1	CHAPTER 800. GENERAL ADMINISTRATION
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3	ADOPTED RULES TO BE PUBLISHED IN THE TEXAS REGISTER. THIS
4	DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT TO
5	FORMATTING CHANGES AS REQUIRED BY THE OFFICE OF THE SECRETARY
6	OF STATE.
7	ON OCTOBED 19 2022 THE TEVAC WORKEODER COMMISSION ADODTED THE
8 9	ON <b>OCTOBER 18, 2022</b> , THE TEXAS WORKFORCE COMMISSION ADOPTED THE RULES BELOW WITH PREAMBLE TO BE SUBMITTED TO THE <i>TEXAS REGISTER</i> .
10	RULES BELOW WITH PREAMBLE TO BE SUBMITTED TO THE TEXAS REGISTER.
11	Publication Date of the Adoption in the <i>Texas Register</i> : <b>November 18, 2022</b>
12	The Rules are Effective: <b>November 24, 2022</b>
13	The Rules are Effective. November 24, 2022
14	The Texas Workforce Commission (TWC) adopts amendments to the following sections of
15	Chapter 800, relating to General Administration:
16	Chapter 600, remaining to 60 metal remaining the control of the co
17	Subchapter B. Allocations, §§800.52, 800.71, 800.78, and 800.80
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19	The amendments are adopted without changes to the proposed text as published in the July 22,
20	2022, issue of the Texas Register (47 TexReg 4282), and, therefore, the adopted rule text will not
21	be published.
22	
23	PART I. PURPOSE, BACKGROUND, AND AUTHORITY
24	The purpose of the adopted amendments to Chapter 800 is to provide TWC's three-member
25	Commission (Commission) flexibility when deobligating Adult Education and Literacy (AEL)
26	statewide funds and considering an AEL grant recipient's performance when reallocating
27	deobligated funds.
28 29	PART II. EXPLANATION OF INDIVIDUAL PROVISIONS
30	(Note: Minor editorial changes are made that do not change the meaning of the rules and,
31	therefore, are not discussed in the Explanation of Individual Provisions.)
32	therefore, the not discussed in the Explanation of Individual Provisions.)
33	SUBCHAPTER B. ALLOCATIONS
34	TWC adopts the following amendments to Subchapter B:
35	
36	§800.52. Definitions.
37	Section 800.52(5), the definition for "Deobligation" is amended to add §800.78 and §800.79 to
38	the rule reference.
39	
40	§800.71. General Deobligation and Reallocation Provisions
41	Section 800.71(b) is amended to add §§800.78 - 800.80 to the rule reference.
42	
43	§800.78. Midyear Deobligation of AEL Funds
44	Section 800.78 is amended to rename the section "Deobligation of AEL Funds."
45	

Section 800.78(a) is amended to update the reference to §800.78(d). Section 800.78(d) is deleted and the reference is updated to §800.80(a), which contains similar language to the language that was deleted.

Section 800.78(a)(1) is amended to revise the time in which TWC may review expenditures for deobligation from months four to seven, to any month after month four.

Section 800.78(d), which provides that amounts deobligated from an AEL grant recipient must be made available as a first priority to another grant recipient providing AEL services in the same workforce area, is deleted. The subsequent subsection is relettered accordingly.

## §800.80. Reallocation of AEL Funds

Section 800.80 is amended to modify the criteria a grant recipient must meet in order to receive deoglibated funds and revise language related to the reallocation of funds.

New §800.80(a)(7) is added to require a grant recipient to be meeting performance for the program year to receive deobligated funds.

Section 800.80(b) is amended to clarify that the Commission must approve any plan to reallocate deobligated funds. Section 800.80(b) is also amended to add that the Commission may make those funds available as a first priority to other grant recipients within the same workforce area meeting the criteria in §800.80(a). Existing language provides that the Commission must approve an acceptable plan to reallocate funds to a grant recipient within the workforce area; and the new language provides that grant recipients outside the workforce area may be considered by the Commission, provided that requirements in §800.80(a) are met. Section 800.80(b) is also amended to add that if AEL grant recipients outside the workforce area are not able to meet the criteria in §800.80(a), then TWC staff will present an alternate plan for the Commission's consideration.

TWC hereby certifies that the adoption has been reviewed by legal counsel and found to be within TWC's legal authority to adopt.

## PART III. PUBLIC COMMENTS

34 The public comment period closed on August 22, 2022. No comments were received.

## 36 PART IV. STATUTORY AUTHORITY

- 37 The rules are adopted under Texas Labor Code, §301.0015 and §302.002(d), which provide
- 38 TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the
- 39 effective administration of TWC services and activities.
- 40 The adopted rules implement the requirements set out in Workforce Innovation and Opportunity
- 41 Act Title II and Texas Labor Code, Chapter 315.

1		CHAPTED 900 CENEDAL ADMINISTRATION						
1 2		CHAPTER 800. GENERAL ADMINISTRATION						
3	SUBCHAPTER B. ALLOCATIONS							
4	NODOLIM IBR BITIED CHILOTTO							
5	§800.52. Defi	initions.						
6								
7 8	The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:							
9	(1)	A sound Even and its unes. Changes in assemble deviate a sixual namical for sounds and						
10	(1)	Accrued ExpendituresCharges incurred during a given period for goods and						
11 12		tangible property received and services performed that cause decreases in net financial resources.						
13		mancial resources.						
14	(2)	All-Family Participation RateThe percentage of all families receiving TANF						
15	(2)	benefits that a state must engage in an approved work activity for a specified						
16		number of hours per week as provided by the Personal Responsibility and						
17		Work Opportunity Reconciliation Act of 1996, §407, as amended.						
18								
19	(3)	Contract Closeout Settlement PackageFinancial, performance, and other						
20	, ,	reports required as a condition of the contract, which must be submitted when						
21		one of the following conditions is met:						
22								
23		(A) the contract has expired;						
24								
25		(B) all available funds for the contract period have been paid out;						
26								
27		(C) all accrued expenditures chargeable to the specific contract have been						
28		incurred; or						
29								
30		(D) the period of available funds has expired or been terminated.						
31	(4)							
32	(4)	Contract PeriodThe length of time in which a contract for allocated funds						
33 34		between the Commission and a Board or an AEL grant recipient is in effect						
35		and during which funds may be expended for a specified purpose, unless prohibited by a federal grantor agency. A contract period longer than a						
36		program year shall be specified under the terms of a properly executed						
37		contract.						
38		contract.						
39	(5)	DeobligationAn action adopted by the Commission to decrease an amount						
40	(3)	for a specific program and contract period in a contract with a Board or an						
41		AEL grant recipient for allocated funds, on the basis of provisions as set forth						
42		in §§800.73, 800.74, 800.78, and 800.79 of this subchapter.						
43		, , , , , , , , , , , , , , , , , , ,						
44	(6)	Equal Base AmountAn amount equivalent to .10 percent (one-tenth of one						

percent) of a total allocation, which shall be provided equally to each

workforce area.

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- (7) Hold Harmless/Stop Gain--A procedure that assures that a relative proportion of an allocation to a workforce area is not below 90 percent of the corresponding proportion for the past two years, or that the current year proportion is not above 125 percent of the prior two-year relative proportion.
- (8) Monthly expenditure report--A written or electronically submitted report by a Board or an AEL grant recipient that contains information regarding services for each category of funding allocated by the Commission, and in which the Board or an AEL grant recipient lists expenditures and obligations by category of funding.
- (9) Obligation--A debt established by a legally binding contract, letter of agreement, sub-grant award, or purchase order, which has been executed prior to the end of a contract period, for goods and services provided by the end of the contract period, and which will be liquidated 60 calendar days after the end of a contract period, unless such definition is superseded by federal requirements.
- (10) Relative proportion of the program year--The corresponding part of the program year that is used to compare expenditures. That is, if 50 percent of the program year has transpired, then the relative proportion of the program year is 50 percent.
- (11) WIA Formula Allocated Funds--Funds allocated by formula to workforce areas for each of the following separate categories of funding: WIA Adult, Dislocated Worker, and Youth.

## §800.71. General Deobligation and Reallocation Provisions.

- (a) Purpose. The purpose of this rule is to promote effective service delivery, financial planning, and management to ensure full utilization of funding, and to reallocate funds to populations in need.
- (b) Scope. Sections 800.71 800.80 of this subchapter shall apply to funds provided to workforce areas under a contract between the Board or an AEL grant recipient and the Commission for the following categories of funding:
  - (1) Adult Education and Literacy
  - (2) Child Care
  - (3) Choices
  - (4) Employment Service

1		(5)	SNAP E&T				
2 3		(6)	Project RIO				
4		(7)	WIA Alternative Francisco Control Astroitics				
5 6		(7)	WIA Alternative Funding for Statewide Activities				
7		(8)	WIA Alternative Funding for One-Stop Enhancements				
8		` '					
9	§800.78. Deobligation of AEL Funds.						
10							
11	(a)		Commission may deobligate funds from an AEL grant recipient during the				
12			ram year if an AEL grant recipient is not meeting the expenditure thresholds set				
13 14			in subsection (b) of this section, provided, however, that the requirements of				
15		8000	0.80(a) of this subchapter are satisfied.				
16		(1)	AEL grant recipients that fail to meet the expenditure thresholds set forth in				
17		(1)	subsection (b) of this section at the end of month four(October), or any month				
18			thereafter, will be reviewed to determine the causes for the under expenditure				
19			of funds, except as set forth in subsection (d) of this section.				
20			, ,				
21		(2)	The Commission shall not deobligate more than the difference between an				
22			AEL grant recipient's actual expenditures and the amount corresponding to the				
23			relative proportion of the program year.				
24							
25		(3)	The Commission shall not deobligate funds from an AEL grant recipient that				
26			failed to meet the expenditure thresholds set forth in subsection (b) of this				
27			section, if within 60 days prior to the potential deobligation period the				
28			Commission executes a contract amendment for a supplemental allocation or				
29 30			reallocation of funds in the same program funding category.				
31	(h)	The (	Commission may deobligate funds from an AEL grant recipient midyear, as set				
32	(0)		in subsection (a) of this section, if an AEL grant recipient fails to achieve the				
33			enditure of an amount corresponding to 90 percent or more of the relative				
34		-	ortion of the program year.				
35		ГТ	r · · · · · · · · · · · · · · · · · · ·				
36	(c)	An A	AEL grant recipient subject to deobligation for failure to meet the requirements				
37		set fo	orth in this section shall, upon request by the Commission, submit a written				
38		justii	fication. For an AEL consortium, a copy must be provided to all AEL				
39			ortium members. The written justification shall provide sufficient detail				
40		_	rding the actions an AEL grant recipient will take to address its deficiencies,				
41		inclu	iding:				
42		(1)					
43		(1)	expansion of services proportionate to the available resources;				
44		(2)	music ata di compica lavrala and malata di manferimo				
45		(2)	projected service levels and related performance;				

1		(3)	reporting outstanding obligations; and				
2 3 4 5		(4)	any other factors an AEL grant recipient would like the Commission to consider.				
6 7 8	(d)	To the extent this section may be found not to comply with federal requirements, or should any related federal waivers expire, the Commission will be subject to federal requirements in effect, as applicable.					
9 10	§800.8¢	). Rea	. Reallocation of AEL Funds.				
11							
12 13	(a)	For an AEL grant recipient to be eligible to receive deobligated AEL funds, Commission may consider whether the AEL grant recipient:					
14 15 16		(1)	has met targeted expenditure levels as required by §800.78(a) and (b) of this subchapter, as applicable, for that period;				
17 18 19		(2)	has not expended or obligated more than 100 percent of the workforce area's allocation for the category of funding;				
20 21 22		(3)	has demonstrated that expenditures conform to cost category limits for funding;				
23 24 25		(4)	has demonstrated the need for and ability to use additional funds;				
26 27		(5)	is current on expenditure reporting;				
28 29		(6)	is current with all single audit requirements;				
30 31		(7)	is meeting performance for the program year; and				
32 33		(8)	is not under sanction.				
34 35	(b)		Commission must approve any plan to reallocate funds deobligated or ntarily deobligated from AEL grant recipients. The Commission may make such				
36			Is available as a first priority to any other AEL grant recipients providing AEL				
37			ices within the same workforce area meeting the requirements of subsection (a)				
38			is section, upon receipt and approval by the Commission of an acceptable plan.				
39			owing the determination that any such plan has not been determined to be				
40			ptable, the Commission may consider AEL grant recipients outside the				
41			kforce area satisfying the requirements of subsection (a) of this section, upon				
42			ipt and approval by the Commission of an acceptable plan. In the event AEL				
43			t recipients outside the workforce area are not able to meet the requirements of				
44		_	ection (a) of this section, Agency staff will present an alternate plan for				
45			nmission consideration.				