

## Work Verification Plan Guide

### Overview

This guide was prepared to help each State develop its Temporary Assistance for Needy Families (TANF) Work Verification Plan in accordance with the regulatory requirements of the interim final rule that the U.S. Department of Health and Human Service (HHS) published on June 29, 2006. Under the rule, a State must submit its Work Verification Plan to HHS for approval. The guide provides key directions or questions to help States provide the information that must be included in the plan. The guide is organized into six sections: countable work activities; hours engaged in work; work-eligible individuals; internal controls; verification of other data used in calculating the work participation rates; and submittal procedures. It provides separate directions and questions for each section. The guide should be used in conjunction with the appropriate preamble and regulatory text of the interim final rule and assumes an understanding of the rule.

Please refer to Attachment A for the text of 45 CFR 261.62, the regulatory section specifying what a State must do to verify the accuracy of its work participation information, including the required contents of the Work Verification Plan.

A State's Work Verification Plan is a planning document that may be phased-in over a period of time and may also require substantial revision in future months. (All procedures and internal controls must be in place by October 1, 2007.) The State should describe the program it will have in effect on October 1, 2006, but we also encourage the State to reflect its intended program design based on the information available to it at the time of submission. If actual practice differs from future intent, the State should explain where those differences appear. The State may amend its Work Verification Plan at any time during the course of the fiscal year in accordance with the regulations at 45 CFR 261.63(c).

### I. Countable Work Activities

For each of the 12 work activities, address the four questions below in completing the Work Verification Plan. Following those general questions, the guide gives the Federal regulatory definition of each activity in italics, with bulleted key preamble requirements. After each definition, the guide asks questions specific to that activity.

#### General Plan Documentation Guidance

For each activity:

1. Describe the services or programs the State includes under the activity. (Services and programs must conform to the Federal definition of the activity.)
2. Describe how the State determines the number of countable hours of participation for the activity. If the State uses different methods for different services or programs within the activity, the State should describe each.

3. Describe how the State verifies the actual hours of participation for the activity. Include the procedures for obtaining and maintaining documentation of hours of participation.
4. Describe the methods of daily supervision for each unpaid work activity.

#### Plan Documentation Guidance Specific to Each Activity

*Unsubsidized employment means full- or part-time employment in the public or private sector that is not subsidized by TANF or any other public program.*

- The determination of whether employment is subsidized, or not, depends on whether the employer, rather than the recipient, receives a subsidy.
- Recipients whose employers claim a tax credit for hiring economically disadvantaged workers are considered to be in unsubsidized employment.

Documentation:

1. For self-employment, describe how the State counts and verifies the hours of participation. A State may not count more hours toward the participation rate for a self-employed individual than the individual's self-employment income (gross income less business expenses) divided by the Federal minimum wage. The State may also describe an alternative methodology to count and verify hours a client is engaged in self-employment.
2. If the State intends to project forward hours of participation based on current, documented, actual hours, explain how it will make this projection.

*Subsidized private sector employment means employment in the private sector for which the employer receives a subsidy from TANF or other public funds to offset some or all of the wages and costs of employing a recipient.*

*Subsidized public sector employment means employment in the public sector for which the employer receives a subsidy from TANF or other public funds to offset some or all of the wages and costs of employing a recipient.*

- Subsidized employment is distinguished from work experience, because the participant is paid wages and receives the same benefits as an employee with no subsidy who performs similar work.
- Subsidized employment does not include “on-the-job training” programs, where employers are subsidized to offset the costs of training.
- The preamble outlines three subsidized employment models:
  1. Work supplementation where TANF funds that would otherwise be paid as assistance are paid to employer;
  2. A third-party contractor, like a temporary staffing agency, serves as employer of record and is paid a fee to cover salary, expenses and success in placing employees; and
  3. Supported work for individuals with disabilities in an integrated setting.

The State may also describe other “subsidized employment” models.

Documentation:

1. If the State intends to project forward hours of participation based on current, documented, actual hours, explain how it will make this projection.

*Work experience (including work associated with the refurbishing of publicly assisted housing) if sufficient private sector employment is not available means a work activity, performed in return for welfare, that provides an individual with an opportunity to acquire the general skills, training, knowledge, and work habits necessary to obtain employment. The purpose of work experience is to improve the employability of those who cannot find unsubsidized employment. This activity must be supervised by an employer, work site sponsor, or other responsible party on an ongoing basis no less frequently than daily.*

- An individual that is considered an “employee” under the Fair Labor Standards Act (FLSA) must be compensated at the applicable minimum wage. In addition, the FLSA’s overtime pay (for over 40 hours in a work week), child labor, and recordkeeping requirements also apply. Questions about the applicability the FLSA should be directed to the Department of Labor.
- TANF assistance provided to work experience participants is not considered wages for Social Security, Federal income tax, or Earned Income Tax Credit purposes.
- A State may consider a participant to be an “employee” for purposes of workers’ compensation.

Documentation: None.

*On-the-job training (OJT) means training in the public or private sector that is given to a paid employee while he or she is engaged in productive work and that provides knowledge and skills essential to the full and adequate performance of the job. On-the-job training must be supervised by an employer, work site sponsor, or other responsible party on an ongoing basis no less frequently than daily.*

- States may subsidize the employer to offset training costs.
- Supported employment may be counted as OJT, if it includes significant on-site training in the skills and knowledge essential to job performance.

Documentation:

1. Describe the nature of training provided by employers that distinguishes this from subsidized employment.
2. If the State intends to project forward hours of participation based on current, documented, actual hours, explain how it will make this projection.

*Job search and job readiness assistance means the act of seeking or obtaining employment, preparation to seek or obtain employment, including life skills training, and substance abuse treatment, mental health treatment, or rehabilitation activities for those who are otherwise employable. Such treatment or therapy must be determined to be necessary and certified by a*

*qualified medical or mental health professional. Job search and job readiness assistance activities must be supervised by the TANF agency or other responsible party on an ongoing basis no less frequently than daily.*

- “Job search” includes looking for suitable job openings, making contact with potential employers, applying for vacancies, and interviewing for jobs.
- Job readiness assistance comprises two activities:
  1. Preparing an individual to obtain employment, such as preparing a resume or job application, interviewing skills, instruction in work place expectations, and life skills training; and
  2. Substance abuse treatment, mental health treatment, or rehabilitation activities for those who are otherwise employable.
- A State may only count an individual’s actual hours of participation in treatment or rehabilitation activities.
- If a portion of the treatment or rehabilitation activities meets a common-sense definition of another work activity, then the hours associated with the work may count under the appropriate allowable work category.
- For purposes of the six-week limitation (no more than four consecutive weeks), a week consists of seven consecutive days.
- If substance abuse treatment, mental health treatment, or rehabilitation activities are assigned a qualified medical or mental health professional must certify that such treatment is necessary.

Documentation:

1. If the State intends to count as substance abuse treatment, mental health treatment and rehabilitation activities, describe the criteria to determine whether recipients are “otherwise employable” and establish the necessity of treatment or therapy. Describe the certification requirements for qualified medical or mental health professionals used in this process.
2. Describe how the State ensures that no more than six total weeks (four consecutive weeks) of job search and job readiness assistance are reported in a fiscal year (or a total of 12 weeks in States that meet the definition of a “needy State” for the Contingency Fund).

*Community service programs mean structured programs and embedded activities in which TANF recipients perform work for the direct benefit of the community under the auspices of public or nonprofit organizations. Community service programs must be limited to projects that serve a useful community purpose in fields such as health, social service, environmental protection, education, urban and rural redevelopment, welfare, recreation, public facilities, public safety, and child care. Community service programs are designed to improve the employability of recipients not otherwise able to obtain employment, and must be supervised on an ongoing basis no less frequently than daily. A State agency shall take into account, to the extent possible, the prior training, experience, and skills of a recipient in making appropriate community service assignments.*

- Family- and self-improvement activities that do not provide a direct benefit to the

community may not be counted as community service, including substance abuse treatment, mental health and family violence counseling, life skills and parenting classes, job readiness instruction and caring for a disabled household family member.

- Community service programs may not include activities that meet the definition of another allowable TANF work activity.
- Programs must include structured activities that both provide a community service and also improve the employability of participants.
- Excluded activities include unstructured and unsupervised activities such as helping a neighbor or friend, and foster parenting.
- A participant that is considered an “employee” is subject to the Fair Labor Standards Act (FLSA) requirements.

Documentation:

1. Describe how the types of community service positions that create an employer/employee relationship and are subject to the FLSA minimum wage requirements will be determined.
2. If the State permits self-initiated community service positions, describe how it determines that the position provides a direct community service and improves the recipient’s employability.

*Vocational educational training (not to exceed 12 months with respect to any individual) means organized educational programs that are directly related to the preparation of individuals for employment in current or emerging occupations requiring training other than a baccalaureate or advanced degree. Vocational educational training must be supervised on an ongoing basis no less frequently than daily.*

- Unsupervised homework time may not count; however structured and monitored study sessions which can be documented may be counted.
- Vocational education must be provided by education or training organizations, such as vocational-technical schools, community colleges, postsecondary institutions and proprietary schools, etc.

Documentation:

1. Describe how the State ensures participation in vocational educational training does not count beyond the statutory limitations limiting participation to 12 months lifetime per individual.
2. Explain how the State will ensure that basic and remedial education and English as a Second Language (ESL), if such activities are counted, are of limited duration and a necessary or regular part of the vocational education training.

*Job skills training directly related to employment means training or education for job skills required by an employer to provide an individual with the ability to obtain employment or to advance or adapt to the changing demands of the workplace. Job skills training directly related*

*to employment must be supervised on an ongoing basis no less frequently than daily.*

- May include both customized and general training to prepare an individual for employment, including literacy and language instruction.
- Barrier removal activities, such as substance abuse counseling and treatment, may not be included.
- Unsupervised homework time may not be counted.

Documentation: None.

*Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency means education related to a specific occupation, job, or job offer. Education directly related to employment must be supervised on an ongoing basis no less frequently than daily.*

- May include adult basic education and ESL, and where required as a prerequisite for employment education leading to a GED or high school equivalency diploma.
- Participants should make “good or satisfactory progress” such as performance, attendance, and completion timeframes under the standards of the institution or program.
- Unsupervised homework time may not be counted.

Documentation:

1. Describe the State’s criteria for “good or satisfactory progress” and when and how it is documented.

*Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate means regular attendance, in accordance with the requirements of the secondary school or course of study, at a secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate. This activity must be supervised on an ongoing basis no less frequently than daily.*

- Participants should make “good or satisfactory progress” such as performance, attendance, and timeframes under the standards of the institution or program.
- May not include other related educational activities, such as adult basic education or language instruction.
- Unsupervised homework time may not count.

Documentation:

1. Describe the State’s criteria for “good or satisfactory progress” and when and how it is documented.

*Providing child care services to an individual who is participating in a community service program means providing child care to enable another TANF recipient to participate in a community service program. This activity must be supervised on an ongoing basis no less frequently than daily.*

- Does not include providing child care to enable a TANF recipient to participate in any of the other 11 allowable work activities.

Documentation: None.

## **II. Hours Engaged in Work**

This section includes two topics: excused absences and FLSA deeming.

### Excused Absences

Describe the State's excused absence policies for unpaid work activities. This includes its policies for holidays as well as the ten additional excused absences that the State may count in a 12-month period. If the policies vary by work activity, the State should describe how they vary and for which activities.

### FLSA Deeming

If the State wishes to use the "deeming" provision permitted at §§ 261.31 and 261.32 for work experience or community service programs, describe how the State determines the work hours requirement, including how the monthly TANF grant and food stamp allotment are combined and divided by the appropriate minimum wage to meet the "core" participation requirement. Include a statement certifying that the State has adopted a "mini" Simplified Food Stamp Program in order to count the value of food stamp benefits. The Food and Nutrition Service has indicated that a TANF work experience or community service program can serve as the Food Stamp Workfare Program, which would otherwise be required before a State could combine the food stamp allotment to calculate the hours required.

If State policies or procedures differ for work experience and community service programs on FLSA deeming, the State should make those differences clear.

## **III. Work-Eligible Individual**

The State must describe:

- procedures for identifying all work-eligible individuals;
- how the State ensures that, for each work-eligible individual, it
  - accurately inputs data into the automated data processing system,
  - properly tracks the hours, and
  - accurately reports countable hours to HHS that do not include participation in an activity that does not meet a Federal definition.

*Work-eligible individual means an adult (or minor child head-of-household) receiving assistance under TANF or a separate State program or a **non-recipient parent** living with a child receiving such assistance (usually a child-only case) unless the parent is:*

- A minor parent and not the head-of-household or spouse of the head-of-household;
- An alien who is ineligible to receive assistance due to his or her immigration status; or

- At State option, on a case-by-case basis, a recipient of Supplemental Security Income (SSI) benefits.

The term also excludes:

- A parent providing care for a disabled family member living in the home who does not attend school on a full-time basis, provided that the need for such care is supported by medical documentation; and
- An individual in a family receiving MOE-funded assistance under an approved Tribal TANF program, unless the State includes the Tribal family in calculating work participation rates.

Documentation:

1. Describe the State’s procedures for identifying all work-eligible individuals, as defined at § 261.2. This should include the procedures needed to identify a non-recipient parent ***excluded*** from the definition of work-eligible individual. These are:

- A minor parent who is not the head-of-household and not spouse of the head-of-household;
- An alien who is ineligible to receive assistance due to his or her immigration status; and
- At State option, on a case-by-case basis, a recipient of Supplemental Security Income (SSI) benefits.

The State should also describe its procedures for identifying a parent caring for a disabled family member, who may also be excluded from the definition of a work-eligible individual. The procedures should define the terms “disabled,” “family member” and “attending school full-time.” This should include a means of ensuring that the need for care in the home is supported by medical documentation and describe the nature of the medical documentation used to make such determinations. If the State includes in this group parents caring for a family member with a temporary disability, the State must describe its procedures for determining when the family member is no longer disabled and ensuring that the parent is then identified as a work-eligible individual.

2. Describe verification procedures for ensuring the accuracy in reporting of work-eligible individuals on the TANF Data Report and the SSP-MOE Data Report, including:
  - The correct reporting of the Work Participation Status of all adult (or minor child head-of-household) family members, and
  - The proper identification of TANF Families for inclusion in only the overall work participation rate or the overall and two-parent work participation rates, or exclusion from both the overall and two-parent work participation rates.
3. Describe the procedures that show how the State ensures that, for each work-eligible individual, it accurately inputs data into the automated data processing system, properly tracks the hours, and accurately reports countable hours to HHS that do not include participation in an activity that does not meet a Federal definition.

#### **IV. Internal Controls**

The State is required to describe internal controls that ensure a consistent measurement of the work participation rates. The Work Verification Plan should contain a clause confirming that the State will maintain all pertinent findings produced through its internal control processes and that these findings will be available for use by ACF and other auditors in their review of the State's work participation verification system.

If the State is phasing in procedures or internal controls, describe the phase-in. All procedures must be in place by September 30, 2017.

Documentation:

1. Describe the internal controls designed to ensure established work verification procedures are properly being employed. Such controls may include supervisory guidance, policy directives, and staff training plans, as well as quality assurance processes, such as monitoring procedures to ensure adherence to procedures by staff, providers and contractors. For example, to ensure the State is identifying all work-eligible individuals, a State may periodically check the disability status of a family member who is temporarily disabled, as the parent caring for the disabled family member would become a work-eligible individual once the family member is no longer disabled.
2. Describe the internal controls to control for data errors, including transcription and coding errors, data omissions, computational errors, and compilation errors. For example, a State might automatically review the case record of each work-eligible individual whose reported average weekly hours of participation are unusually high (e.g., 70 or more hours per week) by examining the documentation used to support those hours.
3. Describe the checks used to isolate electronic systems and programming errors and the steps to ensure that all work participation report items are internally consistent. For example, a State might obtain the raw data (prior to input into an automated data processing system) for a sample of work-eligible individuals and determine manually the average weekly hours of participation for each work activity for a month and compare that result to what the State actually reported to HHS.
4. Describe any sampling and estimation techniques employed in data validation. The Work Verification Plan should document the soundness of all statistical procedures utilized in the verification process. All estimation techniques must be reasonable and fully described in the plan. For estimates based on sampling or other statistical techniques, the plan must contain, as appropriate, the step-by-step computations of precision, affirming that the produced estimates are within statistically acceptable levels of reliability and validity.

#### **V. Verification of Other Data Used in Calculating the Work Participation Rates**

Under the "complete and accurate" standard for data reporting, States should validate all data

submitted in its TANF Data Report and, if applicable, the SSP-MOE Data Report. In addition to the work activities, the following data elements are used in calculating the work participation rates:

- Reporting Month
- Stratum
- Case Number
- Disposition
- Type of Family for Work Participation
- Amount of Food Stamps Assistance
- Receives Subsidized Child Care
- Amounts of TANF (and SSP-MOE) Assistance
- Family Affiliation Code
- Non-custodial Parent Indicator
- Date of Birth (Adult)
- Relationship to Head-of-Household
- Parent with Minor Child
- Work-Eligible Individual Indicator
- Date of Birth (Child)

The Work Verification Plan should contain the procedures needed to establish that the State has the capacity to breakout TANF families with a work-eligible individual by the case characteristics that relate to the special rules and conditions of participation, such as receipt of child care, age of child, age of adult or teen parent, number of months under a sanction, adult or teen parent with satisfactory school attendance, and families with a disabled family member (adult or child).

Documentation:

1. For each of the above data elements, describe the State's data validation procedures to ensure "complete and accurate" data reporting.
2. Describe any procedures employed to eliminate data inconsistencies between two or more data elements.

#### Work Participation Status

1. Describe the State's procedures to ensure that a family is not disregarded from the work participation rate for more than 12 months per lifetime based on being a single custodial parent with a child less than one year of age.
2. Describe the State's procedures to ensure that a family is not disregarded from the work participation rate for more than three months in any period of 12 consecutive months based on a work-eligible individual's refusal to participate in work.
3. Describe the State's procedures for ensuring a family deemed engaged in work based on 20 hours of participation in countable work activities meets the requirements of a single

custodial parent or caretaker relative with a child under age six.

## **VI. Submittal Procedures**

The State must submit its interim Work Verification Plan to HHS no later than September 30, 2006. Failure to submit the interim Work Verification Plan on time opens a State to a penalty of five percent of the grant. We will review a State's Work Verification Plan for completeness and approve it if we believe that it will result in accurate reporting of work participation information. If, after our review of the plan, we require changes or modifications to the plan, we will request these changes in writing. (We anticipate the need for conference calls or technical assistance and will arrange and discuss change requests with States.) A State must make the changes and submit them within 60 days of receipt of our notice. While all necessary changes must be made and the final plan approved by HHS by no later than September 30, 2007, States will need time to implement their plan. Consequently, States should submit their original plan as soon as possible and respond to required changes quickly.

The IV-A Administrator in the State should submit the Work Verification Plan to the Office of Family Assistance (OFA), with a copy to the appropriate Regional Office of the Administration for Children and Families (ACF). The original should be sent to:

Office of Family Assistance  
Administration for Children and Families  
5<sup>th</sup> Floor East  
370 L'Enfant Promenade, SW.  
Washington, DC 20447

A State may also submit the Work Verification Plan electronically (as an e-mail attachment) and mail the original signature separately.

If you have any questions about this guide or developing your Work Verification Plan, please contact Sean Hurley at (202) 401- 9297 [shurley@acf.hhs.gov](mailto:shurley@acf.hhs.gov) or Robert Shelbourne at (202) 401-5150 [rshelbourne@acf.hhs.gov](mailto:rshelbourne@acf.hhs.gov).

Attachment A

**§ 261.62 What must a State do to verify the accuracy of its work participation information?**

(a) To ensure accuracy in the reporting of work activities by work-eligible individuals on the TANF Data Report and, if applicable, the SSP-MOE Data Report, each State must:

- (1) Establish and employ procedures for determining whether its work activities may count for participation rate purposes;
- (2) Establish and employ procedures for determining how to count and verify reported hours of work;
- (3) Establish and employ procedures for identifying who is a work-eligible individual;
- (4) Establish and employ internal controls to ensure compliance with the procedures; and
- (5) Submit to the Secretary for approval the State's Work Verification Plan in accordance with paragraph (b) of this section.

(b) A State's Work Verification Plan must include the following:

- (1) For each countable work activity:
  - (i) A description demonstrating how the activity meets the relevant definition at § 261.2;
  - (ii) A description of how the State determines the number of countable hours of participation for self-employed individuals; and
  - (iii) A description of the documentation it uses to monitor participation and ensure that the actual hours of participation are reported;
- (2) A description of the State's procedures for identifying all work-eligible individuals, as defined at § 261.2;
- (3) A description of how the State ensures that, for each work-eligible individual, it:
  - (i) Accurately inputs data into the State's automated data processing system;
  - (ii) Properly tracks the hours through the automated data processing system; and
  - (iii) Accurately reports the hours to the Department;
- (4) A description of the procedures for ensuring it does not transmit to the Department a work-eligible individual's hours of participation in an activity that does not meet a Federal definition of a countable work activity; and
- (5) A description of the internal controls that the State has implemented to ensure a consistent measurement of the work participation rates, including the quality assurance processes and sampling specifications it uses to monitor adherence to the established work verification procedures by State staff, local staff, and contractors.

(c) We will review a State's Work Verification Plan for completeness and approve it if we believe that it will result in accurate reporting of work participation information.