



## TITLE: PacMtn WIOA Policy # 9700 COVID-19 National Dislocated Worker Grant DRDWG & ERDWG

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### Purpose

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Through federal regulations and DWG specific guidance, a major and nationally identified dislocation event (Covid-19), had a significant impact on businesses, employers, employees, and job seekers within the State of WA and the PacMtn region. The event allowed for application and award of funding through two separate DWG grants, Disaster Recovery and Employment Recovery.

DWGs are time-limited funding assistance in response to major economic dislocations or other events that cause significant impact on states and local areas that exceed the capacity of existing formula funds and other relevant resources to address.

The Disaster Recovery Grants provide disaster-relief and humanitarian assistance employment, as well as employment and training services, as appropriate, to minimize the employment and economic impact of declared disasters and emergency situations, in disaster-declared areas as defined in 20 CFR 687.110(b).

**Disaster Relief Employment (DRE)** funding provides for the creation of disaster-relief employment, which is temporary employment of eligible individuals for the purposes described in WIOA Section 170(b)(1)(B) and (d), as well as 20 CFR 687.180(b) and (c). DRE services

**Employment Recovery (ER)** funding provides resources to states and other eligible applicants to respond to events that cause significant job losses. Qualifying events include major economic dislocations, such as plant closures, mass layoffs. This also could include closures and realignments of military installations. Employment Recovery DWGs provide employment and training assistance to dislocated workers and other eligible participants as described below.

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### Policy

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This policy provides guidance to LWDB's and WIOA program staff for the delivery of services as allowable through the Disaster Relief Employment and Employment Recovery Grants.

DWG funded projects must be aligned with existing state and local strategic priorities, resources, and programs and not operated as stand-alone projects. To include operating in alignment with other state and local programs, including Rapid Response, layoff aversion, and the formula Dislocated Worker program and focused on addressing employment and training needs in states and local areas.

This also could include closures and realignments of military installations. Employment Recovery DWGs provide employment and training assistance to dislocated workers and other eligible participants as described below.

WIOA program managers and staff shall adhere to this local policy, the supporting procedures and all additional guidance provided for all aspects of program eligibility determinations, program enrollments, training service funding, support service provisions, etc.

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## **Guidelines**

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### **Disaster Recovery DWG Qualifying Events:**

1. Emergencies and major disasters, as defined under Section 102 of the Stafford Act (42 U.S.C. 5122(6)), declared by FEMA as eligible for Public Assistance under any category (A through G).
2. Emergencies or disaster situations 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 disaster or emergency.
3. Relocation of a substantial number of individuals from a state, tribal area, or outlying area affected by a disaster or emergency to other states, tribal areas, or outlying areas outside the disaster or emergency area.

Not all participants in a Disaster Recovery DWG project must participate in disaster-relief employment. LWDB's may provide employment and training activities to participants not in disaster-relief employment. In summary, LWDB's may enroll Disaster Recovery DWG participants in:

- Disaster-relief employment only;
- Employment and training activities only; or
- Both disaster-relief employment and employment and training activities

### ***Eligible Participants***

An individual eligible to receive services through a Disaster Recovery DWG must be one of the following, per 20 CFR 687.170(b):

1. temporarily or permanently laid off as a consequence of the disaster;
2. a dislocated worker as defined at 29 U.S.C. 3102(3)(15);
3. a long-term unemployed worker (unemployed for 27 or more consecutive weeks); or
4. a self-employed individual who became unemployed or significantly underemployed as a result of the disaster or emergency.

### **Disaster Relief Employment**

Disaster-relief employment created under a Disaster Recovery DWG aligns with the following categories:

1. Clean-up and recovery efforts including demolition, 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; or,

2. Employment related to the delivery of appropriate humanitarian assistance in the immediate aftermath of the disaster or emergency; more information on humanitarian assistance is provided below.

These activities may occur concurrently, or one may occur prior to the other. Individual participant may be enrolled in disaster-relief employment, employment and training services, or both, when the manner of doing so will most likely result in a successful outcome.

Participants in disaster-relief positions may be employed for a maximum of 12 months or 2,080 hours, whichever is longer. A request for an extension must follow the guidance provided within TEGl 12-19.

Participants in disaster-relief positions may be employed for a maximum of 12 months or 2,080 hours, whichever is longer.

A modification request may be submitted to extend the period of employment for existing participants for up to an additional 12 months. The modification request must justify the reason for extending participants' disaster-relief employment, as required by 20 C.F.R. 687.180(b)(1)

*If there remains humanitarian or clean-up needs after participants reach the limits on employment duration, the state should attempt to employ new eligible individuals to continue the work at hand rather than continue the employment or re-employment of participants that have reached 12 months or 2,080 hours of disaster-relief employment.*

#### ***Participant Wages:***

The worksite employer that provides participants temporary disaster-relief employment under a Disaster Recovery DWG is required to pay the higher of the Federal, state, or local minimum wage, or the comparable rates of pay for other individuals employed in similar occupations by the same employer. In accordance with WIOA Section 181(a)(1)(A), generally, participants must be compensated at the same rates, including periodic increases, as employees who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills.

Additionally, such rates must be in accordance with applicable law but in no event less than the higher of the rate specified in Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable state or local minimum wage law. Where applicable, fringe benefits should be paid in accordance with the policies of the worksite employer.

The wages paid to temporary disaster-relief workers must be consistent with the wages of the supervising entity's other employees—permanent or temporary—performing the same or similar work.

#### ***Worksite Selection:***

Disaster-relief worksites must be located in the geographic disaster area covered by the qualifying declaration for the Disaster Recovery DWG (a disaster or emergency declaration under the Stafford Act or other Federal agency's declaration of a disaster or emergency of national significance).

#### ***Humanitarian Assistance:***

Generally includes actions designed to save lives, alleviate suffering, and maintain human dignity in the immediate aftermath of disasters. This assistance includes activities such as the provision of food, clothing, and shelter. The humanitarian assistance provided by disaster-relief workers must relate directly to immediate response to the disaster situation named in the DWG application and the Federal declaration.

*For specific guidance relating to the details associated with the participant's wages, worksite selection and humanitarian assistance for PacMtn programs, refer to WorkSource Information Notice (WIN) 0114 Change 2 - 1/5/2021*

## **Employment Recovery**

Employment Recovery DWGs provide resources to respond to major economic dislocations, such as large, unexpected layoff events that cause significant job losses and provide employment and training assistance to workers affected by those major economic dislocations, such as plant closures and mass layoffs.

### **Employer Recovery Qualifying Layoff Events:**

The following dislocation scenarios could qualify for Employment Recovery DWGs under 20 CFR 687.110(a).

### **Mass Layoff or Plant Closure**

Layoffs or plant closures affecting 50 or more workers from one employer within the service area of the applicant may qualify for Mass Layoff or Plant Closure Employment Recovery DWGs. An applicant may include smaller layoffs at other companies in the area if the primary layoff caused or contributed to the smaller layoffs.

### **Industry-Wide Layoffs**

Layoff events from multiple companies in the same industry, as determined by the two-digit code level in the North American Industrial Classification System (NAICS), may qualify for Industry-Wide Employment Recovery DWGs. Additional layoffs affecting fewer than 50 workers may be included in an industry-wide DWG application when there is at least one company with a layoff affecting 50 or more workers included in the application, and the additional companies are in the same NAICS two-digit code level.

### **Community Impact**

Multiple small dislocations occurring over a period of up to 12 months that have significantly increased the number of unemployed individuals in a regional or local workforce area may qualify for a Community Impact Employment Recovery DWG. Community impact grants typically serve rural areas where the employer base is predominantly smaller companies with fewer than 50 employees each, and where layoffs may not meet the definition of “mass layoffs” noted above.

### **Eligible Participants:**

For most Employment Recovery DWGs, the following individuals are eligible to receive employment and training assistance:

1. a dislocated worker as defined in WIOA Section 3(15);
2. a civilian employee of the Department of Defense or the Department of Energy employed at a military installation that is being closed, or that will undergo realignment, within the next 24 months after the date of the determination of eligibility;
3. an individual who is employed in a non-managerial position with a Department of Defense contractor, who is 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 operations from defense to nondefense applications in order to prevent worker layoffs; or
4. a member of the Armed Forces who:
  - a. was on active duty or full-time National Guard duty;
  - b. is involuntarily separated (as defined in section 1141 of title 10, United States Code) from active duty or full-time National Guard duty; 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 section 1175 of that title;
  - c. is not entitled to retired or retained pay incident to the separation described in Subclause b above; and
  - d. applies for employment and training assistance within 180 days of that separation.

## **Allowable Activities:**

### **Employment and Training Assistance**

For Employment Recovery DWGs, the term “employment and training assistance” includes career services, training services, and supportive services, as described below.

#### ***Career Services:***

Career services are described in WIOA Section 134(c)(2); 20 CFR Part 680; and TEGL 16-16 Section C.

#### ***Training Services:***

As described in WIOA Section 134(c)(3)(D), training services are allowable under Economic Recovery DWGs and may include: occupational training, on-the-job training (including apprenticeships), entrepreneurial training, and customized training.

DWG funds may be used to reimburse up to 50 percent of the wage rate for on-the-job training or up to the reimbursement percentage the Governor or local board has approved for on-the-job training for WIOA formula programs according to the criteria outlined in WIOA Section 134(c)(3)(H) and 20 CFR 680.730.

The use of DWG funds for training is subject to the limitations or requirements as applicable to the WIOA Dislocated Worker formula program delineated in 20 CFR part 680 and TEGL 19-16,

*Guidance on Services Provided through the Adult and Dislocated Worker Programs under the Workforce Innovation and Opportunity Act (WIOA) and the Wagner Peysner Act Employment Service (ES), as amended by title III of WIOA, and for Implementation of the WIOA Final Rules.*

#### ***Supportive Services:***

Supportive services are allowable when they are needed to enable individuals to participate in disaster-relief employment and employment and training services and when supportive services cannot be obtained through other programs. Supportive service policies for a disaster project must align with the state or local area supportive service policy; any supportive services provided must be consistent with WIOA.

### **Co-Enrollment with Trade Adjustment Assistance**

Trade-affected workers may be served under Employment Recovery DWGs as applicable. Co-enrolling participants with appropriate programs for eligible individuals, including those who are trade-affected is strongly encouraged.

Employment Recovery DWGs may provide DWG participants who are trade-affected with allowable services not otherwise provided by the TAA Program. Generally, the TAA Program provides employment and case management services, training, income support, and job search and relocation allowances for eligible adversely affected workers and employment and case management services and training for eligible adversely affected incumbent workers.

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## **References**

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Workforce Innovation and Opportunity Act of 2014

WIOA Final Rule; 20 CFR Parts 676,677, and 678; Federal Register, Vol. 81, No. 161, August 19, 2016

WIOA Final Rule; 20 CFR Parts 603, 651, 652, et al; Federal Register, Vol. 81, No. 161, August 19, 2016

Training and Employment Guidance Letter (TEGL) 12-19 – 3.18.2020

WorkSource Information Notice (WIN) 0114 Change 2 – 1.5.2021 - (Attachments A, B, C & D).

WorkSource Information Notice (WIN) 0115 Change 2 – 1.5.2021 - (Attachments A & B).

WorkSource System Policy 1019 R4 & Attachment A - Eligibility Handbook

PacMtn Policy # 5000P – Dislocated Worker

PacMtn Policy # 5200 - Support Service

PacMtn Procedure # 5200P - Support Service

PacMtn Policy # 5100 Adult/DW Individual Training Accounts (ITA's)

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**Direct Inquiries to:**

**Pacific Mountain Workforce Development Council 1570**

**Irving Street SW Tumwater, WA 98512**

**Telephone: (360) 704-3568**

**Email: [info@pacmtn.org](mailto:info@pacmtn.org)**

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