

(i) The Secretary will consider a center to have failed to meet the expected level of performance if the center:

(A) Is ranked among the lowest 10 percent of Job Corps centers for the most recent preceding program year according to the rankings calculated under § 686.1060; and

(B) The center fails to achieve an average of 90 percent of the expected level of performance for all of the primary indicators.

(ii) For any program year that precedes the implementation of the establishment of the expected levels of performance under § 686.1050 and the application of the primary indicators of performance for Job Corps centers identified in § 686.1010, the Secretary will consider a center to have failed to meet the expected levels of performance if the center:

(A) Is ranked among the lowest 10 percent of Job Corps centers for the most recent preceding program year according to the rankings calculated under § 686.1060; and

(B) The center's composite OMS score for the program year is 88 percent or less of the year's OMS national average.

(2) The Secretary also may develop and implement additional performance improvement plans, which will require improvements for a Job Corps center that fails to meet criteria established by the Secretary other than the expected levels of performance.

(b) A performance improvement plan will require action be taken to correct identified performance issues within 1 year of the implementation of the plan, and it will identify criteria that must be met for the center to complete the performance improvement plan.

(1) The center operator must implement the actions outlined in the performance improvement plan.

(2) If the center fails to take the steps outlined in the performance improvement plan or fails to meet the criteria established to complete the performance improvement plan after 1 year, the center will be considered to have failed to improve performance under a performance improvement plan detailed in paragraph (a) of this section.

(i) Such a center will remain on a performance improvement plan and the Secretary will take action as described in paragraph (c) of this section.

(ii) If a Civilian Conservation Center fails to meet expected levels of performance relating to the primary indicators of performance specified in § 686.1010, or fails to improve performance under a performance improvement plan detailed in paragraph (a) of this section after 3 program years, the Secretary, in consultation with the Secretary of Agriculture, must select an entity to operate the Civilian Conservation Center on a competitive basis, in accordance with the requirements of § 686.310.

(c) Under a performance improvement plan, the Secretary may take the following actions, as necessary:

(1) Providing technical assistance to the center;

(2) Changing the management staff of a center;

(3) Changing the career technical training offered at the center;

(4) Replacing the operator of the center;

(5) Reducing the capacity of the center;

(6) Relocating the center; or

(7) Closing the center in accordance with the criteria established under § 686.200(b).

## **PART 687—NATIONAL DISLOCATED WORKER GRANTS**

Sec.

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**§ 687.100 What are the types and purposes of National Dislocated Worker Grants under the Workforce Innovation and Opportunity Act?**

There are two types and purposes of National Dislocated Worker Grants (DWGs) under sec. 170 of WIOA: Employment Recovery DWGs and Disaster Recovery DWGs.

(a) Employment Recovery DWGs provide employment and training activities for dislocated workers and other eligible populations. They are intended to expand service capacity temporarily at the State and local levels, by providing time-limited funding assistance in response to major economic dislocations or other events that affect the U.S. workforce that cannot be accommodated with WIOA formula funds or other relevant existing resources.

(b) Disaster Recovery DWGs allow for the creation of disaster relief employment to assist with clean-up and recovery efforts from emergencies or major disasters and the provision of employment and training activities, in accordance with § 687.180(b).

**§ 687.110 What are major economic dislocations or other events which may qualify for a National Dislocated Worker Grant?**

(a) Qualifying events for Employment Recovery DWGs include:

(1) Plant closures or mass layoffs affecting 50 or more workers from one employer in the same area;

(2) Closures and realignments of military installations;

(3) Plant closures or layoffs that have significantly increased the total num-

ber of unemployed individuals in a community;

(4) Situations where higher-than-average demand for employment and training activities for dislocated members of the Armed Forces, dislocated spouses of members of the Armed Forces on active duty (as defined in 10 U.S.C. 101(d)(1)), or members of the Armed Forces described in § 687.170(a)(1)(iii), exceeds State and local resources for providing such activities; and

(5) Other events, as determined by the Secretary.

(b) Qualifying events for Disaster Recovery DWGs include:

(1) Emergencies or major disasters, as defined in paragraphs (1) and (2), respectively, of sec. 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(1) and (2)) which have been declared eligible for public assistance by the Federal Emergency Management Agency (FEMA);

(2) An emergency or disaster situation of national significance, natural or man-made, that could result in a potentially large loss of employment, as declared or otherwise recognized and issued in writing by the chief official of a Federal Agency with jurisdiction over the Federal response to the emergency or disaster situation; and

(3) Situations where a substantial number of workers from a State, tribal area, or outlying area in which an emergency or disaster has occurred relocate to another State, tribal area, or outlying area.

**§ 687.120 Who is eligible to apply for National Dislocated Worker Grants?**

(a) For Employment Recovery DWGs, the following entities are eligible to apply:

(1) States or outlying areas, or a consortium of States;

(2) Local Workforce Development Boards (WDBs), or a consortium of WDBs;

(3) An entity described in sec. 166(c) of WIOA (relating to Indian and Native American programs);

(4) Other entities determined to be appropriate by the Governor of the State or outlying area involved; and

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(5) Other entities that demonstrate to the Secretary the capability to respond effectively to circumstances relating to particular dislocations.

(b) For Disaster Recovery DWGs, the following entities are eligible to apply:

- (1) States;
- (2) Outlying areas; and
- (3) Indian tribal governments as defined by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(6)).

### § 687.130 When must applications for National Dislocated Worker Grants be submitted to the Department?

(a) Applications for Employment Recovery DWGs may be submitted at any time during the year and must be submitted to respond to eligible events as soon as possible when:

(1) The applicant receives a notification of a mass layoff or a closure as a result of a Worker Adjustment and Retraining Notification (WARN) Act notice, a general announcement, or some other means, or in the case of applications to address situations described in § 687.110(a)(4), when higher-than-average demand for employment and training activities for those members of the Armed Forces and military spouses exceeds State and local resources for providing such activities;

(2) Worker need and interest in services has been determined through Rapid Response, or other means, and is sufficient to justify the need for a DWG; and

(3) A determination has been made, in collaboration with the applicable local area, that State and local formula funds are inadequate to provide the level of services needed by the affected workers.

(b) Applications for Disaster Recovery DWGs to respond to an emergency or major disaster must be submitted as soon as possible when:

(1) As described in § 687.110(b)(1), FEMA has declared that the affected area is eligible for public assistance;

(2) A situation as described in § 687.110(b)(2) occurs. The applications must indicate the applicable Federal agency declaration, describe the impact on the local and/or State economy, and describe the proposed activities; or

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(3) A situation as described in § 687.110(b)(3) occurs, and interest in services has been determined and is sufficient to justify the need for a DWG.

### § 687.140 What activities are applicants expected to conduct before a National Dislocated Worker Grant Application is submitted?

Prior to submitting an application for DWG funds, applicants must:

(a) For Employment Recovery DWGs:

(1) Collect information to identify the needs and interests of the affected workers through rapid response activities (described in § 682.330 of this chapter), or other means;

(2) Provide appropriate services to eligible workers including other rapid response activities, based on information gathered as described in paragraph (a)(1) of this section; and

(3) Coordinate with the Local WDB and chief elected official(s) of the local area(s) in which the proposed DWG project is to operate.

(b) For Disaster DWGs:

(1) Conduct a preliminary assessment of the clean-up and humanitarian needs of the affected areas;

(2) Reasonably ascertain that there is a sufficient population of eligible individuals to conduct the planned work; and

(3) Coordinate with the Local WDB and chief elected official(s) of the local area(s) in which the proposed project is to operate.

### § 687.150 What are the requirements for submitting applications for National Dislocated Worker Grants?

The Department will publish guidance on the requirements for submitting applications for DWGs. Requirements may vary depending on the DWG. A project implementation plan must be submitted after receiving the DWG award, unless otherwise specified.

### § 687.160 What is the timeframe for the Department to issue decisions on National Dislocated Worker Grant applications?

The Department will issue a final decision on a DWG application within 45 calendar days of receipt of an application that meets the requirements of this part. Applicants are encouraged to

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review their DWG application submissions carefully and consult with the appropriate Employment and Training Administration Regional Office to ensure their applications meet the requirements established in this part and those that may be set forth in guidance.

**§ 687.170 Who is eligible to be served under National Dislocated Worker Grants?**

(a) For Employment Recovery DWGs:

(1) In order to receive employment and training activities, an individual must be:

(i) A dislocated worker within the meaning of sec. 3(15) of WIOA;

(ii) A person who is either:

(A) A civilian employee of the Department of Defense or the Department of Energy employed at a military installation that is being closed or will undergo realignment within 24 months after the date of determination of eligibility; or

(B) An individual employed in a non-managerial position with a Department of Defense contractor determined by the Secretary of Defense to be at risk of termination from employment as a result of reductions in defense expenditures and whose employer is converting from defense to non-defense applications in order to prevent worker layoffs; or

(iii) A member of the Armed Forces who:

(A) Was on active duty or full-time National Guard duty;

(B) Is involuntarily separated from active duty or full-time National Guard duty (as defined in 10 U.S.C. 1141), or is separated from active duty or full-time National Guard duty pursuant to a special separation benefits program under 10 U.S.C. 1174a, or the voluntary separation incentive program under 10 U.S.C. 1175;

(C) Is not entitled to retired or retained pay incident to the separation described in paragraph (a)(1)(iii)(B) of this section; and

(D) Applies for employment and training assistance under this part before the end of the 180-day period beginning on the date of the separation described in paragraph (a)(1)(iii)(B) of this section.

(iv) For Employment Recovery DWGs awarded for situations described in § 687.110(a)(4), a person who is:

(A) A dislocated member of the Armed Forces or member of the Armed Forces described in paragraph (a)(1)(iii) of this section; or

(B) The dislocated spouse of a member of the Armed Forces on active duty (as defined in 10 U.S.C. 101(d)(1)).

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(b) For Disaster Recovery DWGs:

(1) In order to be eligible to receive disaster relief employment under sec. 170(b)(1)(B)(i) of WIOA, an individual must be:

(i) A dislocated worker;

(ii) A long-term unemployed individual;

(iii) An individual who is temporarily or permanently laid off as a consequence of the emergency or disaster; or

(iv) An individual who is self-employed and becomes unemployed or significantly underemployed as a result of the emergency or disaster.

(2) In order to be eligible to receive employment and training activities and in rare instances, disaster relief employment under sec. 170(b)(1)(B)(ii) of WIOA, an individual must have relocated or evacuated from an area as a result of a disaster that has been declared or otherwise recognized, and be:

(i) A dislocated worker;

(ii) A long-term unemployed individual;

(iii) An individual who is temporarily or permanently laid off as a consequence of the emergency or disaster; or

(iv) An individual who is self-employed and becomes unemployed or significantly underemployed as a result of the emergency or disaster.

(c) For Disaster Recovery DWG funds, individuals described in paragraph (b)(2) of this section are eligible to receive services provided with DWG funds in the State, tribal area, or outlying area in which the disaster occurred or the State, tribal area, or outlying area to which they have relocated. In certain cases determined by the Secretary, individuals described in paragraph (b)(2) of this section are eligible to receive services in both the State, tribal area, or outlying area in

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which the disaster occurred and the State, tribal area, or outlying area to which they have relocated.

**§ 687.180 What are the allowable activities under National Dislocated Worker Grants?**

(a) For Employment Recovery DWGs: (1) Employment and training assistance, including those activities authorized at secs. 134(c) through (d) and 170(b)(1) of WIOA. The services to be provided in a particular project are negotiated between the Department and the grantee, taking into account the needs of the target population covered by the grant, and may be changed through grant modifications, if necessary.

(2) DWGs may provide for supportive services, including needs-related payments (subject to the restrictions in sec. 134(d)(3) of WIOA, where applicable, and the terms and conditions of the grant) to help workers who require such assistance to participate in the activities provided for in the grant. Generally, the terms of a grant must be consistent with local policies governing such financial assistance under its formula funds (including the payment levels and duration of payments). The terms of the grant agreement may diverge from established local policies, in the following instances:

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

(ii) Under other circumstances as specified in guidance governing DWG application requirements.

(b) For Disaster DWGs: Funds provided under sec. 170(b)(1)(B) of WIOA can support a different array of activities, depending on the circumstances surrounding the situation for which the grant was awarded:

(1) For DWGs serving individuals in an emergency or disaster area declared eligible for public assistance by FEMA,

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disaster relief employment is authorized to support projects that provide food, clothing, shelter, and other humanitarian assistance for emergency and disaster victims, and projects regarding demolition, cleaning, repair, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within the disaster area and in offshore areas related to the emergency or disaster in coordination with the Administrator of FEMA. Employment and training activities also may be provided, as appropriate. An individual's disaster relief employment is limited to 12 months or less for work related to recovery from a single emergency or disaster. The Secretary may extend an individual's disaster relief employment for up to an additional 12 months, if it is requested and sufficiently justified by an entity described in § 687.120(b).

(2) For DWGs serving individuals who have relocated from an emergency or disaster area, only employment and training activities will be authorized, except where disaster relief employment is appropriate.

(3) For DWGs awarded to States for events that have designations from Federal agencies (other than FEMA) that recognize an emergency or disaster situation as one of national significance that could result in a potentially large loss of employment, disaster relief employment and/or employment and training activities may be authorized, depending on the circumstances associated with the specific event.

(c) Disaster Recovery DWG funds may be expended through public and private agencies and organizations engaged in the activities described in this paragraph (b) of this section.

**§ 687.190 How do statutory and regulatory waivers apply to National Dislocated Worker Grants?**

(a) For DWGs, utilization of statutory or regulatory waivers is limited to waivers already approved by the Department under sec. 189(i) of WIOA, separate from the DWG process. WIOA

sec. 189(i) gives the Department the authority to waive provisions under subtitles A, B, and/or E of WIOA; requirements of DWGs in WIOA subtitle D cannot and will not be waived.

(b) A grant application must include a description of the approved waiver and request that the waiver be applied to the DWG. The Department will consider such requests as part of the overall DWG application review and decision process; however, applicants may not use this process to request new waivers.

(c) If during the operation of a DWG, the grantee wishes to utilize a statutory or regulatory waiver that the Department has already approved under sec. 189(i), but it was not included in the grantee's original DWG application, the grantee must submit a grant modification that describes the waiver and requests application of the waiver to the DWG. Grantees may not use this process to request new waivers.

**§ 687.200 What are the program and administrative requirements that apply to National Dislocated Worker Grants?**

(a) Unless otherwise authorized in a DWG agreement, the financial and administrative rules contained in part 683 of this chapter apply to awards under this part.

(b) Exceptions include:

(1) Funds provided in response to a disaster may be used for temporary job creation in areas declared eligible for public assistance by FEMA, and, in some instances, areas impacted by an emergency or disaster situation of national significance, as provided in § 687.110(b)(2), and subject to the limitations of sec. 170(d) of WIOA, this part, and any guidance issued by the Department;

(2) Per sec. 170(d)(4) of WIOA, in extremely limited instances, as determined by the Secretary or the Secretary's designee, any Disaster Recovery DWG funds that are available for expenditure under any grant awarded under this part may be used for additional disasters or situations of national significance experienced by an entity described in § 687.120(b) in the same program year the funds were awarded;

(3) DWG funds may be used to pay an appropriate level of administrative costs based on the design and complexity of the project. The Department will negotiate administrative costs with the applicant as part of the application review and grant award and modification processes. Administrative cost limits will be calculated against the amount of the grant awarded;

(4) The period of availability for expenditure of funds under a DWG is specified in the grant agreement;

(5) The Department may establish supplemental reporting, monitoring, and oversight requirements for DWGs. The requirements will be identified in the grant application instructions or the grant document; and

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

**PART 688—PROVISIONS GOVERNING THE YOUTHBUILD PROGRAM**

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