

1 **CHAPTER 800. GENERAL ADMINISTRATION**

2  
3 **ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS**  
4 **REGISTER. THIS DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS**  
5 **SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE TEXAS REGISTER.**  
6

7 The Texas Workforce Commission (Commission) adopts the following new sections, *without*  
8 changes, to Chapter 800, relating to General Administration, as published in the July 3, 2009,  
9 issue of the *Texas Register* (34 TexReg 4498):

10  
11 Subchapter B. Allocations, §§800.74 - 800.77

12  
13 The Commission adopts amendments, *without* changes, to the following sections of Chapter 800,  
14 relating to General Administration, as published in the July 3, 2009, issue of the *Texas Register*  
15 (34 TexReg 4498):

16  
17 Subchapter A. General Provisions, §800.2

18 Subchapter B. Allocations, §§800.54, 800.58, and 800.71

19  
20 The Commission adopts the repeal, *without* changes, of the following sections of Chapter 800,  
21 relating to General Administration, as published in the July 3, 2009, issue of the *Texas Register*  
22 (34 TexReg 4498):

23  
24 Subchapter B. Allocations, §800.74 and §800.75

25  
26 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

27 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND**  
28 **RESPONSES**

29  
30  
31 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

32 The purpose of the adopted amendments to Chapter 800 is to provide the Commission with  
33 additional flexibility in its review of underlying factors or causes for the underexpenditure of  
34 Commission-allocated funds by a Local Workforce Development Board (Board).

35  
36 Additionally, the Food, Conservation, and Energy Act of 2008, enacted June 18, 2008, changed  
37 the name of the Food Stamp Program to the Supplemental Nutrition Assistance Program  
38 (SNAP). The Texas Health and Human Services Commission (HHSC), which administers the  
39 federal program, has informed the Agency that effective April 1, 2009, it will change the name  
40 of the state food stamp program to SNAP. To align with the federal and state name changes, the  
41 Commission also is changing the name of Food Stamp Employment and Training (FSE&T) to  
42 Supplemental Nutrition Assistance Program Employment and Training (SNAP E&T).  
43 Therefore, FSE&T references in this chapter will be changed to be consistent with federal and  
44 state revisions.

1 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS WITH COMMENTS AND**  
2 **RESPONSES**

3 (Note: Minor editorial changes are made that do not change the meaning of the rules and,  
4 therefore, are not discussed in the Explanation of Individual Provisions.)

5  
6 **SUBCHAPTER A. GENERAL PROVISIONS**

7 **The Commission adopts the following amendments to Subchapter A:**

8  
9 **§800.2. Definitions**

10 Section 800.2(2), the definition of allocation is clarified to ensure consistency with:  
11 --Texas Labor Code §302.062, which specifies that Commission block grant allocations are  
12 made to local workforce development areas (workforce areas); and  
13 --§800.51 of this chapter, which notes that Commission block grant allocations are made to  
14 workforce areas.

15  
16 Section 800.2(10), the definition of FSE&T, is removed and replaced by new §800.16, which  
17 reflects the name change from FSE&T to SNAP E&T.

18  
19 Certain paragraphs in this section have been renumbered to reflect additions or deletions.

20  
21 **SUBCHAPTER B. ALLOCATIONS**

22 **The Commission adopts the following amendments to Subchapter B:**

23  
24 **§800.54. Food Stamp Employment and Training**

25 Section 800.54 changes:  
26 --the section title "Food Stamp Employment and Training" to "Supplemental Nutrition  
27 Assistance Program Employment and Training";  
28 --the term "FSE&T" to "SNAP E&T"; and  
29 --the term "food stamps" to "SNAP benefits."

30  
31 **§800.58. Child Care**

32 Section 800.58 changes:  
33 --the term "Food Stamp Employment and Training" to "SNAP E&T";  
34 --the term "aged" to "ages"; and  
35 --the term "food stamp" to "SNAP."

36  
37 **§800.71. General Deobligation and Reallocation Provisions**

38 Section 800.71 changes "Food Stamp" to "Supplemental Nutrition Assistance Program."

39  
40 **§800.74. Deobligation of Funds**

41 Section 800.74 is repealed and consolidated in new §800.74.

42  
43 **§800.74. Midyear Deobligation of Funds**

44 The Commission provides WIA program year funds to Boards for expenditure over a two-year  
45 period. New §800.74(a) provides that the Commission may deobligate funds during the program  
46 year—or the first year of availability of WIA funds—if a workforce area is not meeting the

1 expenditure thresholds in new §800.74(b) and (c). This information is unchanged from repealed  
2 §800.74(b)(1).

3  
4 New §800.74(a)(1) specifies "midyear" as the end of months five, six, seven, or eight. The rule  
5 broadens the Commission's ability to review all relevant information that may be causing an  
6 underexpenditure of funds, except as set forth in new §800.74(c), beyond the narrow scope of  
7 repealed §800.74(b)(1) and (2). New §800.74(a)(1) affords the Commission greater flexibility to  
8 consider individual and unique circumstances in the workforce area.

9  
10 New §800.74(a)(2) limits the amount that may be deobligated by the Commission to no more  
11 than the difference between a Board's actual expenditures and the amount corresponding to the  
12 relative proportion of the program year. As the midyear period is specified as the end of months  
13 five, six, seven, or eight, this new section removes reference to a three-consecutive-month period  
14 as in repealed §800.74(c).

15  
16 New §800.74(a)(3) retains the exemption from deobligation for an underexpended workforce  
17 area that received a supplemental allocation or reallocation of funds from the Commission within  
18 the prior 60 days. This information remains unchanged from repealed §800.74(d)(1). However,  
19 new §800.74(a)(3) removes the exemption from deobligation for an underexpended workforce  
20 area that is achieving a sufficient per participant cost and meeting contracted performance  
21 measures, information previously located in repealed §800.74(d)(2).

22  
23 New §800.74(b)(1) - (8) provides the criteria by which the Commission may deobligate the  
24 funds listed at midyear, provisions that are unchanged from repealed §800.74(a)(1).

25  
26 New §800.74(c) provides the criteria by which the Commission may deobligate Workforce  
27 Investment Act (WIA) formula funds at midyear, provisions that are unchanged from repealed  
28 §800.74(a)(2)(A).

29  
30 New §800.74(d)(1) - (4), previously located in repealed §800.74(f)(1) - (4), states that upon  
31 request from the Commission, a workforce area subject to deobligation of funds must submit a  
32 written justification to the Commission and provide a copy to the Board Chair, detailing the  
33 actions the workforce area will take, including:

- 34 --expanding services proportionate to available resources;  
35 --projecting service levels and related performance;  
36 --reporting additional obligations; or  
37 --other factors the workforce area wants the Commission to consider.

38  
39 New §800.74(e), previously located in repealed §800.74(g), states that if this section is found not  
40 to comply with federal requirements, or if related federal waivers expire, the Commission is  
41 subject to any federal requirements in effect.

42  
43 **§800.75. Reallocation of Funds**

44 Section 800.75 is repealed and set forth as new §800.77.

1 **§800.75. Second-Year WIA Deobligation of Funds**

2 New §800.75 sets forth the Commission's criteria for the deobligation of WIA formula funds  
3 during the second year of availability.

4  
5 New §800.75(a) clarifies that in each month of the second year of WIA funds availability, the  
6 Commission may deobligate any unexpended WIA formula funds that exceed 20% of the  
7 allocation for each category of WIA formula funds for the program year, information previously  
8 located in repealed §800.74(a)(2)(B).

9  
10 New §800.75(b) limits the Commission's ability to deobligate funds from a workforce area to an  
11 amount not to exceed the difference between a workforce area's actual expenditures and the  
12 unexpended funds that exceed 20% of the allocation for each category of WIA formula funds for  
13 the program year.

14  
15 New §800.75(c) states that the Commission shall not deobligate funds from a workforce area that  
16 failed to meet the expenditure thresholds set forth in §800.75(a) if within 60 days prior to the  
17 potential deobligation period, a workforce area executes a contract amendment for a  
18 supplemental allocation or reallocation of funds in the same program funding category. This  
19 mirrors the provision in new §800.74(a)(3) relating to midyear deobligation of funds.

20  
21 **§800.76. Voluntary Deobligation of Funds**

22 New §800.76 allows Boards to request a voluntary deobligation of funds by submitting a written  
23 request to the Commission with a copy to the Board Chair.

24  
25 **§800.77. Reallocation of Funds**

26 New §800.77 pertains to a workforce area's eligibility for reallocated funds, and the factors the  
27 Commission may consider when reviewing workforce areas' requests for reallocated funds.

28  
29 New §800.77(a)(1) - (9) lists the funds that the Commission may reallocate to workforce areas.  
30 This information remains unchanged from repealed §800.75(a).

31  
32 New §800.77(b)(1)(A), (C), (D), and (F) - (H) sets forth the criteria for workforce areas'  
33 eligibility for child care funds (excluding unmatched federal funds that are contingent upon a  
34 workforce area securing local funds) and the funds listed in §800.77(a)(2) - (9). This  
35 information remains unchanged from repealed §800.75(b)(1)(A) - (G).

36  
37 New §800.77(b)(1)(B) specifies an additional criterion. The Commission also may consider a  
38 workforce area's reported obligations when considering the workforce area's requests for  
39 available funds.

40  
41 New §800.77(b)(1)(E) specifies an additional criterion. The Commission also may consider  
42 reallocating funds to workforce areas that have an established plan for working with at least one  
43 of the Governor's industry clusters, as detailed in the local Board plan.

44  
45 New §800.77(c)(1), (3), (5), and (6), previously located in repealed §800.75(a)(1) - (4), provides  
46 the criteria that the Commission may consider when modifying a reallocation amount.

1  
2 New §800.77(c)(2) is an additional criterion. The Commission also may consider the amount  
3 available for reallocation versus the total dollar amount of the requests, thus providing the  
4 Commission flexibility when considering Boards' reallocation requests.

5  
6 New §800.77(c)(4) also provides an additional criterion. The Commission may consider the  
7 extent to which a workforce area's project supports activities related to the Governor's industry  
8 clusters.

9  
10 New §800.77(d), previously located in repealed §800.75(c), is reworded to mirror new  
11 §800.74(e).

12  
13  
14 **NO COMMENTS WERE RECEIVED.**

15  
16 The Agency hereby certifies that the proposal has been reviewed by legal counsel and found to  
17 be within the Agency's legal authority to adopt.

18  
19 The rules are adopted under Texas Labor Code §301.0015 and §302.002(d), which provide the  
20 Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it  
21 deems necessary for the effective administration of Agency services and activities.

22  
23 The adopted rules affect Title 4, Texas Labor Code, particularly Chapters 301 and 302.  
24

1 **Chapter 800. GENERAL ADMINISTRATION**

2  
3  
4 **SUBCHAPTER A. GENERAL PROVISIONS**

5 **§800.2. Definitions**

6 The following words and terms, when used in this part, relating to the Texas Workforce  
7 Commission, shall have the following meanings, unless the context clearly indicates  
8 otherwise.

- 9 (1) Agency -- The unit of state government established under Texas Labor Code  
10 Chapter 301 that is presided over by the Commission and administered by the  
11 Executive Director to operate the integrated workforce development system  
12 and administer the unemployment compensation insurance program in this  
13 state as established under the Texas Unemployment Compensation Act, Texas  
14 Labor Code Annotated, Title 4, Subtitle A, as amended. The definition of  
15 "Agency" shall apply to all uses of the term in rules contained in this part, or  
16 unless otherwise defined, relating to the Texas Workforce Commission that are  
17 adopted after February 1, 2001.
- 18 (2) Allocation -- The amount approved by the Commission for expenditures to a  
19 local workforce development area during a specified program year, according  
20 to specific state and federal requirements.
- 21 (3) Board -- A Local Workforce Development Board created pursuant to Texas  
22 Government Code §2308.253 and certified by the Governor pursuant to Texas  
23 Government Code §2308.261. This includes such a Board when functioning as  
24 the Local Workforce Investment Board as described in the Workforce  
25 Investment Act §117 (29 U.S.C.A. §2832), including those functions required  
26 of a Youth Council, as provided for under the Workforce Investment Act  
27 §117(i). The definition of "Board" shall apply to all uses of the term in the  
28 rules contained in this part, or unless otherwise defined, relating to the Texas  
29 Workforce Commission that are adopted after February 1, 2001.
- 30 (4) Child Care -- Child care services funded through the Commission, which may  
31 include services funded under the Child Care and Development Fund, WIA,  
32 and other funds available to the Commission or a Board to provide quality  
33 child care to assist families seeking to become independent from, or who are at  
34 risk of becoming dependent on, public assistance while parents are either  
35 working or participating in educational or training activities in accordance with  
36 state and federal statutes and regulations.
- 37 (5) Choices -- The employment and training activities created under §31.0126 of  
38 the Texas Human Resources Code and funded under TANF (42 U.S.C.A. 601  
39 *et seq.*) to assist persons who are receiving temporary cash assistance,  
40 transitioning off, or at risk of becoming dependent on temporary cash  
41 assistance or other public assistance in obtaining and retaining employment.
- 42 (6) Commission -- The body of governance of the Texas Workforce Commission  
43 composed of three members appointed by the Governor as established under

1 Texas Labor Code §301.002 that includes one representative of labor, one  
2 representative of employers and one representative of the public. The  
3 definition of "Commission" shall apply to all uses of the term in rules  
4 contained in this part, or unless otherwise defined, relating to the Texas  
5 Workforce Commission that are adopted after February 1, 2001.

6 (7) Formal Measures -- Workforce development services performance measures  
7 adopted by the Governor and developed and recommended through the Texas  
8 Workforce Investment Council (TWIC).

9 (8) Employment Service-- A program to match qualified job seekers with  
10 employers through a statewide network of one-stop career centers. (The  
11 Wagner-Peyser Act of 1933 (Title 29 U.S.C., Chapter 4B) as amended by the  
12 Workforce Investment Act of 1998 (P.L. 105-220))

13 (9) Executive Director -- The individual appointed by the Commission to  
14 administer the daily operations of the Agency, which may include a person  
15 delegated by the Executive Director to perform a specific function on behalf of  
16 the Executive Director.

17 (10) Local Workforce Development Area (workforce area) -- Workforce areas  
18 designated by the Governor pursuant to Texas Government Code §2308.252  
19 and functioning as a Local Workforce Investment Area, as provided for under  
20 the Workforce Investment Act § 116 and § 189(i)(2) (29 U.S.C.A., §2831 and  
21 §2939).

22 (11) One-Stop Service Delivery Network -- A one-stop-based network under which  
23 entities responsible for administering separate workforce investment,  
24 educational and other human resources programs and funding streams  
25 collaborate to create a seamless network of service delivery that shall enhance  
26 the availability of services through the use of all available access and  
27 coordination methods, including telephonic and electronic methods. Also  
28 referred to as the Texas Workforce Network.

29 (12) Performance Measure -- An expected performance outcome or result.

30 (13) Performance Standard -- A contracted numerical value setting the acceptable  
31 and expected performance outcome or result to be achieved for a performance  
32 measure, including Core Outcome Formal Measures.

33 (14) Program Year -- The twelve-month period applicable to the following as  
34 specified:

35 (A) Child Care: October 1 - September 30;

36 (B) Choices: October 1 - September 30;

37 (C) Employment Service: October 1 - September 30;

38 (D) Supplemental Nutrition Assistance Program Employment and Training:  
39 October 1 - September 30;

40 (E) Project RIO: October 1 - September 30;

- 1 (F) Trade Act Services: October 1 - September 30;
- 2 (G) Veterans' Employment and Training: October 1 - September 30;
- 3 (H) Workforce Investment Act (WIA) Adult, Dislocated Worker, and Youth
- 4 formula funds: July 1 - June 30;
- 5 (I) WIA Alternative Funding for Statewide Activities: October 1 - September
- 6 30; and
- 7 (J) WIA Alternative Funding for One-Stop Enhancements: October 1 -
- 8 September 30.

9 (15) Project Reintegration of Offenders (RIO) -- A program that prepares and  
 10 transitions ex-offenders released from Texas Department of Criminal Justice or  
 11 Texas Youth Commission incarceration into gainful employment as soon as  
 12 possible after release, consistent with provisions of the Texas Labor Code,  
 13 Chapter 306, Texas Government Code §2308.312, and the Memorandum of  
 14 Understanding with the Texas Department of Criminal Justice and the Texas  
 15 Youth Commission.

16 (16) Supplemental Nutrition Assistance Program Employment and Training (SNAP  
 17 E&T) -- A program to assist SNAP recipients to become self-supporting  
 18 through participation in activities that include employment, job readiness,  
 19 education, and training, activities authorized and engaged in as specified by  
 20 federal statutes and regulations (7 U.S.C.A. §2011), and Chapter 813 of this  
 21 title relating to Supplemental Nutrition Assistance Program Employment and  
 22 Training.

23 (17) TANF -- Temporary Assistance for Needy Families, which may include  
 24 temporary cash assistance and other temporary assistance for eligible  
 25 individuals, as defined in the Personal Responsibility and Work Opportunities  
 26 Reconciliation Act of 1996, as amended (7 U.S.C.A. §201.1 *et seq.*) and the  
 27 Temporary Assistance for Needy Families statutes and regulations (42  
 28 U.S.C.A. §601 *et seq.*, 45 C.F.R. Parts 260 - 265). TANF may also include  
 29 the TANF State Program (TANF SP), relating to two-parent families, which is  
 30 codified in Texas Human Resources Code, Chapter 34.

31 (18) Trade Act Services -- Programs authorized by the Trade Act of 1974, as  
 32 amended (and 20 C.F.R. Part 617) providing services to dislocated workers  
 33 eligible for Trade benefits through Texas Workforce Centers.

34 (19) TWIC -- Texas Workforce Investment Council appointed by the Governor  
 35 pursuant to Texas Government Code §2308.052 and functioning as the State  
 36 Workforce Investment Board (SWIB), as provided for under the Workforce  
 37 Investment Act §111(e) (29 U.S.C.A. §2821(e)). In addition, pursuant to the  
 38 Workforce Investment Act §194(a)(5) (29 U.S.C.A. §2944(a)(5)), TWIC  
 39 maintains the duties, responsibilities, powers, and limitations as provided in  
 40 Texas Government Code §§2308.101 - 2308.105. Formerly known as the  
 41 Texas Council on Workforce and Economic Competitiveness (TCWEC), any  
 42 references to TCWEC when used in this part are now considered references to  
 43 TWIC.



- 1 (20) Texas Workforce Center Partner -- An entity that carries out a workforce  
2 investment, educational, or other human resources program or activity, and that  
3 participates in the operation of the One-Stop Service Delivery Network in a  
4 workforce area consistent with the terms of a memorandum of understanding  
5 entered into between the entity and the Board.
- 6 (21) Veterans' Employment and Training -- Services established under the Jobs for  
7 Veterans Act of 2002 (P.L. 107-288, 38 U.S.C.A. §§4100, 4201, and 4301) the  
8 Disabled Veterans Outreach Program (DVOP) and the Local Veterans  
9 Employment Representative (LVER) program to provide employment services  
10 to disabled veterans, veterans of the Vietnam era, and other eligible veterans  
11 and family members.
- 12 (22) WIA -- Workforce Investment Act (P.L. 105-220, 29 U.S.C.A. §2801 *et seq.*).  
13 References to WIA include references to WIA formula allocated funds unless  
14 specifically stated otherwise.
- 15 (23) WIA Formula Allocated Funds -- Funds allocated by formula to workforce  
16 areas for each of the following separate categories of services: WIA Adult,  
17 Dislocated Worker and Youth (excluding the Secretary's and Governor's  
18 reserve funds and rapid response funds).

19  
20 **SUBCHAPTER B. ALLOCATIONS**

21 **§800.54. Supplemental Nutrition Assistance Program Employment and Training**

- 22 (a) Funds available to the Commission to provide SNAP E&T services under 7 U.S.C.A.  
23 §2015(d) will be allocated to the workforce areas using a need-based formula, as set  
24 forth in subsection (b) of this section.
- 25 (b) At least 80% of the SNAP E&T funds will be allocated to the workforce areas on the  
26 basis of:
- 27 (1) of the relative proportion of the total unduplicated number of mandatory work  
28 registrants receiving SNAP benefits residing within the workforce area during  
29 the most recent calendar year to the statewide total unduplicated number of  
30 mandatory work registrants receiving SNAP benefits;
- 31 (2) an equal base amount; and
- 32 (3) the application of a hold harmless/stop gain procedure.
- 33 (c) No more than 10% of the funds expended as part of a workforce area's allocation  
34 shall be used for administrative costs, as defined by federal regulations and  
35 Commission policy.

36  
37 **§800.58. Child Care**

- 38 (a) Funds available to the Commission for child care services will be allocated to the  
39 workforce areas using need-based formulas, as set forth in this section.

1 (b) Child Care and Development Fund (CCDF) Mandatory Funds authorized under the  
2 Social Security Act §418(a)(1), as amended, together with state general revenue  
3 Maintenance of Effort (MOE) Funds, Social Services Block Grant funds, TANF  
4 funds, and other funds designated by the Commission for child care (excluding any  
5 amounts withheld for state-level responsibilities) will be allocated on the following  
6 basis:

7 (1) 50% will be based on the relative proportion of the total number of children  
8 under the age of five years old residing within the workforce area to the  
9 statewide total number of children under the age of five years old, and

10 (2) 50% will be based on the relative proportion of the total number of people  
11 residing within the workforce area whose income does not exceed 100% of the  
12 poverty level to the statewide total number of people whose income does not  
13 exceed 100% of the poverty level.

14 (c) CCDF Matching Funds authorized under the Social Security Act §418(a)(2), as  
15 amended, together with state general revenue matching funds and estimated  
16 appropriated receipts of donated funds, will be allocated according to the relative  
17 proportion of children under the age of 13 years old residing within the workforce  
18 area to the statewide total number of children under the age of 13 years old.

19 (d) CCDF Discretionary Funds authorized under the Child Care and Development Block  
20 Grant Act of 1990 §658B, as amended, will be allocated according to the relative  
21 proportion of the total number of children under the age of 13 years old in families  
22 whose income does not exceed 150% of the poverty level residing within the  
23 workforce area to the statewide total number of children under the age of 13 years  
24 old in families whose income does not exceed 150% of the poverty level.

25 (e) If SNAP E&T child care funding is determined to be available, then funds will be  
26 allocated among workforce areas on the basis of the relative proportion of the total  
27 number of children ages 6 - 12 years in households of mandatory SNAP work  
28 registrants residing within the workforce area to the statewide total number of  
29 children ages 6 - 12 years in households of mandatory SNAP work registrants.

30 (f) The following provisions apply to the funds allocated in subsections (b) - (e) of this  
31 section:

32 (1) Sufficient funds must be used for direct child care services to ensure  
33 Commission-approved performance targets are met.

34 (2) Children eligible for Transitional and Choices child care shall be served on a  
35 priority basis to enable parents to participate in work, education, or training  
36 activities.

37 (3) No more than 5% of the total expenditure of funds may be used for  
38 administrative expenditures as defined in federal regulations contained in 45  
39 Code of Federal Regulations §98.52, as may be amended unless the total  
40 expenditures for a workforce area are less than \$5,000,000. If a workforce  
41 area has total expenditures of less than \$5,000,000, then no more than  
42 \$250,000 may be used for administrative expenditures.

- 1 (4) Each Board shall set the amount of the total expenditure of funds to be used for  
2 quality activities consistent with federal and state statutes and regulations.
- 3 (5) The Board shall comply with any additional requirements adopted by the  
4 Commission or contained in the Board contract.
- 5 (6) Allocations of child care funds will include applications of hold harmless/stop  
6 gain procedures.
- 7

8 **§800.71. General Deobligation and Reallocation Provisions**

- 9 (a) Purpose. The purpose of this rule is to promote effective service delivery, financial  
10 planning, and management to ensure full utilization of funding, and to reallocate  
11 funds to populations in need.
- 12 (b) Scope. Sections 800.71 - 800.77 of this subchapter shall apply to funds provided to  
13 workforce areas under a contract between the Board and the Commission for the  
14 following categories of funding:
- 15 (1) Child Care
- 16 (2) Choices
- 17 (3) Employment Service
- 18 (4) SNAP E&T
- 19 (5) Project RIO
- 20 (6) Trade Act Services
- 21 (7) WIA Formula Allocated Funds
- 22 (8) WIA Alternative Funding for Statewide Activities
- 23 (9) WIA Alternative Funding for One-Stop Enhancements
- 24

25 **§800.74. Midyear Deobligation of Funds**

- 26 (a) The Commission may deobligate funds from a workforce area during the program  
27 year if a workforce area is not meeting the expenditure thresholds set forth in  
28 subsections (b) and (c) of this section.
- 29 (1) Workforce areas that fail to meet the expenditure thresholds set forth in  
30 subsection (b) of this section at the end of months five, six, seven, or eight of  
31 the program year (i.e., midyear) will be reviewed to determine the causes for  
32 the underexpenditure of funds, except as set forth in subsection (e) of this  
33 section.
- 34 (2) The Commission shall not deobligate more than the difference between a  
35 workforce area's actual expenditures and the amount corresponding to the  
36 relative proportion of the program year.

- 1 (3) The Commission shall not deobligate funds from a workforce area that failed  
2 to meet the expenditure thresholds set forth in subsections (b) and (c) of this  
3 section, if within 60 days prior to the potential deobligation period the  
4 Commission executes a contract amendment for a supplemental allocation or  
5 reallocation of funds in the same program funding category.
- 6 (b) The Commission may deobligate the following funds midyear, as set forth in  
7 subsection (a) of this section, if a workforce area fails to achieve the expenditure of  
8 an amount corresponding to 90% or more of the relative proportion of the program  
9 year:
- 10 (1) Child care (with the exception of unmatched federal child care funds that are  
11 contingent upon a workforce area securing local funds, as set forth in §800.73  
12 of this subchapter)
- 13 (2) Choices
- 14 (3) Employment Service
- 15 (4) SNAP E&T
- 16 (5) Project RIO
- 17 (6) Trade Act Services
- 18 (7) WIA Alternative Funding for Statewide Activities
- 19 (8) WIA Alternative Funding for One-Stop Enhancements
- 20 (c) The Commission may deobligate WIA formula funds midyear, as set forth in  
21 subsection (a) of this section, if a workforce area fails to achieve the expenditure of  
22 an amount corresponding to 80% or more of the relative proportion of the program  
23 year for each category of WIA formula funds.
- 24 (d) A workforce area subject to deobligation for failure to meet the requirements set  
25 forth in this section shall, upon request by the Commission, submit a written  
26 justification with a copy to the Board Chair. The written justification shall provide  
27 sufficient detail regarding the actions a workforce area will take to address its  
28 deficiencies, including:
- 29 (1) expansion of services proportionate to the available resources;
- 30 (2) projected service levels and related performance;
- 31 (3) reporting outstanding obligations; and
- 32 (4) any other factors a workforce area would like the Commission to consider.
- 33 (e) To the extent this section is found not to comply with federal requirements, or should  
34 any related federal waivers expire, the Commission will be subject to federal  
35 requirements in effect, as applicable.

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**§800.75. Second-Year WIA Deobligation of Funds**

- (a) In each month of the second year in which the WIA formula funds are available, the Commission may deobligate funds if a workforce area's unexpended WIA formula funds exceed 20% of the allocation for each category of WIA formula funds for the program year.
- (b) The Commission shall not deobligate more than the difference between a workforce area's actual expenditures and the amount of unexpended funds that exceed 20% of the allocation for each category of WIA formula funds for the program year.
- (c) The Commission shall not deobligate funds from a workforce area that failed to meet the expenditure thresholds set forth in subsection (a) of this section if within 60 days prior to the potential deobligation period, the Commission executes a contract amendment for a supplemental allocation or reallocation of funds in the same program funding category.

**§800.76. Voluntary Deobligation of Funds**

To request a voluntary deobligation of funds allocated to the workforce area, a workforce area's executive director shall submit a written request to the Commission with a copy to the Board Chair.

**§800.77. Reallocation of Funds**

- (a) Reallocation. A workforce area may be eligible for reallocation of the following funds allocated by the Commission:
  - (1) Child care (including unmatched federal child care funds that are contingent upon a workforce area securing local funds)
  - (2) Choices
  - (3) Employment Service
  - (4) SNAP E&T
  - (5) Project RIO
  - (6) Trade Act Services
  - (7) WIA Formula Funds
  - (8) WIA Alternative Funding for Statewide Activities
  - (9) WIA Alternative Funding for One-Stop Enhancements
- (b) Eligibility.
  - (1) For a workforce area to be eligible for a reallocation of child care funds (excluding unmatched federal funds that are contingent upon a workforce area

- 1                   securing local funds), and the funds set forth in subsection (a)(2) - (9) of this  
2                   section, the Commission may consider whether a workforce area:
- 3                   (A) has met targeted expenditure levels as required by §800.74(a) of this  
4                   subchapter, as applicable, for that period;
  - 5                   (B) has not expended or obligated more than 100% of the workforce area's  
6                   allocation for the category of funding;
  - 7                   (C) has demonstrated that expenditures conform to cost category limits for  
8                   funding;
  - 9                   (D) has demonstrated the need for and ability to use additional funds;
  - 10                  (E) has an established plan for working with at least one of the Governor's  
11                  industry clusters, as specified in the local Board plan;
  - 12                  (F) is current on expenditure reporting;
  - 13                  (G) is current with all single audit requirements; and
  - 14                  (H) is not under sanction.
- 15                  (2) For a workforce area to be eligible for a reallocation of unmatched federal  
16                  child care funds that are contingent upon a workforce area securing local  
17                  funds, the Commission may consider:
- 18                  (A) whether a workforce area has met the level for securing and completing  
19                  local match requirements set out in §800.73(a) of this subchapter; and
  - 20                  (B) the applicable factors listed in paragraph (1) of this subsection, including  
21                  factors in paragraph (1)(B) - (H) of this subsection.
- 22                  (c) The Commission may reallocate funds to an eligible workforce area based on the  
23                  applicable method of allocation, as set forth in this subchapter, and may modify the  
24                  amount to be reallocated by considering the following:
- 25                  (1) the amount specified in a workforce area's written request for additional funds;
  - 26                  (2) the amount available for reallocation versus the total dollar amount of requests;
  - 27                  (3) the demonstrated ability of a workforce area to effectively expend funds to  
28                  address the need for services in the workforce area;
  - 29                  (4) the extent to which the project supports activities related to the Governor's  
30                  industry clusters;
  - 31                  (5) the workforce area's performance during the current and prior program year;  
32                  and
  - 33                  (6) related factors, as necessary, to ensure that funds are fully used.
- 34                  (d) To the extent this section is found not to comply with federal requirements, or should  
35                  any related federal waivers expire, the Commission will be subject to federal  
36                  requirements in effect, as applicable.  
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