



1. Background

Under the Workforce Innovation and Opportunity Act (WIOA), the Department of Labor (DOL) has discretion to award Disaster Recovery National Dislocated Worker Grants (NDWGs), which are grants aimed at reducing the workforce impacts of federally declared disasters through employment and training activities for dislocated workers and temporary employment opportunities assisting disaster-relief efforts. Disaster Recovery NDWGs can create temporary employment opportunities aimed at alleviating humanitarian and other needs created by the opioid crisis. Grantees also may use these funds to provide services to reintegrate into the workforce eligible participants affected by the crisis and train individuals to work in mental health treatment, addiction treatment, and pain management.

2. Definitions

- **Grant partner** – An entity that provides goods or services in support of an NDWG grant recipient but does not have a procurement relationship with the grant recipient.
- **Subrecipient** – A provider of workforce development services in Spokane County that is a grantee of NDWG funds, such as the local one-stop center or other entity designated by the Spokane Workforce Council (SWC), that is responsible for determinations of program eligibility, documentation, self-attestation guidelines, and other eligibility and documentation requirements as defined by the SWC (2 CFR 200.331).
- **WorkSource System Tools (WST)** – Washington State’s management information system for DOL programs. WST is comprised of two interconnected systems, Efforts to Outcomes (ETO) for staff and WorkSourceWA.com for job seekers and employers (WSWA).

3. Program Priorities

The priority of these grants is to accomplish the following goals:

- a. Facilitate community partnerships that are central to dealing with this complex public health crisis;
- b. Provide training that builds the skilled workforce in professions that could impact the causes and treatment of the opioid crisis: addiction treatment, mental health, and pain management;
- c. Ensure the timely delivery of appropriate, necessary career, training, and support activities to dislocated workers (including displaced homemakers), individuals temporarily or permanently laid off due to the opioid crisis, long-term unemployed individuals, and self-employed individuals who are unemployed or significantly underemployed as a result of the opioid public health emergency-including individuals in these populations who have been impacted by opioid use, to promote successful reemployment; and
- d. Create temporary disaster-relief employment that addresses the unique impacts of the opioid crisis in affected communities.
- e. Design and provide employment and training activities aimed at allowing participants to obtain unsubsidized, sustainable employment following the conclusion of grant-supported activities.

4. Participant Eligibility

- a. Individuals must be considered at least one of the following to receive services under an opioid-crisis NDWG:
 - i. A dislocated worker as defined in SWC Policy WS816 R4 – Attachment A – Program and Services Eligibility Handbook;
 - ii. Temporarily or permanently laid off as a consequence of the disaster or emergency;

- iii. Self-employed individuals who became unemployed or significantly underemployed as a result of the disaster or emergency; or
- iv. A long-term underemployed or unemployed individual, defined as:
 - 1. Unemployed for 13 or more weeks;
 - 2. Have never been employed (i.e., no prior attachment to either an employer or self-employment);
 - 3. Have dropped out of the labor force, but desire to return (e.g., discouraged workers – who were not actively looking for work because they did not think they could find work; individuals who took time off to raise a child or care for another family member; individuals who took time off to further their education);
 - 4. Have regular or frequent spells of unemployment (i.e., seasonal or sporadic attachment to work);
 - 5. Are under-employed (i.e., working part-time out of necessity but desirous of full-time work; working full-time but wages or working conditions are unsuitable);
 - 6. Are ex-offenders who are unemployed after incarceration;
 - 7. Are currently incarcerated offenders within one year of release;
 - 8. Are individuals who suffered an on-the-job injury, non-work-related injury or illness, were institutionalized, or were victims of a crime and have been out of work as a result; or
- v. Are active-duty service members (or spouses) who face involuntary, other than dishonorable, discharge from the military.

Note: Eligible participants for opioid-crisis NDWGs are not required to have a history of opioid abuse or otherwise be personally affected by the opioid crisis to be enrolled or to participate in grant-funded employment, activities, and services. Subrecipients must not reject or otherwise negatively treat individuals who do have a history of opioid abuse or are otherwise personally affected as described Section 7 below.

5. General Grant Requirements

- a. All WIOA services listed in SWC Policy WS816 R4 Attachment C – Spokane WorkSource Services Catalog may be provided with NDWG funds with the following exception: NDWG funds may not be used to pay the costs of in-patient drug treatment and rehabilitation programs.
- b. Subrecipients may ask participants if they have been affected by the crisis as part of the process of determining what supportive services and other needs the participant may have, but these inquiries must comply with the requirements described in Section 7 below. Service providers cannot require participants to disclose whether they have been impacted by the opioid crisis as a condition of their participation in grant-funded employment, activities, and services.
- c. Subrecipients must not spend more than 20 percent of their NDWG award on supportive services for participants. The SWC will give subrecipients guidance on the total allowable amount of their subaward available for supportive services.
- d. Subrecipients may not use NDWG funds to purchase material goods to be delivered to individuals impacted by the disaster. For example, NDWG funds can cover the positions that deliver food and supplies to homeless shelters but cannot be used to purchase the food and supplies to be delivered.
- e. Subrecipients may not use NDWG funds for activities only geared toward the prevention and planning of future disaster events. Disaster-relief activities must consider the current needs of communities impacted by opioid abuse.

6. Disaster-Relief Employment

Subrecipients must provide disaster-relief employment aimed at alleviating the issues caused by the opioid crisis in affected communities. While subrecipients must provide disaster-relief employment, not all participants served in an opioid-crisis NDWG are required to participate in disaster relief employment. The SWC will work with subrecipients and partners on the specificity of disaster-relief employment placement for this grant. Disaster-relief employment has the following requirements:

- a. Disaster-relief employment activities must align with one of the following categories:
 - i. **Cleanup and recovery efforts** – clean-up and recovery activities under this policy include demolition, cleaning, repair, renovation, and reconstruction of structures, facilities, and lands that have been damaged or destroyed by the opioid crisis. There are few such opportunities available for cleanup and recovery that are both appropriate to address the opioid crisis and legally allowable under WIOA. For

example, sanitizing areas where individuals frequently use opioids would be an allowable activity. In contrast, demolishing an abandoned building where opioid abuse occurs would not be allowable. Allowed cleanup and recovery efforts will be specified within each NDWG subrecipient agreement by the SWC.

ii. **Humanitarian assistance** – Humanitarian assistance includes actions designed to save lives, alleviate suffering, and maintain human dignity in the immediate aftermath of disasters and emergencies. Humanitarian assistance under this policy must directly relate to the effects or complications of widespread opioid abuse. Examples of allowable humanitarian assistance activities include:

1. Providing support for addiction treatment services;
2. Serving as peer recovery navigators or in other peer-focused positions that support individuals struggling with opioid addiction or recovery from opioid addiction; or
3. Carrying out intake and coordination services that connect homeless individuals affected by the opioid crisis to partners who can provide shelter, food, and other assistance.
4. Additional humanitarian assistance activities identified in each subrecipient agreement by the SWC.

b. **Limits on employment duration** – Participants in disaster-relief positions may be employed for a maximum of 12 months or 2,080 hours, whichever is longer. Where an individual has exhausted their allotted disaster-relief employment hours, an existing grant no longer has sufficient work available, or work under an existing grant may not be completed due to the impact of a subsequent disaster, a subrecipient may enroll individuals in a different Disaster Recovery DWG if available and so long as the individual still meets eligibility requirements. In such cases, these individuals will be eligible for a full and separate 2,080 hours of employment under the new grant.

c. **Participant wages** – Disaster-relief employment participants must receive wages that are at minimum the higher of the Federal, state, or local minimum wage. Participants must be compensated at the same rates, including periodic increases, shift differential, benefits, or overtime pay, as employees who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills. Such rates must be in accordance with applicable law but in no event less than the higher of the rate specified in Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable state or local minimum wage law. Where applicable, fringe benefits should be paid in accordance with the benefits that the disaster-relief employer offers its own employees working a similar length of time and doing the same type of work.

However, in cases where the disaster-relief employer does not have other employees doing the same or similar work and with similar training, experience, and skills, subrecipients must ensure that the wages that they will pay to participants:

- i. Are in line with the industry standard for that type of work in the area where the work is to be performed, supported by documentation in the application; and,
- ii. Are at least \$15 per hour.

d. **Worksite selection** – Subrecipients are expected to maintain documentation under the Disaster Recovery DWG for all worksites, including the dates and hours worked by each participant. For work on private property, documentation must provide the rationale for the determination that such work was allowable under this policy. Subrecipients are not required to receive prior approval from the SWC to work on private property.

As the opioid crisis public health emergency was a declared national emergency there is no limitation on a worksite's location. However, the SWC may still require a subrecipient to demonstrate that the worksite has needs related to the declared disaster or that they have a greater-than-average need.

Disaster-relief employment must give the highest priority to cleanup of the disaster areas' most severely damaged public communities, facilities, and property, and to the cleanup and the provision of humanitarian assistance to economically disadvantaged areas within the disaster area. Where possible, subrecipients should prioritize enrollment of eligible participants most in need of economic support or workforce development services.

Participants may perform work on private property where the following conditions are met:

- i. The work must be intended to remove health and safety hazards to the larger community, or to address or alleviate specific economic or employment-related impacts of the disaster;

- ii. The activities are necessary to remove health and safety hazards on private lands or around homes or other structures and may only return the land or structure(s) to a safe and habitable level, or operational status, and will not improve the original land or structure(s); and
 - iii. Subrecipients must not use Disaster Recovery DWG funds to cover the cost of materials to do repairs.
- e. Preventing future disaster impacts** – Generally, disaster-relief employment under Disaster Recovery DWGs is not authorized for activities that are designed primarily to prevent or address the impacts of future disasters. DWG activities help mitigate the ongoing effects of the current declared disaster for which they were awarded; activities that may prevent future disasters or their impacts are permissible only where such activities are an outgrowth of addressing the impacts of the disaster or emergency that served as the current grant’s qualifying event.
- f. Health and safety standards** - To the extent that state workers’ compensation law applies, Disaster-Relief Employers must provide workers’ compensation to project participants on the same basis as individuals in similar employment. In cases in which a project participant is not covered under a state workers’ compensation law, based on the status of the Disaster-Relief Employer with whom they are placed, the temporary nature of their employment, or another reason, the project participant must be provided with appropriate on-site medical and accident insurance for work-related activities. The subrecipient must also ensure that project participants receive appropriate safety training and assure safe working conditions in accordance with the Occupational Safety and Health (OSH) Act of 1970.

For more information, contact the appropriate OSHA field office. A listing of OSHA field offices is available at <https://www.osha.gov/contactus/bystate>.

- g. Requirements for Unemployment Insurance (UI) coverage** – In some cases, temporary disaster-relief employment participants may be eligible for unemployment benefits at the conclusion of their employment. Unemployment Insurance eligibility for such individuals is based on state laws and the specific employer for whom they work; state UI laws generally indicate which employers are required to pay relevant UI taxes. Dislocated Worker Grant funds may be used to pay required taxes; however, the grant may not be used to pay penalties for failure to remit employer taxes or provide unemployment insurance coverage where required by law.

7. Disability and Medical Information Protections for Opioid-Crisis NDWG Participants

Subrecipients must be aware of requirements pertaining to the gathering and confidentiality of medical information and their obligations under DOL civil rights regulations pertaining to protections for individuals with disabilities.

- a. Inquiring about how an individual has been impacted by the opioid crisis** – Subrecipients may only ask the following question to determine that an applicant or eligible participant has been impacted by the opioid crisis:

Your answer to this question is voluntary. Do you, a friend, or any member of your family have a history of opioid use? Please answer "Yes" or "No."

While only this question may be asked, grant recipients are allowed and encouraged to add a statement when asking this question that an applicant’s answer will be kept confidential and will not affect their ability to receive services.

- b. Confidentiality of medical information** – Subrecipients must maintain the confidentiality of medical information obtained about an individual. Medical information must be kept confidential even if the individual volunteers the medical information without being asked. Information regarding an individual's disability is included in information that must be kept confidential, but any medical information obtained must be kept confidential (whether or not the individual has a disability).

Example 1: An applicant may disclose that she previously has taken opioids legally with a prescription from her doctor (which is medical information but may or may not be disability-related). The subrecipient must keep that information in a separate file and limit which staff have access to that information.

Example 2: An individual may self-disclose that he has diabetes (which is both medical information and disability-related information). The subrecipient must keep that information in a separate file and limit which staff have access to that information.

- c. Drug use and protections for individuals with disabilities** – When making program decisions about individuals, subrecipients should remember that disability is among the statuses protected from discrimination for participants in and applicants for programs supported by opioid-crisis NDWGs. Services provided under these grants must comply with 29 C.F.R. 38.5, which sets out antidiscrimination protections for WIOA title I

programs. For example, subrecipients will have to make reasonable accommodations for individuals with disabilities, according to 29 C.F.R. 38.14, and they cannot treat a participant or applicant for services less favorably on the basis of the individual's disability, according to 29 C.F.R. 38.12.

Due to the nature of these NDWGs, some participants or applicants for participation will be individuals with disabilities based on their drug history and some will not. Disability status, and how it may affect the provision of services under a WIOA grant, is a case-by-case determination, and given the many causes and complicating factors surrounding the opioid crisis, the circumstances of an individual's history with opioids could differ significantly.

Disability status for drug addiction usually depends on whether the individual is currently engaging in the illegal use of drugs, including the illegal use of some prescription drugs. A recovering addict not currently using drugs illegally may be legally protected as an individual with a disability. The question of "current use" of illegal drugs is made on a case-by-case basis. "Current" means that illegal drug use occurred "recently enough" to justify the subrecipient's reasonable belief that drug use is an ongoing problem. Subrecipients may treat an individual less favorably because of current illegal use of drugs but may not make adverse decisions based on an individual's disability (even if he or she is currently engaged in the illegal use of drugs). A potential or enrolled participant in an opioid-crisis NDWG also may have another disability- separate from his or her drug history- that entitles him or her to legal protections.

Example 1: A subrecipient discovers that a blind participant who uses a service dog is currently engaging in the illegal use of opioids. The subrecipient may terminate the individual's participation in the program because of the current illegal use of drugs, but the subrecipient may not prohibit the individual from using his service dog because he is illegally using drugs.

Example 2: An individual is a recovering addict who is addicted to (but not currently using) opioids. The subrecipient must reasonably accommodate this disability by, for example, changing the program activity schedule to allow the participant to attend a Narcotics Anonymous meeting during the program day. However, if the subrecipient discovers that the individual has resumed using illegal drugs, the subrecipient may terminate the individual's participation based on current illegal drug use.

8. Documentation and Data Entry Requirements

- a. WorkSource registration and enrollment** – All job seekers seeking enrollment in an opioid-crisis NDWG must have a completed and validated WorkSource registration as defined in SWC policy WS800 R1 – Front-End Services. Additionally, a job seeker must be determined eligible for and enrolled in an opioid-crisis NDWG before receiving any services funded by said grant.
- b. Policy and data entry requirements** – Eligibility, enrollment, services received, program completion, and all other aspects of participant activity must be provided in accordance with SWC policies and be recorded in ETO.
- c. Confidential medical & disability information** – Any medical or disability information collected according to Section 7 above must be stored securely outside of ETO in a separate file and limited to which staff have access.
- d. Disaster-Relief Employment (DRE)**
 - i. DRE contract** – A contract satisfying the documentation requirements of any disaster-relief employment provided must contain the following and be stored physically or electronically in the individual's file:
 1. The employer's contact information;
 2. Job title;
 3. Wage rate and working hours;
 4. A copy of the job description that includes only allowable clean-up and recovery activities or humanitarian assistance as described in section 3.a above;
 5. The amount obligated for the DRE using NDWG funding. If funding comes from more than one program, such as WIOA adult and WIOA dislocated worker, each program and the funding provided should be identified separately;
 6. The start date and estimated duration of the DRE;
 7. If work is to be done on private property, documentation providing the rationale that such work was allowable under this policy.

8. A termination clause for non-performance citing the types of and conditions surrounding termination of a DRE agreement;
9. Assurances, including:
 - a. A requirement that employers are to keep track of participant attendance and a description of the payroll records, and time and attendance records;
 - b. A requirement that each entity shall ensure none of its activities discriminate against, deny benefits to, deny employment to, or exclude from participation any persons on the grounds of race, color, national origin, sex, disability, political affiliation or belief, or for participation in programs and activities or receiving funds under title I of WIOA;
 - c. A requirement that each entity shall ensure applicable workplace health and safety standards established under Federal and State law are adhered to;
 - d. A requirement that each entity will ensure participants, regular employees, and other interested parties are provided information about filing a grievance and/or discrimination complaint and that any grievances or complaints are referred to the appropriate entity for resolution.

Note: Each entity must make reasonable efforts to assure that grievance and/or discrimination complaint procedures will be understood by affected participants and other individuals, including youth and those who are limited-English speaking individuals.
- ii. **IEP/ISS:** A completed Individual Employment Plan (IEP) is present in the individual's physical or electronic file.
- iii. **DRE progress and completion** – information showing the progress of the DRE and the outcome of the training once completed must be documented physically or electronically in the individual's file. Documentation of progress and completion must include:
 1. Documentation demonstrating satisfactory progress, including virtual or on-site visitations with the participant and/or supervisor that includes a review of attendance and training progress;
 2. Any DRE modifications, if applicable; and
 3. Once the DRE has completed, documentation for the end date of the DRE, the outcome, and wages paid. To ensure proper payment, documentation must demonstrate compliance with the wage requirements through a review of hours worked and wages paid.
- iv. **Service requirements** – information regarding the DRE must be entered into WST as follows:
 1. The service DISASTER/NDWG ONLY TEMPORARY JOB (2.0) must be entered to represent the DRE;
 2. This service must document the start date, end date, and outcome of the DRE as appropriate in WST;
 3. Case notes must be entered detailing the start of the DRE, progress during the DRE at least once every two weeks, and the outcome.

9. References

- [Training and Employment Guidance Letter \(TEGL\) 4-18 – Disaster Recovery National Dislocated Worker Grants to Address the Opioid Crisis](#)
- [TEGL 16-21 – Updated National Dislocated Worker Grant Program Guidance](#)
- [Spokane Workforce Council WIOA Title-I and WorkSource System Policies](#)

10. Supersedes

- SWC Policy W421 Opioid DWGs

Revision History:
W421 – Jan 2024