

1 **CHAPTER 800. GENERAL ADMINISTRATION**

2  
3 **ADOPTED RULES TO BE PUBLISHED IN THE *TEXAS REGISTER*. THIS**  
4 **DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO**  
5 **FORMATTING CHANGES AS REQUIRED BY THE OFFICE OF THE SECRETARY**  
6 **OF STATE.**

7  
8 The Texas Workforce Commission (TWC) adopts amendments to the following sections of  
9 Chapter 800, relating to General Administration:

10  
11 Subchapter B. Allocations, §§800.52, 800.63, 800.71, 800.74, 800.75, and 800.77

12  
13 TWC adopts the repeal of the following section of Chapter 800, relating to General  
14 Administration:

15  
16 Subchapter B. Allocations, §800.65

17  
18 Amended §§800.52, 800.63, 800.71, 800.74, 800.75, and 800.77 are adopted *without changes* to  
19 the proposal, as published in the July 19, 2024, issue of the *Texas Register* (49 TexReg 5340),  
20 and, therefore, the adopted rule text will not be published.

21  
22 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

23 The purpose of the Chapter 800 rule change is to amend Subchapter B, Allocations, to:  
24 --update rule language to conform with current federal program requirements, particularly those  
25 relating to the Workforce Innovation and Opportunity Act (WIOA); and  
26 --repeal §800.65 relating to Project Reintegration of Offenders (Project RIO) to align with the  
27 Commission's repeal of Texas Administrative Code (TAC), Title 40, Chapter 847, Project RIO  
28 Employment Activities and Support Services. Though Project RIO is no longer operational,  
29 Local Workforce Development Boards (Boards) continue their ongoing efforts to serve ex-  
30 offenders through other program activities and services, as appropriate.

31  
32 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

33 (Note: Minor editorial changes are made that do not change the meaning of the rules and,  
34 therefore, are not discussed in the Explanation of Individual Provisions.)

35  
36 **SUBCHAPTER B. ALLOCATIONS**

37 TWC adopts the following amendments to Subchapter B:

38  
39 **§800.52. Definitions**

40 Section 800.52 is amended to align language and references with current federal programs.

41  
42 **§800.63. Workforce Investment Act (WIA) Allocations**

43 Section 800.63 is amended to align language with current federal programs and update statutory  
44 references. Section 800.63(i) is amended, and (j) and (k) are removed, to align WIOA statewide  
45 funding methodologies with federal regulations. Removal of subsection (k) further clarifies the

1 Commission's ability to use and transmit statewide funds to Boards as needed, including use of  
2 funds to address emerging needs in regions throughout Texas.

3  
4 Section 800.63 is amended to change the section name from "Workforce Investment Act (WIA)  
5 Allocations" to "Workforce Innovation and Opportunity Act (WIOA) Allocations."  
6

7 **§800.65. Project Reintegration of Offenders**

8 Section 800.65 is repealed to align with the Commission's repeal of Chapter 847, Project RIO  
9 Employment Activities and Support Services.  
10

11 **§800.71. General Deobligation and Reallocation Provisions**

12 Section 800.71 is amended to remove inactive programs and add WIOA formula funding.  
13 Additionally, statewide funds references are removed from deobligation and reallocation  
14 processes, enhancing statutory flexibility provided to the Commission in determining use of  
15 these funds, and further aligning rule with federal regulations.  
16

17 **§800.74. Midyear Deobligation of Funds**

18 Section 800.74 is amended to remove inactive programs. Additionally, statewide funds  
19 references are removed from deobligation and reallocation processes, enhancing statutory  
20 flexibility provided to the Commission in determining use of these funds, and further aligning  
21 rule with federal regulations.  
22

23 **§800.75. Second-Year WIA Deobligation of Funds**

24 Section 800.75 is amended to align language with current federal programs.  
25

26 Section 800.75 is amended to change the section name from "Second-Year WIA Deobligation of  
27 Funds" to "Second-Year WIOA Deobligation of Funds."  
28

29 **§800.77. Reallocation of Funds**

30 Section 800.77 is amended to remove inactive programs and include WIOA formula funding.  
31 Additionally, statewide funds references are removed from deobligation and reallocation  
32 processes, enhancing statutory flexibility provided to the Commission in determining use of  
33 these funds, and further aligning rule with federal regulations.  
34

35 TWC hereby certifies that the rules have been reviewed by legal counsel and found to be within  
36 TWC's legal authority to adopt.  
37

38 **PART III. PUBLIC COMMENTS**

39 The comment period ended on August 19, 2024. No comments were received.  
40

41 **PART IV. STATUTORY AUTHORITY**

42 The rules implement provisions of WIOA by making conforming changes to TWC rules to align  
43 with current federal program requirements.  
44

1 The rules are adopted under Texas Labor Code §301.0015(a)(6) and §302.002(d), which provide  
2 TWC with the general authority to adopt, amend, or repeal such rules as it deems necessary for  
3 the effective administration of TWC services and activities.  
4  
5 The repeal of §800.65 is adopted under Texas Labor Code §301.0015(a)(6) and §302.002(d),  
6 which provide TWC with the general authority to adopt, amend, or repeal such rules as it deems  
7 necessary for the effective administration of TWC services and activities.  
8  
9 The repeal relates to Texas Labor Code, particularly Chapters 301, 302, and 306; Texas  
10 Education Code, Chapter 19; and Texas Government Code, Chapter 552.

1  
2  
3 **CHAPTER 800. GENERAL ADMINISTRATION**

4 **SUBCHAPTER B. ALLOCATIONS**

5 **§800.52. Definitions.**

6  
7 The following words and terms, when used in this subchapter, shall have the following  
8 meanings, unless the context clearly indicates otherwise:  
9

- 10 (1) Accrued Expenditures--Charges incurred during a given period for goods and  
11 tangible property received and services performed that cause decreases in net  
12 financial resources.  
13
- 14 (2) All-Family Participation Rate--The percentage of all families receiving  
15 [Temporary Assistance for Needy Families \(TANF\)](#) benefits that a state must  
16 engage in an approved work activity for a specified number of hours per week  
17 as provided by [Title IV, Part A, §407 of the Social Security Act \(42 USC](#)  
18 [§607\)](#) ~~the Personal Responsibility and Work Opportunity Reconciliation Act of~~  
19 ~~1996, §407, as amended.~~  
20
- 21 (3) Contract Closeout Settlement Package--Financial, performance, and other  
22 reports required as a condition of the contract, which must be submitted when  
23 one of the following conditions is met:  
24
- 25 (A) the contract has expired;
  - 26 (B) all available funds for the contract period have been paid out;
  - 27 (C) all accrued expenditures chargeable to the specific contract have been  
28 incurred; or
  - 29 (D) the period of available funds has expired or been terminated.
- 30  
31
- 32 (4) Contract Period--The length of time in which a contract for allocated funds  
33 between the Commission and a [Local Workforce Development Board \(Board\)](#)  
34 or an [Adult Education and Literacy \(AEL\)](#) grant recipient is in effect and  
35 during which funds may be expended for a specified purpose, unless prohibited  
36 by a federal grantor agency. A contract period longer than a program year shall  
37 be specified under the terms of a properly executed contract.  
38  
39
- 40 (5) Deobligation--An action adopted by the Commission to decrease an amount  
41 for a specific program and contract period in a contract with a Board or an  
42 AEL grant recipient for allocated funds; on the basis of provisions as set forth  
43 in §§800.73, 800.74, 800.78, and 800.79 of this subchapter.  
44  
45

- 1 (6) Equal Base Amount--An amount equivalent to .10 percent (one-tenth of one  
2 percent) of a total allocation, which shall be provided equally to each [local  
3 workforce development area](#) (workforce area).
- 4
- 5 (7) Hold Harmless/Stop Gain--A procedure that [ensures](#) ~~assures~~ that a relative  
6 proportion of an allocation to a workforce area is not below 90 percent of the  
7 corresponding proportion for the past two years, or that the current year  
8 proportion is not above 125 percent of the prior two-year relative proportion.  
9
- 10 (8) Monthly expenditure report--A written or electronically submitted report by a  
11 Board or an AEL grant recipient that contains information regarding services  
12 for each category of funding allocated by the Commission, and in which the  
13 Board or an AEL grant recipient lists expenditures and obligations by category  
14 of funding.  
15
- 16 (9) Obligation--A debt established by a legally binding contract, letter of  
17 agreement, sub-grant award, or purchase order, which has been executed prior  
18 to the end of a contract period, for goods and services provided by the end of  
19 the contract period, and which will be liquidated 60 calendar days after the end  
20 of ~~the~~ a contract period, unless such definition is superseded by federal  
21 requirements.  
22
- 23 (10) Relative proportion of the program year--The corresponding part of the  
24 program year that is used to compare expenditures. That is, if 50 percent of the  
25 program year has transpired, then the relative proportion of the program year is  
26 50 percent.  
27
- 28 (11) ~~WIOA~~ ~~WIA~~ Formula Allocated Funds--Funds allocated by formula to  
29 workforce areas for each of the following separate categories of [Workforce  
30 Innovation and Opportunity Act \(WIOA\) Title I](#) funding: ~~WIA~~ Adult,  
31 Dislocated Worker, and Youth.  
32

33 **§800.63. Workforce [Innovation and Opportunity Investment Act \(WIOA\)](#) (~~WIA~~)**  
34 **Allocations.**  
35

- 36 (a) Definitions. The following words and terms when used in this section, shall have the  
37 following meanings, unless the context clearly indicates otherwise.  
38
- 39 (1) Area of substantial unemployment--As defined in [WIOA](#) ~~WIA §127(b)(2)(B)~~  
40 ~~(29 U.S.C.A. §2852(b)(2)(B))~~ and ~~WIA~~ §132(b)(1)(B)(v)(III) [\(29 USC](#)  
41 [§3172\(b\)\(1\)\(B\)\(v\)\(III\)\)](#) ~~(29 U.S.C.A. §2862(b)(1)(B)(v)(III))~~.
- 42
- 43 (2) Disadvantaged adult--As defined in [WIOA §132\(b\)\(1\)\(B\)\(v\)\(IV - V\)](#) [\(29 USC](#)  
44 [§3172\(b\)\(1\)\(B\)\(v\)\(IV - V\)\)](#) ~~WIA §132(b)(1)(B)(v)(IV)~~ ~~(29 U.S.C.A.~~  
45 ~~§2862(b)(1)(B)(v)(IV))~~.  
46

- 1 (3) Disadvantaged youth--As defined in WIOA WIA §127(b)(2)(C) (29 USC  
2 §31622(b)(2)(C)) (~~29 U.S.C.A. §2852(b)(2)(C)~~).
- 3
- 4 (b) Scope and Authority. Funds available to the Commission under Title I of WIOA  
5 ~~WIA~~ for youth activities, adult employment and training activities, and dislocated  
6 worker employment and training activities shall be allocated to workforce areas or  
7 reserved for statewide activities in accordance with:
- 8
- 9 (1) the provisions of prior consistent state law as authorized by WIOA  
10 §193(a)(1)(A) (29 USC §3253(a)(1)(A)) ~~WIA §194(a)(1)(A) (29 U.S.C.A.~~  
11 ~~§2944(a)(1)(A))~~, including, but not limited to, Texas Labor Code §302.062, as  
12 amended, and Subchapter B of this title (~~relating to Allocations and Funding~~);
- 13
- 14 (2) ~~the~~ WIOA WIA and related federal regulations as amended; and
- 15
- 16 (3) the WIOA WIA State Plan.
- 17
- 18 (c) Reserves and Allocations for Youth and Adult Employment and Training Activities.  
19 The Commission shall reserve no more than 15 percent % and shall allocate to  
20 workforce areas at least 85 percent % of the youth activities and adult employment  
21 and training activities allotments from the US United States Department of Labor.
- 22
- 23 (d) Reserves and Allocations for Dislocated Worker Employment and Training  
24 Activities. The Commission shall allocate the dislocated worker employment and  
25 training allotment in the following manner:
- 26
- 27 (1) reserve no more than 15 percent % for statewide workforce investment  
28 activities;
- 29
- 30 (2) reserve no more than 25 percent % for state-level ~~state-level~~ rapid response and  
31 additional local assistance activities, and determine the proportion allocated to  
32 each activity; and
- 33
- 34 (3) allocate at least 60 percent % to workforce areas.
- 35
- 36 (e) State-Adopted ~~State-Adopted~~ Elements, Formulas, and Weights. The Commission  
37 shall implement the following elements, formulas, and weights adopted for Texas in  
38 the WIOA WIA State Plan in allocating WIOA WIA funds to workforce areas.
- 39
- 40 (1) WIOA WIA adult employment and training activities funds not reserved by the  
41 Commission under §800.63(c) of this section shall be allocated to the  
42 workforce areas as provided in WIOA §133(b)(2) (29 USC §3173(b)(2)) ~~WIA~~  
43 ~~§132(b)(1)(B) and (29 U.S.C.A. §2863(b)(2))~~ based on the following:
- 44
- 45 (A) 33-1/3 ~~33-1/3~~ percent on the basis of the relative number of unemployed  
46 individuals in areas of substantial unemployment in each workforce area,

1 compared to the total number of unemployed individuals in areas of  
2 substantial unemployment in the state State;

3  
4 (B) 33-1/3 ~~33-1/3~~ percent on the basis of the relative excess number of  
5 unemployed individuals in each workforce area, compared to the total  
6 excess number of unemployed individuals in the state State; and

7  
8 (C) 33-1/3 ~~33-1/3~~ percent on the basis of the relative number of  
9 disadvantaged adults in each workforce area, compared to the total  
10 number of disadvantaged adults in the state State.

11  
12 (2) WIOA ~~WIA~~ dislocated worker employment and training activities funds not  
13 reserved by the State of Texas under subsection (d) §800.63(d) of this section  
14 shall be allocated to the workforce areas as provided in WIOA ~~WIA~~  
15 §133(b)(2) (29 USC §3173(b)(2)) (~~29 U.S.C.A. §2863(b)(2)~~) based on the  
16 following factors:

17  
18 (A) insured unemployment data;

19  
20 (B) ~~average~~ unemployment concentrations;

21  
22 (C) plant closings and mass layoff ~~Worker Adjustment and Retaining~~  
23 ~~Notification Act (29 U.S.C.A. §2101 et seq.)~~ data;

24  
25 (D) declining industries data;

26  
27 (E) farmer-rancher economic hardship data; and

28  
29 (F) long-term unemployment data.

30  
31 (3) WIOA ~~WIA~~ youth activities funds not reserved by the Commission under  
32 §800.63(c) of this section shall be allocated to the workforce areas as provided  
33 in WIOA ~~WIA~~ §128(b)(2) (29 USC §3163(b)(2)) (~~29 U.S.C.A. §2853(b)(2)~~)  
34 based on the following:

35  
36 (A) 33-1/3 ~~33-1/3~~ percent on the basis of the relative number of unemployed  
37 individuals in areas of substantial unemployment in each workforce area,  
38 compared to the total number of unemployed individuals in all areas of  
39 substantial unemployment in the state State;

40  
41 (B) 33-1/3 ~~33-1/3~~ percent on the basis of the relative excess number of  
42 unemployed individuals in each workforce area, compared to the total  
43 excess number of unemployed individuals in the state State; and  
44

1 (C) ~~33-1/3~~ 33-1/3 percent on the basis of the relative number of  
2 disadvantaged youth in each workforce area, compared to the total  
3 number of disadvantaged youth in the state ~~State~~.

4  
5 (f) In making allocations of WIOA ~~WIA~~ formula funds, the Commission will apply  
6 minimum funding ~~hold harmless~~ procedures, as set forth in federal regulations (20  
7 CFR 683.125 ~~667.135~~).

8  
9 (g) No more than 10 percent ~~%~~ of the funds expended as part of a workforce area's  
10 allocation shall be used for administrative costs, as defined by federal regulations  
11 and Commission policy.

12  
13 (h) Reserved Funds. The Commission shall make available the funds reserved under  
14 subsection (c) and (d)(1) §§800.63(c) and 800.63(d)(1) of this section to provide  
15 required and, if funds are available, allowable statewide activities as outlined in  
16 WIOA §129(b) and §134(a) (29 USC §3164 and §3174(a)) ~~WIA §§129 and 134 (29~~  
17 ~~U.S.C.A. §§2854 and 2864)~~.

18  
19 (i) The Commission may allocate such proportion of available WIOA Statewide ~~WIA~~  
20 ~~Alternative Funding for Statewide Activities~~ as it determines appropriate, ~~utilizing a~~  
21 ~~distribution methodology that is based on the proportionality of all amounts of WIA~~  
22 ~~formula funds allocated during the same program year, as well as an equal base~~  
23 ~~amount.~~

24  
25 ~~(j) The Commission may allocate such amounts of available WIA Alternative Funding~~  
26 ~~for Statewide Activities as funding for One-Stop Enhancements, as it determines~~  
27 ~~appropriate.~~

28  
29 ~~(k) Expenditure Level for Statewide Activity Funding. A Board shall demonstrate an 80~~  
30 ~~percent expenditure level of prior year WIA allocated funds in order to be eligible to~~  
31 ~~receive WIA Alternative Funding for Statewide Activities and WIA Alternative~~  
32 ~~Funding for One-Stop Enhancements. The Commission may reduce the amount of~~  
33 ~~WIA Alternative Funding for Statewide Activities and WIA Alternative Funding for~~  
34 ~~One-Stop Enhancements if a Board fails to achieve an 80 percent expenditure level~~  
35 ~~of prior year WIA formula allocated funds.~~

36  
37 **~~§800.65. Project Reintegration of Offenders.~~**

38  
39 ~~(a) Funds available to the Commission to provide Project Reintegration of Offenders~~  
40 ~~(Project RIO) services shall be allocated to workforce areas using a need-based~~  
41 ~~formula, as set forth in subsection (b) of this section.~~

42  
43 ~~(b) At least 80 percent of the Project RIO funds will be allocated to workforce areas on~~  
44 ~~the basis of:~~



1 ~~(1) the relative proportion of the total unduplicated number of parolees residing~~  
2 ~~within the workforce area during the most recent calendar year to the statewide~~  
3 ~~total unduplicated number of parolees;~~

4  
5 ~~(2) an equal base amount; and~~

6  
7 ~~(3) the application of a hold harmless/stop gain procedure.~~

8  
9 ~~(c) No more than 10 percent of the funds expended as part of a workforce area's~~  
10 ~~allocation shall be used for administrative costs, as defined by federal regulations~~  
11 ~~and Commission policy.~~

12  
13 **§800.71. General Deobligation and Reallocation Provisions.**

14  
15 (a) Purpose. The purpose of this rule is to promote effective service delivery, financial  
16 planning, and management to ensure full utilization of funding, and to reallocate  
17 funds to populations in need.

18  
19 (b) Scope. Sections 800.71 - 800.80 of this subchapter shall apply to funds provided to  
20 workforce areas under a contract between the Board or an AEL grant recipient and  
21 the Commission for the following categories of funding:

22  
23 (1) Adult Education and Literacy

24  
25 (2) Child Care

26  
27 (3) Choices

28  
29 (4) Employment Service

30  
31 (5) SNAP E&T

32  
33 ~~(6) Project RIO~~

34  
35 ~~(7) WIA Alternative Funding for Statewide Activities~~

36  
37 ~~(8) WIA Alternative Funding for One-Stop Enhancements~~

38  
39 (6) WIOA Formula Funds

40  
41 **§800.74. Midyear Deobligation of Funds.**

42  
43 (a) The Commission may deobligate funds from a workforce area during the program  
44 year if a workforce area is not meeting the expenditure thresholds set forth in  
45 subsection (b) of this section.

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- (1) Workforce areas that fail to meet the expenditure thresholds set forth in subsection (b) of this section at the end of months five, six, seven, or eight of the program year (~~that is, i.e.,~~ midyear) will be reviewed to determine the causes for the under expenditure of funds, except as set forth in subsection (d) of this section.
  - (2) The Commission shall not deobligate more than the difference between a workforce area's actual expenditures and the amount corresponding to the relative proportion of the program year.
  - (3) The Commission shall not deobligate funds from a workforce area that failed to meet the expenditure thresholds set forth in subsection (b) of this section, if within 60 days prior to the potential deobligation period the Commission executes a contract amendment for a supplemental allocation or reallocation of funds in the same program funding category.
- (b) The Commission may deobligate the following funds midyear, as set forth in subsection (a) of this section, if a workforce area fails to achieve the expenditure of an amount corresponding to 90 percent or more of the relative proportion of the program year:
- (1) Child care (with the exception of unmatched federal child care funds that are contingent upon a workforce area securing local funds, as set forth in §800.73 of this subchapter)
  - (2) Choices
  - (3) Employment Service
  - (4) SNAP E&T
  - ~~(5) Project RIO~~
  - ~~(6) WIA Alternative Funding for Statewide Activities~~
  - ~~(7) WIA Alternative Funding for One-Stop Enhancements~~
- (c) A workforce area subject to deobligation for failure to meet the requirements set forth in this section shall, upon request by the Commission, submit a written justification with a copy to the Board Chair. The written justification shall provide sufficient detail regarding the actions a workforce area will take to address its deficiencies, including:
- (1) expansion of services proportionate to the available resources;
  - (2) projected service levels and related performance;

- (3) reporting outstanding obligations; and
- (4) any other factors a workforce area would like the Commission to consider.
- (d) To the extent this section is found not to comply with federal requirements, or should any related federal waivers expire, the Commission will be subject to federal requirements in effect, as applicable.

**§800.75. Second-Year WIOA ~~WIA~~ Deobligation of Funds.**

- (a) In each month of the second year in which the WIOA ~~WIA~~ formula funds are available, the Commission may deobligate funds if a workforce area's unobligated balance of WIOA ~~WIA~~ formula funds exceeds 20 percent of the allocation for each category of WIOA ~~WIA~~ formula funds for the program year.
- (b) The Commission shall not deobligate more than the difference between a workforce area's actual expenditures and the amount of unobligated funds that exceed 20 percent of the allocation for each category of WIOA ~~WIA~~ formula funds for the program year.
- (c) The Commission shall not deobligate funds from a workforce area that failed to meet the expenditure thresholds set forth in subsection (a) of this section if within 60 days prior to the potential deobligation period, the Commission executes a contract amendment for a supplemental allocation or reallocation of funds in the same program funding category.

**§800.77. Reallocation of Funds.**

- (a) Reallocation. A workforce area may be eligible for reallocation of the following funds allocated by the Commission:
  - (1) Child care (including unmatched federal child care funds that are contingent upon a workforce area securing local funds)
  - (2) Choices
  - (3) Employment Service
  - (4) SNAP E&T
  - ~~(5) Project RIO~~
  - ~~(5)(6) WIOA ~~WIA~~ Formula Funds~~
  - ~~(7) WIA Alternative Funding for Statewide Activities~~

1  
2 ~~(8) — WIA Alternative Funding for One-Stop Enhancements~~  
3

4 (b) Eligibility.  
5

6 (1) For a workforce area to be eligible for a reallocation of child care funds  
7 (excluding unmatched federal funds that are contingent upon a workforce area  
8 securing local funds), and the funds set forth in [subsection \(a\)\(2\) - \(5\)](#)  
9 ~~subsection (a)(2) — (8)~~ of this section, the Commission may consider whether a  
10 workforce area:

11  
12 (A) has met targeted expenditure levels as required by §800.74(a) of this  
13 subchapter, as applicable, for that period;

14  
15 (B) has not expended or obligated more than 100 percent of the workforce  
16 area's allocation for the category of funding;

17  
18 (C) has demonstrated that expenditures conform to cost category limits for  
19 funding;

20  
21 (D) has demonstrated the need for and ability to use additional funds;

22  
23 (E) has an established plan for working with at least one of the [governor's](#)  
24 ~~Governor's~~ industry clusters, as specified in the local Board plan;

25  
26 (F) is current on expenditure reporting;

27  
28 (G) is current with all single audit requirements; and

29  
30 (H) is not under sanction.

31  
32 (2) For a workforce area to be eligible for a reallocation of unmatched federal  
33 child care funds that are contingent upon a workforce area securing local  
34 funds, the Commission may consider:

35  
36 (A) whether a workforce area has met the level for securing and completing  
37 local match requirements set out in §800.73(a) of this subchapter; and

38  
39 (B) the applicable factors listed in paragraph (1) of this subsection, including  
40 factors in paragraph (1)(B) - (H) of this subsection.

41  
42 (c) The Commission may reallocate funds to an eligible workforce area based on the  
43 applicable method of allocation, as set forth in this subchapter, and may modify the  
44 amount to be reallocated by considering the following:

45  
46 (1) the amount specified in a workforce area's written request for additional funds;

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- (2) the amount available for reallocation versus the total dollar amount of requests;
  - (3) the demonstrated ability of a workforce area to effectively expend funds to address the need for services in the workforce area;
  - (4) the extent to which the project supports activities related to the [governor's](#) ~~Governor's~~ industry clusters;
  - (5) the workforce area's performance during the current and prior program year;  
and
  - (6) related factors, as necessary, to ensure that funds are fully used.
- (d) To the extent this section is found not to comply with federal requirements, or should any related federal waivers expire, the Commission will be subject to federal requirements in effect, as applicable.