



January 11, 2022

Workforce Innovation and Opportunity Act (WIOA) Policy Letter No. 17-06.2

To: Local Workforce Development Boards Directors, Fiscal Agents, and OhioMeansJobs Center Operators

From: Matt Damschroder, Director

Subject: Disaster Recovery National Dislocated Worker Grants

I. Purpose

To provide the requirements of Disaster Recovery National Dislocated Worker Grants (disaster grants) and to assist local workforce development areas (local areas) in the development of policies and the provision of services when implementing such grants.

II. Effective Date

Immediately

III. Rescission

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 17-06.1, Disaster Recovery National Dislocated Worker Grants, (October 28, 2019).

IV. Background

Disaster grants are discretionary awards that create temporary jobs for eligible individuals to assist with clean-up, recovery, and humanitarian efforts in areas impacted by an emergency or disaster. Allowable clean-up activities include the demolition, cleaning, repair, renovation, and reconstruction of damaged or destroyed structures or facilities and lands located within the disaster area related to the emergency or disaster.

Disaster grants may also provide employment and training services if needed to help impacted individuals return to full employment, including situations where a

substantial number of individuals have relocated to Ohio from a state in which an emergency or disaster occurred.

V. Definitions

Disaster area: A geographic region that has suffered from, or in which has occurred, an emergency or disaster.

Emergency or disaster: A natural or manmade catastrophic event (e.g., tornado, storm, flood, explosion, etc.) declared eligible for public assistance by the Federal Emergency Management Agency (FEMA) or declared to be a situation of national significance by a federal agency with authority or jurisdiction over the response to the event.

Equipment: Tangible personal property having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds \$5,000 or the local area's established equipment threshold, whichever is less.

Long-term unemployed individual: A person who meets one of the following criteria, in descending order of priority for services:

1. Has a substantial employment history (*i.e.*, at least 12 months of full-time or 24-months of part-time work experience), is currently unemployed, and has been unemployed for at least 15 of the past 26 weeks;
2. Is currently unemployed and has been unemployed for at least 15 of the past 26 weeks;
3. Is currently employed but had been unemployed for 15 of the past 26 weeks and is not currently self-sufficient based on local policy; or
4. Is either currently unemployed or working part-time, has not worked over 30 hours per week in any 15 of the past 26 weeks, has been seeking but unable to secure full-time employment, and is not currently self-sufficient based on local policy.

Public service employment: subsidized employment provided to eligible individuals to perform work normally provided by governments, including but not limited to work in fields of human betterment and community improvement, child care, health care, education, crime prevention, public transportation, streets and parks, solid waste removal, housing and neighborhood improvement, and rural development.

VI. State Requirements

A. Application Process

When an emergency or disaster has met the criteria for disaster grant funding, the Ohio Department of Job and Family Services (ODJFS) will coordinate with

the impacted local area(s) to assess the need for clean-up or humanitarian efforts, ascertain the availability of eligible individuals to perform the disaster relief work, and provide technical assistance on the application process and operational considerations.

If a need for disaster grant funding is identified, the state will work with impacted local areas interested in participating to submit either:

1. An emergency application within 15 days of the disaster declaration using an abbreviated format to facilitate rapid implementation of services (followed by a full application within 60 days of award notification if funding is approved);
or
2. A full application within 60 days of the disaster declaration which must include a narrative describing the project and services, a list of worksites in each county, job titles for the temporary positions being created, and line item budget for each participating county.

B. Award Notification

The United States Department of Labor (USDOL) issues its funding decision within 45 calendar days of receipt of a valid application. If the application is approved, ODJFS will notify the participating local areas of their sub-grant award amounts.

Disaster grants are issued incrementally. A maximum funding level will be approved, but a lesser amount will be initially disbursed. Request(s) for additional funds must be submitted when needed and must be supported by enrollments, completion of work goals, and expenditures.

As participating local areas require additional funding to continue operating, ODJFS may temporarily or permanently reduce another area's maximum funding level or allocation amount to maximize utilization of the grant resources statewide.

C. State Implementation

ODJFS will serve as the grantee and pass-through entity for disaster grant funds. Upon receiving disaster grant funding, ODJFS will:

- Provide technical assistance to participating local areas;
- Prepare and submit a project implementation plan and full application within 60 days of receipt of the grant award;
- Coordinate disaster grant activities with activities funded by federal and state emergency management agencies and other providers to ensure a comprehensive approach and non-duplication;

- Conduct monitoring of local areas and worksites to review eligibility, expenditures, operations, and safety procedures;
- Request prior approval from USDOL for the purchase of any equipment needed at worksites and ensure proper disposition of the items when no longer needed;
- Conduct a plan versus actual progress check against quarterly enrollment plans each quarter, when the local reports are submitted.
- Develop an individual work plan with local areas that have not met their proposed enrollment goals;
- Submit required program and fiscal reports and grant modifications to USDOL, including requests for additional funding; and
- Submit to USDOL any modifications to the original grant proposal, including addition of new worksites. New worksites must be approved by USDOL prior to work commencing on such sites.

VII. Local Workforce Development Area Requirements

The local area will administer disaster grant activities in accordance with its sub-grant agreement with ODJFS and the local implementation plan for the disaster project. Funds may be used to provide wages and benefits to participants working in disaster relief employment; to lease facilities, equipment, and supplies; to purchase supplies, personal protective equipment, immunizations, and other supportive services; to dispose of debris; to purchase equipment (if prior approval was obtained); and to employ program staff to manage operations and supervise workers. Up to 10 percent of the funds may be expended on administrative costs.

The local area must receive prior approval through ODJFS before purchasing any equipment items. The equipment request may be included with the emergency application, local implementation plan, or in a modification of the local plan. The request must include identification of the types of equipment, quantity and estimated cost per unit of each type, and a brief justification explaining the need.

A. Local Implementation Plan

Within the first 60 days of the disaster project grant period, the local area must submit a local implementation plan based on a template provided by ODJFS. The plan must include:

1. Prioritized list of worksites;
2. Line item budget;
3. Staffing plan identifying job titles, job descriptions, number of full time equivalent staff, and salaries and benefits for all positions funded in whole or in part by the grant;

4. Identification of, and justification for, any equipment required to perform the work;
5. Policies governing supportive services for participants; and
6. Description of the local area monitoring procedures.

The local area must notify ODJFS and submit a revised plan when modifications are necessary. Circumstances that require a plan modification include:

- An increase in the area's commitment of funding to continue providing services;
- Budget variances that result in more than a 10 percent increase in cost per participant or in any budget line item;
- An extension in the project end date beyond the original plan;
- Additions to, or deletions from, the list of worksites where disaster relief work will be performed;
- Changes in the job titles, duties, or wage levels of participants; and
- Changes to supportive services policy or monitoring procedures.

B. Contractors

The local area may enter into contracts with public entities, not-for-profit organizations, and private for-profit entities including staffing agencies to assist with carrying out disaster grant activities, such as serving as employer of record for the temporary disaster relief workers. Contractors must be competitively selected in accordance with procurement rules.

For-profit contractors may keep the profits earned from performance of disaster grant activities. The amount of profit must be negotiated as a separate element of the overall price of the contract with consideration given to the complexity, risk, past performance, and industry profit rates in the surrounding geographical area for similar work. Profits that are excessive or that are not justified using the aforementioned criteria will be disallowed and cannot be paid from WIOA grant funds.

C. Participant Eligibility

Eligible disaster grant participants include:

1. Individuals temporarily or permanently laid off due to the emergency or disaster;
2. Self-employed individuals who became unemployed or significantly underemployed due to the emergency or disaster;
3. Dislocated workers; and
4. Long-term unemployed individuals.

Priority for participation in services must be given to individuals affected by the emergency or disaster followed by dislocated workers and long-term unemployed individuals. Each participant may work no more than 2,080 hours in temporary disaster relief employment related to recovery from a single emergency or disaster.

Local areas must keep any medical or disability-related information obtained through administration of the grant confidential. The confidential information must be:

1. Used only for determining eligibility and appropriateness for services;
2. Maintained in a separate file apart from the WIOA participant case;
3. Locked up or otherwise secured (such as through password protection, if maintained in an electronic system); and
4. Restricted from access by unauthorized individuals in accordance with 29 C.F.R. § 38.41(b)(3).

D. Participant Employment

Although public service employment is generally prohibited for WIOA participants, temporary disaster relief employment is an allowable exception. The goals are to provide income maintenance to participants and services to the community while moving the participants into permanent, unsubsidized jobs.

Participants must be paid comparable rates of pay, including periodic increases, as other individuals who are similarly situated in like occupations having similar training, experience, and skills. Participants must be paid at least the federal, state, or local minimum wage, whichever is highest. Fringe benefits should be provided according to the policies of the employer of record. Workers' compensation insurance must be established for each disaster grant participant in case of injury.

E. Worksite Selection

Worksites must be located within the geographic region identified in the disaster declaration. The local area must maintain a prioritized list of worksites in each county with the status updated as work is completed or priorities change. Highest priority should be given to public lands or facilities with the most severe damage, consistent with the strategic plans of the community, as determined in consultation with state and local emergency management agencies, local elected officials and their staff, and other stakeholders and citizens.

If private property must be crossed to gain access to a worksite, the local area must secure a right-of-access agreement signed by the property landowner. Under limited circumstances, work on private property may occur, such as to remove public health and safety hazards or repair the homes of economically disadvantaged individuals eligible for the federal Weatherization program. Local

areas should seek further guidance from ODJFS before beginning work on private property.

Activities performed in natural areas must not negatively impact endangered species or their habitats. If an endangered species or its habitat exists at a worksite, the local area must consult with the Fish and Wildlife Service (FWS) to mitigate negative impacts before performing any work. Regardless of the presence of endangered species, disaster grant operations should be conducted in a manner that minimizes damage to riparian and other natural areas, maintains existing vegetation, and avoids the removal of living trees unless necessary to ensure health and safety.

F. Safety Considerations

During periods of severe inclement weather when outdoor operations cannot be performed safely, participants may be scheduled to perform project-related activities such as inventory control, safety training, or maintenance of tools and equipment but may not perform re-employment activities such as job search or resume-writing instruction while on the disaster grant payroll. Extended periods of inclement weather may require temporary shut-down of disaster grant operations.

Local areas must ensure that applicants and participants will be able to safely perform assigned duties which are often physically demanding. A position description explaining the working conditions and physical requirements should be provided to applicants. Local areas shall follow the same hiring protocols for any grant-funded workers for whom the local area will become the employer of record, that the local area would follow for its other prospective employees. Any costs associated with adhering to such hiring protocols may be charged to the disaster grant, including for those applicants who do not enter the program as participants and do not become temporary employees of the local area.

The same health and safety standards applicable to other employees also apply to participants in disaster relief employment. The work environment must be free from recognized hazards likely to cause injury or death. Initial and on-going safety instruction must be provided on relevant topics such as Occupational Safety and Health Administration (OSHA) rules, First Aid, and chainsaw operation. The OSHA workplace compliance poster at <https://www.osha.gov/Publications/osha3165.pdf> must be posted and visible to all employees.

Employers of record must implement policies, procedures, and controls to ensure compliance with OSHA standards relevant to their operations, such as personal protective equipment for rigging and logging operations, and Material Safety Data Sheets for flammable and combustible liquids, *etc.*

Public sector organizations should consult with the Public Employee Risk Reduction Program (PERRP) to schedule regular safety training, compliance visits, and site-specific evaluations. All employers of record should schedule compliance visits with the Ohio Bureau of Workers' Compensation every six months during disaster grant operation.

G. Reporting Requirements

The local area must report disaster grant participants and services in the Ohio Workforce Case Management System (OWCMS) under the special grant office created for the grant. Participants enrolled in disaster relief employment will not affect the local area's WIOA performance measures unless they are co-enrolled in formula funded programs.

Costs of services, including accruals and obligations, must be updated at the sub-area level every two weeks in the County Finance Information System (CFIS) using the project code established for the grant. All expenditures must be supported with acceptable documentation, including timesheets signed by a supervisor for payroll costs.

The local area must submit a quarterly enrollment plan, beginning with the quarter ending September 30, 2021. This plan can include other quarterly goals, but must, at a minimum, include enrollments.

If necessary, additional reporting such as progress, injury, or monitoring narratives may also be required. ODJFS will provide instructions and due dates to local areas after the disaster grant is in progress.

H. Monitoring

If participating in a disaster grant, local areas must develop monitoring policies outlining the procedures and frequency for reviewing disaster grant operations and how staff will resolve findings of non-compliance. At a minimum, monitors should review the following items monthly and issue findings as appropriate:

- Ensured use of required safety protective gear;
- Employer payroll records and signed timesheets;
- Participant file documentation such as eligibility verifications;
- Program fiscal records, including timekeeping information and administrative charges;
- Observations of workplace safety;
- Assessment of environmental hazards;
- Participant feedback on relevant matters such as safety training, protective equipment, and payroll accuracy.

VIII. Technical Assistance

For additional information, contact the Office of Workforce Development at NEG@JFS.OHIO.GOV .

IX. References

Workforce Innovation and Opportunity Act, § 170, Pub. L. 113-128.

2 C.F.R. Part 200, 20 C.F.R. §§ 683.215, 683.275-280, 683.295, and 20 CFR Part 687.

20 C.F.R. §38.41.

USDOL, Training and Employment Guidance Letter No. 12-19, National Dislocated Worker Grant Program Guidance (March 18, 2020).

O.A.C. 5101:9-7-04 and OAC 5101:9-31-07.

ODJFS, Workforce Innovation and Opportunity Act Policy Letter No. 15-02.1, Adult and Dislocated Worker Eligibility (October 1, 2020).