

Chapter 800. General Administration Subchapter B.
Allocation and Funding. §§800.51-800.57, 800.60

PART XX. Texas Workforce Commission

CHAPTER 800.General Administration

[Allocation of Funds]

SUBCHAPTER B.Allocation and Funding

40 TAC §§800.51-800.57, 800.59, 800.60

The Texas Workforce Commission adopts new §§800.51-800.57, 800.59, and 800.60, concerning the allocation of funds to local workforce development areas. Sections 800.53-800.57 and 800.59 are adopted with non-substantive changes to the proposed text as published in the June 17, 1997, issue of the Texas Register (22 TexReg 5820). Sections 800.51-800.52, and 800.60 are adopted without changes and will not be republished.

The purpose of this rule is to interpret Texas Labor Code, §302.062, as enacted in House Bill 1863, 74th Legislature (1995), relating to the allocation of available funds for workforce training and services from the Texas Workforce Commission to workforce areas. The sections provide the framework for facilitating allocation of funds for Jobs Opportunities and Basic Skills/Temporary Assistance for Needy Families (JOBS/TANF), Food Stamp Employment and Training, Jobs Training Partnership Act, Child Care Services and Employment Services Programs. The new sections specify the method the Commission will employ in carrying out the allocation of funds to the local workforce development areas. It is the intent of the Commission to allocate funds to workforce areas for the purpose of meeting or exceeding statewide performance measures as set forth in the state General Appropriations Act. This subchapter sets forth the level required by law to be allocated to workforce areas. The Commission is committed, whenever possible, to allocating an amount of funds available for workforce training and services greater than the minimum level set by law.

Based on a review of the proposed new rules, the following non-substantive changes were made. The phrase "Temporary Assistance to Needy Families" was changed to "Temporary Assistance for Needy Families" in §800.53. The abbreviation to Food Stamp Employment and Training Program "FSET" was changed to "FS E & T." The cross-reference to specific sections was eliminated from section §800.59 and a reference to Subchapter B was added. For consistency, all percentages are spelled out and indicated numerically within parenthesis. The following comments were received concerning the proposed rules. Following each comment is the Commission's response.

Comment: Concerning the aggregate effect of the allocation methodologies set forth in the rule, a commenter opposed the change in funding when compared to past statewide allocation patterns.

Response: The Commission believes that the allocation methodologies contained in the rule reflect the mandates in Texas Labor Code, §302.062, irrespective of past statewide allocation patterns. This section provides that the Commission must allocate funds for workforce training and services to local workforce development areas across the state according to federal allocation formulas or needs-based formulas. As such, the Commission disagrees with the comment because it believes the methodologies utilized will provide a more effective use of funds given the limited resources available consistent with the intent of statute.

Comment: Concerning §800.53, which determines JOBS/TANF allocations, some commenters opposed the emphasis placed on two-parent families by the formula. Several commenters urged the Commission to allocate JOBS/TANF funds equally, based upon the "all family" participation rates. Several commenters opposed any attempt to shift funding from single-parent to two-parent families. A commenter suggested an allocation that serves single-parent families as well as two-parent

families. Several commenters asked why the Commission chose to meet federal participation rates, rather than focus on "needs" derived purely from local demographic, economic, or geographic data. A commenter asked the Commission why it was necessary to serve or to place strong emphasis on serving two-parent families, when, in their opinion, doing so is not required by federal law or regulation. Several commenters protested a possible reduction in funding to their local workforce board area resulting from the statewide shift in funding for training and education programs. A commenter requested that the Commission strike §800.53(b) (1) through (3), and insert new (b) that would require allocation of funds based on the overall proportion of TANF families residing in a local workforce area with work requirements to the statewide total number of JOBS/TANF families with work requirements. A commenter stated that §800.53(b) (3) is vague and says that any weight can be used between (b) (1) and (b) (2) if they are balanced according to the method set forth in (b) (3). A commenter asked why the Commission did not add a criterion to allocate funding based on the number of "hard to serve" welfare recipients in a local workforce development area.

Response: The Legislature appropriated funds expressly for the purposes of effectively serving the state's TANF population, while also satisfying federally mandated work participation rates for the categories of two-parent families and all families, as set forth in federal statute. This direction was provided to the Commission in the course of legislative appropriations hearings and in the finally approved performance measures for TANF funds, wherein it was decided the Commission would serve 5,299 two-parent family federal participants per month, and 16,607 all-family federal participants per month in fiscal 1998. The proposed allocation rule is consistent with these purposes. Any shift in resources from one area of the state to another can be attributed to the need to serve two-parent families, who reside primarily in the southern part of the state. Rather than withhold services, however, from any clients who need them, the Commission's goal is to maximize the number of clients who can be served effectively and to allocate appropriated resources in such a way as to satisfy the state's need to meet federal work participation rates. In response to the question of weights, a specific ratio between subsection (b) (1) and ((2) was not established so that the Commission could respond to changes in federal requirements, changes in demographics, and changes in costs. While the Commission realizes that many of the so-called "hard to serve" Jobs Opportunities and Basic Skills (JOBS) clients received little to no services in the past, it intends to make services available to all tiers of clients in the upcoming biennium. However, based on the availability of TANF funds and related performance measures for FY 1998-99, this represents the best use of resources. As such, the Commission disagrees with the comments because it believes this more effective use of funds is consistent with the intent of statute.

Comment: Concerning §800.53, which determines JOBS/TANF allocations, a commenter urged the use of "one-time only" grants for two-parent families, as used successfully in other states.

Response: Regarding the use of "one-time only" grants of cash assistance to TANF recipients, the proposed rule does not contemplate the use of JOBS/TANF employment and training funds for this purpose. The Texas Department of Human Services is considering this type of assistance

Comment: Concerning §800.53, which determines JOBS/TANF allocations, a commenter urged the Commission to interpret "equitable", within the context of §800.53, to mean that all eligible recipients would have the opportunity to earn a living wage.

Response: While the Commission agrees that all JOBS/TANF recipients should have an equal and ample opportunity to earn a living wage, the reference to "equitable", as it applies to this rule under Texas Labor Code, §302.062(c), relates to the distribution of funds among the local workforce development

areas. The Commission meets this legislative mandate of an equitable distribution by allocating funds under \$800.53 based on the relative proportions of two-parent families and single-parent families with federal work participation requirements residing in each local workforce development area. Comment: Concerning \$800.53, which determines JOBS/TANF allocations, a commenter asserted that cost differentials for serving two-parent families versus single-parent families are unsubstantiated. The commenter also stated that the proposed methodology penalizes poor women and children in urban areas. The commenter urged the Commission to develop methodology that results in similar dollars allocated per family served, regardless of geographic location. Regarding the disparity of funds allocated per parent between Dallas (\$371) and Hidalgo/Willacy (\$1200), another commenter asked if it cost more to serve parents in one place versus the other.

Response: Cost includes direct program plus administrative and overhead costs. Costs to serve these two populations are based on historical information derived from the JOBS Program as it has operated since its inception in 1990. It should also be noted that costs are shown per federal participant. Typically, two or more persons must participate in the program to achieve one federal participant. There are many reasons a person can be involved in the TANF Employment Program, yet not be countable as a federal participant, including situations in which clients fail to participate as scheduled, or situations in which clients may be between component activities or waiting for a training activity to commence. However, implementation of state and federal welfare reform has caused significant changes to the cash assistance program, requiring revisions to these historical costs. Examples of the changes follow.

One of the changes includes differences in the new two-parent caseload from the former Unemployed Parent, or AFDC-UP, Program under JOBS. The new population appears to have less work history and education compared to clients participating in the old JOBS program. The Commission estimates that this trend may require additional resources to be spent serving 2-parent families. Another of the changes includes higher participation requirements for two-parent families, with each participant required to be involved in 35 hours per week of approved work activities. Staff-intensive services such as monitoring a broad array of activities to reach the 35-hour objective, and development of work experience positions in the public or private sector, were factored into the original cost estimates.

The Commission disagrees with the comments because it strongly believes the allocation methods are a valid exercise of statutory authority as the methods are in harmony with the general objectives of the Commission's enabling statute and result in the most effective use of the limited funds.

Comment: A commenter was concerned that service-cost assumptions for two-parent and single-parent families were not included in the rule.

Response: Service-cost assumptions were not included in the proposed rule as those assumptions may vary in accordance with economic circumstances and federal TANF regulations which have yet to be proposed. It was the desire of the Commission to create a rule that establishes a needs-based formula under Texas Labor Code, §302.062(c), while maintaining flexibility and responsiveness during the Commission's budget process for each fiscal year in order to address the uncertainties of a rapidly evolving system.

Comment: Concerning \$800.53, which determines JOBS/TANF allocations, a comment was submitted relating that the proposed methodology would result in "maldistribution" of funds relative to "needs"; however, the comment did not contain definition of "needs". Another commenter proposed that meeting federal participation rates was not a "need" to be considered when allocating funds.

Response: The Commission disagrees and has determined that giving greater priority to the state's two-parent TANF families addresses a "need," as indicated by the Legislature in the General Appropriations Act and the

performance measures assigned to the JOBS/TANF appropriations for the fiscal 1998-99 biennium. Those measures require the Commission to serve 5,299 federal participants each month in the two-parent family category and 16,607 federal participants each month in the all-family category during FY 1998. This determination is a valid exercise of statutory authority and is in harmony with the general objective of the Commission's enabling statute.

Comment: A commenter requested that the Commission add a new §800.53(c) which would establish "hold harmless" and "stop gain" provisions for §800.53.

Response: The Commission declines to include "hold harmless" and "stop gain" provisions within the rule as such provisions are addressed in the Texas Labor Code §302.062(d) and S.B. 1262 (75th Legislature, 1997).

Comment: Concerning §800.54, which determines Food Stamp Employment and Training allocations, a commenter was opposed to the change in funding when compared to past statewide allocation patterns.

the Texas Department of Human Services, was operated on a less-than-statewide basis, and in fact, was offered to needy Texans in only 56 out of the state's 254 counties. Pursuant to federal food stamp law and §302.062(b), the Commission intends to allocate funding for this program on a statewide basis.

Comment: Concerning §800.55, which determines Job Training Partnership Act (JTPA) allocations, commenters were opposed to the change in funding when compared to past statewide allocation patterns.

Response: Applying Texas Labor Code, §302.062(b), the Commission has utilized in the allocation rule the formula as set forth in the federal Job Training Partnership Act. (29 U.S.C. Chapter 19). The amount of money allocated to the state of Texas is appropriated by Congress and is subject to change annually. As such, the Commission disagrees with the comment and believes the methodologies utilized will provide a more effective use of funds given the limited resources available, consistent with the intent of statute.

Comment: Concerning §800.56, which determines Child Care Services allocations, a commenter suggested that there is insufficient funding for child care services in Texas, especially in her area.

Response: The Commission agrees, and would assert that, despite additional appropriations for child care services in the upcoming biennium, there is always the need for more funding to serve low-income families in this state. Given limited resources, the Commission believes its allocation rule for child care services, which is based on demographic factors, best distributes funding throughout the state of Texas.

Comment: A commenter stated that other factors which may impact the amount of child care services used or the cost of services in a particular local workforce development area of the state should be included in the allocation methodologies. The factors mentioned by the commenter included the proportion of children enrolled in combinations of full and part time care, the number of children in part- week versus full-week care, the number of self-arranged care providers chosen by parents, the possibility of employer-paid care, and cultural factors which can result in extended-family members who are willing and available to care for children without reimbursement.

Response: The Commission believes that the proposed rule takes into account differences in use of full time, part time and part week care by including a factor based on the "average unit rate" paid for care. The Commission agrees that there are also other factors which may influence an individual parent's use of child care services. However, those factors are numerous and cannot readily be measured or predicted. The inclusion of a demographic factor, measuring the potential number of eligible children, as a predictor of actual need for care, is the most reliable measure that can be used on a statewide basis. These demographic factors are based on population statistics that are used by many other programs and state agencies in determining potential need for services.

Comment: Concerning §800.56, relating to the term "base amount" that is used

several times in that section, a commenter asked how those amounts were going to be established.

Response: In determining the "base amounts" used in the allocations for child care services, the Commission anticipates taking the following into account during the budget process: resource room - costs associated with initial stocking and on-going operation of a resource room of child development materials;

Child Care Management Services (CCMS) operations - cost for core staff (including salaries, overhead, and fringe) needed for any CCMS contractor, regardless of size;

oversight - cost for core staff in each local workforce development area (including salaries, overhead, and fringe) needed to oversee and manage a CCMS contractor regardless of the size of the contractor; and

child care training - costs associated with managing the procurement and oversight of training for child care staff, regardless of the total training budget for an individual local workforce development area.

Comment: Concerning §800.56(h), which determines child care training allocations, a commenter was opposed to the change in funding when compared to past statewide allocation patterns. The commenter notes that the formula is weighted unfairly in favor of rural areas, which have higher percentages of family day homes and fewer staff. The commenter goes on to state that the number of staff who need training, which is largely a function of urban child care, should be the predominant allocation criterion. Another commenter found the proposed methodology inequitable, favoring rural areas by assigning the same weight to registered family day homes and small centers as to large urban centers, which have more children and staff.

Response: While the Commission acknowledges that there are greater numbers of child care staff in urban areas than in rural areas, the relatively higher costs for training staff in rural areas justifies the equal weighting of urban and rural facilities. As such, the Commission disagrees with the comment because it believes the methodologies utilized will provide a more effective use of funds given the limited resources available, consistent with the intent of statute.

Comment: Concerning §800.56 generally and §800.56(i) specifically, a commenter argued that more administrative funding was necessary and requested that the Commission consider a higher base amount for CCMS operations or other equitable method of allocating operation funds to ensure sufficient administrative funding.

Response: As stated previously, the CCMS operations base amount consists of the cost for core staff (including salaries, overhead, and fringe) needed for any CCMS contractor, regardless of size. The Commission will examine those costs within the context of the Commission's annual budget processes and will welcome comments and information regarding this issue.

Comment: Concerning §800.60, which provides for the modification or reallocation of funding previously allocated, several commenters expressed concern that a deobligation of funds could render a recipient incapable of performance with regard to long-term financial commitments, such as real estate leases.

Response: Prior to any modification or reallocation of funds, the Commission will provide notice of the proposed reallocation and an opportunity for public comment. Information relative to long-term financial commitments may be submitted to the Commission during that process.

Comment: Concerning §800.60, which provides for the modification or reallocation of funding previously allocated, a commenter suggested the Commission add language restricting the exercise of such power to specific periods of time during a year, so that funding recipients could anticipate when deobligation would occur in the event of a failure to achieve program goals.

Response: Given the uncertainties and difficulties of a substantially new state

workforce system, the Commission, utilizing the criteria set forth in §800.60(a), believes it is justified in maintaining flexibility, based on the intent of H.B. 1863 to distribute limited funds in the most effective manner. The Commission is aware that this exercise of authority may affect an area's ability to plan for delivery of workforce training and services and will take that into account.

Comment: Concerning the application of Texas Labor Code, §302.061, which sets the maximum amount of funding the state may reserve for state-level functions, to allocations made by the Commission; several commenters asked the Commission to adopt, by rule, a limit of 5 to 15%, rather than rely on the statutorily established 20 %. Several commenters suggested a reservation of less than the statutorily permitted maximum of 20% when the Commission adopts a budget for state fiscal year 1997.

Response: As delineated in the proposed rule at §800.51(a), the Commission is committed, whenever possible, to allocating an amount of funds available for workforce training services that is greater than the minimum levels set out in state and federal law and regulations. A lower level of funding for state-level administrative functions was not utilized in the allocation rule as these costs are now uncertain, particularly in light of the transition of workforce planning, oversight, evaluation, and the delivery of training and services to local workforce development boards. We anticipate reserving less for state-level administration in future years, but want to preserve flexibility in meeting state-level costs necessary to successfully implement H.B. 1863.

Comment: Two commenters asked whether the Commission would apply Texas Labor Code, §302.062(d), to the TANF allocation and to all categorical programs encompassed by the rule.

Response: The Commission will endeavor to comply with the limitations under §302.062(d). However, the Commission has authority in S.B. 1262 (75th Legislature, 1997) to allocate funds available to the State under the federal Personal Responsibility and Work Opportunity Reconciliation Act for TANF, Food Stamp Employment and Training, and child care services in a manner appropriate to ensure compliance with federal work participation requirements and ensure full utilization of the funding. Also, funding received under the Job Training Partnership Act (JTPA) has separate federal "hold harmless" requirements found in §202(b)(2)(A) and §262(b)(2)(A) of the JTPA (codified as 29 U.S.C. §1602 and §1642) which are different from the provision enacted in H.B. 1863.

Comment: A commenter asked why the proposed rule did not contain the degree of specificity found in federal JTPA or Employment Services (ES) regulations.

Response: It was the desire of the Commission to establish a needs-based formula in compliance with Texas Labor Code, §302.062(c), while maintaining responsiveness to the uncertainties of a rapidly evolving system. Toward that end, the Commission's rule is intended to cover situations which may arise during fiscal 1998, yet be open to revision or amendment upon changes in federal law or regulations, particularly with regard to the JOBS/TANF allocation, for which federal rules have yet to be proposed.

Comment: Concerning the allocation of funds to workforce development areas where a history of questioned or disallowed costs exists, a commenter suggested the Commission add stringent audit requirements to the rule.

Response: The Commission agrees; however, it believes that adding stringent auditing requirements would be more appropriate to a sanctions rule, which it expects to propose in the near future.

Comment: A commenter asked why the Commission established block grant methodology only for the programs encompassed by the rule.

Response: The Commission has allocated funds according to the provisions of Texas Labor Code, §302.062, and in accordance with this rule. The Legislature stipulated which program funds were not subject to block granting in

§302.062(g).

Comment: A commenter asked whether serving 5,299 two-parent TANF families would meet federal participation rates.

Response: Given the fact that federal TANF regulations are not yet proposed, the Commission, relying on caseload estimates provided by the Texas Department of Human Services, has projected it must be able to count 5,299 two-parent families as meeting the 35-hours-per-week individual work participation requirement in order to meet the statewide work participation requirement of 75% of two-parent families participating in work activities each month during fiscal 1998. Historically, the State has had to provide JOBS services to at least twice that number to attain the targeted number of federal participants.

Comment: A commenter requested that the Commission disburse to local workforce boards Economically Dislocated Worker Assistance Act (EDWAA) funds in excess of the statutorily-mandated minimum of 66%. The commenter suggested that the state did not require 33% of EDWAA funds for state-level activities.

Response: The portion of the Title III funds retained by the Governor for state-level activities is recommended by the Texas Council on Workforce and Economic Competitiveness (TCWEC) and approved by the Governor on an annual basis. In the past, these funds have been used for unforeseen worker dislocations around the state, and at this point, the Commission believes it is prudent to continue to hold these funds in reserve for that purpose.

Comment: A commenter requested that the Commission put together and review a six-year history of how and when displaced worker money has been expended in the past, in order to formulate a better plan for 1997 and 1998.

Response: The Commission agrees and will take this comment under consideration as it prepares its plans for use of state-level funds. However, at this time the Commission believes the methodologies utilized will provide a most effective use of funds given the limited resources available consistent with the intent of statute.

Comment: A commenter asked whether the \$25 million in the Commission's two columns of statistics would serve 5,300 two-parent families and 5,300 single-parent families.

Response: The nature of this comment relates to the availability of funds for services to JOBS/TANF recipients and not the language of the allocation rule, and thus, the Commission declines to respond. However, the Commission has clearly stated its intent to meet or exceed the performance targets for TANF funding, as set by the Legislature, which call for serving 5,299 two-parent federally countable participants, with 16,607 recipients in the all-family category.

Oral and written comments that did not clearly voice support or opposition to the proposal, but suggested changes, were received from: State Representative Gerard Torres, District 143, Jacinto City, Texas; Tech Prep of the RGV, Inc.; Tom Hoy; Valley Oak Tree Learning Centers; Joe Flores, representing Valley Oak Tree Learning Centers and stated he was with "the CCMS Advisory Council;" and Tom Wilkinson, Executive Director of the administrative and fiscal entity for the Brazos Valley Local Workforce Development Board.

Oral and written comments against the rule, or portions of the rule, were received from: Dallas County Community College District; Lockheed Martin IMS; West Texas Opportunities, Inc.; Houston Galveston Area Council; Honorable Judge John Willy, County Judge, Brazoria County; Tarrant County legislative delegation; Tarrant County Workforce Development Board; Russell Dougherty; Selina Hunt; Dora Deleon; Mary A. Osuna; Whatha Crump; Felicia Williams; Richard Mayfield; Lalesa Mason; Michael Keel; Hector Ayala; Near Southeast/Polytechnic Heights Collaborative; State Representative Kim Brimer, District 96 of Arlington, Texas; Associated Catholic Charities; Honorable Judge Robert Eckels, County Judge, Harris County; Honorable Judge James D. Yarbrough, County Judge, County of Galveston; Honorable Judge Tom Vandergriff, County Judge, Tarrant

County; Rural Capital Workforce Development Board; Initiatives for Children, Inc.; Securities America, Inc.; David M. Munson; North Central Texas Workforce Development Board; Allen Outreach; We Care; State Representative Jerry Madden, District 67 of Richardson, Texas; City of McAllen, Texas; Gulf Coast Workforce Board; College of the Mainland in Texas City; Dallas Workforce Development Board; Power Advocates for Children; CCMS, Golden Crescent; United Way of the Texas Gulf Coast; Welfare Reform Partners Group; Houston Works; and Freeport Salvation Army.

The new sections are adopted under Texas Labor Code, Title 4, which provides the Texas Workforce Commission with the authority to adopt, amend, or rescind such rules as it deems necessary for the effective administration of this Act.

§800.53.JOBS/TANF Program.

(a) Funds available to the Commission under the JOBS/TANF program (Job Opportunities and Basic Skills (JOBS) under Temporary Assistance for Needy Families program (TANF) as authorized at 42 U.S.C. §§601 et. seq.) will be allocated to the workforce areas using a need-based formula, in order to meet state and federal requirements, as set forth in subsection (b) of this section.

(b) At least 80% of the JOBS/TANF program funds, excluding Investment in Long-Term Success for TANF Recipients components, will be allocated to the workforce areas on the basis of:

(1) the relative proportion of the total number of two-parent families with JOBS/TANF work requirements residing within the workforce area to the statewide total number of two-parent families with JOBS/TANF work requirements, and

(2) the relative proportion of the total number of single-parent families with JOBS/TANF work requirements residing within the workforce area to the statewide total of single-parent families with JOBS/TANF work requirements.

(3) Funding will be divided between paragraphs (1) and (2) of this subsection based on the need to meet federal participation rates for both the two-parent families and all families, as required by federal law.

(c) No more than 10% of JOBS /TANF funds expended as part of a workforce area's allocation shall be used for administrative costs, as defined by the appropriate federal regulations and Commission policy.

§800.54.Food Stamp Employment and Training Program.

(a) Funds available to the Commission under the Food Stamp Employment and Training program (FS E & T) (7 U.S.C. §2015(d)) will be allocated to the workforce areas using a need-based formula, as set forth in subsection (b) of this section.

(b) At least 80% of the FS E & T funds will be allocated to the workforce areas on the basis of the relative proportion of the total unduplicated number of mandatory work registrants receiving food stamps residing within the workforce area to the statewide total unduplicated number of mandatory work registrants receiving food stamps.

(c) No more than 10% of the funds expended as part of a workforce area's allocation shall be used for administrative costs, as defined by the appropriate federal regulations and Commission policy.

§800.55.Job Training Partnership Act Program.

(a) Funds available to the Commission under the Job Training Partnership Act (JTPA) (29 U.S.C. Chapter 19) will be allocated to workforce areas based on service delivery areas within the workforce area using federally approved formulas. Funds must be used within the appropriate service delivery area pursuant to JTPA.

(b) At least 77% of the funds under JTPA Title IIA-Adult Training Program will be allocated according to the service delivery areas.

(c) One hundred percent of the JTPA Title IIB-Summer Youth Employment and

Training Program funds will be allocated according to the service delivery areas.

(d) At least 82% of the JTPA Title IIC-Youth Training Program funds will be allocated according to the service delivery areas.

(e) At least 60% of JTPA Title III-Employment and Training Assistance for Dislocated Workers funds will be allocated according to substate areas.

§800.56.Child Care Services.

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

(b) For JOBS/TANF child care, funds will be allocated among workforce areas on the basis of:

(1) the relative proportion of the total number of children aged 0-12 years in single parent households with JOBS/TANF work requirements residing within the workforce area to the statewide total number of children aged 0-12 years in single parent households with JOBS/TANF work requirements;

(2) the relative proportion of the total number of children aged 0-12 years in two-parent households with JOBS/TANF work requirements residing within the workforce area to the statewide total number of children aged 0-12 years in two-parent households with JOBS/TANF work requirements; and

(3) an adjustment for average net unit rates for JOBS/TANF child care.

(c) For At-Risk child care, funds will be allocated among workforce areas on the basis of:

(1) the relative proportion of the total number of children aged 0-12 years in families at or below 75% of the state median income residing within the workforce area to the statewide total number of children aged 0-12 years in families at or below 75% of the state median income, and

(2) an adjustment for average net unit rates for At-Risk child care.

(d) For Food Stamp Employment and Training child care, funds will be allocated among workforce areas on the basis of:

(1) the relative proportion of the total number of children aged 6-12 years in households of mandatory food stamp work registrants residing within the workforce area to the statewide total number of children aged 6-12 years in households of mandatory food stamp work registrants, and

(2) an adjustment for average net unit rates for Food Stamp Employment and Training child care.

(e) For transitional child care, funds will be allocated among workforce areas as follows:

(1) fifty percent will be based on the relative proportion of the average number of children residing within the workforce area receiving transitional child care during the first three quarters of the state fiscal year preceding the state fiscal year for which the allocation is being calculated to the statewide average number of children receiving transitional child care during the first three quarters of the state fiscal year preceding the state fiscal year for which the allocation is being calculated;

(2) fifty percent will be based on the relative proportion of the total state fiscal year JOBS child care allocation for the workforce area for the state fiscal year for which the allocation is being calculated to the total state fiscal year statewide JOBS child care allocation for the state fiscal year for which the allocation is being calculated; and

(3) an adjustment for average net unit rates for transitional child care.

(f) For locally matched initiatives for child care and quality improvements, funds will be allocated among workforce areas on the basis of the relative proportion of children aged 0-12 years in families at or below 75% of the state median income residing within the workforce area to the statewide total of children aged 0-12 years in families at or below 75% of the state median income.

(g) For Early Childhood Development Resources, funds will be allocated among workforce areas on the basis of:

- (1) an equal base amount needed for a resource room in each workforce area, and
- (2) remaining funds allocated as follows:

(A) thirty percent will be based on the relative proportion of the total number of Child Care Management Services (CCMS) vendors that are registered family homes and those that are group day homes located within the workforce area to the statewide total number of CCMS vendors that are registered family homes and group day homes;

(B) forty-five percent will be based on the relative proportion of the total number of CCMS vendors that are licensed centers located within the workforce area to the statewide total number of CCMS vendors that are licensed centers; and

(C) twenty-five percent will be based on the relative proportion of the average number of children per day receiving Commission-funded child care services located within the workforce area to the statewide average number of children per day receiving Commission-funded child care services.

(h) For child care training, funds will be allocated among workforce areas on the basis of:

- (1) an equal base amount for child care training in each workforce area, and
- (2) the relative proportion of the total number of licensed and registered child care facilities located within the workforce area to the statewide total number of licensed and registered child care facilities.

(i) For CCMS operations, funds will be allocated among local workforce development areas on the basis of:

- (1) an equal base amount for CCMS operations, and
- (2) the remaining funds allocated as follows:

(A) seventy percent will be based on the relative proportion of the average number of children receiving Commission-funded child care services within the workforce area to the statewide average number of children receiving Commission-funded child care services;

(B) fifteen percent will be based on the relative proportion of the total number of CCMS vendors located within the workforce area to the statewide total number of CCMS vendors; and

(C) fifteen percent will be based on the relative proportion of the total number of licensed and registered child care facilities located within the workforce area to the statewide total number of licensed and registered child care facilities.

(j) For management and oversight of child care services, funds will be allocated among workforce areas on the basis of:

- (1) an equal base amount for management and oversight of child care services within each workforce area, and
- (2) the relative proportion of the average number of children per day receiving Commission-funded child care services located within the workforce area to the statewide average number of children per day receiving Commission-funded child care services.

§800.57. Employment Services.

At least 80% of the funds available to the Commission for the Employment Services program under §7(a) of the Wagner-Peyser Act (29 U.S.C. Chapter 4B) will be utilized by the Commission within the workforce areas according to the established federal formula, as follows:

(1) Two-thirds will be based on the relative proportion of the total civilian labor force residing within the workforce area to the statewide total civilian labor force, and

(2) One-third will be based on the relative proportion of the total number of unemployed individuals residing within the workforce area to the statewide total

number of unemployed individuals.

§800.59.Funds not Allocated.

Funds not allocated under 40 TAC Chapter 800, Subchapter B relating to allocation and funding to the workforce areas will be used by the Commission for purposes authorized by state and federal laws and regulations.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

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