

USE OF TANF, WtW, AND JOB ACCESS FUNDS FOR TRANSPORTATION

INTRODUCTION:

Transportation is one of the main challenges facing people making the transition from welfare to work. In some areas, there is a mismatch between where most entry-level and service sector jobs are located and where most welfare recipients live. Two-thirds of new jobs are in the suburbs, but three of four welfare recipients live in rural areas or central cities. Many entry-level jobs require evening or weekend hours in areas that are poorly served by existing transit routes or are not within a reasonable commute time. Even in metropolitan areas with extensive transit systems, studies have shown that less than half the entry-level jobs are accessible by transit. Many parents going to work also need transportation in order to access child care, which further complicates their work commute. The transportation barrier is magnified for low-income Americans living in rural counties, many of whom have no access to public transportation services.

While many States and communities are working to develop innovative transportation strategies, existing public transit often fails to link to suburban job opportunities, cover evening and weekend hours, or serve rural communities. Having a car can make a tremendous difference. Data from the Urban Institute's National Survey of American Families show that twice as many welfare recipients with cars were working than those without cars. Studies of welfare recipients in Michigan and Los Angeles also underscore that access to a car is a critical factor in getting a job. The fact is, however, that many welfare recipients and low-income workers do not have a car.

Historically, the U.S. Departments of Health and Human Services (HHS) and Labor (DOL) have defined transportation in terms of the individual client. As a result, funds were used to directly reimburse clients for transportation costs rather than to develop and support transportation services necessary to meet their needs. When transportation services were provided, they were often not connected with the existing transportation systems. Welfare reform calls for a more systemic approach to break down the transportation barriers. For example, supporting and developing services such as connector services to mass transit, vanpools, sharing buses with elderly and youth programs, coordinating with existing human services transportation resources, employer provided transportation, or guaranteed ride home programs may be necessary to address the transportation problems for welfare recipients and other low-income persons.

PURPOSE OF GUIDANCE:

HHS and DOL, in concert with the U.S. Department of Transportation (DOT), are working closely together in providing coordinated guidance to encourage States, tribes, and communities to take full advantage of existing resources to develop seamless, integrated services addressing the transportation challenge of moving people from welfare to work. This guidance is intended to augment the current regulatory and statutory provisions.

The three agencies originally issued joint guidance on May 4, 1998. That guidance was updated on December 23, 1998. This update reflects subsequent legislative changes in the Welfare-to-Work (WtW) grant program since the last update, discussion of "assistance" pursuant to the Temporary Assistance for Needy Families (TANF) Program final regulations (45 CFR 260.31), and clarification of the use of TANF funds in transportation projects.

AUTHORITY AND REFERENCES:

Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (Pub. L. 104-193) and Balanced Budget Act of 1997 (Pub. L. 105-33) amending Title IV-A of the Social Security Act; Transportation Equity Act for the 21st century (TEA-21) (Pub. L. 105-178), TEA-21 Restoration Act (Pub. L. 105-206), Child Support Performance and Incentive Act of 1998 (Pub. L. 105-200); Title VIII of H.R. 3424, enacted as part of the Consolidated Appropriations Act for FY 2000, contains the "Welfare-to-Work and Child Support Amendments of 1999;" Temporary Assistance for Needy Families Program Final Rule 45 CFR Part 260, et al (64 Federal Register 17720 (April 12, 1999)); Welfare-to-Work Grants Interim Final Rule, 20 CFR Part 645 (62 Fed. Reg. 61588 (Nov. 18, 1997)); Job Access and Reverse Commute Competitive Grants Notice 65 Fed. Reg. 13209 (March 10, 2000).

RESPONSE TO CHALLENGE:

It is essential for all Federal, State, tribal, and local entities to collaborate to ensure success in moving families from welfare to work. This collaboration will help to provide the right mix of transportation services necessary to meet the needs of welfare recipients as well as deliver the most efficient use of existing transportation resources and services. Employers should also be included in the development of transportation services.

States should encourage local agencies to ensure that services provided to welfare recipients are developed in consultation with other appropriate agencies providing transportation services at the local level. In such consultations, public agencies should be mindful of their obligations not to interfere with collective bargaining rights or agreements or to displace employees.

Communities without transportation resources or with a significant unmet need may wish to pursue transportation as a job creation opportunity. The skills involved in developing transportation systems, including driving, dispatching, and providing vehicle maintenance are extremely marketable and transferable to other employment opportunities.

PROMISING INITIATIVES:

Most States are working to break down the transportation barriers for welfare recipients. For example, Kentucky has taken a comprehensive approach to providing coordinated transportation. Four cabinet offices -- Families and Children, Health Services, Workforce Development, and Transportation -- combined transportation resources to develop a new coordinated transportation system for all their participants. North Carolina and New Jersey are helping counties to bring together the transportation, social services, and employment programs to address client mobility needs and are identifying underutilized transportation resources -- including school buses -- for employment transportation. In Ventura County California, the local transit agency has extended its hours of service, re-routed some lines, and developed new service to some remote locations being used as work experience sites.

Ventura County also has a program in which cars are donated to a nonprofit group and leased on a long-term basis to TANF recipients through a county credit union. In Forsyth County, N. Carolina, Goodwill Industries and the TANF agency work together to utilize surplus county vehicles. Chautauqua County, New York is an area with very limited public transportation. As a result, the County implemented an "EARN A CAR" program in which TANF recipients, who have demonstrated reliability of work effort and have a driver's license, learn basic car maintenance by repairing a donated car. Employed graduates of the class may purchase a donated car and a local bank helps to work out manageable loan payments. Fairfax County, Virginia uses a non-profit agency to help TANF recipients buy used cars. The county also helps the recipient with the downpayment, the cost of the car inspection and a maintenance plan.

Many other examples are included in *Access To Jobs, A Guide to Innovative Practices in Welfare-to-Work Transportation* developed by DOT and the Community Transportation Association of America. The guide features innovative transportation approaches to meet the needs of welfare recipients and other low-income persons, as well as a list of available resources. It is available on the Internet at <http://www.ctaa.org/ntrc/atj/pubs/>.

FUNDING RESOURCES:

In this section, we present three specific Federal funding sources that can be used to address the transportation needs of people moving from welfare to work: (1) the TANF block grant program administered by HHS, Administration for Children and Families (ACF); (2) the WtW formula and competitive grant program administered by DOL, Employment and Training Administration (ETA); (3) the Job Access and Reverse Commute grant program (Job Access) administered by DOT, Federal Transit Administration (FTA).

Both the TANF block grants established in PRWORA and the WtW grants authorized by the Balanced Budget Act of 1997 provide considerable flexibility to help States, tribes, and communities provide transportation to individuals transitioning from welfare to work. We describe some of the ways in which States may use Federal TANF funds and WtW funds to provide transportation services. We also discuss some basic programmatic requirements and limitations regarding the use of TANF and WtW grant funds. States and other appropriate agencies providing transportation services need to be mindful of the requirements and limitations when planning transportation services that enable eligible individuals to attain and maintain employment.

The Job Access program provides funding for projects that develop transportation services to connect welfare recipients and other low-income individuals to jobs and other employment-related services. This competitive grant program includes a cost sharing requirement. Because TANF and WtW funds may be used to meet the cost sharing requirement, we discuss the particular rules that must be considered when TANF or WtW funds are used in a cost sharing arrangement in the Job Access program. We also mention some other basic principles and standards for determining allowable costs pursuant to OMB Circular A-87. These cost principles apply to the use of TANF, WtW, and Job Access funds.

We conclude by discussing other resources, not specifically addressed in depth in this guidance, which could be used to fund transportation services for low-income families.

1. The Temporary Assistance for Needy Families (TANF) Program

TANF block grants to States total \$16.5 billion annually through fiscal year (FY) 2002. In addition, each State must maintain its own expenditures at 80 percent of its FY 1994 spending level (or 75 percent if the State meets the work participation rates). This is known as the maintenance-of-effort (MOE) requirement and regulations are found at 45 CFR 263.2.

State, local, and tribal TANF agencies, or private organizations providing services under contract with the TANF agency, may use TANF funds for a range of transportation services so long as the expenditure reasonably accomplishes a purpose of the TANF program, such as promoting job preparation and work. Work and responsibility are the cornerstones of the TANF program. Thus, it is critical that States involve appropriate State and local agencies, businesses, and community organizations to develop strategies and provide the supportive services, such as transportation, housing, and child care, that eligible individuals need to attain and maintain employment.

Program Purposes and Choices

The purposes of the TANF program as described in section 401 of the Social Security Act are as follows:

1. provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
2. end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
3. prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
4. encourage the formation and maintenance of two-parent families.

To accomplish these purposes, the State TANF agency may use TANF funds to provide support services including child care and transportation. Services can help a family move from welfare to work or support a low-income working family who is not on welfare succeed on the job. Some examples of the ways in which TANF funds can be utilized to provide necessary transportation services directly to TANF-eligible families or to fund services primarily benefiting eligible families, include, but are not limited to:

- reimbursement in whole or part to TANF-eligible individuals for work-related transportation expenses (e.g., mileage, gas, public transit fare, auto repairs/insurance, or a basic cash allowance for transportation needs);
- a contract for shuttles, buses, car pools, or other transportation services for TANF-eligible individuals;
- the purchase of vans/shuttles/minibuses by State, tribe, or locale for the provision of transportation services to TANF-eligible individuals (refer to the discussion below about the parameters on the use of TANF funds and on cost allocation in section 4, "Cost

Principles");

- the purchase of rider "slots," "passes," or vouchers on a public or private transit system;
- financial assistance in the form of loans or grants to eligible individuals for the lease or purchase of a vehicle to travel to/from work or work-related activities;
- facilitating the donation and repair of previously owned or reconditioned vehicles to eligible families;
- as an alternative to ongoing assistance, one-time, short-term "diversion" payments can be made to assist individuals with transportation needs such as automobile repair/insurance to secure or maintain employment;
- payment of start up or operating costs for new or expanded transportation services benefiting eligible families provided that such costs are *necessary and reasonable*, as well as allocated to cover only those costs associated with TANF-eligible individuals (refer to the discussion below about the parameters on the use of TANF funds and on cost allocation in section 4, "Cost Principles");
- establishment of an Individual Development Account (IDA) that a TANF-eligible individual could use to cover qualified business capitalization expenses to establish a transportation service such as a van, shuttle, or door-to-door transportation service (Section 404(h) of the Social Security Act);
- establishment of other types of IDAs or asset-building programs that permit car purchases and support a TANF purpose, pursuant to section 404 (a)(1) of the Social Security Act.
- the transfer of TANF funds to the Social Services Block Grant (SSBG) to address the lack of transportation infrastructure in many rural and inner city areas; SSBG may be used to serve families and children up to 200 percent of the poverty level, allowing States to address the needs of the disadvantaged population with a blend of transportation services;
- payment of costs incurred by State, local, or tribal TANF agency staff involved singularly or with other agencies in the planning of transportation services for TANF-eligible individuals. These costs would be considered TANF administrative costs.

State MOE funds under the TANF program, or State funds separate from the TANF program that qualify under the MOE requirement, may also be used to help TANF-eligible individuals in similar ways.

Many States are also easing restrictions that deter TANF-eligible recipients from owning cars. Most States have either increased the excluded value or discounted entirely the value of a motor vehicle in determining TANF eligibility. Such actions also promote access to job preparation and work. The Food Stamp program has also eased policy restrictions that deter owning a car. Households receiving TANF benefits (either cash or TANF-funded services) are deemed categorically eligible for participation in the Food Stamp program, even if the family owns a car whose value would make it otherwise ineligible for food stamps. This policy is especially helpful

for working families in States with more generous TANF limits for vehicles. The Food Stamp program also helps TANF families living in a State with a less generous TANF vehicle policy. The State may request a food stamp waiver to implement a policy that would exempt any vehicle from the Food Stamp assets test, if its sale would net the household less than \$1000. This policy also helps families who are not eligible to receive TANF benefits.

TANF-Eligibles

Within the basic parameters described below, States define who is eligible for both TANF and MOE-funded benefits and services. We refer to such eligible individuals or eligible family members as "TANF-eligible."

As a general rule, States must use Federal TANF funds, and State MOE funds, to help eligible family members in ways that are reasonably calculated to accomplish one of the four purposes of the TANF program mentioned earlier. At a minimum, an eligible family must consist of a minor child who resides with a caretaker relative (or consist of a pregnant woman). Beyond this minimum configuration, States may add other household members to comprise the eligible family. States may also choose to define the noncustodial parent (NCP) as a member of the child's eligible family. An eligible family must also be "needy." "Needy" for TANF and MOE purposes means financial deprivation, i.e., lacking adequate income and resources according to the income and resource (when applicable) criteria established by the State to receive the particular benefit(s) or service(s).

If a State does not choose to define the NCP as a member of the eligible family, the State may still help the needy NCP in ways that are consistent with a TANF purpose (see TANF purpose 2). However, only Federal TANF funds, not MOE funds, may be used; and, the benefits must be limited to those that are not considered "assistance."

Under certain circumstances, States do not have to limit services to the "needy." Instead, under TANF purpose 3 or 4 only, States may choose to use Federal TANF funds, but not MOE funds, to extend benefits that are not considered "assistance" to individuals or family members who are not "needy," but who meet other objective eligibility criteria established by the State to receive the service.

Assistance

Some Federal TANF or State TANF MOE-funded benefits or services are labeled as "assistance." The term "assistance" is important because most of the TANF prohibitions, restrictions, and requirements in title IV-A of the Social Security Act apply only when clients receive "assistance." "Assistance" may only be provided to a needy family that, at a minimum, consists of a child living with a caretaker relative (or consists of a pregnant woman). "Assistance" is defined in 45 CFR 260.31.

Basically, "assistance" includes benefits directed at ongoing basic needs (i.e., for food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses). These benefits are considered "assistance" even when conditioned on participation in a work experience or community service activity. "Assistance" also includes child care, transportation, and supports for families that are not employed.

"Assistance" does not include nonrecurrent, short-term benefits, which (1) are designed to deal with a specific crisis situation or episode of need; (2) are not intended to meet recurrent or ongoing needs; and (3) will not extend beyond four months. "Assistance" also does not include child care, transportation, and other supportive services provided to families that are employed. In addition, "assistance" does not include work subsidies (i.e., payments to employers or third parties to help cover the costs of employee wages, benefits, supervision, and training). Nor does "assistance" include education and training services (although stipends or allowances to cover living expenses would constitute "assistance") "Assistance" does not include contributions to and distributions from Individual Development Accounts or refundable earned income tax credits. It does not include services such as counseling, case management, peer support, child care information and referral, job retention, job advancement and other employment-related services that do not provide basic income support. Finally, "assistance" does not include transportation benefits provided under a Job Access or Reverse Commute project to an individual who is not otherwise receiving "assistance."

Under this definition, an investment in the start-up or operating costs of a transportation service would not constitute "assistance." If, for example, a TANF agency uses TANF funds to contract with a transportation provider for transportation services, and the State pays the fare cost for the TANF family member, then only the value of the fare that the unemployed recipients would otherwise have to pay is "assistance" (if the recipient is unemployed). If the individual is working, then neither the value of the fare nor any other transportation services, are considered "assistance." Similarly, TANF funds used for such activities as planning transportation services or providing "brokerage" services (e.g., to manage the mobility needs of TANF recipients through a central coordination of local transportation programs) do not constitute "assistance" to the family.

State TANF agencies must also collect certain data on a monthly basis about families receiving TANF "assistance" and report that data on a quarterly basis. The data includes information regarding each type of assistance provided to family members under the State's TANF program, including transportation assistance. The data collection and reporting requirements are found in 45 CFR part 265.¹

Federal TANF "assistance" paid to a family counts toward the 60-month lifetime limit on the receipt of TANF benefits.² However, the 60-month limit only applies when the adult or minor family member is the head-of-the-household or the spouse of the head-of-the-household and receiving assistance.³ The minor must also be pregnant or a parent for the assistance to count toward the Federal time limit. This means that each month of Federal assistance received by

1 Under certain circumstances, States must also report information on NCPs receiving "assistance" or "non-assistance" services. These circumstances are described in 45 CFR section 265.3(f).

2 WtW cash assistance received by a WtW participant who is a member of the TANF family also counts toward the Federal 60-month limit (see 45 CFR 260.32). However, WtW benefits, including WtW cash assistance, may continue beyond the 60-month limit on "assistance."

3 There is an exception to the federal 60 month limit if a TANF funded transportation benefit under the Job Access program is the only assistance these family members receive in a given month. Refer to the discussion under the Job Access and Reverse Commute Grant program in item 3.

these family members impacts the family's lifetime limit on the receipt of TANF benefits. States can set shorter limits or provide assistance past the 60-month limit with State funds. It is important that, when planning a transportation strategy to enable the unemployed TANF family member to look for work, to receive counseling, or to participate in job training activities, States assess the impact of such assistance on the family's time limit and advise the family of this impact. Generally, these families are also receiving cash assistance, which counts toward the time limits, so the transportation assistance itself does not have a specific impact on the time limit.

Other Considerations

In order to maximize resources and avoid duplication, TANF agencies are encouraged to coordinate with other transportation services. For example, the TANF agency may arrange with another agency or program to use the vans or buses of the other agency, share in the purchase of transportation services, or share in the costs of a Job Access project. TANF funds may also be used to contract for transit projects open to the general public, so long as the project benefits TANF families, is within the purposes of the TANF program, and TANF funds do not pay for non-TANF individuals. To the extent that non-TANF ridership and fare income increase, the arrangement may become less costly to the TANF program.

OMB Circular A-87 provides the requirement and basis for allocating costs that may be associated with more than one Federal program or non-Federal program. Refer to section 4 on Cost Principles for a fuller discussion of the cost allocation principles as well as other important cost principles pursuant to OMB Circular A-87.

It is also important to remember that TANF funds may not be used to match another Federal grant program unless specifically authorized by the statute of the program (See Section 3 for a more detailed discussion on how TANF funds may and may not be used as match for Job Access and Reverse Commute projects). Also, State expenditures may not count toward the State's MOE requirement if they were spent as a condition of receiving other Federal funds (Section 409(a)(7)(B)(iv)(IV) of the Social Security Act).

Finally, TANF funds may not be used to construct or purchase facilities or buildings.⁴ This restriction is based on the general rule that, in the absence of specific legislative authority, appropriated funds may not be used for the permanent improvement of property, including construction and purchase. For example, see the decision at 42 Comp. Gen. 480 (1960).

For more information on the use of TANF funds, refer to the guidance entitled *Helping Families Achieve Self-Sufficiency*, available through the Internet at <http://www.acf.dhhs.gov/programs/ofa/funds2.htm>.

2 . Welfare-to-Work (WtW) Grants

The U.S. Department of Labor provides WtW grants to States, tribes, and local communities to create additional job opportunities for the hardest-to-employ TANF recipients and noncustodial

⁴ Section 404(k)(1)(A) of the Social Security Act expressly prohibits TANF funds from being used for construction in the Job Access and Reverse Commute grant program (discussed in section 3 ahead).

parents. The grants total \$3 billion in Fiscal Years 1998 and 1999. There are two kinds of grants: Formula Grants to States and Competitive Grants to local communities. Generally, WtW funds can be used for job readiness activities, employment activities, job placement, post-employment services, and job retention and supportive services -- including transportation -- which are designed to move hard-to-employ welfare recipients and certain noncustodial parents into unsubsidized employment.

Eligible Participants

WtW funds can only be spent on eligible participants. In general, WtW participants are hard-to-employ long-term welfare recipients, noncustodial parents and certain individuals who appear likely to become long-term recipients. The 1999 Amendments (described below) significantly changed the WtW eligibility criteria. Eligibility criteria for the WtW program prior to the 1999 Amendments are described in the WtW Interim Final Rule at 20 CFR 645.212 and 645.213.

Formula Grants

Seventy-five percent of WtW funds (less small set-asides for WtW Indian and Native American grants and for evaluation) were made available to States in amounts based on the statutory formula set forth in Section 403(a)(5)(A)(v) of the Social Security Act. States must provide one dollar of non-Federal matching funds for every two dollars of Federal WtW funds. States are required to pass through at least 85 percent of the money to local Workforce Investment Boards (Local Boards), formerly Private Industry Councils, (unless the Secretary of Labor approves a waiver to permit an alternate entity to administer funds in a particular area) and may retain up to 15 percent of the funds for Welfare-to-Work projects that focus on helping long-term welfare recipients enter unsubsidized employment. As part of their WtW Formula Grant Plan, States are required to describe strategies to promote and encourage coordination with the State Department of Transportation, Metropolitan Planning Organizations, transit operators and other transportation providers at the State and local levels. The portion of funds contributed to these efforts by non-Federal funding sources that go toward the service of WtW eligible individuals may be counted toward the State WtW match requirement.

Competitive Grants

The remaining 25 percent of funds were made available through competitive grants to local communities as described at Section 403(a)(5)(B) of the Social Security Act. The Department of Labor awarded WtW competitive grants directly to political subdivisions (cities and counties) and Local Boards, as well as to other entities (such as community development corporations and community-based organizations, community action agencies, and other public and private organizations) which applied in conjunction with a Local Board or political subdivision. For the purposes of the competitive grants only, a public transit system could apply for a competitive grant in conjunction with the Local Board or political subdivision. As part of their competitive grant proposal, applicants were asked to describe the coordination and contributions of local housing and transportation authorities, in addition to other organizations. For information on the 191 WtW competitive grants already awarded, visit the WtW internet site at <http://wtw.doleta.gov>.

1999 WtW Amendments

Title VIII of H.R. 3424, enacted as part of the Consolidated Appropriations Act for FY 2000, contains the "WtW and Child Support Amendments of 1999" (1999 Amendments). The 1999 Amendments make several significant changes to the WtW grant programs administered by the Department of Labor. These Amendments allow WtW grantees to more effectively serve both long-term welfare recipients and noncustodial parents of low-income children.

The most significant change in the 1999 Amendments is the streamlining of eligibility. Under general eligibility criteria, the specific barriers to employment that were required prior to the 1999 Amendments are no longer necessary to enroll long-term welfare recipients in the program. Noncustodial parent eligibility is expanded, and now requires that such individuals enter into a Personal Responsibility Contract. Additionally, under new criteria, youth who have been in foster care and custodial parents with incomes below 100% of the poverty guidelines are eligible, in addition to TANF recipients with characteristics of long-term dependence.

Other changes in the 1999 Amendments allow limited vocational education and job training prior to placement in an employment activity, streamline WtW reporting requirements and allow certain grantees to provide direct services to participants. States can implement the new changes on July 1, 2000, although formula grantees cannot expend Federal WtW funds to serve the newly eligible population until October 1, 2000. Competitive grantees were able to implement on January 1, 2000, and tribal grantees were able to implement the 1999 Amendments effective November 29, 1999, the date the legislation was signed.

For more information on the specific provisions of the 1999 Amendments, including legislative language and information on the regulatory process, visit <http://wtw.doleta.gov/laws-regs/99amend-index.htm>.

Program Choices and Parameters

Because the WtW grants are part of the same subtitle of the Social Security Act as TANF, the broad purposes of the WtW program are the same as those outlined above for TANF. The Welfare-to-Work program is, however, more narrowly targeted to specifically provide transitional employment assistance to "move individuals into and keep individuals in lasting unsubsidized employment" by means of the seven allowable activities listed in the statute (Section 403(a)(5)(C)(i) of the Social Security Act).

With a few exceptions, the allowable activities under WtW are similar to the activities permitted under TANF, and the same requirements discussed above apply to the WtW Grants program. These requirements include the cost principles set forth in OMB Circular A-87, as well as OMB Circular A-21, which applies to educational institutions; OMB Circular A-122, for non-profit organizations; 48 CFR Part 31 for commercial profit-making organizations; and 45 CFR Part 74 for hospitals, when applicable for competitive grants. The exceptions, with regard to transportation services, are:

- WtW funds can be used only for transportation services that are not otherwise available to the participant (refer to Section 403(a)(5)(C)(i)(VI) of the Social Security Act and 20 CFR 645.220(e));

- WtW funds can only be spent on transportation services for individuals participating in an allowable WtW activity.
- The Social Security Act specifically prohibits the use of WtW grant funds, and State WtW matching funds, to fulfill match requirements under TANF or any other Federal law (Section 403(a)(5)(C)(vi) of the Social Security Act), except as provided in section 3037(h)(2)(B) of the Transportation Equity Act for the 21st Century (TEA-21) as amended by section 9009(w) (4) of the TEA-21 Restoration Act.
- Under WtW, up to 50% of matching funds may be in the form of third-party in-kind contributions.
- Financial assistance, including loans or down payments, to eligible individuals for the lease or purchase of a vehicle to travel to or from work or work-related activities is not allowable under WtW due to the more restrictive purposes of the WtW program, as described at CFR 645.110.

Local workforce investment boards are expected to coordinate local community resources to provide transitional employment assistance (particularly supportive services such as child care and transportation) to the WtW eligible population. Local communities have considerable flexibility in how they use the WtW funds, but the Department of Labor encourages States to facilitate collaboration with local transportation organizations to help WtW participants reach their new job opportunities. States should also encourage local WtW service providers to work with transportation providers to develop employment opportunities for welfare recipients in transportation services, including appropriate self-employment opportunities.

3. Job Access and Reverse Commute Grant Program

On June 9, 1998, President Clinton signed Public Law 105-178, the Transportation Equity Act for the 21st century (TEA-21). Section 3037 of TEA-21 created the Job Access and Reverse Commute grant program. Funding is authorized at \$150 million per year for FY 1999-2003, of which guaranteed funding starts at \$50 million in FY 1999 and increases by \$25 million each fiscal year.

The Job Access and Reverse Commute grant program assists States and localities in developing flexible transportation services that connect welfare recipients and other low-income persons to jobs and other employment related services. Job Access projects are targeted at developing new or expanded transportation services such as shuttles, vanpools, new bus routes, connector services to mass transit, employer provided transportation, and guaranteed ride home programs for welfare recipients and low-income persons. Reverse Commute projects provide transportation services to suburban employment centers from urban, rural and other suburban locations for all populations. Up to \$10 million of the annual funds may be used for Reverse Commute projects, with the remainder available for Job Access projects.

States, local governments, metropolitan planning and public transit agencies, tribal organizations, and non-profit organizations may apply for the competitive grants. Additional information on this grant program, including the solicitation for grant applications, can be found at the DOT web site at <http://www.fta.dot.gov/wtw/>.

The Job Access and Reverse Commute grant program is intended to establish a collaborative regional approach to job access challenges. All projects funded under this program must be the result of a collaborative planning process that includes transportation providers, agencies administering TANF and WtW funds, human services agencies, employers, metropolitan planning organizations, States, and affected communities and individuals, including individuals with disabilities. In addition, the program is expected to leverage other local funds that are eligible to be expended for transportation and encourage a coordinated approach to transportation services.

Cost-Sharing Requirement

The Job Access and Reverse Commute (Job Access) grant program has a cost sharing requirement. Grant funds awarded for a project may not exceed 50 percent of the project's total cost. However, section 3037(h)(2)(A)(ii) of TEA-21 as amended expressly allows funds from Federal programs (other than DOT) that may be expended for transportation activities to be used to help meet the local share of the cost. For example, in addition to local resources, Federal funds that may be used in cost sharing arrangements include the HOPE VI grants and other programs administered by the U.S. Department of Housing and Urban Development; Social Services Block Grants and TANF funds administered by HHS; and WtW grant funds administered by DOL.

The recipient of a Job Access or Reverse Commute grant needs to work with all parties sharing in the costs of the project to determine the allowable costs. This is particularly important whenever more than one Federal program expends funds toward the cost of Job Access or Reverse Commute projects.

Use of TANF and WtW Funds for Job Access Cost-Sharing

Both WtW and Federal TANF funds may be expended to help meet the Job Access cost-sharing requirement. WtW funds can only be spent on authorized activities and participants (see section 2 of this document). Certain statutory limitations apply to the use of TANF funds used in a cost sharing arrangement in the Job Access program. These limitations are found in section 404(k) of the Social Security Act (as added by Section 403 of the Child Support Performance and Incentive Act of 1998). The limitations are as follows:

- Funds must be used for new or expanded transportation services -- not for construction and not to subsidize current operating costs.
- Funds must supplement not supplant other State expenditures on transportation.
- The preponderance of the benefits derived from using funds must accrue to current and former TANF recipients, noncustodial parents described in section 403(a)(5)(C)(iii) of the

Social Security Act; and low-income individuals who are at risk of qualifying for TANF assistance. (States decide the TANF-eligibles from among this group.)

- The transportation services provided with the help of funds must promote the ability of the TANF recipients to engage in work activities (as defined in section 407(d) of the Social Security Act).

All applicable TANF or WtW programmatic requirements apply to any Federal TANF or WtW funds expended for Job Access or Reverse Commute transportation projects. This is because the cost-sharing arrangement does not constitute a transfer of funds to the Job Access and Reverse Commute grant program. For example, we previously mentioned (under the discussion of the TANF program) that funds or services received by eligible families that are not employed are generally defined as “assistance.” Various TANF programmatic requirements apply to families who receive federally funded TANF “assistance” (e.g., the Federal 60-month lifetime limit for the receipt of “assistance;” data reporting requirements).⁵

However, section 404(k)(3) of the Social Security Act as amended allows one important programmatic exception to TANF-funded transportation “assistance” provided to TANF recipients through a Job Access or Reverse Commute project where TANF funds are used as a match for such a project (e.g., rides on a new shuttle service to and from work provided through a Job Access project). If the transportation benefit is the only form of assistance provided to the individual for a month, then it is not considered “assistance” for purposes of applicable TANF programmatic requirements. For example, if the adult receiving the transportation benefit for a month is the head-of-household or the spouse of the head-of-household, and this is the only “assistance” the individual received for that month, then the month does not count toward the family’s 60-month time limit.

There is also a statutory limit on the amount of TANF funds that may be used in a cost sharing arrangement in the Job Access Program. The total amount of TANF funds that a State may use as match for the Job Access and Reverse Commute program during a fiscal year is computed as the difference between 30 percent of the State’s TANF grant amount and the amount that a State transfers to the Child Care Development Block Grant and the Social Services Block grant programs for the fiscal year.

4. Cost Principles

General Points

When planning for transportation services, States should refer to OMB Circular A-87 for guidance with respect to cost principles. OMB Circular A-87 describes the principles and standards for determining allowable costs incurred by State, local, and federally-recognized Indian tribal governments with respect to most Federal awards. The cost principles in OMB Circular A-87 are designed to ensure the fair and equitable expenditure of Federal funds. OMB Circular A-87 is available through the Internet at <http://www.whitehouse.gov/WH/EOP/OMB/html/circular.html>. Agencies responsible for administering programs in accordance with OMB Circular A-87 must have regulations that

⁵ See “parameters on the use of TANF funds,” under item 1, the TANF program.

implement provisions of this circular and its Attachments. HHS' regulations are found at 45 CFR Part 92; DOL's at 29 CFR Part 97; and, DOT's at 49 CFR Part 18.22 and 49 CFR Part 19.27.

The principles generally require that a Federal award must be used in compliance with all applicable Federal statutory and regulatory provisions; costs charged to a Federal award must be reasonable and necessary for operating the program; and the Federal award must not be used for general expenses required to carry out other responsibilities of a State or its subrecipients. In addition, funds from one federally-funded program cannot be used to overcome a shortfall in another federally-funded program. Thus for example, TANF funds cannot be used to remedy a deficit in another federally-funded program.

Generally, allowable costs are classified as either direct or indirect. A cost is one or the other; it cannot be both. Refer to OMB Circular A-87, Section E for examples of direct costs. Indirect costs can include common costs, such as some administrative costs, incurred by more than one State or local agency for a joint purpose. When State agencies or other entities use funds from multiple Federal awards (e.g., TANF, WtW, and Job Access) to pay for the cost of a project, the allowable direct costs need to be determined and a fair share of these costs assigned to each program. Once direct costs have been determined, then the indirect costs are those remaining. Indirect costs must be allocated to each program using a procedure that accurately assigns the allowable indirect costs in accordance with the benefits received by each of the programs administering the Federal awards. The procedures used to identify, measure and allocate indirect costs must be included in each agency or operating agency's cost allocation plan. TANF and WtW funds used to pay indirect costs would be included in the State's public assistance cost allocation plan submitted to and approved by the appropriate HHS Regional Office, Division of Cost Allocation. HHS' Division of Cost Allocation publishes requirements for the preparation, submission, and approval of State agency cost allocation plans for public assistance programs.

Specific Points

TANF funds, including Tribal TANF funds, may be used to procure or to share in the cost of transportation services that are reasonably calculated to accomplish a purpose of the TANF program.⁶ The same basic costs principles apply (described above and below) whether States use TANF funds alone or in combination with other funds from different funding streams (whether Federal, State, or local) to pay for a transportation project.

TANF funds may be used if the cost of the transportation project (including start-up costs) is necessary and reasonable. The amount of funds (fair share) expended on an activity must be based on a reasonable estimate of the TANF-eligibles benefiting from the project. States may use any sound reasonable basis for estimating the TANF-eligibles benefiting from the transportation project. When sharing costs with other entities or agencies, States may decide the methodology to use to estimate the TANF eligibles benefiting from the transportation

6 The four TANF purposes are found in section 401 of the Social Security Act. They are also listed in section 1 of this issuance. As discussed in section 3 of this issuance, section 404(k) of the Social Security Act governs the ways in which TANF funds may be used in a Job Access or Reverse Commute transportation project. States decide the TANF-eligibles from among the group of people mentioned in section 404(k).

project.

Permitting the State agency to arrive at a reasonable estimate allows the use of TANF funds for transportation investments that support the employment and employment-related needs of TANF eligibles without having to associate all such expenditures to individual families. As noted above, any TANF funds used in a project (to meet a fair share of the direct costs and allocated indirect costs) would be based on this estimate. For example, “ridership,” is a reasonable way to estimate the TANF families who would benefit from initiating a shuttle service along certain routes. After the start-up period, the estimate would have to be re-evaluated at least annually, and prospectively adjusted as needed, to reflect the new estimate of ongoing operating costs. Any TANF funds used in a project after the start-up period (if applicable) must be based on a current estimate. States may use sampling to arrive at a new estimate.

Likewise, any WtW funds used in a Job Access or Reverse Commute project must be expended on allowable WtW activities for eligible WtW participants. The WtW entity would also need to arrive at a reasonable estimate of the number of WtW clients benefiting from the transportation project, as any WtW funds used in the project (to meet a fair share of the direct costs and allocated indirect costs) would be based on this estimate.

States may expend Federal TANF and WtW grant funds to share in a portion of the cost of the Job Access project(s). This means that the prohibition in section 403(a)(5)(C)(vi) of the Social Security Act against using Federal WtW grant funds or State WtW matching funds to fulfill match requirement under other Federal programs does not apply to WtW funds used for transportation services in Job Access or Reverse Commute projects.⁷ However, the prohibition under section 409(a)(7)(B)(iv)(IV) of the Social Security Act does apply. As a result, any State funds expended to meet the Job Access and Reverse Commute grant program cost sharing requirement do not count toward the State’s TANF MOE requirement.

Examples:

- The local social services district plans to contract with the public transit system to start a new bus service to provide TANF recipients with transportation to an employment site not currently served by the system. The service contract includes start-up costs. TANF riders would be given passes or vouchers to ride at no additional cost. Other passengers using the service will pay a fare.

General cost principles dictate that the contract cost (including start-up costs) must be reasonable and necessary and based on a reasonable estimate of TANF ridership. Farebox revenue would serve to reduce the cost of the contract over time.

- The State wishes to provide better community service by expanding public transportation services to low-income communities without such services. The transit agency will purchase vans or shuttle buses, as needed, and retain ownership of them.

TANF funds may be used to help with the purchase of the bus, provided the new bus

⁷ The exception to the prohibition in section 403(a)(5)(C)(vi) of the Social Security Act is provided in section 3037(h)(2)(B) of TEA-21 as amended by section 9009w of the TEA-21 Restoration Act.

service is reasonably calculated to accomplish a TANF purpose (e.g., enables TANF-eligible individuals to commute to work or work-related activities, or attend other activities that accomplish a TANF purpose). The amount of TANF funds used for this activity must be based on a reasonable estimate of the TANF-eligibles benefiting from the bus service.

- A developer has completed construction of a mega-mall in a locale that lacks adequate public transportation. The developer has assured the TANF agency that businesses that lease space in the mall are committed to providing employment opportunities for TANF-eligible individuals who are ready-to-work. The space is nearly 100 percent leased. The mall also includes a child care facility. However, there is no existing transportation service to the site. The TANF agency has joined forces with a local bus company to provide transportation to the mall to individuals in a number of identified residential areas.

The TANF agency must have a sound mechanism to estimate the TANF-eligible ridership. Then, TANF funds may be used to pay for costs that are on behalf of TANF-eligible clients.

- This locale wishes to extend an existing bus route so that TANF recipients may travel to an employment site and day care center. TANF funds would only be used to pay for the increase in the cost of the extension.

The project must be reasonable and necessary and based on a sound mechanism to estimate TANF-eligible ridership. TANF funds may only be used to pay for costs on behalf of TANF-eligible clients.

- A Job Access project involves extending a bus line approximately two miles and expanding hours of service past 12:00 A.M. in order to service an industrial park. Employers at the industrial park agreed to provide jobs to low-income individuals and to share in the cost of the new bus line. The TANF agency and a local workforce investment board agree to use Federal funds to match Job Access funds for this project. The new service will also be provided to the public i.e., it will include individuals not eligible for benefits under Job Access, TANF, or WtW.

TANF funds may be used for this project because it meets the requirements of section 404(k) of the Social Security Act. To determine the amount of TANF funds to contribute to the project, the TANF agency needs to arrive at a reasonable estimate of the number of individuals from TANF-eligible families who will use the extended bus service. This estimate must be re-evaluated at least annually and adjusted prospectively because any future TANF funds used in the project must be based on a current estimate.

Then, following the cost principles articulated in OMB Circular A-87, the transit provider, TANF and WtW agencies will need to identify the direct and indirect costs of this project. Any reasonable methodology agreed to by the involved agencies is acceptable for estimating the division of costs. Neither HHS, DOT, or DOL has a preferred standard for this purpose.

A fair share of direct costs are assigned to each of the three parties putting money into the project (the recipient of the Job Access DOT grant funds, TANF agency, and PIC). The

indirect costs must be allocated to each program using a procedure that accurately assigns the allowable indirect costs in accordance with the benefits received by each party. The indirect costs and the method used to arrive at each party's share would be included in the cost allocation plan.

5. Other Resources Available for Transportation

Although this guidance specifically identifies the opportunities to address transportation needs through TANF, WtW, and the Job Access funding, States should consider coordinating a broader range of resources to maximize the availability of transportation for those moving from welfare to work. In 1996, the Community Transportation Association of America's National Transit Resource Center staff identified 90 programs across 11 Federal departments and six independent Federal agencies which can be used to support community transportation efforts in planning, capital purchase and operating services. Federal funding source information is available on the Internet at http://www.ctaa.org/ct/resource/funding_resources.shtml. Other important transportation information is available at <http://www.ctaa.org/pubs>. There are additional resources through State-specific and local funding sources as well. These resources, appropriately coordinated, can result in significant transportation resources to enhance existing services or create new ones.

Transportation is an allowable support service under programs such as Social Services Block Grants, Community Services Block Grants, Medicaid, the Job Training Partnership Act, and title I of the Workforce Investment Act which not only replaces the Job Training Partnership Act, but also establishes one stop delivery systems that include many of the other federally funded programs in the local area. Other ideas can be found in various Federal Transit Administration publications such as *The Challenge of Job Access*, *Access To Jobs Brochure (excerpts)*, and *Transportation Planning for Access to Jobs*. Each of these publications can be found online at <http://www.fta.dot.gov/wtw/notebk.html>. Further information on access to jobs resources, including peer networking, contacts, publications, and a guide to innovative practices, are available through the resource center of the Community Transportation Association of America at <http://www.ctaa.org/ntrc/atj/resources.shtml>. States should encourage local agencies to use all available transportation services in their area to facilitate access to good jobs for low-income Americans.