

TITLE 40. SOCIAL SERVICES AND ASSISTANCE
PART XX. Texas Workforce Commission
CHAPTER 800. General Administration

ADOPTED RULES WITH PREAMBLE TO BE SUBMITTED TO THE *TEXAS REGISTER*. THIS DOCUMENT WILL NOT HAVE ANY SUBSTANTIVE CHANGES BUT IS SUBJECT TO FORMATTING CHANGES AS REQUIRED BY THE *TEXAS REGISTER*.

The Texas Workforce Commission (Commission) adopts the repeal of §800.101, §800.102, §§800.112-800.115 and §§800.118-800.121, and new §§800.101-800.108, to Chapter 800. General Administration, Subchapter D. Incentive Awards Rules, with changes as proposed in the July 4, 2003, issue of the *Texas Register* (28 TexReg 5125).

The Texas Labor Code Chapter 302 gives the Commission the authority and responsibility for overseeing twenty-eight Local Workforce Development Boards (Boards) in Texas. In order to meet that responsibility, the Commission has replaced various Incentive Award rules to enhance the Commission's ability to encourage and reward high levels of performance, particularly in those areas that the Commission wishes to prioritize. In addition, the Commission has made changes to the language to reflect enhancements to the rules and to better integrate the concepts in the subchapter.

The Commission's mission is to promote and support a workforce system that offers employers, individuals and communities the opportunity to achieve and sustain economic prosperity. The Commission's strategy for pursuing this mission has evolved as the Commission continues further delegation of service delivery duties to the Boards. As Boards assume responsibility for additional programs, the Commission's role shifts in many ways from being the provider of services to being the regulator and supporter of the Boards who are responsible for ensuring service delivery.

The transition process presents many opportunities for both the Boards and the Commission. By transferring programs to the Boards, the Commission expects enhanced service delivery. Improving services to employers is particularly important because by improving these services, employers will increase their use of the Texas workforce system, which will enhance the Commission's ability to meet its mission.

One of the key methods for assisting individuals with their employment needs is to market workforce system services to employers. To succeed, the system must match and enhance the skills and abilities that workers have to offer with the needs of employers. To do this, the Boards need to continue engaging with, partnering with, and delivering excellent services to employers as well as workers.

Historically, the Commission's primary method of ensuring that the Boards meet the Commission's expectations has been to focus on performance measures contained in Agency-Board Agreements and other contracts. Boards failing to meet expectations are addressed through performance-based actions, up to and including sanctions. One of the key issues in this rule is that not all areas in which the Commission wants to encourage stronger performance are addressed in a contract or agreement. In particular, direct and indirect services to employers are not covered by contracted measures. Under the new rules, the Commission will have the ability to encourage improved performance to these

areas. Indeed, it may well be that the Commission chooses to concentrate on newer or non-contracted measures since the Boards are already required to meet the other targets by their contracts.

Adopted Repeals

Sections 800.101 and 800.102 are repealed and replaced with new sections due to the number of changes to the provisions.

Section 800.112 is deleted because new rules provide the Commission with greater flexibility to encourage high performance.

Section 800.113 addresses non-monetary incentive awards and is deleted. Most applicable provisions of this rule have been replaced by language in §800.103.

Section 800.114 addresses monetary incentive awards and is deleted. The rule is being replaced by 800.106.

Section 800.115 is deleted. The Commission has authority outside this rule to adjust performance standards as circumstances make it appropriate; therefore, this rule is not necessary for the administration of awards.

Sections 800.118 through 800.121 are deleted as the new rules make them redundant.

Adopted New Rules

Section 800.101 states that the purpose of the incentive award rules is to recognize Boards which have achieved a high level of performance. The new rule differs from the one it replaces in that the Commission clarified the language and deleted language, which is no longer required by current state or federal statute.

Section 800.102 defines terms used in the incentive award rules. The new rule differs from the one which it replaces in that the Commission has added several new definitions related to the other new rules in the chapter and deleted several that are no longer needed or that are redundant to definitions in chapter 800.

Section 800.103 provides an overview of the different types of incentive awards. The Commission may bestow either monetary or non-monetary awards (or both). In outlining non-monetary awards, this rule replaces §800.113, which specifically addressed non-monetary awards. The new rule provides the Commission with more flexibility in giving non-monetary awards than the current rule. This flexibility will enable the Commission to encourage and reward positive performance consistent with the Commission's priorities.

Regarding monetary awards, there are currently three types of monetary awards and they are described in individual rules. However, the subsection also references "other awards designated by the Commission" in order to ensure the Commission has the flexibility to offer other monetary awards. For example, the Commission might receive a special grant designed to encourage or reward performance in an area not covered by one of the other awards.

Section 800.104 is designed to ensure that the Boards understand the importance of timely and accurately data submission. The rule provides that data submitted after the deadline may be omitted from consideration when evaluating Boards for awards.

Section 800.105 explains that the Commission may choose to group Boards into classifications for evaluation purposes. When evaluating Boards to determine whether one or more deserve an award, the Commission may find that it is appropriate to evaluate all Boards against one another. However, the Commission may find it appropriate to assign Boards to different classifications and then evaluate each Board within its classification.

The rule explains that the Commission is permitted to group boards based on similarities or differences in allocations of funds, prior performance, demographic, economic or other characteristics of the individual local workforce development area that the Board serves. The factors used may be based in part on the type of performance being evaluated when assigning Boards to different classifications. For example, the Commission could consider the initial allocation of funds made available to each Board when evaluating for Performance Awards; then the Commission could consider only the initial allocation of funds under the Workforce Investment Act for the Workforce Investment Act Local Incentive Awards. This rule provides the Commission with the flexibility to do either or both when evaluating the Boards.

Section 800.106 outlines the process for giving Performance Awards. This rule replaces provisions of several rules that have been repealed. The rule is divided into two main parts. Subsections (a) through (d) overview the award criteria and the method the Commission will use to notify the Boards of that criteria. Subsection (e) through (g) address the specific mechanism that the Commission will use to aggregate Board performance and determine which Boards may receive awards.

The Commission initially considered a concept in which all the performance measures that were the basis for evaluating performance for the purpose of giving the award would be contained in the rule. The Commission discussed this concept at a public meeting on February 4, 2003. Several Board Executive Directors were at the public meeting and took part in the discussion. In addition, the concept was shared with all the Boards and the Workforce Leadership of Texas (an organization of the Board Chairs and Executive Directors). The agency received comments and input on this concept from the Boards. In concert with the comments and input, the Commission ultimately developed and now adopts a rule that provides significantly more flexibility for evaluating performance while maintaining the framework of an objective methodology.

The Commission will identify the performance measures to be used to evaluate performance for award purposes annually. This approach provides the Commission with the flexibility it needs to encourage and reward performance now and to be responsive to changing priorities and situations in the future. The Commission's intention is to make the annual identification regarding the performance measures including the subsequent notification to the Boards prior to the beginning of the rating period.

The annual identification of performance measures will prevent the necessity for amendments each time the Commission wants to change the award criteria. The Texas workforce system operates in a very dynamic environment in which programs and services (and thus the way they are measured) may be changed due to actions at the federal, state, or local levels. Further, the Commission is continually updating its data systems allowing it to capture more service and program information. As such, the

Commission's options for evaluating performance will grow as well. Considering the continually evolving nature of the system, a flexible rule will produce the most efficient method for administering an awards system.

The Commission has opted not to administer an "eligibility gate" based on the Boards' common contracted performance measures to qualify for an award, primarily because it had the potential of distorting the "value" of each measure. The rule allows the Commission to consider any, all, or none of the contracted performance measures allows the Commission to add to the contracted measures when appropriate. A performance gate that focused exclusively on contracted measures could result in a Board being excluded from consideration for any award solely because it did not perform sufficiently in only one of several dozen performance measures – even if the contracted measure was one which was not otherwise to be included in evaluation criteria for that year. Therefore, such an eligibility gate would over-inflate the importance of the contracted performance measures and defeat the Commission's goal of establishing a flexible performance evaluation process.

The provisions of the rule are generally self-explanatory, but some merit additional explanation.

Subsection (b) specifies that awards may be given in each classification. Because the number of Boards in a classification may be different and could change from year to year, the subsection allows the Commission to vary the number of awards per classification.

Subsection (c) explains that the Commission may use existing performance measures or may develop new ones and identifies options the Commission has in developing measures. When developing new measures, the Commission may opt to assign an incentive target. Incentive targets are used solely for the purposes of this rule, and failing to meet an incentive target does not subject a Board to sanction.

Wherever possible, the Commission will develop incentive measures that are "Board-neutral." For example, if the Commission wishes to measure performance and size is a factor in success (such as a count), the Commission may choose to set individual incentive targets. If the Commission doesn't set a target, it may compare either raw performance or each Board's relative improvement from the prior year. The Commission's goal under this rule is to award the best performing Boards and encourage continuous improvement. So "relative improvement" will be used as an evaluation method sparingly.

Subsection (c) and (d) provide the Commission with the flexibility it needs to evolve its evaluation and awards process over time to reflect shifting priorities and changing expectations. Under this subsection, the Commission will notify the Boards each year of the method by which performance will be evaluated and awards will be given. Under subsection (c), the Commission has the option to include any objective measure for which data is available. Under subsection (d), the Commission shall assign each measure a separate weight. This flexibility will assist the Commission in establishing priorities for the upcoming year and keeping pace with changing economic factors that influence priorities over time. As previously stated, the Commission intends to make the identification regarding the performance measures prior to the beginning of the rating period. The identification and notification will include the weightings to be used to

aggregate the performance measures in determining each Board's overall performance ranking. The Commission will encourage an emphasis on employer-focused measures. In response to comments and discussed further in that section of the preamble, the adopted rule specifies that the criteria will be provided to the Boards concurrent with the provision of their annual contracts.

Subsection (e) addresses the method by which each measure will be evaluated. When a target exists, each Board's performance will be compared to its target to determine how "successful" the board was in achieving its target. Then each Board's success will be ranked against other Boards in its classification. When a target does not exist, the Commission will calculate and rank actual performance.

The Board with the best success or achievement is ranked "1." Scores will be converted to ranks to allow different performance measures to be aggregated. In some measures, a "high" score is good while in others a "low" score is good; therefore, an average score would not reflect overall performance. Further, not all performance measures are in common units (like percentages). Converting performance to rankings allows different measures to be combined at the aggregation stage of the process.

The Commission anticipates that if a measure or target were to change in the middle of the evaluation period that it would simply address the change by prorating the evaluation of the performance.

Subsection (f) describes the manner in which performance is aggregated based on relative weighting of each measure (as identified by the Commission in subsection (e)). After the ranks for the measures are combined, the weighted rank is converted to an overall rank within the classification.

Subsection (g) explains the manner in which awards are given and makes it clear that if the Commission finds that extraordinary circumstances exist (as defined in §800.102), it may modify the assignment of awards. For example, if after evaluating and ranking under the rule, it is determined that a "winning" Board has a significant unresolved monitoring finding, the Commission has the discretion not to give that board an award. Similarly, if a Board's performance on one or two key performance measures was so deficient that the system failed to meet its performance requirements primarily because of that Board's poor performance, the Commission may choose not to give that Board an award. This provision reminds Boards that they cannot afford to ignore their contracted measures that are not included in the incentive evaluation.

Subsection (h) addresses what the Boards are permitted to spend their awards on.

Section 800.107 is a replacement of §800.120 which outlines the Workforce Investment Act Local Incentive Awards – one of the three monetary incentive awards identified in §800.103. The new rule differs from the one it replaces in that the subsection of the new rule addressing how applications for Workforce Investment Act Local Incentive Awards are considered has been broadened to serve as examples of the types of things that can be considered rather than required factors.

Finally, the original rule contained language that addressed the differences between how the rule would be implemented for program year 2000 versus following years. This language is not applicable to the new rule.

Section 800.108 is a replacement of §800.121, which outlines the Job Placement Incentive Awards – one of the three monetary incentive awards identified in §800.103. The new rule is functionally identical to the rule it replaces.

Comments and Responses

The Commission received comments from the North Central Texas Workforce Development Board and the Workforce Leadership of Texas, as well as an individual.

Comment: One commenter suggested that measures related to the child care program be included in the rule noting that this program had “the lion’s share of TWC’s budget and being such a complex program that does support parents and employers, it should also be recognized in this rule.”

Response: The Commission agrees in part. While the Commission agrees that the child care program is an important part of the workforce system and does represent a significant percentage of the system’s budget, the Commission does not believe that child care measures should be embedded in §800.106 as measures that will always be considered as incentive award criteria. As noted in the preamble proposing the rule, the Commission believes that it is important that the incentive rule maximize its flexibility. Embedding any one measure in the rule would remove that flexibility.

Comment: One commenter commented on language in the proposal preamble, which noted that the Commission has not historically had contracted performance measures that address all areas in which the Commission wants to encourage stronger performance. The commenter suggested that if the Commission wants to develop award performance areas not addressed in contracts, that it start with the system-wide goals found in the Texas Council on Workforce and Economic Competitiveness (TCWEC) Integrated Strategic Plan. The commenter opined that the TCWEC measures were system-wide measures that encompass the State’s other workforce development agencies and that using these measures will “have a compound positive effect on the system.” The commenter suggested that the Commission might even want to weight the TCWEC measures more heavily than its own measures.

Response: The Commission agrees that the Commission historically has not had contracted performance measures in all of the areas which the Commission wants to encourage stronger performance and agrees that TCWEC measures may be an important component in measuring performance. The proposed rules currently incorporate a reference in §800.106(c) that permits the Commission to use the TCWEC measures if selected by the Commission for the award; however, the Commission does not agree with removing the flexibility to include other criteria that measure performance. While the Commission may consider using the TCWEC measures as criteria for incentive awards under §800.106, it might choose not to do so, in part because those measures are too broad and may not be applicable to producing the performance gains in the areas that the Commission is most concerned about at a given point in time.

Comment: Two commenters suggested that the rule needed to specify when the Commission would notify the Boards of the specific criteria that would be used to evaluate performance under §800.106. One of the commenters suggested that it be at the beginning of the Boards’ annual planning process.

Response: The Commission agrees that the award criteria needs to be communicated to the Boards as soon as possible. The sooner the Boards are aware of the criteria, the sooner they can focus on their performance relative to that criteria and thus the purpose of the rule is better met. Therefore, the Commission has added new language to §800.106(d), which requires the award criteria to be sent to the Boards concurrent with the annual Board contacts. The exception is in the first year of implementation. Since the rule will not be effective until after the contracts were sent to the Boards, the notice for the first year will be provided shortly after adoption of the rule.

The Commission chose to tie the notification to the date the Board contracts are provided because it is not until the Commission votes on the Board targets for the contracted measures that the Commission is in a better position to evaluate what criteria should be used for the incentive awards.

Comment: One commenter suggested that the Boards be notified of the anticipated amounts of incentives to be offered.

Response: The Commission generally agrees that offering this information will make the rule more effective. Therefore, the Commission has added language to §800.106(d) to that effect. However, the Commission notes that because incentive award funds are largely discretionary and because all levels of government are in tight fiscal times, the Commission may adjust the actual award amounts depending on available funds at the time.

The repealed rules are adopted under Texas Labor Code §301.061 and §302.002, which provide the Texas Workforce Commission with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The repealed rules affect Texas Labor Code Chapter 302.

SUBCHAPTER D. INCENTIVE AWARD RULES

§800.101. Scope and Purpose.

§800.102. Definitions.

§800.112. Criteria for Award.

§800.113. Non-Monetary Incentive Awards.

§800.114. Monetary Incentive Awards.

§800.115. Incentive Policy Adjustment Model.

§800.118. Distribution of Incentive Awards.

§800.119. Use of funds.

§800.120. WIA Local Incentive Awards.

§800.121. Job Placement Incentive Awards.

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The new rules are adopted under Texas Labor Code §301.061 and §302.002, which provide the Texas Workforce Commission with the authority to adopt amend, or repeal such rules as it deems necessary for the effective administration of Agency services and activities.

The new rules affect Texas Labor Code Chapter 302.

SUBCHAPTER D. INCENTIVE AWARD RULES

§800.101. Scope and Purpose.

The purpose of the incentive award is to reward Local Workforce Development Boards (Boards) that meet or exceed the performance benchmarks identified in each incentive award and accomplish the goals of the Texas Workforce Commission (Commission) to fulfill the workforce needs of employers and to put Texans to work. The Board is responsible for providing strategic and operational planning for its local workforce development area. The development of an integrated and coherent workforce development system at the local level is the primary focus of Boards. Thus, this policy seeks to recognize Boards for achieving high performance as a system, as well as high performance on behalf of employers and the populations annually targeted by the Commission during the budget process. Incentives will emphasize accountability, high performance, and continuous improvement and support the state in achieving workforce development goals.

§800.102. Definitions.

The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

- (1) **Allocation of Funds**--The total yearly funds initially identified for allocation to a Board for all programs. This does not include consideration of adjustments in funding made to a specific program(s) by the Commission for purposes of reallocating or redistributing those funds. This may include new allocations or distributions made during a year that result from changes in law or new funding made available to the Boards during a year.
- (2) **Classification**--Grouping of Boards with one or more common characteristics (i.e., size) for the purpose of evaluating performance and giving incentive awards.
- (3) **Extraordinary Circumstances**--conditions that may have an impact on the determination of which Boards may receive or be excluded from receiving incentive awards which may include, but is not limited to, matters such as serious unforeseen events, unresolved audit or monitoring findings, sanctions, unanticipated changes in economic conditions, the occurrence of a disaster, or legislative changes having a direct impact on the Commission or Boards.
- (4) **Local coordination**--Boards fostering leadership and cooperation to achieve the most effective customer service results for its employers and residents through one or more of the following:
 - (A) Memoranda of Understanding with required partners that achieve active implementation and integration of related services;
 - (B) Memoranda of Understanding with partners required by WIA §121(b)(1) but not required by §801.27(b) of this title that include active implementation and integration of related services;

- (C) ongoing and regular communication and training on the best practices and benchmarks in building systems or delivering services; or
 - (D) demonstrating local coordination through other means as determined by the Commission, such as by demonstrating coordination with demonstration grants, youth opportunity grants, self-sufficiency grants, and skills development grants.
- (5) **Regional cooperation**--Boards working together as a cooperative unit in a region to provide excellence in customer service through one or more of the following:
- (A) submitting joint plans or agreements;
 - (B) engaging in ongoing and regular communication regarding the best practices and working together to implement those practices by sharing ideas, data, staff, and other resources;
 - (C) providing opportunities for joint training, conferences, and staff interaction; or
 - (D) demonstrating regional cooperation through other means as determined by the Commission.
- (6) **Workforce development programs**--Job-training, employment and employment-related educational programs and functions as listed in Texas Labor Code §302.021.

§800.103. Types of Awards.

- (a) There are two types of awards: non-monetary and monetary.
- (b) Non-monetary awards may be awarded annually based on high-performance achievement and/or continuous improvement in meeting performance measures and may include plaques, certificates of achievement, or other formalized recognition accolades.
- (c) Monetary awards include:
 - (1) Best Overall Performance Awards issued under §800.106 of this subchapter;
 - (2) WIA Local Incentive Awards issued under §800.107 of this subchapter;
 - (3) Job Placement Incentive Awards issued under §800.108 of this subchapter; and
 - (4) other awards designated by the Commission.

§800.104 Data Collection.

- (a) Boards are responsible for complete and accurate data entry prior to Commission established deadlines.
- (b) The Commission reserves the right not to consider data submitted after the deadline or data that it finds to be inaccurate in its evaluation of performance for awards.

§800.105. Board Classification.

- (a) The Commission may group Boards in classifications for comparison purposes such as for awarding incentives.

- (b) In classifying Boards, the Commission may group Boards based on similarities or differences among the Boards relating to:
 - (1) allocations of funds;
 - (2) prior performance; or
 - (3) demographic, economic, or other characteristics of the individual local workforce development areas.

§800.106. ~~Best Overall Performance Awards.~~

- (a) The Commission may determine the amount of funds for use to reward ~~Best Overall Performance~~ annually.
- (b) Incentive Awards for ~~best overall~~ performance may be given in each classification and the Commission may give more than one award in each classification.
- (c) The Commission may use any combination of existing state or federal performance measures and may develop its own measures to evaluate performance.
 - (1) If the Commission includes a measure, which does not already have a target, the Commission may:
 - (A) set an incentive target for the sole purpose of evaluating eligible Boards for the incentive awards (failure to meet an incentive target would not subject the Board to sanction);
 - (B) rate performance based on each Board's "relative improvement" in performance from the prior year; or
 - (C) compare exhibited performance among the Boards in a classification if the measure allows comparability across Boards of different sizes. (For example, the "percent of job orders timely posted" would allow performance to be measured across Boards of different sizes, but the "number of job orders timely posted" would not.)
 - (2) The Commission may use a measure and a subset of a measure in the same year. For example, the Commission could include one measure that considers employers with job postings in the job matching system and another measure that considers employers with job postings in targeted occupations.
- (d) If the Commission is considering issuing awards under this section, the Commission shall notify Boards of the method by which performance shall be evaluated for the purpose of giving awards under this rule for that year.
 - (1) Other than in the first year of the implementation of this rule, the notice required under this subsection shall be provided to the Boards concurrent with their yearly contracts.
 - (2) The notice may include:
 - (A) a listing of the Boards assigned to each classification;

- (B) a listing of the performance measures to be included in each evaluation category including:
 - (i) the period of evaluation for each performance measure; and
 - (ii) the method of evaluation for each performance measure;
 - (C) the weightings to be used to aggregate the performance measures to allow each Board's overall performance to be ranked and also encourage an emphasis on employer-focused measures;
 - (D) the anticipated amount of funds available to be awarded; and
 - (E)~~(D)~~ other criteria to be used to identify superior performance.
- (e) The Commission shall rank a Board's performance for each performance measure as follows.
- (1) For measures that have performance targets, the Commission shall determine each Board's "success rate" by dividing the Board's actual performance by its target for the measure.
 - (2) For measures that have no performance targets, the Commission shall determine each Board's actual performance (or change in performance if that was the method identified as the method for evaluation) and call this the "performance rate."
 - (3) For each measure, the Commission shall replace the "success rate" or the "performance rate" with a ranking. The Board with the "best" rating in its classification shall be ranked "1," the second best ranked "2," etc. If two Boards in a classification are tied for a position, such as second place, both shall be ranked "2" and the Board with the next "best" rate shall be ranked "4."
- (f) The Commission shall assign each Board a final rank as follows.
- (1) The Commission shall use the weightings identified in subsection (d)(3) of this section to determine the weighted rank of the performance rankings assigned under subsection (e) of this section.
 - (2) Each Board's weighted rank shall be converted to an overall ranking within the Board's classification. That is, the Board with the lowest weighted rank in a classification is ranked "1," the second lowest ranked "2," etc. If two Boards are tied for a position such as second place, both shall be ranked "2" and the next "best" Board will be ranked "4."
- (g) The award for each classification shall be given to the Board in the classification with the best overall ranking. If the Commission is assigning more than one award in a classification, the Boards with the highest rankings shall receive the award. However, the Commission may modify assignments of awards based on factors that the Commission identifies as extraordinary circumstances.

- (h) Boards that receive the ~~Best Overall Performance Incentive Award~~ shall use the incentive award to carry out workforce activities as allowed by state and federal laws.

§800.107. Workforce Investment Act Local Incentive Awards.

- (a) The Commission shall determine annually the total amount of funds to be awarded from funds available through the Workforce Investment Act (WIA) §128(a) and §133(a)(1) for local incentive awards.
- (b) WIA Local Incentive Awards may be awarded for one or more of the following:
- (1) regional cooperation among local workforce development areas;
 - (2) local coordination of activities carried out under WIA; and
 - (3) exemplary performance on performance measures.
- (c) The application for WIA Local Incentive Awards shall be as follows.
- (1) Only those Boards submitting a written application shall be eligible for WIA Local Incentive Awards (other than awards for exemplary performance, which shall not require a written application).
 - (2) The Commission shall issue instructions annually identifying the amount of funds available for awards, the maximum number of awards, and instructions for submitting applications for WIA Local Incentive Awards.
- (d) Awards may be made based on consideration of various factors consistent with goals of WIA such as:
- (1) identified changes in economic conditions, population characteristics, and the service delivery system in the local workforce development area;
 - (2) reported performance for each contract performance measure relative to other Boards;
 - (3) demonstrated performance in the elements considered most critical in accomplishing overall system goals, which includes performance related to each of the items listed in §800.108(b) of this subchapter;
 - (4) improved performance relative to the preceding year;
 - (5) demonstrated compliance with all expenditure requirements as required by §800.63(h) of this chapter; and
 - (6) finalized monitoring reports and resolution activities.
- (e) Boards that receive a Workforce Investment Act Local Incentive Award shall use the incentive award to carry out workforce activities as allowed by state and federal laws.

§800.108. Job Placement Incentive Awards.

- (a) The Commission may set aside an amount of funds for job placement incentive awards during the annual budget process or at other times during the year as deemed appropriate by the Commission based on the funds available to meet the objectives of the Commission. For the purposes of this rule, the term “Choices individuals” shall have the same meaning as set forth in §811.2 of this title.
- (b) Administration through Boards shall be as follows.
- (1) The Commission shall administer the job placement incentive awards through the Boards by distributing funds to Boards that demonstrate the highest percentage of increase in employment of Choices individuals in higher wage jobs. Awards may be given in each classification and the Commission may give more than one award in each classification.
 - (2) Boards receiving a distribution of funds shall establish policies and procedures to create incentives for their contractors. The Boards shall determine how the local awards of funds are expended to provide incentives to contractors within the local workforce development area for effective employment of Choices individuals in higher wage jobs. The Boards shall ensure that contractor(s) receiving the job placement incentive awards use the funds for expenses relating to education, training and support services as necessary to prepare, place, and maintain Choices individuals in employment leading to self-sufficiency.
- (c) The criteria for distributing award funds to Boards shall be the same as the measure of higher wage jobs. The measure of higher wage jobs shall use the most recent available Unemployment Insurance (UI) wages reported quarterly by employers for Choices individuals in employment and be determined by:
- (1) each local workforce development area's baseline average quarterly reported UI wages for all Choices individuals in employment during a twelve-month period designated by the Commission;
 - (2) each local workforce development area's average quarterly UI wages for all Choices individuals in employment during the twelve-month period subsequent to the baseline measurement period; and
 - (3) comparing the average quarterly UI wages for all Choices individuals in employment for the two measurement periods to determine Boards that have achieved the highest percent increase in overall wages to Choices individuals.

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