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The Employment Service: The Federal-State Public Labor Exchange System

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ABSTRACT

This report describes the federal-state system of public employment service (ES) offices which was authorized by the Wagner-Peyser Act of 1933. The central mission of the ES is to facilitate the match between individuals seeking employment and employers seeking workers. The ES system is jointly operated by the U.S. Department of Labor and state employment security agencies, and currently consists of more than 1,800 local offices.

This report begins with a brief history of the ES, and also describes the methods of service delivery, the populations served, the ES role in the One-Stop delivery system under the Workforce Investment Act of 1998, several products of America's Labor Market Information System, ES performance measurement, and funding under the Wagner-Peyser Act. The report ends with a brief description of Alien Labor Certification programs, the Work Opportunity Tax Credit, the Welfare-to-Work Tax Credit, and the Federal Bonding Program. This report will be updated when new program or funding data become available.

The Employment Service: The Federal-State Public Labor Exchange System

Summary

The federal-state system of public employment service (ES) offices was originally authorized by the Wagner-Peyser Act of 1933. In 1998, the Workforce Investment Act of 1998 amended the Wagner-Peyser Act to require states to deliver ES services through state One-Stop delivery systems. Between 1994 and 1998, every state received a One-Stop implementation grant to build a workforce development system that reflects the principles of universality, customer choice, accountability, and program integration. Due to its mandate to provide universal access, the ES is a central component in most One-Stop systems.

Jointly operated by the U.S. Department of Labor (DOL) and the state employment security agencies (SESAs), the central mission of the ES is to facilitate the match between individuals seeking employment and employers seeking workers. Presently, this no-fee public labor exchange system is comprised of more than 1,800 local offices in the 50 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. Local ES offices are known by many names, such as Employment Service, Job Service, One-Stop Career Center, and Workforce Development Center. These offices offer an array of services to job seekers and employers, including career counseling, job search workshops, labor market information, job listings, applicant screening, and referrals to job openings. States provide ES services through three tiers of service delivery: self-service, facilitated self-help, and staff-assisted.

ES services are available to all job seekers and employers; the ES is a non-means tested program. Special services are offered to veterans, persons with disabilities, and unemployment insurance claimants who are referred to reemployment services through the Worker Profiling and Reemployment Services system. Additionally, regulations mandate that local ES offices provide migrant and seasonal farmworkers with services that are equivalent to those received by non-farmworker job seekers. The performance of the ES is currently measured through quarterly data reports submitted to DOL by the states, but comprehensive labor exchange performance measures are being considered by DOL.

In FY1999, under the Wagner-Peyser Act, Congress appropriated \$761.7 million for state delivery of ES services, \$59.9 million for a variety of ES National Activities, and \$146.5 million for One-Stop implementation activities and projects funded under America's Labor Market Information System. The funds appropriated for the state delivery of ES services are distributed through a statutory formula: two-thirds is allocated on the basis of a state's relative share of the civilian labor force and one-third on the basis of the state's relative number of unemployed individuals.

In addition to administering the ES system, DOL and the SESAs are involved in the administration of several programs authorized under legislation other than the Wagner-Peyser Act. These programs include Alien Labor Certification, the Work Opportunity Tax Credit, the Welfare-to-Work Tax Credit, and the Federal Bonding Program.

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Ms. Alison Pasternak was detailed to the Congressional Research Service for 6 weeks to research and write a paper on the Employment Service.

The Employment Service: The Federal-State Public Labor Exchange System

A Brief History of the Employment Service

The first public labor exchange offices¹ in the United States were city initiatives, begun as early as 1834 in New York. Later, state-supported labor exchange offices were introduced in Ohio in 1890, and other states soon followed suit.² During World War I, a flood of offices opened their doors and, under President Wilson, were incorporated into the first U.S. public employment service (ES) system. The initial mission of this system was to facilitate the mobilization of defense workers. Management of the ES system was the responsibility of the newly-created U.S. Employment Service within DOL.³ At its peak during World War I, the ES system consisted of 773 offices. Federal support for the system was withdrawn following World War I, causing the organizational structure to collapse and by the early 1920s, only a few states retained offices.⁴ The U.S. public employment service system was virtually non-existent by the end of the decade. It was not until the nation faced the severe unemployment of the Great Depression that attention again turned to the labor exchange system, and President Roosevelt resurrected the U.S. Employment Service.⁵

On June 6, 1933, the U.S. Congress passed the Wagner-Peyser Act, thereby establishing the current federal-state system of public employment service offices. The Wagner-Peyser Act also commissioned the U.S. Employment Service to promote the establishment and maintenance of the federal-state public employment service. Within 6 years, all 48 states, Alaska, Hawaii, and the District of Columbia had established ES offices.⁶

¹ "Labor exchange" is the process of facilitating the match between individuals seeking jobs and employers seeking workers.

² Leonard P. Adams, *The Public Employment Service in Transition, 1933-1968: Evolution of a Placement Service into a Manpower Agency*. (Ithaca, NY: Cornell University, 1969). p. 26. (Hereafter cited as Adams, *The Public Employment Service in Transition*.)

³ William Haber and Daniel H. Kruger, *The Role of the United States Employment Service in a Changing Economy* (Kalamazoo, MI: The W.E. Upjohn Institute for Employment Research, 1964), p. 25. (Hereafter cited as Haber and Kruger, *The Role of the US Employment Service*.)

⁴ Adams, *The Public Employment Service in Transition*, p. 26.

⁵ George Martin, *Madam Secretary, Frances Perkins*. (Boston: Houghton Mifflin Company, 1976). pp. 250-251.

⁶ Adams, *The Public Employment Service in Transition*, p. 25.

During its early years, the ES's primary mission was to facilitate the match between job seekers and employment opportunities by referring unemployed individuals to public service jobs and other job openings listed with the ES by employers. In 1935, the Social Security Act created the Unemployment Insurance (UI) program, and the role of the ES broadened to include administration of the "work test" (i.e., monitoring UI claimants to ensure that they are able to work, available for work, and actively seeking work), as well as provision of job-finding and placement services for UI claimants. Since 1935, the mission of the ES has remained fairly constant:

- To assist job seekers in finding employment;
- To assist employers in filling jobs;
- To facilitate the match between job seekers and employers;
- To participate in a system for clearing labor between the states;⁷ and
- To meet the work test requirements of the state unemployment compensation system.⁸

While the overall mission of the ES has changed little since 1935, its customer focus and service delivery strategies have shifted dramatically, largely reflecting the circumstances of the times. In the 1930s, the ES was used to place unemployed workers in public service jobs to help alleviate joblessness during the Great Depression. Millions of unemployed workers were screened for referral to public works and work relief projects during this period.⁹ During World War II, the ES was temporarily federalized in order to effectively mobilize civilian labor and coordinate interstate recruitment of workers to meet defense needs. Following the war, control of the ES was returned to the states,¹⁰ and the policy of priority services for veterans was institutionalized.¹¹ During the Korean Conflict, 1950-1953, the ES again became involved with the mobilization of labor to meet defense needs. After the Korean Conflict, attention turned toward special groups, and services became targeted to veterans, youth, persons with disabilities, older workers, ex-prisoners, Native Americans, and minorities.¹²

⁷ "Clearing labor between the states" involves maintaining job listings for multiple states and referring job seekers to employment opportunities outside their own state.

⁸ 20 CFR 652.3.

⁹ Stanley H. Ruttenberg and Jocelyn Gutchess, *The Federal-State Employment Service: A Critique* (Baltimore: The Johns Hopkins Press, 1970). p. 4. (Hereafter cited as Ruttenberg and Gutchess, *The Federal-State Employment Service*.)

¹⁰ Haber and Kruger, *The Role of the US Employment Service*, pp. 31-35.

¹¹ The Wagner-Peyser Act of 1933 mandated the creation of a veterans' service "to be devoted to securing employment for veterans." The Servicemen's Readjustment Act of 1944 (58 Stat. 284, commonly known as the G.I. Bill) increased the responsibilities of the ES by requiring that counseling and placement services be offered to veterans, and that veterans receive priority in job placement over non-veterans.

¹² Adams, *The Public Employment Service in Transition*, pp. 39-44.

In the 1960s with the emergence of the War on Poverty and the passage of statutes authorizing job training programs,¹³ the ES's focus shifted away from providing labor exchange services to referring disadvantaged groups to training or other social programs. Congress encouraged the shift in focus by increasing funds for the ES to help states meet the needs of these disadvantaged groups.¹⁴

This situation changed dramatically in the 1970s after the enactment of the Comprehensive Employment and Training Act of 1973 (P.L. 93-203); the ES returned to its original labor exchange functions of providing job-finding services to job seekers and filling job openings for employers.¹⁵ Because the ES had acquired an image for serving low-skilled workers during the 1960s, it lost much of its support from employers, job seekers, and policy makers. Further, the ES's relationship with the UI system was strained because of concern that the ES's focus on low-income workers adversely impacted services to UI recipients. Additionally, in the 1970s, the relationship between the ES and job training programs was tense, partly due to the fact that the ES had to compete with job training programs for scarce resources.¹⁶

In an effort to better align local labor exchange services with local training programs and to allow Governors greater flexibility to tailor ES services to meet local needs, Congress amended the Wagner-Peyser Act in 1982 with the enactment of the Job Training Partnership Act (JTPA) (P.L. 97-300). These amendments transferred primary responsibility for ES program design and operations from DOL to the states, and established a new Wagner-Peyser Act funding formula to target resources to areas of greatest need (based on labor force size and unemployment rate).¹⁷ The devolution of authority from the federal government to the states, as well as a decline in ES program funding levels from 1984 to 1990,¹⁸ contributed to inconsistency and under-performance of labor exchange services. The General Accounting Office

¹³ The Area Redevelopment Act of 1961 (P.L. 87-27), the Manpower Development and Training Act of 1962 (P.L. 87-415), the Economic Opportunity Act of 1964 (P.L. 88-452).

¹⁴ David E. Balducci, Terry R. Johnson, and R. Mark Gritz, "The Role of the Employment Service," in *Unemployment Insurance in the United States: Analysis of Policy Issues*, Christopher J. O'Leary and Stephen A. Wandner, eds. (W.E. Upjohn Institute for Employment Research, Kalamazoo, MI. 1997), p. 468. (Hereafter cited as Balducci et al, *The Role of the Employment Service*).

¹⁵ *Employment and Training Report of the President*. Transmitted to the Congress, 1979. p. 62-63.

¹⁶ Patricia W. McNeil, "The Employment Security System: Preparing for the 21st Century." Prepared for the Committee on Education and Labor, U.S. House of Representatives, June 1986. p. 7.

¹⁷ GAO. *Employment Service: Improved Leadership Needed for Better Performance*. GAO/HRD-91-88. August 1991. p. 16.

¹⁸ Between 1984 and 1990, Wagner-Peyser Act funding for state ES administration dropped 14%, when adjusted for inflation. (GAO/HRD-91-88, August 1991. p. 15.)

(GAO) noted in 1989 that local ES offices varied dramatically in their ability to place job seekers in jobs.¹⁹

In response to concerns expressed by many job seekers and employers about the delivery of DOL-funded employment and training services, as well as dissatisfaction with the provision of job information, DOL launched the One-Stop Career Center system initiative in 1993 as a means to more effectively link the delivery of employment and training services. The Department of Labor received funding for the One-Stop initiative under the Wagner-Peyser Act. The goal of the One-Stop initiative was to transform the provision of employment and training services, including labor exchange services, into a coordinated information and service delivery system. Four principles were central to the One-Stop initiative: universality; program integration; customer choice; and performance accountability. The Department of Labor encouraged states to use these four principles as the basis for cultivating workforce development systems that streamline the delivery of employment and training services to effectively meet the needs of job seekers and employers. Because ES services are universally accessible to job seekers and employers, most states use the ES as the central component of their One-Stop systems.²⁰ For many job seekers and employers, the only contact they may need with the One-Stop system is through ES services.²¹

On August 7, 1998, President Clinton signed the Workforce Investment Act of 1998 (WIA) (P.L. 105-220). The purpose of this legislation is “to consolidate, coordinate, and improve employment, training, literacy, and vocational rehabilitation programs.”²² Among other things, WIA repeals JTPA on July 1, 2000,²³ and codifies the One-Stop Career Center system. Further, Title III of WIA amends the Wagner-Peyser Act to require that ES services be delivered through state One-Stop systems. In light of the fact that Wagner-Peyser Act services are available to all job seekers and employers, ES public labor exchange services are likely to continue to be the foundation of the One-Stop delivery system.

¹⁹ GAO. *Employment Service: Variations in Local Office Performance* (GAO/HRD-89-116BR), August 3, 1989.

²⁰ Balducchi, et al, *The Role of the Employment Service*, p. 477.

²¹ *Federal Register* v. 63, n. 113, June 12, 1998, Department of Labor; Employment and Training Administration; United States Employment Service; Labor Exchange Performance Measures, p. 32565.

²² H. Rept. 105-659, July 29, 1998, *Congressional Record*, p. H6604.

²³ For information about the training provisions under WIA, see CRS Report 97-536, *Job Training Under the Workforce Investment Act*, by Ann Lordeman.

State Employment Security Agencies

To receive funding under the Wagner-Peyser Act, Section 4 requires the Governor of each state to “designate or authorize the creation of a state agency vested with all powers necessary to cooperate with the Secretary under this Act.”²⁴ States must maintain such a state agency “in order to obtain the benefits of appropriations apportioned under” the Wagner-Peyser Act. Accordingly, every state and territory maintains a state employment security agency (SESA) which operates the ES program. The Department of Labor regulations require that Wagner-Peyser Act services be delivered by public merit-staff employees.²⁵

In most states, the SESA is also responsible for administering the UI program, Alien Labor Certification programs, job training programs, and labor market information (LMI)²⁶ programs. As part of their LMI functions, SESAs collect data under cooperative agreements with DOL’s Bureau of Labor Statistics (BLS). The federal-state cooperative programs for which SESAs collect labor force data include Current Employment Statistics, Local Area Unemployment Statistics, Occupational Employment Statistics, Covered Wages and Employment, and Mass Layoff Statistics.²⁷

This report focuses primarily on the SESAs’ role as it relates to the ES system, particularly the operation of Wagner-Peyser Act labor exchange services. While the ES system incorporates activities that pertain to the UI program, job training programs, and LMI programs, this report will address these programs only so far as they are a function of the public labor exchange system (e.g., administration of the UI work test, referral of job seekers to training services, provision of LMI to job seekers and employers). This report ends with a brief description of Alien Labor Certification programs, the Work Opportunity Tax Credit, the Welfare-to-Work Tax Credit, and the Federal Bonding Program — none of which are authorized under the Wagner-Peyser Act, but which do utilize Wagner-Peyser Act resources and facilitate the match between job seekers and employers.

²⁴ The WIA amendments to the Wagner-Peyser Act, which take effect on July 1, 1999, change the wording from “... cooperate with the United States Employment Service under this Act” to “... cooperate with the Secretary under this Act.”

²⁵ 20 CFR 652.215. DOL’s interpretation of the Wagner-Peyser Act to require public merit staffing was affirmed in *State of Michigan v. Alexis M. Herman* (W.D. MI, Southern Div.).

²⁶ The Interstate Conference of Employment Security Agencies (ICESA) defines LMI as “the science of collecting, analyzing, reporting and publishing economic activities to describe and predict the relationship between labor demand and supply.” ICESA: “An Introduction to Labor Market Information” [http://www.icesa.org/articles/template.cfm?results_art_filename=lmiintro.htm].

²⁷ For more information about these programs and about LMI in general, see CRS Report 96-694, *Labor Market Information: An Overview*, by Linda Levine.

Labor Exchange Services

Service Delivery Tiers

The type of reemployment services needed by individual job seekers varies widely, depending on such factors as job search capabilities, educational level, employment experience, and occupational growth or decline in the local labor market. Similarly, the type of labor exchange services needed by employers seeking workers varies.

To meet these varying needs of ES customers (i.e., job seekers and employers), DOL requires states to have the capacity to deliver labor exchange services through three tiers of service delivery: (1) self-service; (2) facilitated self-help; and (3) staff-assisted.²⁸ The Department of Labor expects SESAs to provide labor exchange services through each of the three service delivery strategies.²⁹ The core³⁰ and intensive³¹ services defined under Section 134 of WIA can be delivered through any of these three delivery methods.³²

Self-service. To preserve and expand customer access to ES services in the face of declining state allotments (in real dollar terms), states are increasingly relying on services that customers can access without staff intervention. These self-service products are primarily electronic, e.g., state and national job banks,³³ and the products of America's Labor Market Information Service (ALMIS) which will be described in the ALMIS section of this report. Not only are these services available to job seekers and employers without the assistance of ES staff, but typically customers can access these electronic resources away from local ES offices and outside normal business hours. Generally, state job banks, the national job bank, and many ALMIS products are accessible wherever there is access to the Internet, including public libraries, private homes, schools, universities, military bases, and kiosks in shopping malls.

²⁸ 20 CFR 652.207.

²⁹ *Federal Register*, v. 63, n. 113, June 12, 1998, p. 32567.

³⁰ Core services include job search and placement assistance, provision of labor market information, initial assessment of skills, information about available services, and Resource Room usage.

³¹ Intensive services include comprehensive employability assessment, development of an individual employment plan, screened referrals, individual and group counseling, job clubs, and case management.

³² 20 CFR 652.208.

³³ A job bank is a computerized network of job openings. When an employer places a job order (i.e., an announcement of one or more job openings) with an ES office, the ES staff enter the job opening(s) into the state's job bank. Many of these job openings are passed on to the national job bank, known as America's Job Bank. (Approved employers also have the option of entering their job orders directly into the national job bank.)

Facilitated Self-help. Facilitated self-help resources are typically available in the resource rooms of local ES or One-Stop offices. Here, customers are able to access self-service tools, such as personal computers, resume-writing software, fax machines, photocopiers, and Internet-based tools, while resource room staff are available to provide assistance. The resource room staff interact with the customers to facilitate usage of the resources. States are increasingly relying on this mode of service delivery because it costs less than the staff-assisted delivery method for which the ratio of staff to customers is higher.³⁴

Staff-assisted. Staff-assisted services are provided to customers both one-on-one and in groups. One-on-one services for job seekers often include assessment, career counseling, development of an individual service plan, and intensive job search assistance. One-on-one services for employers may include taking a job order or offering advice on how to increase job seeker interest in a job opening. Group services for job seekers include orientation, job clubs, and workshops on such topics as resume preparation, job search strategies, and interviewing. Group services for employers may include workshops on such topics as state UI laws or use of labor market information. Other staff-assisted services that benefit both job seekers and employers include screening and referring job seekers to job openings. Staff-assisted services must be provided in at least one physical location in each workforce investment area.³⁵

These service delivery tiers are not a new strategy for the ES system. The 1971 *Manpower Report of the President* described a “new system” being tested in local ES offices in six cities — Memphis, Phoenix, Pittsburgh, San Antonio, Syracuse, and Wichita — that provided different levels of service based on the individual needs of customers. Three levels of services were offered: “a streamlined, self-help service; a combination of job development and direction in planning a personal job search; and intensive employability services ...”³⁶ Not surprisingly, it was found that self-help services, such as job banks, freed staff resources to assist job seekers with the greatest need for individualized services.³⁷ An adverse consequence of job banks, however, was noted in the 1974 *Manpower Report of the President*; the report claimed that job banks contributed to such problems as “a deterioration in personal relationships between ES staffs and employers and applicants.”³⁸ The lessons learned from the experimental, three-tiered ES offices in 1971 still apply today: to effectively meet the needs of job seekers and employers, local ES offices need to achieve a balance between relying on electronic tools and maintaining personal contact with customers.

³⁴ *Federal Register*, v. 63, n. 113, June 12, 1998, p. 32568.

³⁵ 20 CFR 652.207 (b)(3). Note: Local workforce investment areas, known as “service delivery areas” under JTPA (WIA’s predecessor), are designated by the Governor of each state. In designating local areas, Governors must take into consideration such factors as school districts, labor market areas, travel distance, and available resources.

³⁶ *Manpower Report of the President*. Transmitted to the Congress, April 1971. p. 65.

³⁷ *Manpower Report of the President*. Transmitted to the Congress, April 1974. p. 62.

³⁸ *Ibid.*

Populations Served

General Public. As noted above, Wagner-Peyser Act services are available to all job seekers and employers through local ES offices which are known by many names, such as Employment Service, Job Service, One-Stop Career Center, and Workforce Development Center. The ES is a non-means tested program; Wagner-Peyser Act services are available to any citizen or individual legally authorized to work in the United States. Other than the capacity constraints caused by limited resources, the only limits on ES service delivery are the prohibitions against making referrals to job openings for which the filling of the opening is an issue in a labor dispute involving a work stoppage³⁹ and referring job seekers to job openings for which a private placement agency will charge a fee for their services.⁴⁰

Current Population Survey data indicate that nearly 20% of 5.3 million unemployed job seekers in 1998 visited a “public employment agency” in their quest for employment.⁴¹ This number does not capture the number of job seekers who use DOL’s electronic labor exchange products outside of a local ES office.

Employment and Training Administration (ETA) data for Program Year (PY) 1997 indicate that ES offices received 6.6 million job openings from employers; registered 17.9 million job seekers; referred 7.7 million people to jobs; and placed 2.1 million people in jobs. Almost 3.3 million individuals entered employment through either a referral from the ES or on their own after receiving at least one ES service. The average federal cost per entered employment in PY1997 was \$220.⁴²

While ES services are universally accessible by job seekers and employers, certain groups of job seekers do receive special consideration.

Veterans. Inasmuch as Congress views the alleviation of unemployment and underemployment among U.S. veterans, especially disabled and Vietnam-era veterans, as a “national responsibility,”⁴³ veterans are eligible to receive special consideration with ES services. These services are administered by DOL’s Veterans’ Employment and Training Service (VETS) and delivered by Disabled Veterans Outreach Program (DVOP)⁴⁴ specialists and Local Veterans’ Employment Representatives (LVERs).⁴⁵ The DVOP and LVER staff are employed by SESAs, and funded by state grants paid

³⁹ 20 CFR 652.9.

⁴⁰ Section 13(b)(1) of the Wagner-Peyser Act, as amended.

⁴¹ DOL, BLS. *Employment & Earnings*. January 1999. p. 208.

⁴² Data are from the ETA 9002 report described in the Performance Measurement section of this report. A PY runs from July 1 through June 30. (In contrast, a federal fiscal year (FY) runs from October 1 to September 30.) Cost per entered employment equals the total Wagner-Peyser Act federal expenditures divided by the total number of individuals who entered employment. State expenditures for ES services are not taken into account.

⁴³ 38 USC Section 4100.

⁴⁴ The DVOP program is authorized under 38 USC Section 4103A.

⁴⁵ The LVER program is authorized under 38 USC Section 4104.

with Federal Unemployment Tax Act (FUTA) dollars. In FY1999, \$80 million was appropriated for the DVOP program and \$77 million was appropriated for the LVER program. The Department of Labor expects these appropriations to support approximately 1,460 DVOP specialists and 1,340 LVERs nationally in PY1999. About 300,000 veterans are projected to be helped into jobs at these staffing levels.⁴⁶

The principal mission of DVOP specialists is to develop employment and training opportunities for veterans, primarily those with service-connected disabilities. To achieve this end, DVOP staff need to identify disabled veterans, determine their needs, establish employability plans, and link them with appropriate jobs and training opportunities. Additionally, DVOP specialists are required to work with employers to develop employment and training opportunities for veterans.⁴⁷ As statutorily mandated, not more than three-quarters of DVOP specialists are to be stationed at local ES offices.⁴⁸ About one-quarter of DVOP specialists are stationed full- or part-time at other sites, such as veterans' outreach centers, veterans' service offices, veterans' medical centers, or military installations.⁴⁹

Like the majority of DVOP specialists, LVERs are located in local ES offices. As statutorily mandated, one full-time LVER is assigned to each local ES office at which 1,100 or more veterans registered for assistance in the previous year; one half-time LVER is allocated to each local ES office at which between 350 and 1,100 veterans registered.⁵⁰ LVERs are required to assist veterans by directly providing, or supervising the provision of, labor exchange services, including assessment, counseling, job search assistance, and referral to employment. Additionally, LVERs must refer eligible veterans to training, supportive services, and educational opportunities. It is also the responsibility of LVERs to monitor job listings from federal contractors to ensure that eligible veterans receive priority in referrals to those jobs.⁵¹ Further, LVERs are required to maintain cooperative working relationships

⁴⁶ U.S. Department of Labor FY2000 Budget Justifications of Appropriation Estimates and Performance Plans for Committee on Appropriations, vol. III, February 1999. pp. ASVET-21, 22.

⁴⁷ The full list of functional requirements for DVOP specialists is listed at 38 USC 4103A (c).

⁴⁸ 38 USC 4103A (b)(2).

⁴⁹ For more information on employment services for veterans, see *Fact Sheet no. OASVET 97-2* at [<http://www.dol.gov/dol/vets/public/programs/fact/vet97-2.htm>].

⁵⁰ 38 USC Section 4104 (a)(2)(A).

⁵¹ The Vietnam Era Veterans' Readjustment Assistance Act of 1974 (38 USC 4212) requires employers with federal contracts or subcontracts of \$10,000 or more to immediately list with the local ES office all employment openings (except for executive and top management jobs, positions filled from within the employer's organization, and jobs lasting 3 days or less). Federal contractors must also take affirmative action to employ protected veterans. It is the responsibility of the local ES office to give covered veterans priority in job referrals. Employers are not required to hire any particular applicant or to hire from a group of applicants.

with community organizations, labor unions, and employers to encourage them to employ veterans.⁵²

In PY1997, 1,851,555 veterans registered for ES services nationally. Of those veterans registered, 52% were referred to employment, and of those referred, 27% were placed in jobs.⁵³

Migrant and Seasonal Farmworkers (MSFWs). In the 1970's, farmworkers and farmworker advocacy groups filed suit against DOL for alleged discriminatory treatment of farmworkers by DOL and SESAs.⁵⁴ The principles that were agreed to in the lawsuit settlement became the basis for federal regulations regarding the provision of ES services to MSFWs. In accordance with the regulations at 20 CFR 653 Subpart B, SESAs are required to do the following:

- Provide MSFWs with ES services that are qualitatively equivalent and quantitatively proportional to those received by non-MSFWs;⁵⁵
- Provide the full range of ES services to MSFWs;⁵⁶
- Provide staff assistance to MSFWs to help them effectively use job order information, and in those offices where a significant number of Spanish-speaking customers are not fluent in English, provide these services in Spanish;⁵⁷
- Identify whether or not each customer is an MSFW, provide information about ES services to MSFWs, and assist those who need help to register for ES services;⁵⁸
- Operate an outreach program in order to locate and contact MSFWs who are not being reached by the normal intake activities of local ES offices, provide information about ES services, encourage MSFWs to visit their local ES office, and deliver labor exchange services on-site if an MSFW cannot or does not wish to visit the local ES office;⁵⁹ and
- Appoint a state MSFW Monitor Advocate whose duties are to include participating in on-site local office reviews of MSFW services, reviewing the state's outreach plan, monitoring the performance of the state's complaint system, and serving as an advocate to improve services for MSFWs.⁶⁰

⁵² The full list of functional requirements for LVERs is listed at 38 USC 4104 (b).

⁵³ DOL, Employment and Training Administration (ETA). *U.S. Employment Service Annual Report, Program Year 1997*. p. G-5.

⁵⁴ *NAACP v. Brennan*, no. 2010-72. (D.D.C., August 13, 1974).

⁵⁵ 20 CFR 653.100.

⁵⁶ 20 CFR 653.101.

⁵⁷ 20 CFR 653.102.

⁵⁸ 20 CFR 653.103.

⁵⁹ 20 CFR 653.107.

⁶⁰ 20 CFR 653.108.

In PY1997,⁶¹ 188,655 MSFWs registered for ES services nationally. Of those MSFWs registered, 45% were referred to employment, and of those referred, 75% were placed in jobs.⁶² Funding for ES services to MSFWs typically comes from states' Wagner-Peyser Act base grants; no Wagner-Peyser Act funds are specifically ear-marked for MSFW services.

In addition to providing labor exchange services to MSFWs, SESAs are responsible for ensuring that employer-provided housing for MSFWs meets certain standards.⁶³ The regulations at 20 CFR 654 Subpart E require the conduct of a preoccupancy inspection of employer-provided housing. States vary in their policies for the conduct of these housing inspections. In some states, the SESA performs the inspection, while in other states, a separate agency performs the inspection. Regardless of who conducts the inspection, regulations compel the SESA to verify that an inspection has been conducted and that the relevant housing standards are being met by the employer. If the employer-provided housing fails to meet the applicable standards, the SESA may deny Wagner-Peyser Act recruitment services to the employer.⁶⁴

Persons with Disabilities. Section 8(b) of the Wagner-Peyser Act, as amended, requires that state plans⁶⁵ include provisions “for the promotion and development of employment opportunities for handicapped persons.” Additionally, SESAs are required to make job counseling and placement services available to persons with disabilities. Further, states must designate at least one person in each ES office to be responsible for ensuring that persons with disabilities receive the services to which they are entitled. Both the Wagner-Peyser Act and WIA call for SESAs to cooperate with state vocational rehabilitation agencies in serving persons with disabilities. Funding for ES services for persons with disabilities typically comes from states' Wagner-Peyser Act base grants; no funds are specifically ear-marked for these services, although Governors can choose to use a portion of their Section 7(b) funds (which will be described in the Funding section of this report) to provide services “for groups with special needs.”

⁶¹ The ES operates on a PY that runs from July 1 to June 30. ES funds allocated in FY1997 covered ES activities in PY1997, which ran from July 1, 1997 to June 30, 1998.

⁶² DOL, ETA. *U.S. Employment Service Annual Report, Program Year 1997*. p. H-3.

⁶³ The Migrant and Seasonal Agricultural Worker Protection Act (P.L. 97-470) requires employers to comply with federal and state safety and health standards in the provision of housing for MSFWs. ETA's standards for agricultural housing are set forth at 20 CFR 654.400.

⁶⁴ 20 CFR 654.400(b).

⁶⁵ Prior to the passage of WIA, state Wagner-Peyser Act plans were due annually to the Secretary of Labor. Under WIA, information regarding state delivery of Wagner-Peyser Act services must be incorporated into states' 5-year strategic plans, as required by Section 112 of WIA.

In PY 1997, 398,225 persons with disabilities registered for ES services nationally. Of those registered, 49% were referred to employment, and of those referred, 27% were placed in jobs.⁶⁶

Referred Unemployment Insurance (UI) Claimants. Two essential functions of the ES system are to assist unemployed individuals in gaining reemployment, and to conduct the work test for UI claimants. Consequently, UI claimants comprise a notable portion of the users of ES services. In PY1997, for example, 37% of the 17.9 million ES applicants nationally were eligible UI claimants.⁶⁷ While all UI claimants can receive ES services, certain UI claimants are provided special assistance by ES local offices: those claimants who have been determined through “profiling” to be at risk of becoming long-term unemployed.

In November 1993, Congress enacted amendments to the Social Security Act (P.L. 103-152) requiring each state to set up its own Worker Profiling and Reemployment Services (WPRS) system. State WPRS systems consist of four basic steps: (1) profiling of UI claimants to identify their likelihood of exhausting UI benefits; (2) selection⁶⁸ and referral of some claimants with a high probability of exhausting benefits to reemployment services;⁶⁹ (3) provision of reemployment services to referred UI claimants; and (4) collection of information on referred claimants’ receipt of services and feedback to the UI program for determination of continuing eligibility for UI benefits. State UI programs are responsible for the first two steps, while ES and Economic Dislocation and Worker Adjustment Assistance (EDWAA)⁷⁰ service providers share responsibility for the third and fourth steps. Participation in reemployment services is a condition of benefit eligibility for referred claimants; that is, if UI claimants who are referred to reemployment services through the WPRS system refuse to participate, they risk becoming ineligible for UI benefits.

Once claimants are referred to the ES or EDWAA service provider for reemployment services, those who are qualified to fill current job openings may receive job referrals. Others must participate in reemployment services, which the conference report for P.L. 103-152 described as “job search assistance and job placement services, such as counseling, testing, and providing occupational and labor market information, assessment, job search workshops, job clubs and referrals to

⁶⁶ DOL, ETA. *U.S. Employment Service Annual Report, Program Year 1997*. p. G-3.

⁶⁷ Ibid.

⁶⁸ UI claimants who are “work attached” are not put into the selection pool; for example, those claimants who are members of a union hiring hall or have a recall date would not be placed in the selection pool.

⁶⁹ There is no federal requirement that *all* UI claimants identified as likely to exhaust benefits be referred to services; rather, the number of claimants referred to services is in most states a factor of service capacity in local ES offices. In calendar year 1998, only 36.5% of claimants identified as likely to exhaust benefits were referred to services.

⁷⁰ EDWAA (Title III of JTPA) provides employment and training services for workers who have lost their jobs and will not be returning to their former employer. WIA repeals JTPA on July 1, 2000, but services for dislocated workers will be maintained through the dislocated worker funding stream of WIA.

employers, and other similar services.”⁷¹ The Department of Labor recommends that states provide referred claimants with customized service plans and individualized services tailored to claimants’ reemployment needs.⁷²

The goal of the WPRS system is to provide dislocated UI claimants with reemployment services *early* in their unemployment spell so that they can enter new jobs faster than they would have with later or no assistance. A study based on data from three early-implementation states (Delaware, Kentucky, and New Jersey) indicates that in the latter two states, WPRS reduced receipt of UI benefits by more than one-half week, which translated into savings of \$100 per claimant.⁷³ In New Jersey, WPRS increased earnings for referred claimants by an estimated \$190 in the first quarter after the initial claim and \$225 in the second quarter.⁷⁴ A net-impact analysis of WPRS in a nationally representative sample of eight states is currently underway.⁷⁵

One-Stop Delivery System

The goal of the One-Stop Career Center system is to provide a coordinated service delivery system whereby job seekers and employers have access to numerous workforce development services at a single neighborhood location. Under WIA, each local workforce investment area is required to establish a One-Stop delivery system through which access to core, intensive, and training⁷⁶ services is provided, and access to the 19 required One-Stop partners⁷⁷ is available. While the ES is only one of 19 required One-Stop partners, the fact that ES services are universally accessible to job seekers and employers means that the ES is the central component of most states’ One-Stop delivery systems.

⁷¹ H. Rept. 103-404. November 21, 1993. *Congressional Record*, p. 31444.

⁷² Employment Service Program Letter, no. 1-98, October 17, 1998.

⁷³ DOL, ETA. *Evaluation of Workers Profiling and Reemployment Services Systems: Report to Congress*, 1997. p. III-11. (The estimates for Delaware were not statistically significant.)

⁷⁴ *Ibid.*, page III-15. (The estimates for Delaware and Kentucky were small and not statistically significant.)

⁷⁵ The final report for ETA’s Evaluation of Worker Profiling and Reemployment Services Systems (Contract no. K-4749-4-00-80-30) is expected to be complete in fall 1999.

⁷⁶ Training services include occupational skills training, on-the-job training, skill upgrading and retraining, entrepreneurial training, and job readiness training.

⁷⁷ The required partners are as follows: the entities that carry out the programs authorized under Title I of WIA (i.e., services for Adults, Dislocated Workers, and Youth, Job Corps, Native American programs, Migrant and Seasonal Farmworker programs, and Veterans’ workforce programs); Employment Service; Adult Education; Postsecondary Vocational Education; Vocational Rehabilitation; Welfare-to-Work; Title V of the Older Americans Act; Trade Adjustment Assistance; NAFTA Transitional Adjustment Assistance; Veterans Employment and Training programs; Community Services Block Grant; employment and training activities carried out by the U.S. Department of Housing and Urban Development; and Unemployment Insurance.

Although states were not legislatively mandated to establish One-Stop Career Center systems until the passage of WIA in 1998, DOL began to encourage states to streamline the delivery of employment and training services in 1993 through the One-Stop initiative. In 1994, the first six One-Stop implementation grants were awarded to Connecticut, Iowa, Maryland, Massachusetts, Texas, and Wisconsin; meanwhile, 19 other states received planning grants. This effort subsequently expanded, and with the awarding of the final implementation grants in PY1998, all states and territories have received One-Stop implementation grants. The Department of Labor's One-Stop Office estimates that by early-1999, approximately 1,100 One-Stop Centers across the nation had opened their doors.

One-Stop implementation grants have been awarded to the states and territories on 3-year grant cycles, with funds for the second and third years contingent upon satisfactory state performance in the previous year. The grant funds may be used for implementation activities only. Most of the money is being expended by states for physical, electronic, and communications infrastructure needed to link various workforce development programs together, both through co-location and shared information systems.⁷⁸ The last of the implementation grants will expire on June 30, 2001. Future funding for local One-Stop systems will come, in part, from the adult and dislocated worker funding streams of WIA.⁷⁹

Under WIA, each local workforce investment area must establish a One-Stop delivery system and maintain at least one physical One-Stop Center, which may be supplemented by affiliated sites. The WIA amendments to the Wagner-Peyser Act at Section 7(e) require ES services to be delivered through state One-Stop delivery systems. Further, the interim final regulations⁸⁰ that implement the WIA amendments to the Wagner-Peyser Act make it clear that local ES offices may not exist outside the One-Stop delivery system.⁸¹ The interim final regulations also mandate that funds authorized under the Wagner-Peyser Act be used to provide core services and may be used to provide intensive services through states' One-Stop systems.⁸²

America's Labor Market Information System (ALMIS)

An integral part of the One-Stop delivery system is the provision of readily usable and easily accessible LMI to job seekers and employers in order to improve their understanding of labor markets and to help them make more informed employment-related decisions. In recent years, DOL has sponsored the development of ALMIS products to support the One-Stop initiative and to provide, through

⁷⁸ Scott Lazerus, Garth Mangum, Stephen Mangum, and Judith Tansky. *The Public Employment Service in a One-Stop World*. Policy Issues Monograph 98-02. (Baltimore: The John Hopkins University, 1998). p. 6.

⁷⁹ WIA, Section 134 (d)(1)(A)(i).

⁸⁰ Final regulations will replace the interim final regulations by December 31, 1999.

⁸¹ An ES office may operate as an affiliated site (i.e., not located in a One-Stop center) or be linked electronically to the local One-Stop system. 20 CFR 652.202.

⁸² 20 CFR 652.206.

modern communication technology, workers and employers with access to information about federal, state, and local labor markets, job openings, and employment and training services. As with the One-Stop implementation grants, the ALMIS products have been funded under the Wagner-Peyser Act. Information about all of the ALMIS products (13 as of the writing of this report) is available on the ALMIS website at: [www.doleta.gov/almis]. What follows is a description of several of the ALMIS products that are designed primarily to assist job seekers in obtaining employment and employers in finding workers.

America's Career Kit. "America's Career Kit" is composed of four electronic tools: America's Job Bank (AJB), America's Talent Bank (ATB), America's Career InfoNet, and America's Learning eXchange. The impetus for AJB dates back to President Nixon's 1969 directive to establish a National Computer Job Bank. The first job bank was established in Baltimore in 1968, and by the end of 1971, more than 100 metropolitan area job banks were operating in 43 states. In 1971, the first automated state job banks were created when five states — Delaware, Maine, Oklahoma, Rhode Island, and Vermont — linked their area job banks into statewide systems.⁸³ In 1979, DOL and the SESAs created the Interstate Clearance System which was replaced in 1983 by the Interstate Job Bank.⁸⁴ On Veteran's Day in 1993, AJB was inaugurated as an expansion of the Interstate Job Bank. AJB, a no-fee service, joined the Internet in February 1995, and is now the largest electronic listing of job openings in the world.⁸⁵ It links to the job banks of the 50 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands, as well as to the web sites of private placement agencies and job postings on numerous corporate home pages. AJB, which was developed jointly by DOL and the SESAs, is operated by the New York SESA under a cooperative agreement with DOL.

ATB, which allows job seekers to post their resumes electronically, merged with AJB in May 1998 to bring a wide cross-section of job seekers and employers into the public labor exchange system. AJB, as the combined product is known, provides job seekers with a large pool of active job opportunities, and employers with national exposure for job openings, as well as access to job seekers' resumes. Currently, more than 900,000 job openings and 300,000 resumes are available daily on AJB.⁸⁶ The job openings come from all over the country and represent all types of work; similarly, the resumes are entered by job seekers with a wide range of skills and in diverse occupations.

The third tool in America's Career Kit, America's Career InfoNet,⁸⁷ provides information about national and state labor markets, employment trends, occupational growth, wages, and training requirements. The newest component of America's

⁸³ *Manpower Report of the President*. Transmitted to the Congress, March 1972. p. 62.

⁸⁴ For more information about the evolution of the computerized nationwide labor exchange network, see CRS Report 92-450, *The Interstate Job Bank*, by Linda Levine.

⁸⁵ See: [http://www.doleta.gov/almis/jobnew1.htm].

⁸⁶ For an updated total, see AJB's Internet website at: [http://www.ajb.dni.us].

⁸⁷ For more information on America's Career InfoNet, see: [www.acinet.org].

Career Kit, America's Learning Exchange,⁸⁸ offers job seekers information about education and training opportunities, including technology-based, distance learning, and traditional courses.

Other ALMIS Projects. In addition to the electronic tools in America's Career Kit, DOL also funds other ALMIS projects, which are typically developed through consortia of states, national agencies, DOL, and other entities. Following is a list of some of these ALMIS projects which are intended to help employers and job seekers make informed employment-related decisions:

ALMIS Database:

The purpose of the ALMIS Database is to serve the occupational information needs of the country. It includes the following information: projected employment; wage information; training information; employer information; population and demographic data; economic indicators; and area cost-of-living profiles. The schema for the ALMIS Database was developed by DOL, the National Occupational Information Coordinating Committee, and a consortium of states led by North Carolina. Nearly every state has populated the database (i.e., filled the database with data), or is in the process of doing so.

ALMIS Consumer Report System:

The purpose of the ALMIS Consumer Report System, which is under development, is to facilitate informed customer choice regarding employment, training, and education programs. The ALMIS Consumer Report System will provide performance data about employment, training, and education programs in the states. The consortium developing the system is led by Texas and the other Round I One-Stop implementation states (Connecticut, Iowa, Maryland, Massachusetts, and Wisconsin).

ALMIS Employer Database:

To meet the needs of job seekers for information about employers, the ALMIS Employer Database contains information about more than ten million employers in the United States. Over 40 data elements are included, such as employer name, mailing address, telephone number, fax number, contact person, ownership code, industry, etc. The ALMIS Employer Database is available on the Internet through America's Career InfoNet. Maine is the lead state in the ALMIS Employer Database Consortium.

*Occupational Information Network(O*NET):*

Upon completion, the O*NET database will contain comprehensive information on job requirements and worker competencies for use by students, career counselors, job seekers, employers, etc. The first public release of O*NET, known as O*NET 98, includes data describing more than 1,100 occupations, as

⁸⁸ For more information on America's Learning Exchange, see: [www.alx.org].

well as LMI from BLS on employment levels, occupational outlook, and wages. O*NET 98 is available on CD-ROM, diskette, and Internet download. The complete O*NET database, which will include a larger number of occupations and descriptors, is scheduled for release in 2001. O*NET is designed to update and eventually replace the Dictionary of Occupational Titles, which was developed in 1938 and disseminated through a book format.

Performance Measurement

Lack of Performance Standards. Section 13(a) of the Wagner-Peyser Act, as amended, authorizes the Secretary of Labor “to establish performance standards for activities under this Act which shall take into account the differences in priorities reflected in State plans.” Currently, however, there are no federally-mandated performance standards for the ES system. While ES performance is primarily measured through counts of service outputs (e.g., number of individuals registered with the ES who received a reportable service; number who were interviewed, counseled, or tested; number who received a job referral or a referral to training; number who entered employment), DOL has not established minimum standards of performance for ES activities. Consequently, sanctions are not levied against states for poor performance because no standards exist to identify “poor.”

Evaluations. There are no national studies that provide indisputable evidence of the overall effectiveness of basic ES labor exchange services.⁸⁹ Because the ES must provide universal access, DOL has largely avoided random assignment experiments which deny services to a control group of subjects. As a result, studies of ES services that have been conducted over the years generally rely on comparison group and/or statistical methodologies.⁹⁰ Of these studies, one was a comprehensive national evaluation of the short-term economic impact of the ES.⁹¹ This study, conducted by SRI International and completed in June 1983, was the first in-depth and large-scale evaluation of the ES.⁹² The study calculated a benefit-cost ratio of 1.8:1 for the ES,⁹³ and concluded that “the ES is an efficient use of public

⁸⁹ Balducchi, et al., *The Role of the Employment Service*, p. 483.

⁹⁰ For a summary of the pre-1997 studies that provide evidence regarding the effectiveness of the ES, see Balducchi, et al., *The Role of the Employment Service*, pp. 478-487.

⁹¹ Terry R. Johnson, Katherine P. Dickinson, Richard W. West, Susan E. McNicoll, Jennifer M. Pfister, Alex L. Stagner, and Betty J. Harris. *A National Evaluation of the Impact of the United States Employment Service: Final Report*, June 1983. Prepared by SRI International under DOL contract no. 23-06-79-04. (Hereafter cited as Johnson, et al., *A National Evaluation of the Impact of the United States Employment Service*.)

⁹² *Ibid.*, p. xv.

⁹³ The study showed large positive earnings gains for unemployed women who received job referrals, and very small (or zero) gains for unemployed men who received referrals. SRI International estimated that the short-term value of benefits exceeded costs by approximately \$65 per individual referred.

resources.”⁹⁴ In light of the fact that this national evaluation was based on data from the early-1980’s, an analysis of the current effectiveness of the ES may be needed. Accordingly, DOL initiated a study in July 1998 to evaluate the effectiveness of labor exchange services in a One-Stop environment.⁹⁵ The final report for this evaluation is scheduled to be completed in 2001.

ETA 9002 Report. States are required to submit to DOL’s Employment and Training Administration (ETA) quarterly statistical reports of their ES service outputs (e.g., number of job referrals, number placed in employment, number referred to training). These data form the ETA 9002 report. The authority to collect ETA 9002 data is scheduled to sunset in August 1999.⁹⁶ The Department of Labor has requested approval from the Office of Management and Budget for an extension through August 2000. The expiration of the ETA 9002 report is viewed by many, including ETA, as an opportunity to re-examine how labor exchange services are measured.⁹⁷

Some states and other stakeholders have expressed objections to the ETA 9002. Some argue that the reporting requirements are too arduous, while others point out that the output measures do not take into account the strength of the economy nor local labor market conditions. Others note that counting methods of measurement, such as those used by the ETA 9002 system, do not effectively measure the value added since they do not address what would have happened in the absence of the program, nor do they measure the return on investment since costs are not adequately accounted for.⁹⁸ Further, in 1991, the GAO noted that “performance of ES has varied dramatically among state and local offices,” and recommended “that the Secretary assist states in the development of measurable goals and performance standards for their ES labor exchange programs.”⁹⁹ The Department of Labor and the states have begun efforts to improve labor exchange performance measurement and to identify the data elements needed to produce effective measures.

Proposed Labor Exchange Performance Measures. In response to The Government Performance and Results Act of 1993 (GPRA), which mandated improved accountability of federal programs, ETA launched the Workforce Development Performance Measures Initiative (WDPMI) to develop a menu of

⁹⁴ Johnson, et al., *A National Evaluation of the Impact of the United States Employment Service*, p. xvi.

⁹⁵ *Evaluation of Labor Exchange Services in a One-Stop Environment*. DOL contract no. X-6879-8-00-80-30. Contractor: Westat, Inc. of Rockville, MD.

⁹⁶ In accordance with the Paperwork Reduction Act of 1980 (P.L. 96-511), government agencies must receive approval from the Office of Management and Budget (OMB) before collecting data from ten or more persons. OMB’s approval of the ETA 9002 data collection activities expires August 31, 1999.

⁹⁷ *Federal Register*, v. 63, n. 113, June 12, 1998. p. 32566.

⁹⁸ Louis Jacobson, Westat, Inc., speech before the National Center on Education and the Economy, Workforce Development Program — High Skills State Consortium. Clearwater, FL. March 19, 1999.

⁹⁹ GAO/HRD-91-88. August 1991. pp. 2, 5.

performance measures for use in the workforce development system. As a companion effort, the U.S. Employment Service in June 1997, organized a federal-state Labor Exchange Performance Measures workgroup consisting of ETA, VETS, the Interstate Conference of Employment Security Agencies, and state partners. The workgroup was charged with drafting Wagner-Peyser Act labor exchange performance measures that would complement the WDPMI effort.

The Labor Exchange Performance Measures workgroup proposed 14 labor exchange measures. The measurement methods vary according to the method of service delivery. The recommended measurement approach for the self-service method of delivery focuses on AJB outputs; specifically, the workgroup recommended counting growth over time of holdings (i.e., number of job orders and resumes on AJB), usage (i.e., number of user sessions on AJB), and transactions (e.g., number of referral requests made by job seekers and number of resumes downloaded by employers). The measurement approach for facilitated self-help strategies combines usage and customer satisfaction measures. The measurement approach for staff-assisted service delivery calls for assessment of the outcomes, effectiveness, and impact of the labor exchange system. The 14 proposed labor exchange performance measures were published in the *Federal Register* on June 12, 1998 (vol. 63, no. 113). ETA solicited and received comments on the proposed measures, and plans to revise the measures.

Performance Measurement in the States. The development of national ES performance measures has lagged behind the progress of some states in developing and implementing measurement systems.¹⁰⁰ Many states have created and tested various measurement methods, including swipe card technology to count resource room usage and surveys to measure customer satisfaction. In part, the delays at the federal level have been due to the use of a committee approach for the development and approval of workforce development measures.¹⁰¹ Additionally, the passage of WIA affected the work of the Labor Exchange Performance Measures workgroup.

Performance Measurement under WIA. WIA Section 136 requires the establishment of a comprehensive performance accountability system to assess the effectiveness of workforce investment activities funded under Title I of WIA (i.e., services funded through the adult, dislocated worker, and youth funding streams).¹⁰² It is not yet clear how the creation of a performance accountability system mandated under WIA will effect the development of labor exchange performance measures.

¹⁰⁰ Organization for Economic Co-Operation and Development (OECD). *The Public Employment Service in the United States*. (Paris, France, 1999). p. 107. (Hereafter cited as OECD.)

¹⁰¹ Ibid.

¹⁰² As part of the performance accountability system, WIA requires the Secretary of Labor and the Governor of each state to reach agreement on levels of performance for core performance and customer satisfaction indicators. The negotiated levels of performance must be incorporated into each state's 5-year strategic plan as required under Section 112 of WIA. Failure by a state to meet its expected levels of performance could lead to sanctions, while exceeding the levels could lead to the receipt of incentive funds. In the *Federal Register*, v. 64, n. 56 on March 24, 1999, ETA published two papers on performance accountability.

Wagner-Peyser Act labor exchange services are not funded under WIA and, therefore, are not required by law to be measured through the performance accountability system. However, DOL has indicated that it may adopt the indicators for other DOL programs,¹⁰³ including the ES.

States have a vested interest in the development of an effective ES measurement system, whether as part of WIA's performance accountability system or as a separate performance measurement system, since it is widely agreed that the lack of clear performance measures, which might demonstrate the system's effectiveness, has contributed to the decline in ES program funding in recent years. In the absence of concrete evidence of its performance, it has been difficult for the ES to build support for its funding base.¹⁰⁴

Funding

Appropriations

The primary source of funding for activities authorized under the Wagner-Peyser Act is Federal Unemployment Tax Act (FUTA) (P.L. 76-1) revenues. FUTA imposes a federal payroll tax on employers; typically, employers pay \$56 per worker earning \$7,000 or more.¹⁰⁵ FUTA revenues are credited to the Unemployment Trust Fund which, among other things, pays for the costs of administering the UI and ES systems.¹⁰⁶

ES appropriations fund state allotments, ES National Activities,¹⁰⁷ and One-Stop Career Centers.¹⁰⁸ Currently, 97% of the funding for state allotments comes from the Trust Fund, while 3% comes from general revenue. As for ES National Activities, 100% of the funding is financed through the Trust Fund. Finally, only 5% of the funding for One-Stop Career Centers comes from the Trust Fund, while 95% comes

¹⁰³ *Federal Register*, v. 64, n. 56, March 24, 1999. DOL, ETA: Consultation Paper on Performance Accountability Measurement for the Workforce Investment System Under Title I of the Workforce Investment Act. p. 14337.

¹⁰⁴ OECD, p. 101.

¹⁰⁵ The current gross FUTA tax rate is 6.2%, but employers in states meeting certain federal requirements are eligible for a 5.4% credit, making the current net federal tax rate 0.8% on the first \$7,000 paid annually to each employee.

¹⁰⁶ The Unemployment Trust Fund also funds the UI benefits of programs in the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands; railroad UI; railroad UI administration; the federal half of the federal-state Extended Benefits Program; loans to insolvent state UI programs; and UI benefits for federal civilian and military personnel.

¹⁰⁷ In FY1999, ES National Activities funds support administration of Alien Labor Certification programs, AJB/Field Centers/Technical Assistance and Training, and administration of the Work Opportunity Tax Credit and Welfare-to-Work Tax Credit.

¹⁰⁸ In FY1999, One-Stop Career Center funds support implementation grants and America's Labor Market Information System.

from general revenue. The following table presents the ES appropriations for FY1994 (the year in which the first One-Stop implementation grants were awarded) through FY1999.

Table 1. FY1994-FY1999 ES Appropriations
(dollars in thousands)

	FY1994	FY1995	FY1996	FY1997	FY1998	FY1999
Allotments to States	\$832,856	\$838,912	\$761,735	\$761,735	\$761,735	\$761,735
National activities	\$85,492	\$76,378	\$58,934	\$62,735	\$62,735	\$59,880
One-stop centers	\$50,000	\$100,000	\$110,000	\$150,000	\$150,000	\$146,500
Total	\$968,348	\$1,015,290	\$930,669	\$974,470	\$974,470	\$968,115

Source: ETA Budget Office.

State Formula Allocations

The Wagner-Peyser Act originally required a federal-state funding partnership in which the federal government contributed 50% to the operation of state ES systems, and the states contributed the other 50%. Initially, the only source of federal funding for the ES program was general revenues. After passage of the Social Security Act in 1935, FUTA dollars were used to finance the majority of the federal government's contribution to states' ES systems. Then, during World War II when the ES was federalized, the federal government became the sole source of funding for the ES. Following the War and the return of the ES to the states, Congress amended the Wagner-Peyser Act in 1949 to eliminate the federal-state match.¹⁰⁹ Since that time, the federal government has been statutorily responsible for funding the ES system, but many states opt to supplement federal dollars.¹¹⁰

While the 1949 amendments to the Wagner-Peyser Act gave the federal government statutory responsibility for funding the ES, the amendments did not mandate a formula for allocating funds to the states; the distribution of funds was left to the discretion of the Secretary of Labor. One method used by the Secretary was performance-based budgeting which was introduced in 1975; funds were allocated to the states on the basis of their ES performance, measured in terms of the quality and

¹⁰⁹ Ruttenberg and Gutches, *The Federal-State Employment Service*, pp. 4-5.

¹¹⁰ According to a survey by ICESA, in FY1998, 30 out of 53 states and territories supplemented federal ES funds with a total of \$110 million. In FY1999, 27 states and territories expect to supplement federal ES funds with a total of \$152.6 million.

quantity of placements.¹¹¹ This allocation technique was known as the Balanced Placement Formula. At the time JTPA was enacted in 1982, the Secretary of Labor distributed funds to the states according to an administrative formula which allocated staff years, then multiplied the staff years by each state's approved salary and benefit rate.¹¹²

JTPA amended Section 6 of the Wagner-Peyser Act to mandate an allocation formula for use by the Secretary of Labor. The statutory formula was first used in FY1984, and remains in effect today. The ETA Budget Office runs the formula each December based on preliminary data and again the following March based on final data, then distributes the states' allocations to the 10 ETA Regional Offices. Beginning July 1, the 54 states and territories can draw down their resources from the Regional Office accounts. The funds are available to the states and territories for 3 program years.

In implementing the statutory allocation formula, the ETA Budget Office first subtracts three pools of money from the total amount appropriated for state allotments. These monies fund (1) state postage costs paid by ETA centrally, (2) allotments for Guam and the U.S. Virgin Islands, and (3) a 3% reserve. The 3% reserve is used to ensure that small states¹¹³ and states which receive a smaller allotment percentage than in the previous year have sufficient funds to administer an ES system. The total allotment for each state is the state's portion of the 3% reserve (which may be zero) plus the amount allocated under the basic formula. The basic formula allots two-thirds of the available funds on the basis of the relative number of individuals in each state's civilian labor force (CLF), and one-third on the basis of the relative number of unemployed individuals in each state.¹¹⁴ The flow of Wagner-Peyser Act funds from Congress to the states is presented in **Figure 1**.

States' Use of Funds

Section 7 of the Wagner-Peyser Act, as amended, mandates how states are to use their ES allotments. Section 7(a) indicates that 90% of the funds are to be used for the following activities:

- Job search and placement services;
- Recruitment services and special technical services for employers;
- Program evaluations;

¹¹¹ *Employment and Training Report of the President*. Transmitted to the Congress, 1976. p. 122.

¹¹² ETA, Office of Employment Security, fact sheet dated May 12, 1983. Reprinted in *Employment and Training Reporter*, published by The Bureau of National Affairs, Inc., Washington, D.C. (May 18, 1983), p. 1180.

¹¹³ States whose civilian labor force (CLF) is below 1 million and whose CLF density is below the median. (The CLF density is the ratio of CLF to land area in square miles.)

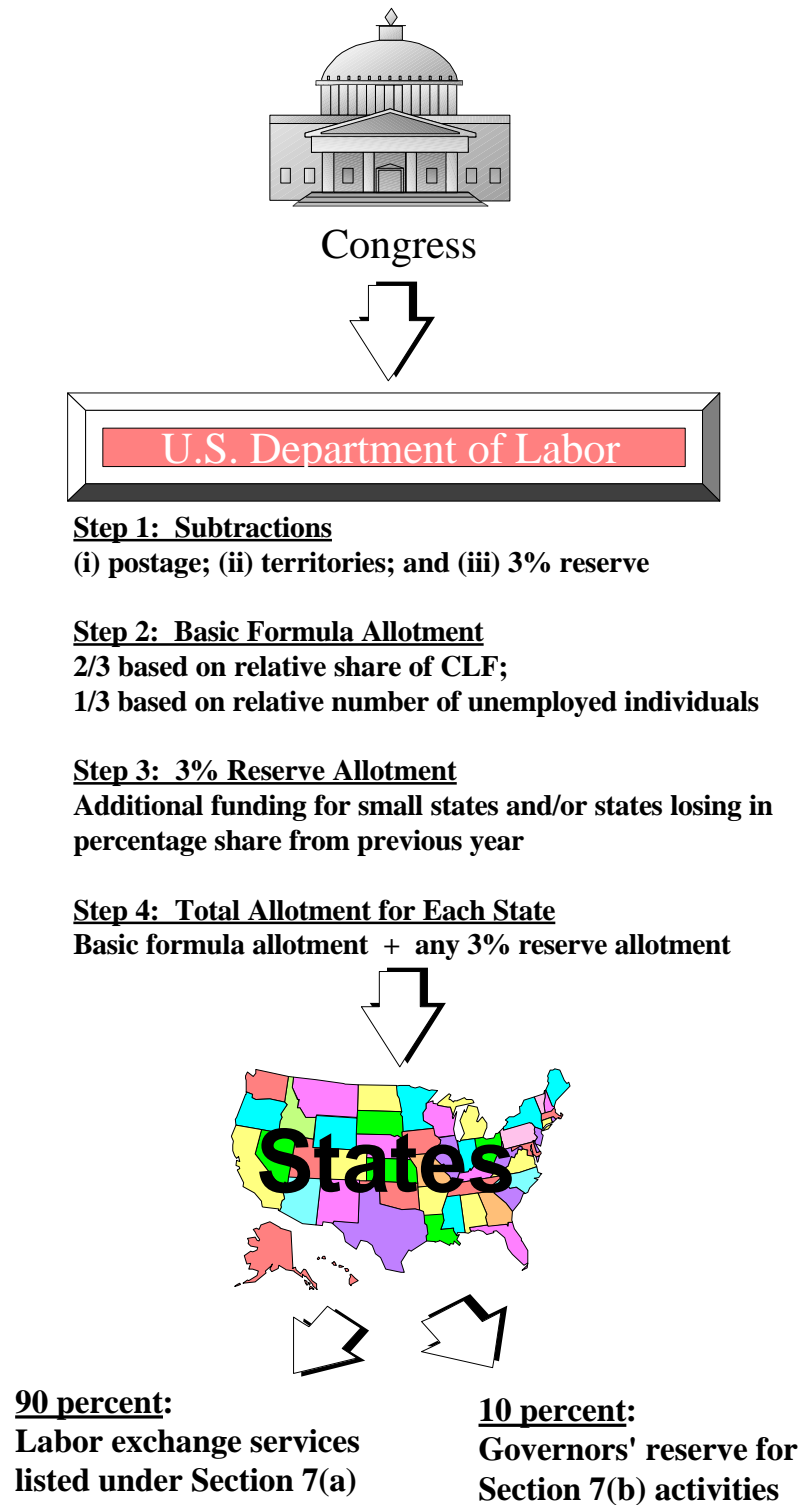
¹¹⁴ For a detailed description of the allocation formula, go to: [<http://www.doleta.gov/budget/esformd.htm>].

- Linkages between Wagner-Peyser Act services and related federal or state programs;
- Services for displaced workers;
- Development and provision of labor market information;
- Development of a management information system and reports; and
- Administration of the work test and services for UI claimants.

Section 7(b) of the Wagner-Peyser Act directs state Governors to reserve the remaining 10% of the states' allotments for the following purposes:

- To provide performance incentives for ES offices and programs;
- To provide services for groups with special needs; and/or
- To support exemplary models of service delivery.

Figure 1. Allocation of Wagner-Peyser Act Funds to the States



Related Programs

The U.S. Employment Service and SESAs are responsible for administering certain programs authorized under legislation other than the Wagner-Peyser Act. What follows is a description of several of the more staff-intensive programs which facilitate the match between job seekers and employers. Each of the following programs either directly or indirectly receives Wagner-Peyser Act funding.¹¹⁵

Alien Labor Certification

The Immigration and Nationality Act of 1952, as amended, requires that employers seeking to hire aliens who are entering the United States for the expressed purpose of obtaining permanent or temporary work must meet certain conditions. In general, employers must establish, among other things, that they have attempted without success to recruit U.S. workers, and that they will pay the prevailing wage in the area for the type of work that will be performed by the alien workers.

There are five Alien Labor Certification programs administered by the SESAs and/or DOL. These programs, described below, are as follows: (1) Permanent Labor Certification; (2) H-2B Temporary Labor Certification; (3) H-2A Temporary Labor Certification; (4) H-1B Specialty (Professional) Workers; and (5) D-1 Crewmembers. SESAs typically provide employers with information on the programs and make prevailing wage determinations. In addition, SESAs process applications and issue certifications for the first three programs. The last two programs are administered by the ten ETA Regional Offices.

Permanent Labor Certification. For the admittance of an alien as a permanent resident, employers must obtain a permanent labor certification. In FY1997, 41,248 applications¹¹⁶ were received. The five occupations with the most approvals in FY1997 were as follows: software engineer; speciality or foreign food cook; programmer analyst; systems analyst; and cook.

H-2B Temporary Labor Certification. Employers intending to hire aliens for a period of up to 1 year (with a possibility of renewable for up to 3 years) to perform temporary nonagricultural work must apply for a H-2B labor certification. The job must be a one-time occurrence to fill a seasonal, workload, or intermittent need. In FY1997, 2,189 applications were received. The maximum number of H-2B visas that can be issued each fiscal year is 66,000.¹¹⁷ In FY1997, the five occupations with the

¹¹⁵ Administration of Alien Labor Certification programs, the Work Opportunity Tax Credit, and the Welfare-to-Work Tax Credit is funded under the Wagner-Peyser Act. The Federal Bonding program is funded under JTPA Title IV, but ES staff, whose salaries are paid through Wagner-Peyser Act state allotments, provide information to employers and job seekers about the program and are often involved in the bond issuing process.

¹¹⁶ Each application may be for more than one job opening.

¹¹⁷ There is no corresponding limit to the number of job openings that may be certified under the H-2B visas.

most approvals were as follows: tree planter; crab meat processor; forest worker; cleaner, housekeeping; and stable attendant.

H-2A Temporary Labor Certification. Employers who anticipate a shortage of U.S. farmworkers and desire to bring non-immigrant aliens to the United States to perform temporary or seasonal agricultural work must apply for H-2A visas. In FY1997, 23,352 H-2A job certifications were approved; of these, 62% were in tobacco.¹¹⁸

H-1B Specialty (Professional) Workers. Employers intending to hire aliens for a period of up to 3 years (with a possible extension of up to another 3 years) in professional occupations or as fashion models must apply for a H-1B labor certification. In FY1997, 180,739 applications were received. In general, the statutory limit on the number of H-1B visas issued each fiscal year is 65,000;¹¹⁹ however, the perceived shortage of U.S. information technology workers led the 105th Congress to temporarily raise the cap.¹²⁰ Of the H-1B applications approved in FY1997, the top five occupations were as follows: computer-related occupations; therapists; electrical engineers; accountants/auditors; and university faculty.

D-1 Crewmembers. Employers seeking to hire alien crewmembers to perform longshore work in Alaskan ports must file attestations (i.e., assurances) with DOL agreeing to comply with certain conditions.¹²¹ Typically, fewer than 60 attestations are filed by shippers each year.

State and federal administration of the ALC programs is funded under the Wagner-Peyser Act, as a line item under ES National Activities. In FY1999, \$36.3 million was appropriated for the ALC programs. ALC funds are allocated to the states according to a formula based on the number of new applications received and the number processed in the preceding fiscal year.

Federal Employment Tax Credits

There are two temporary tax credits, the Work Opportunity Tax Credit and the Welfare-to-Work Tax Credit, that are intended to encourage employers to hire members of certain groups whom they may otherwise resist hiring. SESAs are responsible for certifying that newly hired workers belong to the target groups, as well as for the administration, implementation, and reporting for both programs.

Administration of the two temporary tax credits is funded under the Wagner-Peyser Act, as a line item under ES National Activities. In FY1999, \$20 million was

¹¹⁸ For more information, see CRS Report 97-714, *Immigration: The "H-2A" Temporary Agricultural Worker Program*, by Joyce Vialet.

¹¹⁹ There is no corresponding limit to the number of job openings that may be certified under the H-1B visas.

¹²⁰ For more information, see CRS Report 98-531, *Immigration: Nonimmigrant H-1B Specialty Worker Issues and Legislation*, by Ruth Ellen Wasem.

¹²¹ The conditions are contained in *Federal Register* v. 60, n. 12, January 15, 1995.

appropriated for administration of the programs. Of this total, \$480,000 was withheld for postage costs; \$20,000 was allotted to the U.S. Virgin Islands; and the remainder was distributed among the 50 states, the District of Columbia, and Puerto Rico based on a \$64,000 minimum allotment and an allocation formula.¹²²

Work Opportunity Tax Credit (WOTC). For-profit employers are entitled to apply WOTC against their federal income tax liabilities when they hire a member of one or more of the following eight groups:

- Welfare recipients and their family members;
- Veterans whose families receive food stamps;
- 18-24 year old food stamp recipients;
- 18-24 year old residents of empowerment zones (EZ) or enterprise communities (EC);
- Summer youth (i.e., 16-17 year-old EZ/EC residents who are employed for a 90-day period during the summer);
- Vocational rehabilitation referrals;
- Economically disadvantaged ex-felons; and
- Supplemental Security Income recipients.

Employers must apply for and receive certification from the SESA that their new hire is a member of one of these eight target groups. IRS Form 8850 must be mailed to the state WOTC Coordinator within 21 days of the new hire's start date. During FY1998, SESAs issued 285,322 WOTC certifications to employers.¹²³

Welfare-to-Work (WtW) Tax Credit. The purpose of the WtW Tax Credit is to encourage for-profit employers to hire long-term welfare recipients. The certification procedures are similar to those for WOTC. An employer cannot claim both the WtW Tax Credit and WOTC for hiring the same individual. SESAs issued 46,580 certifications to employers during the first nine months that the WtW Tax Credit was in existence (ending September 30, 1998).¹²⁴

Federal Bonding Program

Purpose. Most employers purchase fidelity bonds to protect themselves from employee dishonesty. Commercially purchased fidelity bond insurance, however, typically does not cover potentially untrustworthy persons because they are designated by insurance companies as being "not bondable." As a result, job seekers who have demonstrated past behavior which causes employers to doubt their honesty are

¹²² DOL, ETA. Field Memorandum no. 10-99. "Guidelines for Employment Service Cost Reimbursable Grants for FY1999 Work Opportunity Tax Credit/Welfare-to-Work Tax Credit." December 3, 1998.

¹²³ For more information about WOTC, which is not permanently authorized, see CRS Report RL30089, *Employment Tax Credits Expiring During the 106th Congress*, by Linda Levine.

¹²⁴ For more information about the WtW Tax Credit, which is not permanently authorized, see CRS Report RL30089, *Employment Tax Credits Expiring During the 106th Congress*, by Linda Levine.

routinely denied employment. To combat this barrier to employment and facilitate the employment of these at-risk job seekers, DOL established the Federal Bonding Program (FBP).

History. The FBP was initiated in 1966 as a demonstration project under the Manpower Development and Training Act of 1962 (P.L. 87-415). The program was never codified into law; instead, it remains a DOL-administered project funded under demonstration authority. Currently, the program is funded under JTPA Title IV (Federally Administered Programs) which, among other things, funds pilot and demonstration projects.¹²⁵

The Department of Labor provides 10 bonds to each state at no charge;¹²⁶ beyond that, states must purchase bonds with their own resources.¹²⁷ The program's funding level for the contract year running from July 28, 1998 to July 27, 1999 is \$150,000, which covers 10 bonds per state¹²⁸ and the administrative costs of the contractor. Since inception of the FBP, the contractor for the program has been The McLaughlin Company,¹²⁹ which serves as an agent for Travelers Property Casualty Company.

Eligibility. Under the FBP, bond coverage is provided for any person whose background leads employers to question the person's honesty and deny him or her a job. The program covers any worker who is "at-risk" due to being in one or more of the following categories:

- Ex-offenders;
- Ex-addicts with a history of alcohol or drug abuse;
- Individuals with a poor credit record or who have declared bankruptcy;
- Individuals who were dishonorably discharged from the military; and
- Low income youth with a lack of work history.

¹²⁵ Following the repeal of JTPA on July 1, 2000, funding for the FBP may continue under Section 171 of WIA.

¹²⁶ Prior to July 1997, DOL funded all fidelity bonds under the FBP. The number of bonds a state could receive was limited only by the total number of bonds funded under the FBP contract in a given year. In June 1997, the FBP was decentralized; as a result, DOL is no longer the sole provider of fidelity bonds. There were several reasons for this decision. To begin with, DOL conjectured that the FBP would be more sustainable if it became a federal-state partnership. Secondly, declining JTPA resources forced DOL to engage in cost-cutting measures. Finally, DOL believed that a federal-state partnership would allow DOL to continue to play an active role in the program, while at the same time encouraging states to increase their role. (Training and Employment Information Notice no. 5-98, August 3, 1998.)

¹²⁷ In FY1998, a total of 1,100 bonds were purchased with state and local funds in 16 states (AR, CA, CO, DE, FL, GA, IA, IL, MD, MI, MN, NC, NY, SD, UT, and WA).

¹²⁸ In FY1998, four states (KY, OH, OR, and VA) declined the 10 bonds because these states had decided not to participate in the FBP.

¹²⁹ Federal Bonding Program, The McLaughlin Company, 1725 DeSales Street, N.W., Suite 700, Washington, D.C. 20036.

To be eligible, the individual must have a firm job offer and a scheduled start date. Generally, the employer must offer full-time (at least 30 hours per week), permanent work which cannot be considered self-employment.

Coverage. For states choosing to purchase bonds beyond the 10 offered by DOL, the bonds can be purchased in packages of 25, 50, 75, and 100; the larger the package, the cheaper the price per bond, yet all bonds cost less than \$100 each. One bond provides \$5,000 coverage for 6 months. Between one and five bonds can be purchased per employee for a 6-month period.¹³⁰ According to the “Guidelines for Bonding” issued by The McLaughlin Company, one bond unit (providing \$5,000 coverage) has proven sufficient to facilitate most job placements. Fidelity bonds insure employers for any type of stealing by theft, forgery, larceny, or embezzlement. There is no deductible amount, i.e., the fidelity bonds provide 100% insurance coverage.¹³¹

The ES Role. The Department of Labor recommends that ES staff understand the FBP, inform employers and job applicants about the availability of fidelity bonds, and familiarize themselves with the bond issuing process. Most local ES offices are certified to issue fidelity bonds.¹³² Issuance of a bond can be requested by either the employer or the job applicant, neither of which needs to fill out paperwork for the bond to be issued. It is the responsibility of the local ES office to fill out the one-page “Fidelity Bond Certification Form” and to mail it to The McLaughlin Company, who processes the paperwork and sends the fidelity bond to the employer who hired the bondee.

Program Results. According to the FY 1998 FBP Annual Report produced by The McLaughlin Company for DOL, since the program’s inception in 1966, nearly 40,000 people have obtained jobs due to being bonded. Less than 500 of these individuals have proven to be dishonest workers, therefore the insurance claims default rate has been 1.2%. The average amount paid per claim is \$1,585

¹³⁰ If during the 6 months of coverage, the bonded employee demonstrates job honesty, that worker can become “bondable for life” under commercial bonding made available to the employer for purchase from the Travelers Property Casualty Company.

¹³¹ For more information about the FBP, see ETA’s website at: [<http://www.ttrc.doleta.gov/onestop/FBP.htm>].

¹³² FBP information packet entitled “Unique Job Placement Tool: Answers to Questions about Fidelity Bonding.” (by The McLaughlin Company).