

## ***General Comments and Conditions Relating to NEG Disaster Grants:***

**Purpose**—Pursuant to WIA Sec. 173(d), a key initial purpose of NEG Disaster Grant is to create temporary jobs (Disaster Relief Employment) to assist in the cleanup and restoration efforts as a result of the disaster. These temporary jobs also include working on projects that provide food, clothing, shelter and other humanitarian assistance for disaster victims. The work may be done through public and private agencies and organizations engaged in such projects. The Project may include a full array of workforce development activities (including training) that are available under The workforce development component may be included when the emergency application is submitted, or when the project is modified, to facilitate those participants enrolled in the Disaster Relief Employment program to return to the workforce. It is important to note that the Grant Award document signed by the Grant Officer, or modifications thereto, may include activities not discussed in this document, in order to respond to the special needs of workers affected by some disasters.

**Grantee/Project Operator--** The award is made to the State which will also be the Project Operator. Therefore, disaster grants are not to be pass-through grants. States may subgrant funds to local boards and/or may expend such funds through public and private agencies and organizations engaged in such projects. States are expected to be able to deobligate and reobligate funds to affected areas and service providers quickly in order to ensure the funds are where they need to be in order to fulfill the purposes of this grant and to ensure that workers needing assistance are receiving it.

### **Coordination--**

**Federal Emergency Management Agency (FEMA)--** The State should coordinate the activities funded under this grant with those funded by and/or performed under the auspices of FEMA in order to ensure non-duplication and maintenance of effort. If additional areas are declared eligible for assistance by FEMA, you may immediately begin to provide services under this grant in those counties. However, the State must notify the Department of Labor by telefax of the inclusion of any additional areas that have been approved by FEMA, and include such locations in the fully-documented plan or modifications to the grant.

**Heavy Equipment--** FEMA has extensive experience in obtaining and/or leasing heavy equipment in the aftermath of disasters, and provides such equipment for a limited period of time to permit cleanup, reconstruction and other allowable activities following a disaster. State and local governments may also lease or obtain heavy equipment for worksites where NEG Disaster Grant participants are employed. Generally, NEG funds will not be authorized for the purchase or lease of heavy equipment for disaster relief work.

**Other Federal Assistance Programs--** The Small Business Administration, Department of Agriculture, the Department of Health and Human Services and other Federal Agencies provide a variety of needed services in the Disaster Area. The project staff should be aware of available services that may be needed by participants and be able to make the appropriate referral.

### ***Other Emergency Services Provided by Disaster-Affected Communities***

- Local emergency transportation services. With the destruction of many cars, temporary transportation systems are sometimes established by state or local governments to transport workers to disaster work sites and other community services. Project staff should be able to provide information about such systems to participants, as appropriate.
- Other workforce development services. Frequently, other workforce development services may be available through a variety of sources, including the U.S. Department of Labor, e.g., WIA formula funds, national programs, veterans programs, older worker programs, Native American programs, etc. Project/One Stop Career Center staff should be able to provide information about such additional services to participants, as appropriate, and should coordinate services under this grant to ensure that services are not being duplicated or that participants are receiving the same assistance from more than one resource.

### **Procurement**

Grantees are subject to the WIA administrative rules, including the administrative requirements at 29 CFR Part 97. Sole source procurement, if authorized by State policies, may be used to enable the project to become operational in a timely manner, given the critical nature of the project.

### **Eligible Participants for NEG Disaster Projects (WIA Sec. 173(d)(2))**

Individuals eligible to participate in NEG Disaster projects are—

- (1) Workers who have been temporarily or permanently dislocated as a result of the disaster;
- (2) Eligible dislocated workers as defined in WIA sec. 101(9); and
- (3) Individuals who are long-term unemployed.

Priority to participate in the grant should first be given to those workers who have experienced temporary or permanent job loss, as a result of the covered disaster.

***Self-certification*** –The participant file must document participants' eligibility. Because of the circumstances surrounding the disaster, documentation of eligibility may be difficult to obtain during the initial stages. The Department is prepared to accept an individual's signed certification that they meet the eligibility criteria. The Grantee should have a system in place to verify eligibility for individuals once better data are available. If the Grantee has such a system in place, and if a participant is later found to be ineligible, the costs incurred prior to the discovery of ineligibility will not be disallowed.

***Residency of Participants*** -- There is no eligibility or selection criteria based on workers' place of residence. Preference should be given to those individuals who lost their jobs (temporarily or permanently) as a result of the covered disaster.

***Limitations on Duration of Participation and Wages--*** Temporary jobs created under this grant shall be in public or private non-profit agencies. No individual shall be employed in Disaster Relief Employment for more than six months (or 1,040 hours) related to recovery from a single natural disaster, pursuant to WIA Sec. 173(d)(3). The maximum wage paid to any one participant in a single natural disaster is generally \$12,000 (excluding fringe benefits). Waivers may be requested of the Grant Officer as authorized in 20 CFR 671.150(b).

## **Participant Compensation--**

***Rate of Pay--*** Participants must be paid the higher of the federal, state or local minimum wage, or the comparable rates of pay for other individuals employed in similar occupations by the same employer.

***Overtime--*** Participants may work overtime (subject to regulations of the Fair Labor Standards Act with respect to level of compensation), provided that this is part of the design of the project and regular employees of the employer in question are also working overtime, subject to the limit on duration and level of compensation for workers under this project.

***Workers' Compensation--*** Where state workers' compensation law is applicable, workers' compensation benefits in accordance with such law shall be available to all participants. Where a participant is not covered under a state worker's compensation law, the participant shall be provided with adequate on-site medical and accident insurance for work-related activities. For work-related activities, income maintenance coverage is not required for the participant. (WIA Sec. 181(b)(4))

***Health Benefits--*** All participants shall be provided benefits and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work. (WIA Sec. 181(b)(5)) If the employer has different policies for temporary employees than for full-time employees, these policies may apply to these participants since the jobs under this grant are classified as temporary.

***Retirement--*** No contributions to retirement funds shall be made on the behalf of project participants from grant funds.

## **Eligible Worksites—**

***Types of Worksites--*** Worksites may be established where authorized cleanup, restoration and service (humanitarian) activities are performed related to the covered disaster.

As stated above, the purpose of the temporary jobs is to restore the public infrastructure and services so that regular business and employment activities can be resumed, as well as to work on projects that provide humanitarian assistance to victims of the disaster. The Department expects that the state will prioritize the worksites for temporary jobs such that the highest priority is for public facilities which have been most severely damaged, consistent with the strategic plans of the community. The second priority is for private non-profit facilities which have the highest impact

on providing needed temporary services and/or restoring public services, etc. Generally, worksites will be limited to public and private non-profit facilities and property where non-participant state and local government employees and employees of applicable non-profit agencies are employed in the clean-up effort. Under certain circumstances, work on private property is authorized to the extent that it meets the requirements outlined below.

**Location of Worksites** -- The geographic areas where the worksites are located must be located in the geographic area covered by a FEMA declaration eligible for public assistance, have been identified by the State for cleanup, and must be listed in the fully documented project plan, or a modification, submitted to the Department.

**Health and Safety Standards**-- State and Federal standards, otherwise applicable to working conditions of employees, shall be applicable to working conditions of participants. Where a participant is engaged in activities not covered under the Occupational Safety and Health Act of 1970, as amended, the participant shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or working conditions that are unsanitary, hazardous, or dangerous to the participants' health or safety. A participant employed or trained for inherently dangerous occupations, e.g., fire or police jobs, shall be assigned to work in accordance with reasonable safety practices. (WIA Sec. 181(b)(4))

### **Eligible Activities--**

**Temporary Jobs**-- The primary, initial activity under this grant will be the placement of individuals in temporary jobs related to assisting the communities recover from the natural disaster events and on projects that provide humanitarian assistance to the disaster victims.

**Employment-related assistance**—The application, the fully-documented plan or a modification thereto may include the full array of workforce development services to enable those participants who are enrolled in project to return to the workforce in high growth, demand occupations as identified by the local workforce investment board.

**Work on Private Property**--There are two circumstances where Disaster Relief work by NEG Project participants may be performed on private property impacted by the covered disaster--

(1) Cleanup activities on private property may be performed by NEG Disaster participants if workers from units of general local government are also (a) authorized to conduct such work and (b) are performing such work.

(2) As determined by the extenuating circumstances of the disaster for which Title I funds are being provided, repair and restoration activities are authorized on the private property of **economically disadvantaged individuals**, under the following specific conditions. **In order to be authorized, all of the following conditions must be met:**

a. Work can only be performed on the homes of economically disadvantaged individuals who are eligible for the federally funded weatherization program; and

- b. Work may be performed on private land or homes of such individuals if the non-WIA employees of the employing unit or state or local government workers are authorized to do the same work and are in fact engaged in performing the work using non-WIA funds; and
- c. Work on private land or buildings is performed to remove health and safety hazards to the larger community; and
- d. The work is limited to returning a home to a safe and habitable level -- not to make home improvements; and
- e. Priority is given for service to the elderly and individuals with disabilities; and
- f. WIA funds cannot be used for the cost of materials to do repairs; and
- g. Work must be disaster-related and not related to general home improvements authorized under the Federal Weatherization program; and
- h. Work is coordinated with or supervised by the local agency responsible for the Federal Weatherization program.

**Supportive Services--** Such services are authorized to enable an individual to participate in the project. They may include: reimbursement or payment for such costs as child care, transportation to and from the job, work-related physical examinations and medical treatment, etc. In addition, personal safety equipment and other work-related equipment are authorized including such items as work gloves, steel-toed boots, hard hats, uniforms, small tools, etc., required for the participant to be employed in the jobs related to the cleanup, or participate in the workforce development services offered under the project.

## **Project Performance Goals**

It is the goal of disaster projects, after the clean-up activities are completed, to return workers to employment—either their prior employment or to new employment. As stated above, for workers who are permanently dislocated, the state may, through its submittal of the fully documented project plan or a subsequent modification, request to amend the grant to provide for employment-related transition assistance to return them to the unsubsidized workforce as soon as possible. NEG Performance Goals will apply.

However, for those workers who were temporarily dislocated as a result of the disaster and will not return to their layoff jobs at the completion of the clean-up work, the grantee is expected to determine what other re-employment assistance is required and incorporate such services in a modification request for the disaster grant. Additionally, other dislocated workers and the long term unemployed should be assisted to return to the workforce, either with NEG funds awarded under a disaster grant or with the grantee's formula funds. Performance goals for workforce development phase of NEG Disaster projects will be consistent with those for all NEG projects.

**Project Monitoring by the Grantee**— Monitoring will be conducted by the State to ensure that the work sites and related activities are consistent with the provisions of applicable federal statute, regulations, and the terms and conditions of this grant award letter.

### **Other Project Requirements-**

- The grantee must have in place procedures to ensure compliance with non-duplication and maintenance of effort as required by the WIA statute.
- The grantee must have in place a plan to recover WIA funds which have been expended for activities or services for which other funds are available. This includes, but is not limited to: HUD, FEMA, public or private insurance, donated time and construction workers employed by private for profit firms where resources are available to provide for such employment.
- Compliance with the Labor Standards provisions as required in the WIA regulations at 20 CFR 667.272).
- Each disaster presents new challenges to the community. ETA will provide guidance to the grantee, as requested, when issues arise that may be unique or are not fully discussed herein.

### **Reporting Requirements**

The NEG Quarterly Report No. 9104, the NEG Quarterly Financial Status Report (ETA 9099) and WIASRD reporting is required for all NEG projects/participants, including Disaster Projects. In addition, the grantee must provide Bi-weekly Reports to the Department beginning from the time the grant is awarded through the first three months of project operation. Thereafter, the report may be submitted monthly, through the end of the temporary job component of grant activities. The reports shall include:

- Total cumulative participants enrolled in the project, to date;
- Total participants currently working in temporary jobs;
- Significant changes in impact, as determined by the State, not previously reported;
- Types of activities and services being provided by participants in temporary jobs;
- Any significant event that occurred during the reporting period.
- Total expenditures to date.
- The number of grantee monitoring visits to local worksites.

This report shall be made by e-mail or in writing. A summary of expenditures and participant numbers should be provided as well as information should be broken out by each sub-grantee.

This report shall be submitted to the Grant Officer at the following address by the 5th working day after the end of each reporting period: [Tello.Fred@dol.gov](mailto:Tello.Fred@dol.gov) or Mr. E. Fred Tello, Grant Officer, Division of Federal Assistance, Employment and Training Administration, U.S. Department of Labor, Room N-4655, 200 Constitution Avenue, NW, Washington, DC 20210. A copy should be submitted to the FPO identified in the grant award letter.

A Project Close-out Report shall be submitted by the State within 45 days of the end of the project. This report shall be submitted using the standard reporting forms. A brief narrative outlining the highlights, problems encountered, and recommendations regarding the effectiveness of this type of approach and any changes to be considered should be included with this final report. The Close-out Report shall be submitted to the Grant Officer listed above, with a copy to the DOL/ETA Regional Office.

## **Questions and Answers**

Attached are some Q&As which have been compiled based upon frequently asked questions that have been raised by Disaster grantees and service providers over the past few years. They are included to provide some guidance, as appropriate.

Attachment:

Q&As Related to Disaster Grants

**WIA NATIONAL EMERGENCY DISASTER GRANTS**  
**Sec. 173(d) (Disaster Relief Employment Assistance)**  
**QUESTIONS AND ANSWERS**

**ADMINISTRATION**

**1. Does the cost limitation for administration apply to expenditures or to the overall NEG grant amount?**

ANSWER: The cost limitation for "Administration" approved by the Grant Officer for a NEG project applies to overall expenditures by the end of the project.

**2. How should states allocate the Administration funds under the disaster grant?**

ANSWER: The WIA regulations at 20 CFR 667.220 define the costs to be charged to administration.

**FEMA COORDINATION**

**3. Please explain grant requirements regarding coordination with the Federal Emergency Management Agency (FEMA) and the leasing of large equipment.**

ANSWER: The coordination requirements with FEMA is related to ensuring that there is a comprehensive, integrated response to a disaster, and to ensure that there are not duplication or efforts. FEMA identifies on its Web site (<http://www.fema.gov>) a contact for each state. We have been advised by the Federal Emergency Management Agency that it provides grants to states which, in turn, provide reimbursement to local governments for performing various activities. For example, FEMA has determined that wages paid to temporary workers funded under WIA projects would result in a "duplication of benefits," so such wages would be deducted from the total cost estimate for the FEMA approved recovery project.

However, there may be instances where state and local officials determine, that related public health or safety or infrastructure repair projects are best managed through two separate projects, one funded with DOL WIA Title I NEG funds, and one funded with FEMA funds. FEMA would, of course, only provide 75 percent of the cost of the project to be operated with FEMA funds. If equipment is needed for the WIA-funded project, FEMA may provide cost reimbursement for that equipment, up to 75 percent of the cost, as long as the equipment is used for an activity related to the disaster.

According to FEMA, it does not provide reimbursement for WIA project-related leased or owned equipment, unless it is disaster-related. For the above reasons, state and local WIA disaster grant operators and providers are urged to consider identifying projects that will not be funded by FEMA or make sure that projects that might be funded by FEMA are identified only as WIA projects. State and local government administrators should understand the implications of including WIA temporary disaster job participants on a FEMA-approved project.

WIA temporary workers' wages do not require a state or local match, as required by FEMA for some of its projects. Therefore, it might be preferable to conduct some cleanup activities with WIA workers. Alternatively, operators may identify more projects that are social service related, such as helping individuals complete Small Business Administration loan applications, assisting in temporary shelters, food distribution stations, etc.

To the extent that a project staffed by WIA temporary disaster job participants requires heavy equipment, but it is not provided by FEMA, the state or local government is responsible for providing the equipment necessary for the clean-up work to be done. **NEG funds may not be authorized to be expended to lease this type of equipment.**

**5. Can DOL funds for temporary disaster jobs be used for non-Federal matching for FEMA funds?**

ANSWER: No. Since WIA NEG funds are federal funds, FEMA has determined that WIA funds may not be used for non-federal match purposes by FEMA under the requirements and restrictions of its disaster program regulations.

**6. How do state WIA staff obtain state-level FEMA contacts, and how does FEMA know that the state WIA office is a participant in the disaster response?**

ANSWER: The Secretary of Labor makes a public announcement of all NEG awards, including those related to disasters. FEMA provides DOL with its declarations and has worked with DOL since the mid-1990s related to disaster relief employment available under NEGs. There is a State Emergency Management Agency in every state, and the identification of a state FEMA contact is on the FEMA Web site ([www.fema.gov](http://www.fema.gov)). It is incumbent on the appropriate WIA staff to make contact with this agency. In those instances when Disaster Unemployment Assistance (DUA) claims are processed at the Disaster Application Centers (DAC), FEMA provides the DOL Regional Administrator with daily updates regarding the locations of FEMA/DACs. The DOL Regional Administrator presently provides this information to the state UI office and the state WIA liaison.

**7. How can states get information about the location of FEMA DAC sites which could be used for recruitment of temporary disaster job participants?**

ANSWER: As indicated above, the DOL Regional Offices are provided this information by FEMA. They make it available by FAX to the state WIA systems which receive disaster grants. Information is also available on the FEMA website (<http://www.fema.gov>). In addition, this information is available through the DOL Toll-Free Help Line (1-888-US-JOBS).

**8. What happens when NEG-funded temporary disaster job participants begin work at a site which is later approved for FEMA reimbursement?**

ANSWER: When the project is completed and it is time for FEMA to reimburse the state or local government for the cost of the project, it is our understanding that the wages of the

temporary job participants will be deducted from the cost of the project before FEMA provides funds for 75 percent of the cost of the project.

### **PARTICIPANT ELIGIBILITY**

#### **9. Are individuals who reside in counties contiguous to Public Assistance-designated counties eligible for services under the NEG disaster grant?**

ANSWER: Yes. Under NEG disaster grants, grant funds may be used for "workers dislocated (temporarily or permanently) due to the devastation caused by the recent disaster," as well as other eligible dislocated workers (WIA Sec. 101(9)) and the long-term unemployed. If workers in counties contiguous to disaster designated counties are affected by the covered disaster, they may be served under the grant. For example, a worker living in a county contiguous to a designated county, whose job in the designated county was lost due to the covered disaster, is eligible to work in a temporary job for the purpose of the cleanup in the designated area or work on projects that provide food, shelter, housing and other humanitarian assistance to the victims of the disaster. The state project operators or local service providers will, of course, be responsible for determining the eligibility and selecting the specific individuals to actually be served by the grant, and priority should be given to workers dislocated (temporarily or permanently) as a result of the disaster. Other eligible dislocated workers, as well as the long-term unemployed, are also eligible to work under a NEG disaster grant, without regard to residency.

#### **10. May migrant and seasonal farmworkers who are stranded in the migrant stream without work due to the disaster be served under this project?**

ANSWER: Yes. Migrant and seasonal farmworkers who are dislocated from their work due to the covered disaster may be served under this grant and may be participants in the temporary job component. Other eligible dislocated workers who are also migrant and seasonal farmworkers may also work under a NEG disaster grant.

#### **11. May dislocated workers enrolled in training or other services participate in the temporary disaster relief jobs created under a NEG disaster grant?**

ANSWER: Yes. Eligible dislocated workers, as defined in WIA Sec. 101(9), are among the population which may be served. If the disaster results in a disruption of services underway, it would be prudent to enroll those individuals in the disaster project to permit temporary cleanup jobs until such time as the training or other activities are available for continuation, or to the extent that the cleanup jobs do not interfere with other planned WIA services. In those instances where employment-related services are also being provided to participants, they would be co-enrolled in the NEG disaster project as well as in the formula program.

#### **12. Are those farmers/ranchers with fields under water or destroyed, but whose livestock are alive but not productive, eligible to participate in temporary jobs? (For example, those with animals which cannot be reached to feed or transport them to market.)**

ANSWER: Yes. They could be considered temporarily unemployed due to the effects of the disaster.

**13. For the purpose of a NEG Disaster project, what is the definition of a long-term unemployed individual?**

**ANSWER:** There is no definition of “long-term unemployed” in WIA or the regulations; therefore, the Governor is responsible for defining it. Generally, the definition will apply to individuals who do not qualify as eligible dislocated workers under WIA Sec. 101(9), or those temporarily laid off as a result of the disaster, as authorized in WIA Sec. 173(d)(2).

**UNEMPLOYMENT INSURANCE AND DISASTER UNEMPLOYMENT ASSISTANCE (DUA)**

**14. Is an individual that is working on a temporary disaster job eligible to draw UI or DUA benefits?**

ANSWER: Generally, a temporary job will constitute employment and the wages earned will disqualify an individual from receipt of UI benefits to the extent that they exceed a state-defined earnings level. DUA benefits are reduced to the same degree that earnings from temporary employment are deductible under the state UI law. Therefore, the state UI agency and the state NEG disaster programs should coordinate activities to ensure that workers are properly informed of the policies and requirements of each program.

**15. Must the Grantee pay Federal Unemployment Tax (FUTA) or state Unemployment Insurance taxes for the NEG temporary disaster relief job participants?**

ANSWER: Generally, such workers will be covered for UI purposes. However, Section 3309(b)(3)(D) of the Internal Revenue Code permits states to exclude from such coverage when services are performed “in case of. . .emergency” and when such work is performed for state and local governments. UIPL No. 22-97 issued April 14, 1997 clarifies what is considered an “emergency” for the purpose of this exclusion. The UIPL states, in part--

--The FUTA exclusion applies only to services performed “in case of” fire, storm, snow, earthquake, flood, or similar emergency. Emergency is defined in the Second College Edition of the American Heritage Dictionary as an unexpected situation or sudden occurrence of a serious and urgent nature that demands immediate action. The FUTA language “in case of” indicates that it is the emergency itself - or the urgent distress caused by the emergency - which must directly cause the need for the services to be performed. Therefore, for the services to be performed “in case of. . .emergency,” a direct relationship must exist between the services and the emergency, as defined above.

--Whether services performed as a result of a disaster are also performed “in case of. . .emergency” must be determined on a case-by-case basis. . . . Since disaster-related services may be performed after the need for immediate action has passed, they are not necessarily performed “in case of. . .emergency.” For example, services performed

removing hurricane debris to gain access to a hospital are performed “in case of . . . emergency” when there is an immediate need to obtain access to the hospital. However, when the removal of hurricane debris from the roadside does not require immediate action, services are not performed “in case of . . . emergency” and may not be excluded from coverage on that basis.

Each state is responsible for obtaining sufficient facts to support a determination under provisions of its state law corresponding to the FUTA exclusion that the services were performed “in case of . . . emergency.”

It is important to note that the exclusions does not apply to permanent employees of state and local governments whose usual responsibilities include emergency situations. Also, this exclusion does not apply to employees of private non-profit organizations. It applies only to governmental entities described in Section 3306©(7) of the Internal Revenue Code. Thus, temporary job participants performing emergency services for a local WIA entity that is a private non-profit agency would not fall under this exclusion. In addition, this exclusion does not apply to private for-profit companies.

**16. Must a state pay state Unemployment Insurance tax on these temporary positions funded by NEG Grants?**

ANSWER: Unless the workers are exempt as discussed in question 12, above, as being hired “in case of” emergency, Section 3309(a), IRC, requires state UI coverage for workers of governmental entities and the tax must be paid. States may, however, elect to reimburse the state’s unemployment fund for UI benefits paid in lieu of paying contributions.

It is important to note, once again, that if the job participants are performing these temporary emergency services for a local WIA entity that is a private non-profit agency, the WIA agency is not covered by the exclusion discussed in question 12. Therefore, they must pay state UI tax, or elect to reimburse the fund for benefits paid. Private “for-profit” companies would normally pay both state and FUTA taxes.

**17. Must a state pay Federal Unemployment Tax (FUTA) for the temporary job participants?**

ANSWER: State and local governments are excluded from the payment of FUTA.

**PARTICIPANT WAGES**

**18. How should WIA Section 181(a) be applied?**

ANSWER: The rate of pay for individuals employed is NEG Disaster Relief jobs should be paid the same as those in similar occupations by the same employer." WIA Sec. 181(a)(1)(A) states “. . . individuals. . . employed in activities under this title shall be compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience and skills, and such

rates shall be in accordance with applicable law, but in no event less than the higher of the rate specified in section (6)(a)(1) of the Fair Labor Standards Act of 1938 or the applicable state or local minimum wage law.”

Please note that this definition differs from the definition established pursuant to other legislation in which the State Employment Security Agency establishes prevailing wage rates as a result of wage surveys. If the employing agency already has employees performing similar or the same jobs, workers employed in temporary jobs must receive the same wage for the same or similar work. In such cases, the wage rates established by the State Employment Service are **not applicable**.

Where the local WIA entity, or another approved "worksites employer" hires temporary workers for positions for which wage levels have not been established and supervision of the temporary workers is performed by another agency, the agency performing the supervisory responsibilities could be considered the "worksites employer" for purposes of determining the appropriate wage for the temporary worker under a NEG disaster grant. In such a case, the temporary worker's wage could be established based on similar or same work performed by employees of the worksites employer.

#### **ALLOWABLE ACTIVITIES FOR TEMPORARY DISASTER JOB PARTICIPANTS**

**19. Can a safety coordinator be hired as a project staff member, or as a participant? Is safety training of temporary job participants an allowable cost?**

ANSWER: Yes. A safety coordinator could be hired as a participant (subject to the 6 month duration limitation) or as a project staff member chargeable to program. Necessary training is an authorized cost in either case.

**20. Is a work-site supervisor charged to project staff or can such a position be filled by a temporary job participant?**

ANSWER: Either approach is acceptable.

**21. If a community action agency (CAA), as a subcontractor, has chosen to use some of its federal funds to provide emergency cleanup and repair services to disaster victims, can WIA temporary job participants be used to supplement the CAA crews even though they will be working in private homes? What conditions, if any, would be applied as to which homeowners' property could be cleaned up or repaired, (e.g. low income, elderly, those facing a threat to their health due to flood damage in the house, etc.)?**

ANSWER: The grant award letter states authorizes repair and restoration work on private property under certain limited conditions. Those conditions are clearly stated in the award document.

**22. Where municipal governments have diverted regular work crews to work on disaster-related activities, can temporary job participants work on work assignments that would normally be performed by the regular work force?**

ANSWER: Those "regular" activities performed by the employer's permanent workforce may only be performed by temporary Disaster Relief workers to the extent to which the duties are **specifically related to the community's recovery from the covered disaster**, e.g., cleanup, reconstruction and restoration of damaged public facilities and projects that provide humanitarian assistance to disaster victims. Regular maintenance or customer service activities, such as cutting grass, clerical support for municipal governments, responding to constituents' inquiries regarding auto licensing, etc., are not allowable activities under NEG disaster grants.

**23. Can a private non-profit entity, which is the employer of record for Disaster Relief participants, hire participants under a NEG grant to do repair (restore) work on the flood-damaged non-profit facility?**

ANSWER: Yes, as long as the work being performed relates to recovering from the covered disaster.

**24. Can subgrantees use participants to perform project staff functions such as monitoring, outreach workers, accounting, and project coordinator?**

ANSWER: Temporary job participants may perform project staff functions related to a NEG disaster grant, under the supervision of an agency employee. In any case, all temporary job participants, regardless of the work assignment, are subject to the 6-month participation time limit. These participation limitations will affect the extent to which a particular staff function can appropriately be performed by a temporary job participant. The state grantee may wish to establish a policy regarding appropriate staff functions that could be filled by temporary job participants.

The state grantees and local area providers may hire additional staff for the period of grant operations to perform a variety of functions necessary to the implementation of the grant to ensure consistency. Staff salaries would not be subject to the time and salary limitations of temporary jobs and would be charged to the appropriate cost category based on the functions they perform. (20 CFR 667.220)

**25. Can temporary workers assist in the cleanup of churches?**

ANSWER: WIA Section 188(a)(3) and 20 CFR 667.266 as well as 29 CFR 37.6(f)(1) state that participants shall not be employed under this title to carry out the construction, operation, or maintenance of any part of any facility that is used or to be used for sectarian instruction or as a place for religious worship (except with respect to the maintenance of a facility that is not primarily or inherently devoted to sectarian instruction or religious worship, in a case in which the organization operating the facility is part of a program or activity providing services to participants). Training and Employment Guidance Letter (TEGL) No. 1-05, "New Rules Allowing Use of WIA Title I Financial Assistance for Religious Training and Employment, and Making Other Changes to Religion-Related Regulations Governing Recipients of DOL Support

Including the One-Stop Career Center Service Delivery System and the Job Corps, issued July 6, 2005, further clarifies this subject.

### **MONITORING**

#### **26. Should worksites be certified?**

ANSWER: Initially, it must be determined by the grantee that temporary workers at any worksite will perform disaster-related work activities. As the project proceeds, monitoring visits to the worksite should confirm that such work is disaster-related. The Department has not provided any instructions to require that a worksite be recertified to assure that continued work by temporary job participants is disaster-related. This is an oversight concern, and responsibility of the grantee. However, some grantees in past disaster projects have found such recertification to be necessary to assure that participants were not performing routine maintenance, non-disaster related duties such as mowing lawns, etc. A worksite agreement signed by authorized individuals can establish the operational rules which would eliminate the need for re-certification and provide a consistent basis upon which monitoring will be conducted.

### **EMPLOYER WORKSITE ELIGIBILITY**

#### **27. What constitutes a private non-profit--a 501(c)(3), or can other private non-profit organizations be used, e.g. unions and the Salvation Army?**

ANSWER: The requirement is that temporary Disaster Relief jobs may be performed through public and private agencies and organizations engaged in projects related to responding to the disaster, to the extent that the grantee deems the organization to be a suitable employer for temporary workers. There is no further requirement that a private non-profit fall into any particular IRS category.

#### **28. The local command center is located at "St. Luke's Church," for example. Does this impact any prohibitions about services to or for religious organizations?**

ANSWER: No, to the extent that some part of the response to a covered disaster is located in space that is being rented or donated and happens to be a church building.

### **PERFORMANCE OUTCOMES FOR NEG DISASTER GRANT PARTICIPANTS**

#### **29. Why is participant outcome being measured in NEG disaster grants when the purpose of a disaster grant is to cleanup following a disaster? This is a change from JTPA.**

ANSWER: It is correct that the statutory authority for disaster projects changed with the enactment of WIA to specifically permit eligible dislocated workers (including those temporarily dislocated as a result of a disaster and the long-term unemployed) to be provided workforce development services in a disaster project. Since the goal of the WIA dislocated worker program (both formula and NEG) is to return the target population to the workforce, that goal is not different for those individuals who participate in NEG disaster cleanup activities. NEG funds are

not required to be used for this purpose and co-enrollment may occur with WIA adult and dislocated worker formula funds, but it is the expectation that necessary and appropriate employment-related assistance will be provided to the participants to return to the workforce, either as a result of the recall by employers who had to temporarily lay off individuals due to the disaster or as the result of other services available under WIA to help them find or qualify for new jobs.

As indicated in the NEG application guidelines and TEGL 16-03, if the funds approved for a NEG disaster project are not sufficient to provide employment-related assistance to the participants needing such assistance, a request for supplemental funds may be requested if WIA formula funds are also not sufficient. In addition, the fully-documented project plan must include the outcomes of those who will not require employment-related assistance through the NEG project.