

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 final rule that the U.S. Department of Health and Human Service (HHS) published on February 5, 2008. 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 the following 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 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.

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 4 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 an individual.

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 an individual.

- Subsidized employment is distinguished from work experience by the fact that the subsidized employment 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, knowledge, and work habits necessary to obtain full-time 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 once in each day in which the individual is scheduled to participate.

- 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 of 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.

- 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. Such treatment or therapy must be determined to be necessary and documented by a qualified medical, substance abuse, 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 once each day in which the individual is scheduled to participate.

- “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 6-week limitation (no more than 4 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 6 total weeks (4 consecutive weeks) of job search and job readiness assistance, or their hourly equivalents, as defined in regulation, are reported in a fiscal year (or a total of 12 weeks (or its hourly equivalent) 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 individuals 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 individuals not otherwise able to obtain unsubsidized full-time employment, and must be supervised on an ongoing basis no less frequently than once each day in which the individual is scheduled to participate. 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 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 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. Vocational educational training must be supervised on an ongoing basis no less frequently than once each day in which the individual is scheduled to participate.

- Supervised homework time, such as structured and monitored study sessions, which can be documented, may be counted. Up to one hour of unsupervised homework time may count for each hour of class time. Total homework time counted for participation cannot exceed the hours required or advised by a particular educational program
- 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 once each day in which the individual is scheduled to participate.

- 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 once each day in which the individual is scheduled to participate.

- 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.
- The state has the flexibility to decide whether to establish any standard of “good or satisfactory progress” such as performance, attendance, and completion timeframes under the standards of the institution or program.
- Supervised homework time and up to one hour of unsupervised homework time may count. Total homework time counted for participation cannot exceed the hours required or advised by a particular educational program.

Documentation:

1. Describe the state’s criteria for “good or satisfactory progress” if it has any, and when and how they are 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 work-eligible individual who has not completed secondary school or received such a certificate. This activity must be supervised on an ongoing basis no less frequently than once each day in which the individual is scheduled to participate.

- The state has the flexibility to decide whether to establish any standard of “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.
- Supervised homework time and up to one hour of unsupervised homework time may count. Total homework time counted for participation cannot exceed the hours required or advised by a particular educational program.

Documentation:

1. Describe the state’s criteria for “good or satisfactory progress” if it has any, and when and how they are documented.

Providing child care services to an individual who is participating in a community service program means providing child care to enable another TANF or Separate State Program (SSP) recipient to participate in a community service program. This is an unpaid activity and must be a structured program designed to improve the employability of individuals who participate in this activity. This activity must be supervised on an ongoing basis no less frequently than once each day in which the individual is scheduled to participate.

- Does not include providing child care to enable a TANF or SSP 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 80 additional hours of 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
 - o accurately inputs data into the automated data processing system,

- o properly tracks the hours, and
- o 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;
- A non-citizen 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 or Aid to the Aged, Blind or Disabled in the Territories.

The term also excludes:

- A parent providing care for a disabled family member living in the home, provided that there is medical documentation to support the need for the parent to remain in the home to care for the disabled family member;
- At State option on a case-by-case basis, a parent who is a recipient of Social Security Disability Insurance (SSDI) benefits; and
- An individual in a family receiving Maintenance of Effort (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;
 - A non-citizen 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 SSI benefits or Aid to the Aged, Blind or Disabled in the Territories.

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,” and “family member.” 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 the Administration for Children and Families 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, 2007.

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 1 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 3 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 6.

VI. Submittal Procedures

Final state plans were approved by HHS by September 30, 2007. If a state wishes to make changes to its verification procedures, 45 CFR Part 261.63(c) requires a state to amend its Work Verification Plan by the end of the quarter in which it modifies its verification procedures for work activities or its internal controls for ensuring a consistent measurement of the work participation rate.

The IV-A Administrator in the state should submit the amended Work Verification Plan to their Regional TANF Program Manager, with a copy to:

Office of Family Assistance
Administration for Children and Families 3rd Floor
330 C Street, SW., Washington, DC 20201

A state may also submit the Work Verification Plan electronically (as an e-mail attachment) to the Regional TANF Program Manager and mail the original signature separately.

If you have any questions about this guide or developing your Work Verification Plan, please contact the TANF Program Manager in your region.

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; 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.

§ 261.63 When is a State's Work Verification Plan due?

...

(c) If a State modifies its verification procedures for TANF or SSP-MOE work activities or its internal controls for ensuring a consistent measurement of the work participation rate, the State must submit for approval an amended Work Verification Plan by the end of the quarter in which the State modifies the procedures or internal controls.