

## INTEGRATION ISSUES ADDRESSED

By State Integration Team

September 2008

1. HR update—answers to questions submitted:
  - a. Would/could there be any job classification issues with PS I's performing WIA services/case mgt.?
    - i. Secretary Kerr has made it clear that there will be no movement between classifications and Jeff Montague did not foresee any issues. If some were to arise they could be worked out. What needs to be stressed is that Integration Plans should be developed knowing reclassification for Commerce employees is not an option.
  - b. With functional supervision, will PS II lead workers still maintain this lead worker status? If not, how will PS II status be justified?
    - i. Again, there will be no reclassifications. PS II positions, with the exception of DVOP/LVERs, perform supervisory duties. With integration, state supervisors are still required to continue their supervision of state employees per the Integration and Functional Management Policy. To help clarify, performing miscellaneous duties such as overseeing facility maintenance or other similar unique duties would not warrant a PS II classification. These duties are "other duties as assigned" and could be given to anyone without impacting classification. The driver behind the use of PS II, except for DVOP/LVERs, is providing basic leadership to co-workers.  
  
Again, what needs to be stressed is that Integration Plans should be developed knowing reclassification for Commerce employees is not an option. So, only a properly classified Commerce position may perform duties as a functional manager/supervisor.
  - c. Will ARD's remain under the direct supervision of RD's, or could they fall under functional supervision of LWIB/WIA staff? From Integration Web page at [www.kansasworksstateboard.org](http://www.kansasworksstateboard.org), posted 8/6/08:

### Assistant Regional Directors

Q: Will Assistant Regional Directors remain under the direct supervision of Regional Directors, or could they fall under functional supervision of LWIB/WIA staff?

A: Assistant Regional Directors are to be a part of the functional management team\* with functional duties lead by the One-Stop operator. All personnel functions will be supervised by the Regional Director, per State Civil Service requirements.

*\*Must perform management duties to avoid job reclassification.*

- d. Should PSA II's be exempt? They directly supervise staff and in Region I other functional supervisors are exempt.
  - i. All PSA IIs are non-exempt and since there will be no dramatic change in duties, there will not be anything to trigger a change in the FLSA status. Thus, they will remain non-exempt.
2. Responses to MIS questions.
  - **KANSASWORKS.com** (KW.com) is ready and able to count WP and WIA participant counts and automatically enroll WIA performance participants.
  - KW.com reports self-serve customers that have provided a unique identifier in both the WP and WIA participant counts.
  - Self service is not an option for counting participants for the WIA youth program under current law or implementing regulations. All youth who are at least 18, who receive virtual services are counted as WP participants and WIA self service adult participants.
  - If a self-service participant goes to a center and receives a staff-assisted service, KW.com will not duplicate him/her in the system. It removes him/her from self-service counts and places him/her in staff-assisted counts. If a participant receives staff-assisted services he/she will be reported in performance measures for both WIA and WP and removed from the self-services counts.
  - Services listed in **KANSASWORKS.com** will be consolidated into one list (i.e., no longer be grouped under WP/WIA/TAA). State staff will work with a group of local representatives to determine which services on the consolidated list trigger co-enrollment (for performance participants). For those selected services **KANSASWORKS.com** will then be set to automatically co-enroll in WP and WIA participant and performance counts. This list of services may be altered as deemed necessary.
  - TAA is not a self service program. By definition it is a staff-assisted program and TAA participants must be enrolled in WP and receiving WP staff-assisted services. Therefore, TAA participants will be co-enrolled in WP & WIA participant and performance counts.
  - VETS participants have always been reported as part of the participant and performance counts. Will also be reported in WIA counts.
3. Will we have on-site partners participate in entering the counts?
  - a. Local areas will determine in their plans whether they would like other on-site partners to enter data. An account will need to be established in order to have other partners enter the info. NOTE: At this point we will only focus on WIA programs and programs overseen by Commerce (WP, NEG, VETS, TAA, etc.).

4. Written guidance on self attestation for citizenship and selective service
  - a. Documentation of citizenship should be requested and self-attestation used only if the customer does not have documentation with him/her. Once registration is done on KW.com a printable page is available for the individual to sign that attests all information provided is correct, including citizenship. This may be signed and dated by a customer and case manager and used for self attestation. Citizenship is a Homeland Security and Immigration Naturalization Service (INS) issue. Local Areas are able to decide whether they want to self attest or provide documentation through local policies/procedures, but the State recommends if training dollars are spent, documentation be gathered.
  - b. Once registration is done on KW.com a printable page is available for the individual to sign that attests all information provided is correct, including selective service. This may be signed and dated by a customer and case manager and used for self attestation. When training is provided the State recommends you get documentation from the Selective Service Web site (sss.gov). However, Local Areas are able to decide whether they want to self attest or provide documentation through local policies/procedures.
  - c. To minimize file creation, place all these documentations in one folder or scan and store as PDFs.
5. Answer to request to develop procedural step-by-step document on how to document services (data validation)
  - a. Attachment A contains minimum data validation requirements.
6. Decide upon services that will trigger co-enrollment
  - a. The State is reviewing the list of WIA and WP services offered in **KANSASWORKS.com** and will combine it into one list. The new list will distinguish between services that trigger co-enrollment and those that do not (see also question #2, fifth bullet).
7. Cost allocation – If WP person doing WIA duties, will auditor say not cost allocating right? Check to see what other states are doing, esp. related to A133 audit.
  - a. Attachment B contains some of the simpler ways to cost allocate, but there are many other ways.
8. Explanation of how Integration Action Plans will be reviewed and expectations for revisions based on feedback.
  - a. The **KANSASWORKS** State Board Integration Subcommittee and Commerce staff assigned to this subcommittee will receive the Integration Plans and review them based on Attachments A & B of the Integration Policy and the *Guidelines for Addendum to Local Plans*. Each area's plan will be reviewed at a meeting with staff and board members providing feedback. Written feedback for each area's plan will be sent to the local area and if changes are necessary a revised plan will be requested and evaluated in the same manner.

The subcommittee will also assist in the review of the area's two-year plan related to integration when it is submitted in early- to mid-2009.

9. Clarify priority of service, specifically what the state requires and what locals may want to do to protect the CLEOs.
  - a. Attachment C is the State’s guidance on Priority of Service.
10. Clarification of “system responsibilities of WIB” and clarification of how to be responsible when don’t have control.
  - a. Local functional management policies need to be designed to ensure effective oversight of the workforce centers and the outcome measures. Duties should expand with focus on continuous improvement of the system as well as the common measures, not just WIA measures. The monitoring function should also change to include the monitoring of the functions of the three units and the attainment of the workforce center’s goals (including the 25% increase in co-enrollments).
11. Update on Labor Certification concerns—the following services need to be addressed in integration plans: RES scheduling and service provisions, I-9 completion for H2A and housing inspections for H2A.
  - a. A number of Wagner-Peyser staff are already trained to schedule Reemployment Services for UI claimants, and nearly all are familiar with the procedures described in State Policy #4-02-02 for providing and documenting services in **KANSASWORKS.com**. Aaron Shriver will provide training as needed for staff recently assigned this responsibility as well as refresher training as needed.

Several Wagner-Peyser employees are already trained to complete H2A housing inspections. If other employees (WP or WIA) are assigned this responsibility, Jennifer Smutny will provide training as needed. She will also provide information about completing the I-9 process for staff engaged in referring job candidates to H2A job opportunities.

## Minimum Data Validation Requirements for Core & Intensive Services

*Note this is for Adult and Dislocated Workers only and core and intensive services only.*

*Also note, Selective Service is NOT a data validation item.*

### Core Level:

#### Enrollment information

- Date of Birth – legal document
- All other information: self attestation includes printing and signing view screen

#### Service information

- Date Program Participation, Date Exited, Other Reason for Exit, Date 1st Staff-Assisted Core, and Outcomes - MIS record & Case Notes which include: (a) who provided service; (b) what service; (c) when the service was provided (dates of service); and (d) outcome (when applicable)

#### Outcomes

- Pre-Program Wages, Post Program Wages, Pre-Program employment, Post Program Employment – WRIS Data, other state Federal sources

### Intensive Level:

#### Enrollment information

- Date of Birth – legal document
- Veteran’s Status (if applicable) - database (computer) cross-match or acceptable documentation
- Employment Status – Case notes showing information collected from participant including who collected, who collected from, information collected, date collected
- Low Income (if applicable) - database (computer) cross-match or acceptable documentation
- TANF (if applicable) - database (computer) cross-match or acceptable documentation
- Other Public Assistance (if applicable) - database (computer) cross-match or acceptable documentation
- All other information (if applicable) - self attestation includes printing and signing view screen

#### Service information

- Date Program Participation, Date Exited, Other Reason for Exit, Date 1st Staff-Assisted Core, Date 1<sup>st</sup> Intensive, Date Entered Training, Date Complete/Withdraw Training, Type of Training, and Recognized Credential - MIS record & Case Notes which include: (a) who provided service; (b) what service; (c) when the service was provided (dates of service); and (d) outcome (when applicable)

#### Outcomes

- Pre-Program Wages, Post Program Wages, Pre-Program employment, Post Program Employment – WRIS Data, other state Federal sources

**Cost Allocation: If WP person doing WIA duties, will auditor say not cost allocating right? Check to see what other states are doing, esp. related to A133 audit**

WIA regulations require that each partner contribute a fair share of the operating costs of a One-Stop system proportionate to the use of the system by customers who are attributable to the partner’s program. [20 CFR 662.270] While this requirement is intended to ensure that partners establish standards for whether or not each partner program is required to share in a particular cost, it does not prescribe the exact methodology to be used to allocate shared costs nor determine each partner’s proportionate share. In fact, the regulations make it clear that partner agencies may choose from any number of methods, provided they are consistent with the OMB circulars. Any method that initially uses estimated numbers, whether participants, data elements, space use, or other costs that must use pre-budgeted amounts, must be adjusted to actual data when it is available.

Determining the proportionate shares attributable to the specific partner programs is the preliminary phase in the process. In this preliminary stage, the partners review the shared costs budgets, determine which methodologies are acceptable, and, from the acceptable methodologies, which method should be applied to the shared costs. In other words, the partners are selecting the appropriate allocation base for the shared costs.

One simple method that may be employed to determine proportionate share would be based on participation by eligible customers. Under this method, in its most basic form, the proportionate share would be determined by comparing the number of individuals either eligible for or receiving services from a partner to the total number of participants served.

**Example:** The One-Stop center provides for a common core service of career counseling for six partner agencies. The costs of the shared service have been identified within the shared costs budget and pooled for a total dollar amount of \$100,000. The six participating agencies determine the estimated number of participants attributable to their particular program. The results of this cost allocation are displayed below:

Proportionate Share

Partner	No. of Participants	Percent (%)	Dollars (\$)
1	150	15	15,000
2	100	10	10,000
3	50	5	5,000
4	300	30	30,000
5	200	20	20,000
6	200	20	20,000
Total	1,000	100	100,000

This same method could be applied to the total shared costs to calculate an equitable share by partner. However, caution should be used when using unweighted participant counts to the exclusion of other methods. This is because the number of participants does not always, nor even very often, equate to effort. Using the above example, the amount of time spent on counseling Partner 1's clients may be quite different from the amount of time spent counseling Partner 2's clients. If this were the case, participant counts would result in a disproportionate share of the costs being borne by one or more of the partners. Participant counts might be more useful if used to determine the proportionate share of universal access costs separate from other types of shared costs such as space or staff effort. Another way to make participant counts more useful is to weight the counts based on some measurable base such as time or effort.

Another method that might be used to determine the proportionate share of common services such as intake and eligibility determination would be the use of data elements. Distributing the costs of a common intake system may result in a considerable savings to the partner agencies. Rather than each agency spending its resources on eligibility determination, a common system, with a single intake form, is developed by the partners. The *Federal Register* notice dated May 31, 2001, provides such an example. Even if one partner program chooses not to participate in the activity, the costs of the shared activity may still be considered shared by the participating partner programs.

There are a number of methods and bases that might be used to determine proportionate share. Once the methods have been developed, negotiated, and approved by the partner agencies, they may be used in cost allocation to distribute the shared costs.

### **COST ALLOCATION REQUIREMENTS**

The costs of the One-Stop may be categorized in one or more of the following ways:

- Direct costs, where the final cost objective is known or a single cost objective or program benefits
- Shared costs that may be readily allocated to the benefiting cost objectives or partners through either direct charges or application of a cost allocation methodology
- Indirect costs, incurred for common or joint purposes benefiting more than one cost objective, but which are not readily identified or assigned to the benefiting cost objective (and usually recovered through an indirect cost rate).

The requirements and guidance for cost allocation in Federal grant programs is found in the OMB circulars containing the cost principles. These are:

OMB Circular A-21 – Institutions of higher education  
 OMB Circular A-87 – State and local governments  
 OMB Circular A-122 – Nonprofit organizations  
 48 CFR Part 31 – Commercial organizations.

Each of the circulars requires that costs be allocated on the basis of benefit received. Benefit received is usually expressed through the application of a mathematical formula to a cost item or pool, resulting in the distribution of the cost to a number of final cost objectives. A cost objective is an activity for which separate cost measurement is performed.

## ALLOCATION METHODOLOGIES

Within the One-Stop system, the costs may be aggregated and allocated using any methodology agreed upon by the partners and which reflect the best measure of benefit received by the partner programs. These shared costs may be allocated:

**In the aggregate.** Using this approach, the shared costs of the One-Stop center or system are totaled. A single allocation base is chosen by the partners and applied to the total costs. The resulting distribution constitutes the total shared costs of each partner. For example, all the shared costs of the One-Stop center are pooled and allocated using a cost per hour of operation basis. Pooling the costs in the aggregate may also be appropriate for large local areas such as a Balance of State Workforce Investment Area or a single Local Workforce Investment Area (LWIA) State where the preponderance of funds comes through one or two State agencies. For example, a State agency is responsible for administering the LWIA as well as the local partner programs under Wagner-Peyser, Unemployment Compensation, Veterans' Employment programs, Trade Adjustment Act, and WtW programs, and another State agency has the responsibility for administering both the Education and Rehabilitation Services programs.

**On an activity basis.** Using this approach, the costs associated with a particular function or activity are pooled. An allocation base is developed for each pool, usually related to the costs being allocated, and applied. The resulting distribution of costs reflects each partner's share of the activity or function. The costs for each function or activity being allocated would be added together for the total shared costs by partner. For example, the costs of a combined intake and eligibility determination system could be pooled and allocated on the basis of data bytes on common forms attributable to each program, or the costs of common core services such as career counseling could be pooled and allocated on the basis of a time distribution system.

**On an item of cost basis.** Using this methodology, each item of cost is allocated to the benefiting partner program using a separate allocation methodology. Examples of this basis would be building rental costs allocated on a square footage basis or telecommunication costs allocated on a number of units used basis.

**On a combination basis.** Grantees and partners may also allocate costs on a combination of the above bases by allocating some costs on an activity basis and other shared costs on an individual item of cost basis.

Whatever methods the One-Stop operator and partner agencies use to allocate the costs, the methodologies or allocation bases used to distribute the costs among the partner programs must:

- Result in an equitable distribution of shared costs. In other words, no partner may be charged more than its fair share of the costs.
- Correspond to the costs being allocated.
- Be efficient to use.
- Be consistently applied over time.

These requirements apply to any costs that are allocated to Federal grant programs, not just the shared costs of the One-Stop.

## **ONE-STOP COST ALLOCATION PLANS**

The cost allocation plans utilized in the One-Stop setting may not be the same as the standard cost allocation plans required by an organization. The cost allocation plan for the shared costs will address only those shared services and operating costs of the One-Stop system, and the allocations will cover more than one agency. However, it is important that the allocation plan developed by the partners contains the information required by the WIA regulations, i.e., a description of the allocation methodologies used to distribute the shared costs. Partners must be able to support the level of participation in the shared costs and services in terms of the benefit received by each partner. The cost allocation plan for One-Stop shared costs should include the following elements:

- The costs pools used to accumulate the shared costs. Each pool should contain the specific cost items and the dollar values attributable to each item. A benefit statement should be developed for each pool. This step should have been completed when the shared costs were first identified.
- A description of the allocation methodologies used to distribute each pool. The description should be specific enough to trace the costs from the pool to the final cost objective or partner program and should clearly demonstrate the equitability of the allocation methodology. Data resources necessary to perform the allocations must be identified.
- A spreadsheet that displays the application of the allocation base to the shared costs. The spreadsheet reflects the costs attributable to each partner.
- A description of the process to be used by the partners to reconcile actual costs to any cost projections used in the initial allocations and to adjust allocation methods based on service delivery changes or partner participation.

## **ADDITIONAL CONSIDERATIONS**

It is important to remember that cost allocation must be done with actual costs. While the partners may agree on a methodology(ies) to determine the proportionate share of costs by partner and conduct preliminary allocations based on estimates or the shared budget, these estimates must be reconciled to actual costs on a periodic basis, coinciding at a minimum with Federal quarterly reporting requirements. An integral part of this step in the process is developing a schedule for the provision of information and the reconciliation process.

In order for the cost allocations to be performed, partner agencies must share information that may be used in the allocation methodology. For example, if the allocation base requires numbers of customers receiving a specific service from a partner agency, then that information must be made available to all partners in a timely manner. There may be privacy considerations associated with the provision of this information, and these issues should be resolved before the process is completed.

The reconciliation and adjustment process will require the provision of actual financial information by partner agencies. As with customer information, this data must be provided to all partners on a timely basis. Any issues related to privacy considerations must be resolved before the cost allocation and resource sharing process is completed, and the time frames for providing the information should be included in the reconciliation process.

There may be times during the negotiations among partners on the identification of shared costs when a partner organization refuses to participate. The partner may indicate that the refusal is based on the fact that the cost is unallowable under its program regulations, or it may refuse on the grounds that it believes no benefit is derived from its participation. When this occurs, the remaining partners are faced with funding the cost. There are three classes of nonparticipation, one or more of which may apply in any given situation:

- The cost is unallowable under the partner program
- The partner receives no benefit from the shared cost
- The partner refuses to fund a share of the cost, even when there is a demonstrated benefit.

If a partner agency claims that a shared cost is unallowable under its program legislation or regulations, it should provide the appropriate citation. However, if the cost benefits a partner agency, and that benefit has been demonstrated in the function and benefit statement included in the shared cost budget, then the partner agency has the responsibility to pay its fair share of the cost even if the cost is unallowable to that partner for payment with Federal funds. To remove a partner from the allocation or distribution of the cost would require the remaining partners to pay more than their fair share, in violation of the Federal cost principles. In this instance, the cost would be allocated to all benefiting partners, and the partner for whom the cost is unallowable would be required to provide a non-Federal resource for its share of the cost.

If the partner refuses to participate in a shared cost, then it is responsible for providing the service or activity within its specific program. Often, the remaining partners can demonstrate the benefit to shared programs in terms of reduced individual program costs, and this demonstration of benefit may be useful in subsequent negotiations on the inclusion of such costs in a shared costs budget.

There are a number of good examples along with supporting spreadsheets in the One Stop Financial Management Guide, specifically under Section I-3 (Proportionate Share and Cost Allocations).

## Priority of Service Background

In the event that WIA Formula or Discretionary funds allocated to a local area for adult employment and training activities are limited, priority shall be given to recipients of public assistance and other low-income individuals for intensive services and training services. The appropriate local board and the Governor shall direct the one-stop operators in the local area with regard to making determinations related to such priority. (*ref. WIA Sec. 134(d)(4)(E)*)

*Note:*

1. *This section speaks to the event that funding for ADULT services is limited; it does not speak to Dislocated Worker or Youth services.*
2. *This section states a “priority shall be given to recipients of public assistance and other low-income individuals ...” It does NOT say “service shall be limited to recipients of public assistance and other low-income individuals . . .”*
3. *The priority shall be given for BOTH, intensive services and training services*

What priority must be given to low-income adults and public assistance recipients served with adult funds under title I?

(a) WIA states, in section 134(d)(4)(E), that in the event that funds allocated to a local area for adult employment and training activities are limited, priority for intensive and training services funded with title I adult funds must be given to recipients of public assistance and other low-income individuals in the local area.

(b) Since funding is generally limited, States and local areas must establish criteria by which local areas can determine the availability of funds and the process by which any priority will be applied under WIA section 134(d)(2)(E). Such criteria may include the availability of other funds for providing employment and training-related services in the local area, the needs of the specific groups within the local area, and other appropriate factors.

(c) States and local areas must give priority for adult intensive and training services to recipients of public assistance and other low-income individuals, unless the local area has determined that funds are not limited under the criteria established under paragraph (b) of this section.

(d) The process for determining whether to apply the priority established under paragraph (b) of this section does not necessarily mean that only the recipients of public assistance and other low income individuals may receive WIA adult funded intensive and training services when funds are determined to be limited in a local area. The Local Board and the Governor may establish a process that gives priority for services to the recipients of public assistance and other low income individuals and that also serves other individuals meeting eligibility requirements.

(*ref. 20CFR §663.600*)

Does the statutory priority for use of adult funds also apply to dislocated worker funds?

No, the statutory priority applies to adult funds for intensive and training services only. Funds allocated for dislocated workers are not subject to this requirement.

*(ref. 20CFR §663.610)*

State Policy 03-11-00 establishes the State's minimum required elements for local policy relating to Priority of WIA Service and expands the Federally required minimum priority populations to include:

1. Individual, or member of a family (see NOTE below), that receives cash payments under a Federal, State or local income based public assistance program.
2. Individual, or member of a family, that received a total family income for the six month period prior to application for the program involved (income exclusive of unemployment compensation, child support payments, public assistance payments, and old age and survivors insurance benefits received under section 202 of the Social Security Act) that in relation to family size does not exceed the higher of the following:
  - a. At or below the poverty level for an equivalent period; or
  - b. 70 percent of the lower living standard income level for an equivalent period.
3. Member of a household (see NOTE below) that receives food stamps. (This includes members of households determined eligible to receive food stamps within the six month period prior to application, even if food stamps were not received.) ]

NOTE: WIA Section 101(15)(A)(B)(C) provides a specific definition of a family. Family members must be "related by blood, marriage, or decree of the court". The term household, as defined by the eligibility guidelines for Food Stamps may include individuals living in a single residence who do not meet the WIA definition of a family.)

4. Homeless individual per Section 103 (a) and (c) of the McKinney Act.
5. Individual with a disability whose own income is at or below poverty level or 70 percent of the lower living standard or receives cash payments under a public assistance program, but who is a member of a family whose income does not meet such requirements.
6. An individual meeting both the veteran's priority group, plus one or more priority groups above.
7. An individual meeting a veteran's priority group, but none of the priority groups above.

## Definitions

**Public assistance:** The term “public assistance” means Federal, State, or local government cash payments for which eligibility is determined by a needs or income test.  
(*ref. WIA Sec. 101(37)*)

*Note: Public assistance, as defined, contains two conditions which must be met:*

1. *it is a government CASH payment*
2. *eligibility is determined by a*
  - a. *needs test, or*
  - b. *income test*

**Low-income individual:** The term “low-income individual” means an individual who--

- (A) receives, or is a member of a family that receives, cash payments under a Federal, State, or local income-based public assistance program;
- (B) received an income, or is a member of a family that received a total family income, for the 6-month period prior to application for the program involved (exclusive of unemployment compensation, child support payments, payments described in subparagraph (A), and old-age and survivors insurance benefits received under section 202 of the Social Security Act (42 U.S.C. 402)) that, in relation to family size, does not exceed the higher of—
  - a. the poverty line, for an equivalent period; or
  - b. 70 percent of the lower living standard income level, for an equivalent period;
- (C) is a member of a household that receives (or has been determined within the 6-month period prior to application for the program involved to be eligible to receive) food stamps pursuant to the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);
- (D) qualifies as a homeless individual, as defined in subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302);
- (E) is a foster child on behalf of whom State or local government payments are made; or
- (F) in cases permitted by regulations promulgated by the Secretary of Labor, is an individual with a disability whose own income meets the requirements of a program described in subparagraph (A) or of subparagraph (B), but who is a member of a family whose income does not meet such requirements.

(*ref. WIA Sec. 101(25)*)

## Discussion

The fact that WIA adult funds may be used to provide core services on a universal basis is one of the key reform elements of the legislation, and augments the investment traditionally provided by the Wagner-Peyser Act.

Priority of Service under Limited Adult Funding statutes and regulations contain requirements related to the use of adult funds, authorized under WIA section 133(b)(2)(A) or (3), when funds are limited. WIA section 134(d)(4)(E) states that in the event that funds allocated to a local area for adult employment and training activities are limited, priority shall be given to recipients of public assistance and other low-income individuals for intensive services and training services.

The appropriate Local Board must direct the One-Stop operators in the local area with regard to making determinations related to such priority.

When so written, Boards may administer their priority for adult recipients of public assistance and other low income adults so as not to preclude providing intensive and training services to other individuals.

Sec. 663.600(d) was written to clarify that the process for determining whether to apply the priority for service does not necessarily mean that only recipients on public assistance and other low income individuals will receive WIA adult funded intensive and training services when funds are determined to be limited in a local area. The Local Board and the Governor are specifically authorized to establish a process that gives priority for services to recipients on public assistance and other low income individuals and that also serves other individuals meeting eligibility requirements.

While the regulation requires that States and local areas consider whether funds are limited, it gives them flexibility to determine the criteria on which to base the determination. Language in the regulations is intended to permit maximum flexibility in the design of the priority process implement priority of service for public assistance recipients and low income individuals consistent with the Act.

Each local area must assess the needs of its workforce and determine the most appropriate distribution of services against projected levels of service needs.

Local Areas are discouraged from setting an arbitrary percentage of public assistance recipients and low-income job seekers to be served as this can result sufficiently skewing the distribution of services relative to the workforce's needs that differences in the severity of service needs would not necessarily be reflected in the process. The Federal, State, and Local Boards have an obligation, as part of their respective oversight responsibilities, to determine whether a particular function, e.g., service delivery, is consistent with the intent of the Act and regulations. Regulations implementing the requirements of WIA section 188 are published at 29 CFR part 37. It should be noted that except where service to specific populations is authorized by statute (such as in WIA section 166, Native American Programs), it is unlawful under WIA section 188(a)(2) and 29 CFR 37.6(b)(1)-(6) for One-Stop systems to use demographic characteristics to determine which individuals will receive services. Therefore, Priority of Service policies which may be interpreted as establishing preferences for or which encourage enrollment based on applicant demographics are inconsistent with existing statute and regulation. This

is not inconsistent however, with regulations found at 29 CFR 37.42, stating One-Stop systems must do outreach to various populations, to ensure that members of those populations are aware of the programs and services provided by the systems.

As a general rule, WIA Adult funding is considered to be limited as a finite amount is allocated each year and this amount is insufficient to fund services to every adults who could benefit from such services. However, it is also recognized that local conditions (including local labor market, local economy, leveraged/partner resources and service delivery design) are different from one area to another and funds may not be limited in all local areas.

Therefore, the regulation requires that all Local Boards must consider the availability of funds in their area. In making this determination, the availability of other Federal partner funding should be taken into consideration

Section 663.600 provides State and Local Boards with the authority to determine the criteria to be applied when making the determination that there are sufficient funds available so that the priority is not in effect.

**PLEASE NOTE:** *Unless the Local Board determines that funds are not limited in the local area, the priority of service requirement is in effect.*

The regulations, at Sec. 661.350(a)(11), require that the local workforce investment plan include a description of the criteria to be used by the Governor and the Local Board, under Sec. 663.600, to determine whether funds allocated to a local area for adult employment and training activities are limited, and the process by which any priority will be applied by the One-Stop operator(s). The local plan is subject to public comment as well as review and approval by the Governor. Upon approval by the Governor and local implementation of its priority determination, it is expected that the local workforce staff will continue to monitor workforce employment and training population needs and conditions to ensure that the priority determination continues to be appropriate.

**Actions:**

1. Local Boards must develop a Priority for Intensive and Training Service Policy which shall be included in the Local Plan.
  - a. This Policy must specify the process for determining priority in sufficient detail to guide the One-Stop Operator in making determinations in the application of Priority of Service,
    - i. A “priority” is just that, a priority. There is no statutory or regulatory language to suggest a local policy must be developed to limit or restrict access to, or the provision of, appropriate services to other eligible individuals.
    - ii. Whereas Intensive Services and Training Services are two distinct types of WIA services by definition, design and delivery; local areas have the flexibility to develop a Policy which addresses Intensive and Training Services as two distinct issues.
  - b. This Policy should include a method for guiding the Local Board in determining when funds **are not** limited in the local area.
    - i. Methods could appropriately include:
      1. local labor market (demand) projections for Intensive and Training services;
      2. average cost per participant to deliver these services, and;
      3. total funds budgeted for each service
    - ii. Whereas Intensive Services and Training Services are two distinct types of WIA services by definition, design and delivery; local areas have the flexibility to develop a Policy which addresses Intensive and Training Services as two distinct issues.
      1. After a local area assesses the needs of its workforce and determines the most appropriate distribution of services against projected levels of service needs, a determination may be appropriate that funding for specific intensive service (such as those delivered in group settings where capacity is built-in by design) are not limited while other services (such as services provided by individual referral and contract) are limited.
        - a. Such a decision must be demand driven and made in response to the needs and conditions of the local workforce area and its customers
  - c. This Policy should include a method for continued monitoring of workforce employment and training population needs and conditions to ensure the priority determination continues to be appropriate.
2. The local Priority of Service of Service Policy is, by default, in effect unless the Local Board takes specific action in determining funds are NOT limited.

For technical assistance in implementing Priority of Service provision of WIA, contact Dennis Cooper at (316) 771-6810 or [dcooper@kansascommerce.com](mailto:dcooper@kansascommerce.com) .