

TEXAS WORKFORCE COMMISSION
Workforce Development Letter

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Effective:	30 days after issuance

To: Local Workforce Development Board Executive Directors
Commission Executive Offices
Integrated Service Area Managers

Courtney Arbour

From: Courtney Arbour, Director, Workforce Development Division

Subject: Deobligation and Reallocation of Commission-Allocated Funds

PURPOSE:

The purpose of this WD Letter is to provide Local Workforce Development Boards (Boards) with information and guidance for implementing the Texas Workforce Commission's (TWC) rules for the deobligation and reallocation of Commission-allocated funds to local workforce development areas (workforce areas).

RESCISSIONS:

WD Letter 48-09

BACKGROUND:

TWC Chapter 800 General Administration rules §§800.71–800.77 set forth provisions for the deobligation and reallocation of Commission-allocated funds and provide TWC with flexibility in its review of underlying factors or causes for the underexpenditure of Commission-allocated funds by a Board.

The rules state the following:

- The Commission allocates funds to workforce areas.
- The scope of TWC's evaluation of factors that impact expenditures includes Board performance on contracted measures, specifically service delivery factors that contribute to performance and use of funds within a workforce area.
- Boards are required to notify the Board Chair when requesting a voluntary deobligation of funds.

- TWC’s review of requests for reallocated funds in months five through eight of the appropriate program year is based on an evaluation of a Board’s ability to use funds, the performance factors, and a demonstrated need in the workforce area.

TWC submitted to the US Department of Labor (DOL) a request for a waiver of the provisions of §128(c)(3) and §133(c)(3) of the Workforce Innovation and Opportunity Act (WIOA). This waiver allows TWC to develop different criteria from what is required by statute for the reallocation of recaptured funds among workforce areas. On July 7, 2020, DOL approved the waiver request for Program Years 2020 and 2021 (expiring June 30, 2022).

PROCEDURES:

No Local Flexibility (NLF): This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

Local Flexibility (LF): This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”

NLF: Boards must ensure that appropriate staff is aware of and adheres to the requirements, procedures, and time frames related to the deobligation and reallocation of Commission-allocated funds to workforce areas, as set forth in Chapter 800 and in this WD Letter.

NLF: Boards must be aware that under federal requirements, WIOA formula funds are subject to:

- an 80 percent obligation requirement following the end of the first program year; and
- a 100 percent expenditure requirement following the end of the second program year.

NLF: Boards must be aware that TWC conducts an end-of-year review of WIOA formula funds. Funds in excess of 20 percent of the allocation, less any amount reserved for administration (up to 10 percent), for each category of WIOA formula-allocated funds that are unobligated are subject to deobligation.

NLF: Boards must be aware that WIOA formula funds are not subject to midyear deobligation; however, TWC will continue to actively oversee WIOA service delivery, including evaluations of expenditures and performance, and will provide Boards with technical assistance.

NLF: Boards also must be aware that expenditure reviews will be conducted monthly.

NLF: Boards must be aware that Child Care, Supplemental Nutrition Assistance Program Employment and Training (SNAP E&T) and Temporary Assistance for Needy Families (TANF) funds, are subject to a 90 percent expenditure requirement.

NLF: Boards must be aware that TWC conducts midyear reviews of expenditures in the fifth through eighth program months (February through May) for Child Care, SNAP E&T, and TANF only. TWC bases a potential deobligation only on a Board's failure to achieve the expenditure of an amount corresponding to 90 percent or more of the relative proportion of the program year.

For example, at the end of the sixth month of the program year, 50 percent of the program year is completed and 90 percent of 50 percent equals 45 percent, which is the lowest expenditure level to be achieved in order to avoid a potential deobligation.

Deobligation Request from TWC

LF: Before TWC considers a potential deobligation, Boards may provide information to justify their current and projected expenditure levels, pertinent performance data, and service levels.

NLF: Boards must be aware that TWC holds Boards accountable for fully using Commission-allocated funds to address the needs of job seekers and employers within the workforce area.

NLF: Upon receiving a formal request from TWC, a Board must provide a service delivery plan, with sufficient detail, to ensure that the specific strategies and actions the Board has undertaken, or will undertake, will assist the workforce area to fully expend funds within the program year.

NLF: TWC will notify the Board of the potential deobligation amount, and the Board must provide a service delivery plan, with detailed information on the actions that the Board will take to address its deficiencies, such as:

- the expansion of services proportionate to the available resources (whether the Board plans to increase services and activities for customers and/or increase the number of customers served, including the number of customers in training);
- projected service levels and related performance (projected increases in the number of customers receiving services, the projected increases in services, and associated performance outcomes);
- projected expenditures for unliquidated obligations (description of services or property that have been reported to TWC as obligations and the projected time frames for expenditure); and
- any other factors that a Board would like for TWC to consider.

Grant Award Amendments within 60 Days of Review Period

NLF: Boards must be aware that TWC will not deobligate funds if, less than 60 days before the potential deobligation period, a grant award amendment has been executed with the Board for a supplemental allocation or reallocation of funds in the same program category of funding.

Voluntary Deobligation

LF: Boards may voluntarily deobligate funds when current allocations exceed the needs of their service delivery strategies.

NLF: Boards must ensure that the Board Chair is notified of a request to voluntarily deobligate funds from a workforce area.

Reallocation of Funds

NLF: Boards must be aware that the Commission can reallocate available balances of Commission-allocated funds to eligible workforce areas.

NLF: Boards must submit to their assigned contract manager written requests for additional funds that the Commission makes available for reallocation.

NLF: Boards must be aware that TWC will develop reallocation recommendations for WIOA, child care, SNAP E&T, and TANF formula funds based on:

- amounts specified in the Board’s written request for additional funds;
- demonstrated ability of the Board to effectively expend funds to address the need for services in the workforce area;
- Board performance during the current and previous program year; and
- related factors, as necessary, to ensure that the funds are fully expended.

NLF: Additionally, for WIOA formula funds, Boards must be aware that TWC will consider the Board’s established plan for working with at least one of the governor’s industry clusters, as specified in the Board’s local plan, as a factor for recommendation of the reallocation of funds.

NLF: Boards must be aware that to be eligible to receive reallocated WIOA formula funds, they must have obligated at least 80 percent of the previous program year’s allocation. A workforce area’s eligibility to receive a reallocation will be determined separately for each funding stream (for example, adult, dislocated worker, and youth).

INQUIRIES:

Send inquiries regarding this WD Letter to wfpolicy.clarifications@twc.state.tx.us.

ATTACHMENT:

None

REFERENCES:

Texas Government Code §301.0015 and §302.002

Texas Workforce Commission General Administration Rules §800.52, §800.71,
and §§800.74–800.77