



Certification Page Regular and Emergency Rules

1. General Information

a. Agency/Board Name <i>See attached list for references</i>			
b. Agency/Board Address		c. Agency/Board City	d. Agency/Board Zip Code
e. Name of Contact Person		f. Contact Telephone Number	
g. Contact Email Address			h. Adoption Date:
i. Program(s) <i>See attached list for references</i>			

2. Rule Type and Information

a. These rules are: **Emergency Rules** *(After completing all of Section 2, proceed to Section 5 below)* **Regular Rules**

b. Choose all that apply: **New Rules*** **Amended Rules** **Repealed Rules**

** "New" rules means the first set of regular rules to be promulgated by the Agency after the Legislature adopted a new statutory provision or significantly amended an existing statute.*

If "New," provide the Enrolled Act number and year enacted:

c. Provide the Chapter Number, and Short Title of Each Chapter being Created/Amended/Repealed *(if more than 5 chapters are being created/amended/repealed, please use the Additional Rule Information form and attach it to this certification)*

Chapter Number:	Short Title:

d. The Statement of Reasons is attached to this certification.

e. If applicable, describe the emergency which requires promulgation of these rules without providing notice or an opportunity for a public hearing:

3. State Government Notice of Intended Rulemaking

a. Date on which the Notice of Intent containing all of the information required by W.S. 16-3-103(a) was filed with the **Secretary of State**:

b. Date on which the Notice of Intent and proposed rules in strike and underscore format were provided to the **Legislative Service Office**:

c. Date on which the Notice of Intent and proposed rules in strike and underscore format were provided to the **Attorney General**:

4. Public Notice of Intended Rulemaking

a. Notice was mailed 45 days in advance to all persons who made a timely request for advance notice. Yes No N/A

b. A public hearing was held on the proposed rules. Yes No

If "Yes:"	Date:	Time:	City:	Location:
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5. Final Filing of Rules

a. Date on which the Certification Page with original signatures and final rules were sent to the **Attorney General's Office for the Governor's signature:**

b. Date on which final rules were sent to the **Legislative Service Office:**

c. Date on which a PDF of the final rules was electronically sent to the **Secretary of State:**

6. Agency/Board Certification

The undersigned certifies that the foregoing information is correct.

<i>Signature of Authorized Individual</i>	
<i>Printed Name of Signatory</i>	
<i>Signatory Title</i>	
<i>Date of Signature</i>	

7. Governor's Certification

I have reviewed these rules and determined that they:

1. Are within the scope of the statutory authority delegated to the adopting agency;
2. Appear to be within the scope of the legislative purpose of the statutory authority; and, if emergency rules,
3. Are necessary and that I concur in the finding that they are an emergency.

Therefore, I approve the same.

<i>Governor's Signature</i>	
<i>Date of Signature</i>	

Distribution List:

Attorney General

1. Statement of Reasons;
2. Original Certification Page;
3. Summary of Comments (regular rules);
4. Hard copy of rules: clean and strike/underscore; and
5. Memo to Governor documenting emergency (emergency rules).

LSO

1. Statement of Reasons;
2. Copy of Certification Page;
3. Summary of Comments (regular rules);
4. Hard copy of rules: clean and strike/underscore;
5. Electronic copy of rules: clean and strike/underscore; and
6. Memo to Governor documenting emergency (emergency rules).

SOS

1. PDF of clean copy of rules; and
2. Hard copy of Certification Page as delivered by the AG.



Matthew H. Mead
Governor

State of Wyoming Department of Workforce Services

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WORKFORCE DEVELOPMENT TRAINING FUND

CHAPTER 1. BUSINESS TRAINING GRANTS

CHAPTER 3. PRE-OBLIGATION OF WORKFORCE DEVELOPMENT TRAINING FUNDS

FINAL RULES

STATEMENT OF REASONS

Attached are the final rules for the regulation governing the Workforce Development Training Fund.

The Department of Workforce Services (DWS) shall adopt revised rules governing the Workforce Development Training Fund. The rules to which DWS is adopting changes will focus on technical corrections and make changes to address the footnote inserted into the DWS's budget which states, "[t]he department shall develop policies to ensure that funds appropriated for the business training and outreach program are distributed on a prioritized needs basis." They are promulgated pursuant to W.S. § 9-2-2601(d) and W.S. § 9-2-2602(b)(vi). These rules contain all the information required by W.S. § 16-3-103(a).

In Chapter 1, Sections 3 and 4, DWS sought to ensure that all trainees for whom grant funding is awarded reside in and work in Wyoming. Due to the number of comments received in opposition to this rule change, DWS has elected to remove the "reside in and" language from the final rules.



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The original rules referenced an incorrect statute regarding DWS authority to promulgate rules. DWS has corrected this oversight in these final rules.

As a result of the merger of DWS with the Department of Employment, the Business Training and Outreach Division was eliminated. The title language on the original rules which referred to the Business Training and Outreach Division has been removed from the final rules.

It should be noted that DWS proposed a timeline change in Chapter 1 which would have reduced the grant application timeline from forty-five (45) days to thirty (30) days. At the recommendation of the Attorney General's office, this change will not be adopted.

Finally, the original proposed rules reflected changes to Chapter 2 and provided for an additional chapter, Chapter 4, as a vehicle through which funds could be applied for and allocated. Due to the number of comments in opposition to the changes that were received, DWS shall revise these rules and file under separate cover.



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DEPARTMENT OF WORKFORCE SERVICES

CHAPTER 1

WORKFORCE DEVELOPMENT TRAINING FUND

BUSINESS TRAINING GRANTS

Section 1. Authority

The Department of Workforce Services (DWS) is authorized under the DWS Act W.S. § 9-2-2601(d), and W.S. § 9-2-2602(b)(vi) and the Wyoming Administrative Procedures Act, W.S. § 16-3-101, et seq. to promulgate rules and regulations to be used by DWS in the discharge of its functions.

Section 2. Purpose

Business training grants provide opportunities for new or existing businesses to create new jobs or to upgrade the skills of workers.

Section 3. Training Grants for Existing Positions

(a) Business Entity Eligibility

(i) The following business entities are eligible to apply for training grants under this section:

(A) All business entities that are registered with the Wyoming Secretary of State to conduct business in Wyoming;

(B) Wyoming sole proprietorships;

(C) Wyoming limited liability companies;

(D) Wyoming partnerships; and

(E) Wyoming county hospitals.

(ii) Governmental entities as defined in W.S. § 1-39-103(a)(i) and (ii) are not eligible for training grants.

(iii) Entities as defined in W.S. § 97-1-019 are not eligible for training grants.

(iv) Business entities shall meet the following requirements to be eligible to receive training grants under this section. The business entity must be:

(A) Registered and in good standing with the Wyoming Unemployment Insurance program;

(B) Registered and in good standing with the Wyoming Workers' Compensation program;

(C) Registered and in good standing with the Wyoming Secretary of State's office, except sole proprietorships and general partnerships;

(D) In good standing with the Workforce Development Training Fund (WDTF); and

(E) Registered with DWS' management information system.

(b) Training Eligibility

In order for the training to be approved under this section, the business entity must demonstrate, to the satisfaction of DWS, the following:

(i) Training will either correct an employee's skill deficiency or upgrade an employee's current skill level;

(ii) A direct relationship between the training and the trainee's occupation or craft;

(iii) The training is not normally provided by the business entity;

(iv) The business entity shall not substitute funds normally provided for training or funds obtained from another source with Business Training Grant funds;

(v) There is a need for the skill upgrade provided by the training for the business entity to remain competitive in the industry or economy; and

(vi) The skill upgrade provided by the training will:

(A) Enhance the business entity's productivity, efficiency or profitability;

(B) Reduce employee turnover; or

(C) Enhance employee wages.

(c) Trainee Eligibility

In order for a trainee to be eligible to participate in training under this section, the trainee must be working in Wyoming for the eligible business entity applying for the training grant under this section at the time of training.

(d) Grant Funding Limit Per Trainee

The grant funding limit per trainee shall be two thousand dollars (\$2,000.00) per state fiscal year.

(i) For each state fiscal year, a business entity may only apply for a total of two thousand dollars (\$2,000.00) for training per trainee under this section.

(ii) For each state fiscal year, a trainee may only receive a total of two thousand dollars (\$2,000.00) worth of training under this section, regardless of the number of business entities the trainee works for during a state fiscal year.

(iii) If a trainee is trained under Section 4 of these rules during a state fiscal year, the trainee shall be eligible to be trained under Section 3 of these rules during the same fiscal year, but not for the same training event.

(e) Business Entity Contribution

The business entity approved for a training grant under this section shall be required to pay forty percent (40%) of approved allowable training expenses. For Section 3 only, the remaining sixty percent (60%) of approved allowable training expenses shall be the total training grant award (Grant Award).

(f) Allowable Training Expenses

The following training expenses shall be allowed:

(i) Direct training costs include, but are not limited to, tuition, registration, class fees and class materials directly related to the training;

(ii) Travel expenses include transportation, lodging and meals directly related to the training;

(iii) Instructor's fees and travel expenses where the instructor is brought in for the training by the business entity and is not an employee of the business entity; and

(iv) Fees for continuing education units and certifications that may be obtained during the training.

(g) Non-allowable Training Expenses

The following training expenses shall not be allowed:

- (i) Trainee's wages and fringe benefits;
- (ii) The business entity's administration expenses which include, but are not limited to, bookkeeping, reporting and record keeping;
- (iii) The business entity's cost of preparing a Business Training Grant application;
- (iv) Purchased, rented or leased equipment including software;
- (v) Instructor's fees and travel expenses where the instructor is an employee of the business entity;
- (vi) Assessments, testing and certification exams that are not included in the training;
- (vii) Fees for licenses;
- (viii) Membership fees; and
- (ix) Capital construction of any kind.

(h) Grant Application Process

Business entities applying for training grants under this section shall:

- (i) Complete the Business Training Grant application provided by DWS, and
- (ii) Submit a completed Business Training Grant application to DWS.
 - (A) Business Training Grant applications that are submitted more than one hundred ten (110) days before the scheduled first date of travel, if applicable, or the start date of training will not be accepted, and
 - (B) Business Training Grant applications that are submitted less than forty-five (45) days before the scheduled first date of travel, if applicable, or the start date of training will not be accepted.

(i) Contract and Payment

- (i) The Director of DWS may approve any training grant application that meets the requirements of Sections 3(a) through (h) of these rules.

(ii) If the training grant is approved and funds are available, DWS shall enter into a contract with the approved business entity.

(iii) Grant funds shall be paid directly to the business entity.

(j) Schedule for Payment of Funds

(i) Seventy-five percent (75%) of the Grant Award shall be remitted to the business entity after the contract is fully executed and the necessary paperwork has been processed through the state fiscal system.

(ii) Twenty-five percent (25%) of the Grant Award shall be withheld by DWS as retainage. Payment of the retainage to the business entity shall be subject to the following:

(A) Subject to Section 3(k)(iii) through (v) below, the amount of the retainage associated with each trainee shall be remitted to the business entity if the trainee:

(I) Has completed the training, and

(II) Has been retained in employment with the business entity for a ninety (90)-day period after the date of completion of the training.

(B) For each trainee who does not complete the training:

(I) The retainage relating to the trainee shall not be remitted to the business entity, and

(II) The business entity shall repay DWS the seventy-five percent (75%) of the Grant Award relating to the trainee who did not complete the training.

(C) For each trainee who has completed the training but was not retained in employment with the business entity for ninety (90) days after completion of the training, the business entity shall not receive the retainage relating to that trainee.

(D) When a business entity is required to repay DWS under Section 3(j)(ii)(B), the repayment shall be made to DWS no later than thirty (30) days after notification from DWS that a repayment is due.

(E) A business entity may seek a waiver of repayment when the employee, during the training, is:

(I) Terminated for cause;

(II) Activated for military service; or

(III) Deceased.

(k) Final report

The business entity shall submit a final report of the results of the training to DWS.

(i) The final report is due no earlier than ninety (90) days and no later than one hundred thirty-five (135) days after the training is completed.

(ii) The final report shall include:

(A) A summary report of the results of the training program;

(B) A copy of the agenda, manual or table of contents from the training;

(C) A payroll record listing the name(s), last four (4) digits of the employee(s) social security number(s) and hourly wages of the employee(s) trained for a pay period ninety (90) days after the training has completed; and

(D) Invoices and receipts or proofs of payment for allowable expenses, including travel and registration.

(E) Reasonable assurances that the trainee(s) attended the training.

(iii) Where the Grant Award is greater than the actual training expenses, the retainage shall be reduced by the difference between the Grant Award and the actual training expenses.

(iv) Where the difference between the Grant Award and the actual training expenses is greater than the retainage, the business entity shall repay DWS the dollar amount that the difference exceeds the retainage.

(v) Where the actual training expenses are greater than the Grant Award, the difference shall be the sole responsibility of the business entity.

(vi) The business entity shall repay the entire Grant Award if the final report is not submitted in accordance with Section 3(k).

(vii) If a business entity does not submit a final report or does not repay DWS money owed in accordance with these rules, the business entity's file shall be sent to the State of Wyoming Attorney General's office for appropriate action.

Section 4. Training Grants for New Positions

Training Grants for New Positions are for any position within a business that has been created within one hundred eighty (180) days from the first date of travel, if applicable, or the start date of training.

(a) Business Entity Eligibility

(i) The following business entities are eligible to apply for training grants under this section:

(A) All business entities that are registered with the Wyoming Secretary of State to conduct business in Wyoming;

(B) Wyoming sole proprietorships;

(C) Wyoming limited liability companies;

(D) Wyoming partnerships; and

(E) Wyoming county hospitals.

(ii) Governmental entities as defined in W.S. § 1-39-103(a)(i) and (ii) are not eligible for training grants.

(iii) Entities as defined in W.S. § 97-1-019 are not eligible for training grants.

(iv) Business entities shall meet the following requirements to be eligible to receive training grants under this section. The business entity must be:

(A) Registered and in good standing with the Wyoming Unemployment Insurance program;

(B) Registered and in good standing with the Wyoming Workers' Compensation program;

(C) Registered and in good standing with the Wyoming Secretary of State's office, except sole proprietorships and general partnerships; and

(D) In good standing with WDTF.

(E) Registered with DWS' management information system.

(F) Post all job openings for new positions with its local DWS Workforce Center. The business entity shall certify that this requirement has been complied with prior to

receiving a Grant Award. This requirement does not apply to positions that are currently filled in accordance with this section.

(b) Training Eligibility

In order for the training to be approved under this section, the business entity must demonstrate, to the satisfaction of DWS, a direct relationship between the training and the trainee's occupation or craft.

(c) Trainee Eligibility

In order for a trainee to be eligible to participate in training under this section, the trainee must be working in Wyoming for the eligible Wyoming business entity applying for the training grant under this section at the time of training.

(d) Grant Funding Limit Per Trainee

Under this section, the grant funding limit per trainee per state fiscal year shall be:

(i) One thousand dollars (\$1,000.00) per trainee working less than thirty-five (35) hours per week. If a trainee is trained under this funding limit, the trainee shall not be eligible to be trained under either (d)(ii) or (iii) of this section;

(ii) Two thousand dollars (\$2,000.00) per trainee working thirty-five (35) or more hours per week. If a trainee is trained under this funding limit, the trainee shall not be eligible to be trained under either (d)(i) or (iii) of this section; and

(iii) Four thousand dollars (\$4,000.00) per trainee whose wages are equal to or greater than the mean county hourly wage as determined by the U. S. Department of Labor, Bureau of Labor Statistics. If a trainee is trained under this funding limit, the trainee shall not be eligible to be trained under either (d)(i) or (ii) of this section.

(iv) If a trainee is trained under Section 3 of these rules during a state fiscal year, the trainee shall be eligible to be trained under Section 4 of these rules during the same state fiscal year, but not for the same training event.

(e) Grant Award

For Section 4 only, one hundred percent (100%) of approved allowable training expenses shall be the total training grant award (Grant Award).

(f) Allowable Training Expenses

The following training expenses shall be allowed:

(i) Direct training costs include, but are not limited to, tuition, registration, class fees and class materials directly related to the training;

(ii) Travel expenses include transportation, lodging and meals directly related to the training;

(iii) Instructor's fees and travel expenses where the instructor is brought in for the training by the business entity;

(iv) Instructor's fees and travel expenses where the instructor is an employee of the business entity;

(v) Trainee's wages; and

(vi) Fees for continuing education units and certifications that may be obtained during the training.

(g) Non-allowable Training Expenses

The following training expenses shall not be covered:

(i) Trainee's fringe benefits;

(ii) The business entity's administration expenses which include, but are not limited to, bookkeeping, reporting and record keeping;

(iii) The business entity's cost of preparing a Business Training Grant application;

(iv) Purchased, rented or leased equipment including software;

(v) Instructor's wages where the instructor is an employee of the business;

(vi) Assessments, testing and certification exams that are not included in the training;

(vii) Fees for licenses;

(viii) Membership fees; and

(ix) Capital construction of any kind.

(h) Grant Application Process

Business entities applying for training grants under this section shall:

(i) Complete the Business Training Grant application provided by DWS, and

(ii) Submit a completed Business Training Grant application to DWS.

(A) Business Training Grant applications that are submitted more than one hundred ten (110) days before the scheduled first date of travel, if applicable, or the start date of training will not be accepted, and

(B) Business Training Grant applications that are submitted less than forty-five (45) days before the scheduled first date of travel, if applicable, or the start date of training-will not be accepted.

(i) Contract and Payment

(i) The Director of DWS may approve any training grant application that meets the requirements of Sections 4(a) through (h) of these rules.

(ii) If the training grant is approved and funds are available, DWS shall enter into a contract with the approved business entity.

(iii) Grant funds shall be paid directly to the business entity.

(j) Schedule for Payment of Funds

(i) Seventy-five percent (75%) of the Grant Award shall be remitted to the business entity after the contract is fully executed and the necessary paperwork has been processed through the state fiscal system.

(ii) Twenty-five percent (25%) of the Grant Award shall be withheld by DWS as retainage. Payment of the retainage to the business entity shall be subject to the following:

(A) Subject to Section 4(k)(iii) through (v) below, the amount of the retainage associated with each trainee shall be remitted to the business entity if the trainee:

(I) Has completed the training, and

(II) Has been retained in employment with the business entity for a ninety (90)-day period after the date of completion of the training.

(B) For each trainee who does not complete the training or is not retained in employment with the business entity for a ninety (90)-day period after completion of the training:

(I) The retainage relating to the trainee shall not be remitted to the business entity, and

(II) The business entity shall be required to repay the seventy-five percent (75%) of the Grant Award relating to the trainee either who did not complete the training or was not retained in employment with the business entity for a ninety (90)-day period after completion of the training.

(C) When a business entity is required to repay DWS under Section 4(j)(ii)(B), the repayment shall be made to DWS no later than thirty (30) days after notification from DWS that a repayment is due.

(D) A business entity may seek a waiver of this repayment for good cause when the employee, during training, is:

- (I) Terminated for cause;
- (II) Activated for military service; or
- (III) Deceased.

(k) Final report

The business shall submit a final report of the results of the training to DWS.

(i) The final report is due no earlier than ninety (90) days and no later than one hundred thirty-five (135) days after the training is completed.

(ii) The final report shall include:

- (A) A summary report of the results of the training program;
- (B) A copy of the agenda, manual or table of contents from the training;
- (C) A payroll record listing the name(s), last four digits of the employee(s) social security number(s) and hourly wages of the employee(s) trained for a pay period ninety (90) days after the training has been completed; and
- (D) Invoices and receipts or proof of payment for allowable expenses, including travel and registration.
- (E) Reasonable assurance that the trainee(s) attended the training.

(iii) Where the Grant Award is greater than the actual training expenses, the retainage shall be reduced by the difference between the Grant Award and the actual training expenses.

(iv) Where the difference between the Grant Award and the actual training expenses is greater than the retainage, the business entity shall repay DWS the dollar amount that the difference exceeds the retainage.

(v) Where the actual training expenses are greater than the Grant Award, the difference shall be the sole responsibility of the business entity.

(vi) The business entity shall repay the entire Grant Award if the final report is not submitted in accordance with Section 4(k).

(vii) If a business entity does not submit a final report or does not repay DWS money owed in accordance with these rules, the business entity's file shall be sent to the State of Wyoming Attorney General's office for appropriate action.

Section 5. Prioritization of Grant Funds

(a) The WDTF shall work with the Wyoming Workforce Development Council to develop a model to distribute funds on a prioritized needs basis based on, at a minimum, the following:

- (i) Economic growth potential;
- (ii) Employment base;
- (iii) Wages, benefits and career opportunities;
- (iv) Importance of the industry sector or occupation to the state and regional economy; and
- (v) Workforce development needs.

(b) The WDTF shall work with the Wyoming Workforce Development Council to periodically evaluate the model for distributing funds as outlined in this section and determine the need for any modifications.

Section 6. Annual Report

The Director of the DWS shall report annually to the Governor and the Legislature on the expenditures made from the WDTF in the preceding fiscal year and the results of the activities funded by the WDTF.

DEPARTMENT OF WORKFORCE SERVICES

CHAPTER 3

WORKFORCE DEVELOPMENT TRAINING FUND

PRE-OBLIGATION OF

WORKFORCE DEVELOPMENT TRAINING FUNDS

Section 1. Authority

The Department of Workforce Services (DWS) is authorized under the DWS Act W.S. § 9-2-2602(d) and W.S. § 9-2-2602(b)(vi) and the Wyoming Administrative Procedures Act, W.S. § 16-3-101, et seq. to promulgate rules and regulations to be used by DWS in the discharge of its functions.

Section 2. Purpose

The Pre-Obligation program provides a means for Wyoming Economic Development Entities to request obligation of funding on behalf of businesses for Workforce Development Training Fund (WDTF) grants to attract business and industry to Wyoming. DWS may obligate funding under this chapter when the funding shall be used to attract a new business to Wyoming as part of an economic development initiative, or when an existing Wyoming business entity is planning an expansion of its workforce.

Section 3. Eligibility Requirements

(a) The following Wyoming Economic Development Entities are eligible to apply for Pre-Obligation of WDTF program funding under this section:

- (i) Local, regional, or state economic development organization;
- (ii) City or town council;
- (iii) County commission; and
- (iv) Tribal council.

(b) Applicants for Business Training Grants or Pre-Hire Training Grants using funding provided through an approved Pre-Obligation application must meet the eligibility requirements of the WDTF program, as outlined in the appropriate sections of the WDTF Grant Programs rules.

Section 4. Application and Approval Process

(a) The application to obligate funding under this section shall be:

(i) Completed by an eligible Wyoming Economic Development Entity listed in Section 3(a) using the official DWS application form.

(ii) Submitted to DWS.

(b) DWS shall review Pre-Obligation applications under this section to determine the level of funding for which a business entity qualifies, approve or deny the application, and obligate the approved amount of funding.

Section 5. Limit on Funding

The total application amount shall not exceed an amount equivalent to two hundred (200) trainees multiplied by the maximum grant amount limit for Business Training Grants for New Positions in effect at the time of application approval.

Section 6. Obligation Period

(a) If funding is available, DWS may obligate the funds through contract for a six (6) month period.

(b) The obligation period may be extended for three (3) months upon the Department of Workforce Services' approval. Extensions shall be applied for by the Wyoming Economic Development Entity that submitted the original application, and shall include:

(i) A favorable recommendation by the Wyoming Economic Development Entity supporting the extension; and

(ii) Documented proof of significant progress of the business' efforts to locate or expand in the state.

(c) The obligation period may be extended twice for a total extension period of six (6) months with proper documentation.

Section 7. Funding Cycle

(a) Applicants for Pre-Obligation must successfully complete an application for either a Business Training Grant for New Positions, a Pre-Hire Training Grant, or a combination of both.

(b) Access to funding under this program shall be used specifically for:

(i) Payment under the terms of an executed contract for Business Training Grants for New Positions; or

(ii) Payment under the terms of an executed contract for a Pre-Hire Training Grant; or

(iii) Payment under the terms of a combination of executed contracts for Business Training Grants for New Positions and Pre-Hire Training Grants.

(c) No other method of payment shall be used to access or disburse funding from this program.

(d) If the period allowed for obligating funds expires or the business decides not to locate in Wyoming or expand, the funds shall be deobligated.

(e) Unused funding resulting from completed grant contracts funded through Pre-Obligation shall be returned to the fund for reallocation and potential use by another applicant.

Section 8. Annual Report

The Director of DWS shall report annually to the Governor and the Legislature on the applications and approvals made under this program in the preceding fiscal year and the results of the activities subsequently funded by the WDTF.