

ATTACHMENT A: Legal Authority

SNAP Employment and Training (E&T)

Requests for Additional Funds and record keeping for the FNS-583 (OMB# 0584-0339)

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary is authorized to pay to each State agency the amount provided under subsection (a)(6) for the costs incurred by the State agency in the—

(A) planning, design, development, or installation of 1 or more automatic data processing and information retrieval systems that the Secretary determines—

(i) would assist in meeting the requirements of this Act;

(ii) meet such conditions as the Secretary prescribes;

(iii) are likely to provide more efficient and effective administration of the supplemental nutrition assistance program;

(iv) would be compatible with other systems used in the administration of State programs, including the program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(v) would be tested adequately before and after implementation, including a requirement that—

(I) such testing shall be accomplished through pilot projects in limited areas for major systems changes (as determined under rules promulgated by the Secretary);

(II) each pilot project described in subclause (I) that is carried out before the implementation of a system shall be conducted in a live-production environment; and

(III) the data resulting from each pilot project carried out under this clause shall be thoroughly evaluated before the Secretary approves the system to be implemented more broadly;

(vi) would be operated in accordance with an adequate plan for—

(I) continuous updating to reflect changed policy and circumstances; and

(II) testing the effect of the system on access for eligible households and on payment accuracy; and

(vii) would be accessible by the Secretary for inspection and audit under section 11(a)(3)(B); and

(B) operation of 1 or more automatic data processing and information retrieval systems that the Secretary determines may continue to be operated in accordance with clauses (i) through (vii) of subparagraph (A).

(2) LIMITATION.—The Secretary shall not make payments to a State agency under paragraph (1) to the extent that the State agency—

(A) is reimbursed for the costs under any other Federal program; or

(B) uses the systems for purposes not connected with the supplemental nutrition assistance program.

(h) FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.—

(1) IN GENERAL.—

(A) AMOUNTS.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies, to remain available for 24 months, from funds made available for each fiscal year under section 18(a)(1), \$103,900,000 for each fiscal year.

(B) ALLOCATION.—Funds made available under subparagraph (A) shall be made available to and reallocated among State agencies under a reasonable formula that—

(i) is determined and adjusted by the Secretary; and

(ii) takes into account the number of individuals who are not exempt from the work requirement under section 6(o).

(C) REALLOCATION.—

(i) IN GENERAL.—If a State agency will not expend all of the funds allocated to the State agency for a fiscal year under subparagraph (B), the Secretary, subject to clauses (ii) through (v), shall reallocate the unexpended funds to other States (during the fiscal year or the subsequent fiscal year) as the Secretary considers appropriate and equitable.

(ii) TIMING.—The Secretary shall collect such information as the Secretary determines to be necessary about the expenditures and anticipated expenditures by the State agencies of the funds initially allocated to the State agencies under subparagraph (A) to make reallocations of unexpended funds under clause (i) within a timeframe that allows each State agency to which funds are reallocated at least 270 days to expend the reallocated funds.

(iii) OPPORTUNITY.—The Secretary shall ensure that all State agencies have an opportunity to obtain reallocated funds.

(iv) PRIORITY.—The Secretary shall reallocate funds under this subparagraph as follows:

(I)(aa) Subject to items (bb) and (cc), not less than 50 percent shall be reallocated to State agencies requesting such funds to conduct employment and training programs and activities for which such State agencies had previously received funding under subparagraph (F)(viii) that the Secretary determines have the most demonstrable impact on the ability of participants to find and retain employment that leads to increased household income and reduced reliance on public assistance.

(bb) The Secretary shall base the determination under item (aa) on—

(AA) project results from the independent evaluations conducted under subparagraph (F)(vii)(I); or

(BB) if the project results from the independent evaluations conducted under subparagraph (F)(vii)(I) are not yet available, the

reports under subparagraph (F)(vii)(II) or other information relating to performance of the programs and activities funded under subparagraph (F)(viii).

(cc) Employment and training activities funded under this subclause are not subject to subparagraph (F)(vii), but are subject to monitoring under paragraph (h)(5).

(II) Not less than 30 percent shall be reallocated to State agencies requesting such funds to implement or continue employment and training programs and activities under section 6(d)(4)(B)(i) that the Secretary determines have the most demonstrable impact on the ability of participants to find and retain employment that leads to increased household income and reduced reliance on public assistance, including programs and activities that are targeted to—

(aa) individuals 50 years of age or older;

(bb) formerly incarcerated individuals;

(cc) individuals participating in a substance abuse treatment program;

(dd) homeless individuals;

(ee) people with disabilities seeking to enter the workforce;

(ff) other individuals with substantial barriers to employment; or

(gg) households facing multi-generational poverty, to support employment and workforce participation through an integrated and family-focused approach in providing supportive services.

(III) The Secretary shall reallocate any remaining funds available under this subparagraph, to State agencies requesting such funds to use for employment and training programs and activities that the Secretary determines have the most demonstrable impact on the ability of participants to find and retain employment that leads to increased household income and reduced reliance on public assistance under section 6(d)(4)(B)(i).

(v) CONSIDERATION.—In reallocating funds under this subparagraph, a State agency that receives reallocated funds under clause (iv)(I) may also be considered for reallocated funding under clause (iv)(II).

(D) MINIMUM ALLOCATION.—Notwithstanding subparagraph (B), the Secretary shall ensure that each State agency operating an employment and training program shall receive not less than \$100,000 for each fiscal year.

(E) ADDITIONAL ALLOCATIONS FOR STATES THAT ENSURE AVAILABILITY OF WORK OPPORTUNITIES.—

(i) IN GENERAL.—In addition to the allocations under subparagraph (A), from funds made available under section 18(a)(1), the Secretary shall allocate not

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in accordance with § 273.24, or the ABAWD has good cause, lives in a waived area, or is otherwise exempt. The State agency may make such notification either verbally or in writing, but must, at a minimum, document when the notification occurs in the participant's case file; and

(B) Take the most suitable action from among the following options no later than the date of the individual's recertification. If an individual with a provider determination requests that the State agency take one of the following actions sooner than the next recertification, the State agency must take the most suitable action as soon as possible:

(1) Refer the individual to an appropriate E&T program component in accordance with paragraph (e)(2) of this section. Before making this referral, the State agency must screen the individual for participation in the E&T program in accordance with paragraph (c)(2) of this section, and determine that it is appropriate to refer the individual to an E&T component, considering the suitability of the individual for any available E&T components. In accordance with paragraph (e)(1) of this section, all E&T participants must receive case management services along with at least one E&T component;

(2) Refer the individual to an appropriate workforce partnership as defined in paragraph (n) of this section, if available. Before making this referral, the State agency must provide information about workforce partnerships to assist the individual in making an informed decision about whether to voluntarily participate in the workforce partnership, in accordance with paragraph (n)(10) of this section;

(3) Reassess the physical and mental fitness of the individual. If the individual is not found to be physically or mentally fit, the individual is exempt from the work requirement in accordance with paragraph (b)(1)(ii) of this section. If the individual is found to be physically or mentally fit, and the State agency determines the individual is not otherwise exempt from the general work requirements the State agency must consider if one of the other available actions in paragraph (c)(18)(i)(B) of this section would be ap-

propriate for the individual. If the State agency determines the individual should not be required to participate in E&T, the State agency must exempt the individual from mandatory E&T; or

(4) Coordinate, to the maximum extent practicable, with other Federal, State, or local workforce or assistance programs to identify work opportunities or assistance for the individual. If the State agency chooses this option, the State agency must not require the individual to participate in E&T.

(ii) From the time an E&T provider determines an individual is ill-suited for an E&T component until after the State agency takes one of the actions in paragraph (c)(18)(i)(B) of this section, the individual shall not be found to have refused without good cause to participate in mandatory E&T. In the case of an ABAWD who has received a provider determination, the ABAWD will accrue countable months toward their three-month participation time limit the next full benefit month after the month during which the State agency notifies the ABAWD of the provider determination, unless the ABAWD fulfills the work requirements in accordance with § 273.24, or the ABAWD has good cause, lives in a waived area, or is otherwise exempt.

(d) *Federal financial participation—(1) Employment and training grants—(i) Allocation of grants.* Each State agency will receive a 100 percent Federal grant each fiscal year to operate an E&T program in accordance with paragraph (e) of this section. The grant requires no State matching.

(A) In determining each State agency's 100 percent Federal E&T grant, FNS will apply the percentage determined in accordance with paragraph (d)(1)(i)(B) of this section to the total amount of 100 percent Federal funds authorized under section 16(h)(1)(A) of the Act for each fiscal year.

(B) FNS will allocate the funding available each fiscal year for E&T grants using a formula designed to ensure that each State agency receives its appropriate share.

(1) Ninety percent of the annual 100 percent Federal E&T grant will be allocated based on the number of work registrants in each State as a percentage of work registrants nationwide. FNS

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will use work registrant data reported by each State agency on the FNS-583, Employment and Training Program Activity Report, from the most recent Federal fiscal year.

(2) Ten percent of the annual 100 percent Federal E&T grant will be allocated based on the number of ABAWDs in each State, as determined by SNAP QC data for the most recently available completed fiscal year, which provide a breakdown of each State's population of adults age 18 through 49 who are not disabled and who do not live with children.

(C) No State agency will receive less than \$100,000 in Federal E&T funds. To ensure this, FNS will, if necessary, reduce the grant of each State agency allocated more than \$100,000. In order to guarantee an equitable reduction, FNS will calculate grants as follows. First, disregarding those State agencies scheduled to receive less than \$100,000, FNS will calculate each remaining State agency's percentage share of the fiscal year's E&T grant. Next, FNS will multiply the grant—less \$100,000 for every State agency under the minimum—by each remaining State agency's same percentage share to arrive at the revised amount. The difference between the original and the revised amounts will represent each State agency's contribution. FNS will distribute the funds from the reduction to State agencies initially allocated less than \$100,000.

(ii) *Use of funds.* (A) A State agency must use E&T program grants to fund the administrative costs of planning, implementing and operating its SNAP E&T program in accordance with its approved State E&T plan. E&T grants must not be used for the process of determining whether an individual must be work registered, the work registration process, or any further screening performed during the certification process, nor for sanction activity that takes place after the operator of an E&T program reports noncompliance without good cause. For purposes of this paragraph (d), the certification process is considered ended when an individual is referred to an E&T program for assessment or participation. E&T grants may be used to subsidize wages in accordance with paragraph

(e)(2)(iv)(2) of this section, and may not be used to reimburse participants under paragraph (d)(4) of this section.

(B) A State agency's receipt of its 100 percent Federal E&T grant is contingent on FNS's approval of the State agency's E&T plan. If an adequate plan is not submitted, FNS may reallocate a State agency's grant among other State agencies with approved plans. Non-receipt of an E&T grant does not release a State agency from its responsibility under paragraph (c)(4) of this section to operate an E&T program.

(C) Federal funds made available to a State agency to operate an educational component under paragraph (e)(2)(vi) of this section must not be used to supplant nonfederal funds for existing educational services and activities that promote the purposes of this component. Education expenses are approvable to the extent that E&T component costs exceed the normal cost of services provided to persons not participating in an E&T program.

(D) In accordance with section 6(d)(4)(K) of the Food and Nutrition Act of 2008, and notwithstanding any other provision of this paragraph (d), the amount of Federal E&T funds, including participant and dependent care reimbursements, a State agency uses to serve participants who are receiving cash assistance under a State program funded under title IV-A of the Social Security Act must not exceed the amount of Federal E&T funds the State agency used in FY 1995 to serve participants who were receiving cash assistance under a State program funded under title IV-A of the Social Security Act.

(1) Based on information provided by each State agency, FNS established claimed Federal E&T expenditures on this category of recipients in fiscal year 1995 for the State agencies of Colorado (\$318,613), Utah (\$10,200), Vermont (\$1,484,913), and Wisconsin (\$10,999,773). These State agencies may spend up to a like amount each fiscal year to serve SNAP recipients who also receive title IV assistance.

(2) All other State agencies are prohibited from expending any Federal E&T funds on title IV cash assistance recipients.

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(iii) If a State agency will not obligate or expend all of the funds allocated to it for a fiscal year under paragraph (d)(1)(i) of this section, FNS will reallocate the unobligated, unexpended funds to other State agencies during the fiscal year or subsequent fiscal year. FNS will allocate carryover funding to meet some or all of the State agencies' requests, as it considers appropriate and equitable in accordance with the following process:

(A) Not less than 50 percent shall be reallocated to State agencies requesting funding to conduct employment and training programs and activities for which the State agency had previously received funding under the pilots authorized by the Agricultural Act of 2014 (Pub. L. 113-79) that FNS determines have the most demonstrable impact on the ability of participants to find and retain employment that leads to increased household income and reduced reliance on public assistance.

(B) Not less than 30 percent shall be reallocated to State agencies requesting funding for E&T programs and activities under paragraph (e)(1) or (2) of this section that FNS determines have the most demonstrable impact on the ability of participants to find and retain employment that leads to increased household income and reduced reliance on public assistance, including activities targeted to:

- (1) Individuals 50 years of age or older;
- (2) Formerly incarcerated individuals;
- (3) Individuals participating in a substance abuse treatment program;
- (4) Homeless individuals;
- (5) People with disabilities seeking to enter the workforce;
- (6) Other individuals with substantial barriers to employment, including disabled veterans; or
- (7) Households facing multi-generational poverty, to support employment and workforce participation through an integrated and family-focused approach in providing supportive services.

(C) State agencies who receive reallocated funds under paragraph (d)(1)(iii)(A) of this section may also be considered to receive reallocated funds

under paragraph (d)(1)(iii)(B) of this section.

(D) Any remaining funds not accounted for with the reallocations specified in paragraphs (d)(1)(iii)(A) or (B) of this section shall be reallocated to State agencies requesting such funds for E&T programs and activities under paragraph (e)(1) or (2) of this section that FNS determines have the most demonstrable impact on the ability of participants to find and retain employment that leads to increased household income and reduced reliance on public assistance.

(E) State agencies requesting the reallocated funds specified in paragraph (d)(1)(iii)(A), (B), or (D) of this section, shall make their request for those funds in their E&T State plans submitted for the upcoming fiscal year. FNS will determine the amount of reallocated funds each requesting State agency shall receive and provide the reallocated funds to those State agencies within a timeframe that allows each State agency to which funds are reallocated at least 270 days to expend the reallocated funds. When making the reallocations, FNS will also consider the size of the request relative to the level of the State agency's E&T spending in prior years, the specificity of the State agency's plan for spending carryover funds, and the quality of program and scope of impact for the State's E&T program.

(F) Unobligated, unexpended funds not reallocated in the process specified in paragraph (E) of this section, shall be reallocated to State agencies upon request for E&T programs and activities under paragraph (e)(1) or (2) of this section that FNS determines have the most demonstrable impact on the ability of participants to find and retain employment that leads to increased household income and reduced reliance on public assistance. In making these reallocations FNS will also consider the size of the request relative to the level of the State agency's E&T spending in prior years, the specificity of the State agency's plan for spending carryover funds, and the quality of program and scope of impact for the State's E&T program.