVES****Adult Program**

To afford job training to Native Americans facing serious barriers to employment who are in special need of such training to obtain productive employment. To reduce the economic disadvantages among Indians and others of Native American descent, and to advance the economic and social development of such people.

Summer Youth Program

To provide work experience and training opportunities to Native American youth who are economically disadvantaged.

II. PROGRAM PROCEDURES

Program regulations are codified at 20 CFR part 632. Waivers of statutory and eligibility requirements are specifically prohibited. However, other regulatory requirements may have been waived by the Employment Training Administration (ETA).

Adult Program

Entities eligible to be designated by the Department as a program grantee are: Indian or Native American tribes, bands, or groups; Alaskan Native entities as defined in the Alaska Native Claims Settlement Act (ANCSA); private non-profit organizations or public agencies representing Native Hawaiians; public or private agencies; or consortia thereof, which have the capability to administer employment and training programs (20 CFR section 632.10).

Grants are awarded and administered at the Federal level by the ETA. Grant funds are distributed annually, by formula, directly to individual grantees. The grant year and program year is July 1 to June 30.

Grant terms and conditions which are more restrictive than the JTPA Title IV, Section 401 program regulations or applicable cost principles shall take precedence.

Summer Youth Program

Many of the procedures and compliance requirements for the adult program are applicable to the summer youth program.

Only those grantees authorized to receive Native American program grants are eligible to receive JTPA Title II summer youth program funds (20 CFR section 632.251). Grantees must serve

economically-disadvantaged Indian or Native American youth residing on or near a Federally or State-recognized reservation, to include Alaskan Native and Native Hawaiian youth.

The grant year is October 1 to September 30. Participants may not be enrolled prior to the end of the school year. Participants may not be enrolled beyond September 30, or beyond the date they resume full-time school, whichever occurs earlier (20 CFR sections 632.254 and 632.262).

Source of Governing Requirements

The Adult Program is authorized by Title IV, Section 401, of the Job Training Partnership Act, as amended (JTPA), as amended (JTPA Title IV, Section 401) (Pub. L. No. 97-300; 29 USC 1671 *et seq.*). The Summer Youth Program is authorized under Title II, Part B, Section 252(a) of the JTPA (29 USC 1631).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. Adult Program

- a. Allowable activities and services include: classroom training, on-the-job training, entry employment experience programs, training assistance and combined activities (20 CFR section 632.78); community service employment (CSE) and work experience (20 CFR section 632.79); and, other activities and supportive services (20 CFR section 632.80). The "other activities" regulations provide for employment and training activities which are not specifically described in the regulations; however, a description of these activities must be contained in the grantee's Comprehensive Annual Plan (CAP).
- b. Limitations are placed on: (1) the wage rate for CSE, (2) the hourly allowance rate for participation in classroom training or services (20 CFR section 632.81), and (3) limitations on the length of time allowed (1000 hours) for participation in work experience and CSE (78 weeks) (20 CFR section 632.85).
- c. Single unit charges to the "training" cost category are allowable when the contract or agreement between the grantee and a service provider: (1) is for classroom training; (2) clearly indicates a fixed unit price method of payment to the service provider; and, (3) stipulates that full payment will only be made when (a) the participant completes the training, (b) the participant is placed into unsubsidized employment in the occupation

trained for, and (c) at not less than the wage specified in the agreement. Under these conditions, the various costs which comprise the single unit charge do not have to be allocated or prorated among the several cost categories, and may be charged entirely to training (20 CFR section 632.37(e)).

2. Summer Youth Program

Allowable activities are the same as those for the adult program except that community service employment is prohibited (20 CFR section 632.258). The summer plan will be a separate part of the CAP and follow the same format as the CAP (20 CFR section 632.256).

E. Eligibility

1. Eligibility for Individuals

a. Adult Program

The eligibility requirements for this grant program are unique in that the regulations intentionally allow the grantee to determine, using its own criteria, whether an individual is a member of an eligible group. The criteria for group membership shall be delineated in the grantee's Master Plan, and applied uniformly to all applicants.

To be eligible for JTPA Title IV, Section 401 activities, an individual shall be:

- (1) Either a Native American, Alaskan Native, or Native Hawaiian, and
- (2) Economically disadvantaged, unemployed, or underemployed (20 CFR section 632.172).

The ultimate responsibility for the selection of participants and the maintenance of participant records rests with the grantee (20 CFR section 632.77).

b. Summer Youth Program

To be eligible for JTPA Title II-B activities, an individual must be:

- (1) Either a Native American, Alaskan Native, or Native Hawaiian, and
- (2) Economically disadvantaged, and

- (3) At the time of enrollment, age 14 through 21 inclusive (20 CFR section 632.257).

2. **Eligibility for Group of Individuals or Area of Service Delivery** - Not Applicable
3. **Eligibility for Subrecipients** - Not Applicable

G. Matching, Level of Effort, Earmarking

1. **Matching** - Not Applicable
2. **Level of Effort** - Not Applicable
3. **Earmarking**

a. Adult Program

Administrative expenditures are limited to and shall not exceed 20 percent of the funds available in any program year (20 CFR section 632.174). The DOL has defined "funds available" as new money for the current funding period, plus allowable carry-forward from prior funding periods. The auditor should be attentive as to whether the grantee has properly classified all costs, with particular attention to the potential for misclassification of "administrative" costs as "training" or "service" costs.

Program year expenditures for CSE are limited to 10 percent of the grantee's funds available, or to a percentage equal to the current unemployment rate for the group served by the grantee, whichever is higher. Without a waiver from ETA, no more than 25 percent of the total funds available may be used for "other activities" (20 CFR section 632.173).

b. Summer Youth Program

Administrative expenditures shall not exceed 15 percent of the funds available for any Summer Youth Program funding period (29 USC 1632; JTPA Section 253(a)(3)).

J. Program Income

The JTPA specifically includes as program income: (1) receipts from goods and services, including conferences, provided as a result of JTPA-funded activities; (2) JTPA funds provided to a service provider in excess of the costs associated with the services provided; and (3) interest income earned on funds received under JTPA (29 USC 1551(m); JTPA Section 141(m)).

L. Reporting**1. Financial Reporting**

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through PMS and is evidenced by the PMS 272 series of reports.
- e. ETA 8602, *JTPA Financial Status Report, Title IV-A, Section 401, Indian/Native American Program (OMB No. 1205-0308)* - A report for the six-month period ended December 31 is required for the Adult Program and year ending September 30 for the Summer Youth Program.
- f. ETA 8604, *JTPA Annual Status Report, Title IV-A, Section 401, Indian/Native American Program (OMB No. 1205-0308)* - A report for year ending June 30 is required. No Annual Status Report is required of the Title II-B Summer Youth Program.

Key Line Items - The following line items contain critical information.

Section III - Lines 28 through 40

- 2. Performance Reporting** - Not Applicable
- 3. Special Reporting** - Not Applicable

DEPARTMENT OF LABOR**CFDA 17.253 WELFARE-TO-WORK GRANTS TO STATES AND LOCALITIES****I. PROGRAM OBJECTIVES**

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 established the Temporary Assistance for Needy Families (TANF) program. This new system of grants to States was created, changing the nature and provision of Federal welfare benefits. This legislation dramatically changed the nation's welfare system into one that requires work in exchange for time-limited assistance and provides support for families moving from welfare to work. In brief, the legislation provides a limit on the amount of time an individual can receive welfare benefits and, with limited exceptions, welfare recipients are expected to engage in work activities to move from welfare assistance to permanent employment.

The Balanced Budget Act of 1997 provides additional resources to achieve this goal by authorizing the Department of Labor (DOL) to provide Welfare-to-Work (WtW) grants to States and local communities for transitional employment assistance to move hard-to-employ TANF recipients with significant employment barriers and certain noncustodial parents into unsubsidized jobs offering long-term employment opportunities. These grants are intended to provide welfare recipients with job placement services, transition employment, and job retention and support services to achieve the ultimate goal of long-term unsubsidized employment and economic self-sufficiency.

II. PROGRAM PROCEDURES

There are two kinds of WtW grants: (1) Formula Grants to States and (2) Competitive Grants to local communities. Funds are also set aside for the following special purposes: one percent for Indian tribes, 0.8 percent for evaluation, and \$100 million for performance bonuses to successful States.

Formula Grants to States

After reserving the special purpose funds described above, 75 percent of the grant funds are allocated to States based on a statutory formula that equally considers States' share of the national number of poor individuals and adult recipients of assistance under TANF. States are required to pass through 85 percent of the money to local Private Industry Councils (known as workforce development boards in some areas), which oversee and guide job training programs in geographical jurisdictions called Service Delivery Areas (SDAs). A State is allowed to retain up to 15 percent of the money for WtW activities including serving long-term recipients. States must provide one dollar of non-Federal funding match for every two dollars of Federal funding provided under the formula. There are no matching requirements for competitive grants.

Substate Allocations

At least half of the funds distributed by formula to local areas must be based on an SDA's proportion of the State population in high poverty areas. Not more than half may be distributed

based on two additional factors: (1) the number of adults receiving TANF assistance for 30 months or more and (2) the number of unemployed in the SDA.

State Plan and Administration

In order to receive formula funds, the State must submit a plan for the administration of the WtW grant. The Secretary of Labor must determine that the plan meets statutory requirements. Governors are responsible for administering formula funds and for assuring that they are coordinated with funds spent under the TANF block grant.

Local Administration of Formula-Allocated Funds

Private Industry Councils (workforce development boards) established under the Job Training Partnership Act, in coordination with chief elected officials, administer the program at the local level unless the Secretary of Labor approves a Governor's request to use an alternative administering agency, after determining that the alternative would improve the effectiveness or efficiency of program administration.

Performance Bonuses

States may qualify for a performance bonus in fiscal year 2000 based on a formula for measuring performance that is developed by the Secretary of Labor, in consultation with the Secretary of Health and Human Services and organizations representing States. Factors to be taken into account include job placement, duration of placement, and any increase in earnings.

Competitive Grants to Local Communities

The 25 percent of funds not allocated by formula is available for competitive grants awarded directly to local governments, Private Industry Councils, and private entities (such as community development corporations and community-based organizations, community action agencies, and other private organizations) who apply in conjunction with a Private Industry Council or local government.

Features Which Apply to Both Formula and Competitive Grants

Funds may be used to help move eligible individuals into jobs by: (1) job creation through public or private sector wage subsidies; (2) on-the-job training; contracts with public or private providers of job readiness, job placement, and post-employment services; (3) job vouchers for similar services; (4) community service or work experience; (5) or job retention and supportive services (if such services are not otherwise available).

At least 70 percent of the grant funds must be spent on recipients or noncustodial parents who face two of three specified barriers to employment and who are long-term welfare recipients or, when the minor children of the noncustodial parent are long term welfare recipients (30 months), where the recipient or minor children face termination from TANF within 12 months. Barriers to employment include: (1) lack of high school diploma or certificate of general equivalency (GED)

and low reading or math skills, (2) requiring a substance abuse treatment for employment, and (3) a poor work history.

Assistance can be provided to individuals who have reached the 60-month TANF time limit. Such assistance does not count toward the 60-month limit unless it is cash assistance provided directly or through wage subsidies.

Not more than 30 percent of the grant funds may be spent to assist individuals who: (1) are receiving TANF assistance and who have characteristics associated with, or predictive of, long term welfare dependence; or (2) are noncustodial parents who have the characteristics associated with, or predictive of, long term welfare dependence and the custodial parent is receiving TANF assistance; or (3) are individuals who have the characteristics associated with, or predictive of, long term welfare dependence but who have reached either the Federal five-year limitation, or a State imposed limitation, on the receipt of TANF assistance.

Source of Governing Requirements

The program is authorized by Pub. L. No. 105-33, Balanced Budget Act of 1997 (amending 42 USC 603, 604, 608, 609, 611, and 613); Pub. L. No. 105-200, Child Support Performance and Incentive Act of 1998 (amending 42 USC 603); Pub. L. No. 105-78, Labor, Health and Human Services Appropriations Act; and Pub. L. No. 105-306, Noncitizen Benefit Clarification and other Technical Amendments Act of 1998 (amending 42 USC 603).

Availability of Other Program Information

The DOL "WtW" Internet home page (<http://wtw.doleta.gov/>) provides general information on this program.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to Part 2, Matrix of Compliance Requirements, to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. Activities Allowed or Unallowed

1. *Activities Allowed* - Entities operating WtW projects may use WtW funds for the following:
 - a. Job readiness activities financed through job vouchers or through contracts with public or private providers.
 - b. Employment activities which consist of any of the following:
 - (1) Community service programs;
 - (2) Work experience programs;

- (3) Job creation through public or private sector employment wage subsidies; and
 - (4) On-the-job training (OJT).
 - c. Job placement services financed through job vouchers or through contracts with public or private providers, subject to the payment requirements at 20 CFR section 645.230(a)(3).
 - d. Post-employment services financed through job vouchers or through contracts with public or private providers, which are provided after an individual is placed in one of the employment activities listed in "b" above, or in any other subsidized or unsubsidized job. Post-employment services include, but are not limited to, such services as:
 - (1) Basic educational skills training;
 - (2) Occupational skills training;
 - (3) English as a second language training; and
 - (4) Mentoring.
 - e. Job retention services and support services which are provided after an individual is placed in a job readiness activity, as specified in "a" above, in one of the employment activities, as specified in "b" above, or in any other subsidized or unsubsidized job. Job retention and support services include, but are not limited to, such services as:
 - (1) Transportation assistance;
 - (2) Substance abuse treatment (except that WtW funds may not be used to provide medical treatment);
 - (3) Child care assistance;
 - (4) Emergency or short term housing assistance;
 - (5) Other supportive services.
 - f. Individual Development Accounts (IDAs) which are established in accordance with section 404(h) under Title IV, Part A of the Social Security Act. An IDA is an account established with a financial institution by or for an individual to allow the individual to accumulate funds for specific purposes enumerated in the Act, i.e., postsecondary educational expenses, first home purchase, and business capitalization (42 USC 604(h)).
 - g. Intake, assessment, eligibility determination, development of an individualized service strategy, and case management may be incorporated in the design of any of the allowable activities listed in "a" through "f" above (20 CFR section 645.220).
2. *Activities Unallowed* - Construction or purchase of facilities or buildings is prohibited except where there is explicit statutory authority permitting it (20 CFR section 645.300(b)(1)(i)).

B. Allowable Costs/Cost Principles

Delegation of Prior Approval Authority - For items of cost requiring prior approval, the authority to grant or deny approval is delegated to the Governor (20 CFR section 645.230(c)).

E. Eligibility**1. Eligibility for Individuals**

a. *Hard-to-Employ Individual Under 70 Percent Provision* - An individual is considered hard-to-employ and, therefore, eligible to be served under the 70 percent provision of 20 CFR section 645.211 if (s)he meets all three of the following criteria:

- (1) The individual is receiving TANF assistance; and
- (2) At least two of the following three barriers to employment apply to the individual: (i) has not completed secondary school or obtained a GED, and has low skills in reading or mathematics (at least 90 percent of individuals determined to have low skills in reading or mathematics must be proficient at the 8.9 grade level or below); (ii) requires substance abuse treatment for employment; (iii) has a poor work history (at least 90 percent of individuals determined to have a poor work history must have worked no more than three consecutive months in the past 12 calendar months); and
- (3) The individual must be a long-term recipient of TANF assistance, meeting one of the following two criteria: (a) has received TANF assistance under a State TANF program, and/or its predecessor program, for at least 30 months (the months do not have to be consecutive); or (b) will become ineligible for assistance within the next 12 months due to either Federal or State-imposed durational limits on receipt of TANF assistance (20 CFR section 645.212(a)).

A noncustodial parent of a minor is eligible to participate under the 70 percent provision if the noncustodial parent meets the eligibility requirements under (2) above, and the recipient or the minor child of the noncustodial parent meets the eligibility requirements under (3) above (20 CFR section 645.212(b)).

An individual who has barriers to employment, as discussed above, and who would be otherwise eligible to receive but is no longer receiving TANF assistance because the individual has reached either the Federal five-year lifetime limit on recipient assistance, or a State-imposed lifetime limit, is eligible to participate under the 70 percent provision (20 CFR section 645.212(c)).

- b. *Long-Term Welfare Dependence Under the 30 Percent Provision* - An individual is considered to have long-term welfare dependence characteristics and, therefore, eligible under the 30 percent provision of 20 CFR section 645.211(b) if (s)he meets both of the following criteria:
- (1) The individual is receiving TANF assistance; and
 - (2) The individual has characteristics associated with, or predictive of, long-term welfare dependence, such as having dropped out of school, teenage pregnancy, or having a poor work history. States, in consultation with the operating entity, may designate additional characteristics associated with, or predictive of, long-term welfare dependence (20 CFR section 645.213(a)).

A noncustodial parent of a minor child is eligible to participate under the 30 percent provision if the noncustodial parent has the characteristics specified above, and the custodial parent is receiving TANF assistance (42 USC 603(a)(5)(C)(ii)).

An individual who has characteristics associated with, or predictive of, long-term welfare dependence, as specified above, and who would be otherwise eligible to receive but is no longer receiving TANF assistance because the individual has reached either the Federal five-year lifetime limit on receipt of assistance, or a state-imposed limit, is eligible to participate under the 30 percent provision (20 CFR section 645.213(c)).

2. **Eligibility for Groups of Individuals or Area of Service Delivery** - Not Applicable
3. **Eligibility for Subrecipients** - Not Applicable

G. Matching, Level of Effort, Earmarking

1. Matching

The following matching requirements apply to formula grants:

- a. A State is entitled to receive two dollars of Federal funds for every one dollar of State match expenditures, up to the amount available for allotment to the State based on the state's percentage for the WtW formula grant for the fiscal year. The State is not required to provide a level of match necessary to support the total amount available to it based on the state's percentage for WtW formula grant. However, if the proposed match is less than the amount required to support the full level of Federal funds, the grant amount will be reduced accordingly (20 CFR section 645.300).

- b. No more than one-half of the total match expenditures may be in the form of third party in-kind contributions (20 CFR section 645.300(b)(3)). The matching share may not be met by the employer's share of participant wage payments (e.g., employer's share of OJT wages) (20 CFR section 645.300(c)(1)).
- c. Costs financed by program income shall not count towards satisfying a cost-sharing or matching requirement unless they are expressly permitted in the terms of the assistance agreement. Contractors under grants may earn income from activities carried out under the contract in addition to the amounts earned from the party awarding the contract. No costs of services or property supported by this income may count toward satisfying a cost-sharing or matching requirement unless other provisions of the grant agreement expressly permit this kind of income to be used to meet the requirement (20 CFR sections 645.300(c)(5) and (6)).

2. Level of Effort - Not Applicable

3. Earmarking

- a. *Distribution to SDAs* - Of the WtW funds allotted to the State, not less than 85 percent of the State allotment must be distributed to the SDAs in the State (20 CFR section 645.410(a)).
- b. *Formula Grants* - Expenditures for administration purposes under WtW formula grants to states are limited to 15 percent of the grant award, exclusive of the matching share (20 CFR section 645.235).
- c. *Competitive Grants* - The limitation on expenditures for administration purposes under WtW competitive grants will be specified in the grant agreement, but in no case shall the limitation on administrative costs be more than 15 percent of the grant award, exclusive of the matching share (20 CFR section 645.235).
- d. *Hard-to-Employ Individual Under 70 Percent Provision* - At least 70 percent of the WtW funds allotted to or awarded to an operating entity must be spent to benefit hard-to-employ individuals (20 CFR section 645.211(a)).
- e. *Long-Term Welfare Dependence Under the 30 Percent Provision* - Not more than 30 percent of the WtW funds allotted or awarded to an operating entity may be spent to assist individuals with long-term welfare dependence characteristics (20 CFR section 645.211(b)).

H. Period of Availability of Federal Funds

1. *Formula Grants* - The maximum time limit for the expenditure of a given fiscal year allotment is three years from the effective date of the Federal grant award to the State (20 CFR section 645.233(a)).
2. *Competitive Grants* - The maximum time limit for the expenditure of these funds is three years from the effective date of the award, but will, in all cases, be determined by the grant period and the terms and conditions specified in the Federal grant award agreement (including any applicable grant modification documents) (20 CFR section 645.233(b)).

L. Reporting

1. Financial Reporting

- a. SF-269, *Financial Status Report* - Not Applicable
- b. SF-270, *Request for Advance or Reimbursement* - Not Applicable
- c. SF-271, *Outlay Report and Request for Reimbursement for Construction Program* - Not Applicable
- d. SF-272, *Federal Cash Transactions Report* - Payments under this program are made by the Department of Health and Human Services, Payment Management System (PMS). Reporting equivalent to the SF-272 is accomplished through the PMS and is evidenced by the PMS 272-E, *Major Program Statement*.
- e. ETA-9068-1, *WtW Formula Grant Cumulative Quarterly Financial Status Report (OMB No. 1205-0385)* - Expenses and program income for formula grants is required to be reported on the accrual basis. Electronic transmittal of the data requested on this report is available for all WtW formula grantees who have Internet access and who have provided e-mail addresses to the Employment and Training Administration. Reports are due 45 days after the end of each quarter. Final reports are due 90 days after the expiration of fund availability.

Key Line Items - The following line items contain critical information.

Sections I through V.

- f. ETA-9068, *WtW Competitive Grant Cumulative Quarterly Financial Status Report (OMB No. 1205-0385)* - Expenses and program income for competitive grants is required to be reported on the accrual basis. Electronic transmittal of the data requested on this report is available for all WtW competitive grant recipients who have Internet access and who have provided e-mail addresses to the Employment and Training

Administration. Reports are due 45 days after the end of each quarter. Final reports are due 90 days after the expiration of fund availability.

Key Line Items - The following line items contain critical information.

Sections I through III.

2. **Performance Reporting** - Not Applicable
3. **Special Reporting** - Not Applicable

N. **Special Tests and Provisions**

1. **Retention of Job Placement Payments**

Compliance Requirement - Contracts or vouchers for job placement services supported by funds provided for this program must include a provision to require that at least one-half of the payment occur after an eligible individual placed into the workforce has been in the workforce for six months. This provision applies only to placement in unsubsidized jobs (20 CFR section 645.230(a)(3)).

Audit Objective - To determine that job placement payments for unsubsidized employment have been at least one-half retained until the eligible individual has been placed into the workforce for six months.

Suggested Audit Procedures

- a. Review a sample of job placement contracts and verify that the required provision on retention of payment is included.
- b. Review the entity's procedures and the documentation obtained for retention of placement payments.
- c. Perform tests of selected job placement payments and verify that the retention procedures were followed and at least one-half of the placement payment was retained until the individual had been placed for six months.