

DOL Building Pathways to Infrastructure Jobs Grant Program

Key Policy Clarifications

April 2024

This document provides clarifications to key policy guidance for the Department of Labor (DOL) Building Pathways grantees, funded with H-1B Skills Training grant funds. The Building Pathways Funding Opportunity Announcement (FOA) and Amendment 1 are located on the Building Pathways [Resource Page](#). If you have further questions, please contact your Federal Project Officer (FPO).

1. Definition of a Participant

A participant is any individual who is determined eligible for and receives a DOL Building Pathways grant-funded service after the determination of eligibility.

2. Populations Eligible to be Served

To be eligible for services, an individual must be unemployed, underemployed, or an incumbent worker, as defined in the FOA, described below, and as it aligns with the grantee's Statement of Work (SOW). Further, the FOA states that "[all] participants must be at least 17 years of age and not currently enrolled in secondary school within a local educational agency." Therefore, Building Pathways grant participants must be 17 years of age or older and not currently enrolled in high school.

The DOL Building Pathways FOA defines the eligible populations as:

- **Unemployed Worker:** An unemployed worker is an individual who is without a job and is available to work.

Examples: full-time students who are not currently working, retired individuals seeking to return to work, or recent high school graduates without a job.

- **Underemployed Worker:** An individual who is not currently connected to a full-time job commensurate with the individual's level of education, skills, or wage and/or salary earned previously, or who has obtained only episodic, short-term, or part-time employment.

Example: individuals in any occupation who are not working at a skill and/or pay level commensurate with their level of education, skill, or previous pay.

- **Incumbent Worker:** An individual already employed, either with an employer partner or another employer, at program enrollment, but who needs training to upgrade their skills to secure full-time employment, advance in their career, or retain their current position in an H-1B occupation and industry. The training provided to incumbent workers is either 1) developed in collaboration with an employer partner with which the individual is employed, or 2) for individuals who are employed at the time of enrollment by a non-partner employer, but who need additional skill training to improve their opportunities for middle- and high-skilled jobs in the target H-1B industries or occupations.

Examples: currently employed individuals who want to advance to a higher position or currently employed individuals who want to transition to a new field.

Please note that the examples provided above are not exhaustive categorizations of all employment situations.

Within these eligible participant categories (unemployed, underemployed, and incumbent workers), grantees may specifically target historically marginalized and underrepresented populations within their service areas and within these infrastructure occupations. This may include targeting recruitment and enrollment of women, people of color, justice-impacted individuals, individuals with disabilities, veterans, military spouses, transitioning service members, and other populations with employment barriers that hinder movement into middle- to high-skilled advanced manufacturing, information technology, and/or professional, scientific, and technical services occupations related to renewable energy, transportation, and/or broadband infrastructure sectors.

3. Determining a Participant's Employment Status at Program Entry

As part of the eligibility determination process, grantees are required to determine an individual's employment status. For the purposes of the Building Pathways grant program, participants must be unemployed, underemployed, or an incumbent worker to be eligible for services (in addition to meeting other eligibility requirements identified in the FOA and the grantee's SOW).

Although a participant's employment status may change while they are a grant participant, for performance reporting purposes, grantees will not revise the employment status at entry recorded for that participant since program eligibility is only determined once, at program entry.

4. Are Building Pathways Grantees Required to Determine a Participant's Legal Status for Employment?

For the purposes of eligibility to participate in this grant program, H1-B Skills Training Grants require that participants be available to work in the United States (See page 37 of the FOA). Grantees have the discretion to develop policies and procedures on how they verify and ensure their participants are available to work.

5. Selective Service Registration Requirements

The Employment and Training Administration (ETA) affirms the requirement for covered individuals to register for the Selective Service in accordance with their individual legal responsibility. However, Building Pathways grants are authorized under Section 414(c) of the American Competitiveness and Workforce Improvement Act (ACWIA) of 1998, which does not require that a determination of Selective Service registration be made prior to enrollment, or in determining eligibility to participate in the Building Pathways grant program. *Note that other employment and training programs, such as Workforce Innovation and Opportunity Act (WIOA)-funded programs may require Selective Service registration as part of program eligibility.*

6. Requirement to Collect Social Security Numbers (SSNs)

As part of performance reporting requirements, grantees are required to request participant SSNs and to provide SSNs reported by participants to DOL as part of the quarterly reporting process. DOL will use SSNs to track exit-based indicators of performance on behalf of grantees. Grantees should also ensure that, when they are collecting this information from participants, they inform the participants of the reason for requesting SSNs. **Please note, grantees are required to ask participants for their SSN, but if a participant chooses not to disclose this information, they cannot be denied services.** Participants should not be pressured into providing personally identifiable information if they are not comfortable doing so.

7. Incentive Payments to Collect Employment Outcomes

The FOA states that Building Pathways grantees may use up to 1.5 percent of grant funds for the provision of gift cards or other type of incentive payments to participants for providing information on grant outcomes (such as credential attainment or employment status) after they complete their training program, for the purposes of accurately reporting performance outcomes to DOL. These incentive

payments must be tied to the outcome goals of the grant. Grantees must have policies and procedures in place governing the awarding of incentive payments to participants and the incentives provided under the grant must comply with these organizational policies. The use of grant funds for incentive payments other than to collect participant information on grant outcomes (such as credential attainment or employment status) after participants complete their training program is not allowed.

8. Co-enrolling Building Pathways Participants

Distinct guidance is provided to distinguish between the co-enrollment of participants into other H-1B-funded grant programs and co-enrollment into other programs within or beyond DOL's Employment and Training Administration:

A. Co-enrolling with Other H-1B-Funded Grant Programs

The intent of co-enrollment is to meet the training and employment needs of program participants and provide as many participants as possible with comprehensive services that may not otherwise be available or allowable under an individual grant or funding source. Therefore, it is not acceptable to leverage resources that would result in co-enrollment in other H-1B-funded grant programs that are providing the same or similar services. Specifically, grantees may not co-enroll participants in more than one H-1B Skills Training Grant program (enrollment in both a DOL Building Pathways grant and an H-1B One Workforce grant, for example) as a strategy to facilitate the attainment of grantee target enrollment levels and performance outcomes across multiple H-1B job training programs.

B. Co-enrolling with Non-H-1B-Funded Grant Programs

DOL encourages H-1B Skills Training program grantees to maximize the use of their resources and minimize the duplication of efforts through partnership building, system alignment, and leveraging of other federal and non-federal funding sources. As programs braid funds together to increase impact, they have the opportunity to show integration in the form of participant co-enrollment, provided this co-enrollment aligns with eligibility criteria and allowable activities for each grant and meets the criteria below.

For Building Pathways grant activities, leveraging resources may include co-enrolling participants in programs such as:

- The Workforce Innovation and Opportunity Act (WIOA) Title I programs;
- Grants administered by the DOL Office of Apprenticeship;
- Other federally-funded programs; and/or
- Non-federal programs.

Grantees may co-enroll Building Pathways participants in non-H-1B-funded grant programs only if they satisfy each of the following conditions:

- Participants are **determined eligible** for each grant based on the statute and the grantee's SOW. Every program has very specific and distinct eligibility requirements.
- Participants are enrolled in allowable, **non-duplicated** grant activities, as the program's activities pertain to each program.
- The grantee **adheres to cost allocation**, as appropriate. For example, if a participant is enrolled in a training program of which the classroom and instructor salary are paid with Building Pathways grant funds and the cost of participant training/tuition is covered by a WIOA program, the grantee would need to ensure that the costs billed to the WIOA program did not include any costs or fees paid for by Building Pathways grant funds.
- The grantee reports on leveraged resources (both federal and non-federal funded) on the required ETA-9130 financial report form and Quarterly Narrative Report (QNR) for each respective DOL-funded grant, as appropriate.

- Fiscal and Performance Reporting policy and practice are in keeping with the Uniform Guidance (appropriate cost allocation, etc.), and DOL National Program Office reporting guidelines for the grant, contract, or cooperative agreement.
- The grantee reports on performance outcomes in accordance with the performance reporting requirements for each co-enrolled program, as appropriate.
 - Grantees can report on all outcomes and other deliverables that result from activities and services funded with both leveraged resources and grant funds in the Quarterly Performance Report (QPR) and QNRs for each co-enrolled DOL grant program. As an example, for a Building Pathways grant, the grantee may report any outcomes achieved as a result of a leveraged WIOA Title I program, the Building Pathways grant, or a combination of both.

Guidance related to co-enrollment does not prevent grantees from leveraging tools, materials, curricula, or other resources that other DOL-funded training programs, including other H-1B Skills Training Grant programs, developed, provided these activities do not result in co-enrollment.

9. Individuals Served with Leveraged Resources

Individuals Served with BOTH Leveraged Resources and Grant Funds

Individuals who receive services through a Building Pathways grant project funded with both leveraged resources and grant funds are considered grant participants. Grantees must report on all outcomes and other deliverables that result from activities and services funded with both leveraged resources and grant funds in the Quarterly Performance Report (QPR) Form ETA-9173, as appropriate. Grantees must also report on leveraged resources that have been provided to support their grant in both the grant's Quarterly Narrative Report (QNR) Form ETA-9179 and in their Quarterly Financial Report Form ETA-9130.

Individuals Served with ONLY Leveraged Resources

Individuals who receive services through a Building Pathways grant project funded solely with leveraged resources (i.e., no services are provided with grant funds) are not considered grant participants. Grantees must not report on outcomes for individuals funded solely with leveraged resources on their required QPR.

10. Participant Placement Along a Career Pathway

Grantees should ensure that their training activities are designed to meet the training completion and employment outcome targets identified in their grant SOWs. Participants served through the project must pursue a middle- to high-skilled occupation, and develop the competencies to enable them to enter middle- to high-skilled jobs along a career pathway in H-1B industries and occupations during the grant period of performance. As described in the Building Pathways FOA, "[...] training along a career pathway may start with entry-level occupations but must lead to employment and/or advancement into in-demand middle- to high-skilled occupations in advanced manufacturing; information technology; and/or professional, scientific, and technical occupations supporting renewable energy, transportation, and/or broadband infrastructure sectors" (pg. 14).

Career pathways must be sector-focused and incorporate the needs and hiring opportunities of employers within the specific industry sector, and provide planned and sequenced coursework, training, or work experience that leads to attainment of industry-recognized skills and stackable credentials.

11. Use of Grant Funds for Paid Work-Based Learning Components

For the purposes of grants awarded under the Building Pathways FOA, the following will apply:

a) On-the-Job Training (OJT)

OJT is available only for unemployed and underemployed individuals. Incumbent workers are not eligible for OJT under this Announcement and grantees are specifically prohibited from spending grant funds on payment of wages of incumbent workers. OJT is provided under a contract with an employer

in the private nonprofit or private for-profit sector. Under the OJT contract, the employer pays wages to the participant, and occupational training is provided for the participant in exchange for the reimbursement to the employer of a percentage of the participant's wage rate to compensate for the employer's extraordinary costs of training the individual (subject to the policy exceptions described on page 63 of the FOA).

The following are additional restrictions for OJT:

- i. Eligible participants cannot be currently employed by the employer providing the OJT;
- ii. Participant OJT placements may only be reimbursed for private for-profit and nonprofit sectors. While the grant allows for public sector OJT placements, they are not allowed to be reimbursed for any portion of the training costs with grant funds (see Number 15, Public Sector Placements below);
- iii. No placement may be made through staffing agencies providing workers on a temporary basis to employers for which the agency receives compensation from an employer; and
- iv. The period of reimbursement should be an adequate length to ensure the participant has acquired the technical skills needed for employment, but no longer than 12 months. Individuals may not be co-enrolled in other programs for the purpose of extending OJT employer reimbursement beyond 12 months. Twelve months exceeds the average length of time for current OJT activities; therefore, grantees should negotiate contracts with employers that lead transitioning participants to permanent employment as soon as possible. Grantees may establish contracts that will be longer than 12 months for multiple participants; however, the reimbursement for each individual that participates in OJT cannot be longer than 12 months.

The negotiated reimbursement percentage for OJT may be as high as 50 percent of the participant's hourly wage. DOL encourages grantees to negotiate lower rates or variable rates (such as starting at the maximum allowable reimbursement rate and reducing the subsidy over time) where possible to ensure that the maximum number of participants will be served by the project.

b) Registered Apprenticeship Programs (RAPs)

Organizations may use grant funds awarded under the Building Pathways FOA to reimburse a portion of a Registered Apprentice's work-based learning costs to employers.

For grants awarded under this FOA, the negotiated reimbursement percentage of an apprentice's work-based learning costs may be as high as 50 percent of the participant's hourly wage. We also encourage grantees to negotiate lower rates or variable rates (such as starting at the maximum allowable reimbursement rate and reducing the subsidy over time), where possible, to ensure that the maximum number of apprentices will be served by the grant project.

The following are additional restrictions for the use of grant funds for registered apprenticeships:

- Participant placements may occur only in private for-profit and nonprofit sectors (e.g., the grant does not allow for public sector placements) (see Number 15, Public Sector Placements below);
- While the grant allows for public sector RAP placements, public sector employers are not allowed to be reimbursed for any portion of the training costs with grant funds; and
- No placement may be made through staffing agencies providing workers on a temporary basis to employers for which the agency receives compensation from an employer.

c) Work Experience and Internships

Work experience and internships are both planned, structured learning experiences that take place in a workplace for a limited period. For the purposes of the grants under the Building Pathways FOA, work experiences and internships must be paid. Wages and stipends may be paid either directly to participants or to the employer partner for the purposes of reimbursing participant wages. Fair wage and labor standards apply where an employee/employer relationship exists, as defined by the Fair

Labor Standards Act (FLSA). For more information on the FLSA, grantees may visit <http://www.dol.gov/whd/>.

For a work experience or internship that supports training, grantees will need to document how the work experience or internship is connected to and supports the education and training activities included in the grant. Grantees have flexibility in the design and implementation of work experience and internships, but such opportunities must meet the following parameters:

- i. Provide an individual with monitored or supervised work or service experience in their expected career field where the individual has prescribed learning goals and reflects actively on what they are learning throughout the experience. These learning goals may include: (a) academic learning, career development, and skill development; and (b) the attainment of credentials in the individual's expected career field;
- ii. Are part of structured programs where the grantee established the criteria for determining who will participate in these programs;
- iii. Are for a set time period; and
- iv. Lead to a recognized postsecondary credential or are supplemented with additional training leading to a recognized postsecondary credential or employment during the grant period of performance.

Leveraging WIOA funds for the purposes of providing paid work experience is also encouraged. Grantees may refer to Section 7 of TEGL 21-16: Third Workforce Innovation and Opportunity Act (WIOA) Title I Youth Formula Program Guidance for additional technical assistance guidance on policies and procedures for work experience and internships.

d) Incumbent Worker Salaries

For grantees that are serving incumbent workers, incumbent worker salaries paid by the employer are NOT allowable costs to be reimbursed under this grant.

12. Using Grant Funds for Pre-Apprenticeship Programs

For the purposes of this FOA, a pre-apprenticeship program is defined as a set of strategies designed to prepare individuals for entry into a RAP. Pre-apprenticeship programs differ from internships, job shadowing, externships, and co-ops that also offer individuals an opportunity to experience firsthand a profession or practice, but do not always engage in "real world" experiential learning. For the purposes of this FOA, pre-apprenticeship programs funded through this grant are allowable only when the pre-apprenticeships articulate to RAP(s) during the grant period of performance.

13. Grant Amendments to the Statement of Work (SOW) - Adding Employer Partners

Building Pathways grantees may increase the number of their employer partners to ensure continuity of comprehensive workforce strategies and training programs that address the applicable industry sector workforce needs within the grantee's proposed geographic scope.

The FOA requirements pertaining to the number of employer partners differ by Track:

- **Development Track:** A representative group of, and no less than two (2), employer partners who are committed to providing hiring opportunities for participants trained through the grant. An applicant may meet this employer partnership requirement by partnering with an industry/trade association that represents at least two (2) employers in the service area who are committed to providing hiring opportunities for participants trained through the grant.
- **Scaling Track:** A representative group of, and no less than four (4), employer partners who are committed to providing hiring opportunities for participants trained through the grant and who support the employment needs of the skilled workforce being created in those service areas. An applicant may meet this employer partnership requirement by partnering with one or more

industry/trade associations that represent multiple employers who are committed to hiring opportunities for participants trained through the grant and operate in the identified service areas.

DOL anticipates a variety of situations in which grantees may add employer partners without submitting a grant amendment. Generally, an SOW amendment is not needed if a grantee is adding additional employer partners in an industry/occupation that is in the original SOW.

However, adding an employer partner may require an amendment under certain circumstances, including (but not limited to) the following:

- The grantee is adding an employer partner to replace a partner that was originally included in its SOW in order to meet the FOA requirements for the number of employer partners;
- The new employer partner will provide leveraged funds; and/or
- The new employer partner is playing an operational role in meeting the grant's performance outcomes (such as through commitments to interview successful training participants or providing a grant-related training credential).

Please discuss the addition of new employer partners with your FPO to determine if an SOW amendment is necessary.

14. Grant Amendments to the SOW - Change to Grant Service Area

The Building Pathways partnerships in each grant that were identified by grantees in their applications were part of the scoring criteria in the Building Pathways grant application. The National Program Office will not typically consider a service area change unless there is a compelling reason, such as a major economic event in the service area that changes the ability to implement the grant in the designated area. To consider a service area change, the National Program Office would need a strong justification for how an expanded service area aligns with the current workforce partnership, per the definition in the FOA. Additionally, expanding the service area may require the grantee to expand their workforce partnership to include the workforce agencies and other partners, including the requisite employer commitments, in those additional areas. In such instances, grantees would need to provide documentation that those partnerships are in place, or there is a commitment by the required partners in those areas that they will actively participate in the grant. If a grantee's request to expand the service area is due to recruitment challenges in the current service area, it may be more effective for the grantee to work with their FPO and their TA coach to assess and modify their outreach/recruitment strategies within the current service area.

15. Public Sector Placements

Grantees may place participants in public sector apprenticeships and other training opportunities with a public sector employer. **The grantee may use grant funds to partner with a public sector entity for purposes of developing a work-based learning program and/or placing apprentices** but may **not** use grant funds to reimburse the public sector entity's work-based learning costs.

16. Supportive Services Requirement

A robust supportive services strategy is required as part of the proposed program design under the FOA. Up to 15 percent of grant funds may be used to provide supportive services for training participants, and supportive services may also be provided as a leveraged cost.

Supportive services are those necessary to enable an individual to participate in and successfully complete education and training activities funded through this grant program and are a key component of successful worker-centered sector strategies. Examples of such services include, but are not limited to, childcare, dependent care, transportation, mental health counseling, books, academic fees, supplies, parking, printing, tutoring, licensing exam fees, professional dues, housing, and needs-related payments that are necessary to enable an individual to participate in education and training activities.

Grantees may fund these services through various means, including providing the actual supportive service (e.g., childcare), providing participants with a voucher for the service (e.g., public transportation cards or tokens), or providing a stipend directly to the participant. ETA strongly encourages grantees to leverage partnerships with their local workforce boards and other programs for supportive services when a participant is eligible for human services, WIOA, or other programs, reserving grant funds for those participants who need support but are not eligible for other assistance.

17. Occupation/Employer Partner Alignment to Infrastructure Sector

The Building Pathways FOA states, “[t]o maximize the impact of the [Bipartisan Infrastructure Law] (BIL) investment, this grant program will train job seekers in advanced manufacturing; information technology; and professional, scientific, and technical services occupations **that support renewable energy, transportation, and broadband infrastructure sectors**” (pg. 2). This grant program intends to “...meet the future skilled workforce needs for implementation of the BIL by investing in workforce partnerships that build equitable pathways to good infrastructure jobs” (pg. 2).

It is not enough for grantees to train participants in occupations and partner with employer partners related to advanced manufacturing; information technology; and professional, scientific, and technical services. These occupations and employer partners must **directly support** renewable energy, transportation, and broadband infrastructure sectors.

18. Infrastructure Building/Construction Occupations

General construction occupations related to infrastructure, such as brick layers or plumbers, are not allowable under this FOA. However, occupations that are in-demand in the proposed service area and on a career pathway to middle- to high-skilled occupations in infrastructure-related occupations, such as engineers, construction managers, and other specialized occupations, may align with the training allowed with these grants.

Appendix A: H-1B Industries and Occupations of the Funding Opportunity Announcement (p. 81) provides a list of allowable occupations and industry sectors.

Grantees that propose to train individuals in occupations that fall outside of these industries must provide data showing that they are in-demand occupations for which a significant number of H-1B visas have been certified and support advanced manufacturing, information technology, and/or professional, scientific and technical services occupations related to renewable energy, transportation, and/or broadband infrastructure sectors. This may be shown by using the data provided on DOL’s Foreign Labor Certification Data Center Web site (<http://www.foreignlaborcert.doleta.gov/performance/cfm>) and selecting the “Data Disclosure” tab for the latest database of occupations approved under H-1B petitions.

19. Geographic Scope

The FOA defines the following geographic scopes:

- **Local/regional** means serving part or all of an economic region within one state or a contiguous economic region that may cross more than one state. This also includes serving part or all of one Economic Development District (EDD) as recognized by the Department of Commerce’s Economic Development Agency (<https://eda.gov/edd>).
- **Statewide** means serving an entire state or multiple contiguous or non-contiguous economic regions or EDDs within one state.
- **National** means serving multiple economic regions or EDDs in multiple states. The service area does not need to be contiguous.

Grantees in the Development Track must establish a program within **one** identified local/regional service area. They can **only** propose projects at the local/regional scale. They **cannot** implement projects at the Statewide or National level.

20. Defining “Scaling” for the Scaling Track Grantees

Scaling Track grantees must broaden the geographic scope of their implementation in one of the following ways:

- Scale an existing local/regional model to an entire economic region or EDD;
- Scale an existing local/regional model to a statewide geographic scope;
- Scale an existing statewide model to a national geographic scope; or
- Further scale a current national model that encompasses multiple economic regions or EDDs into additional states.

For the purposes of this FOA, scaling **does not** mean increasing the number of participants served or increasing the number of programs offered in a service area.

21. Partnering with a State Apprenticeship Agency (SAA)

Grantees offering Registered Apprenticeships in SAA states are required to have the SAA as a grant partner in certain situations, as described below:

- **Required** for grantees serving local/regional or statewide areas who are providing RAPs in service areas whose states are federally-recognized SAAs.
- **Not Required** for grantees serving a national geographic scope, partnered with a DOL National Registered Apprenticeship Sponsor, and who are providing RAPs in service areas whose states are federally-recognized SAAs.
- **Not Required** for grantees who are not providing RAPs.

22. Intellectual Property Rights

Building Pathways grantees are required to make materials created with the support of the grant publicly available under a Creative Commons Attribution 4.0 (CC BY) license. Work that must be licensed under the CC BY includes both new content created with the grant funds and pre-existing, grantee-owned content that is modified using grant funds.

This license allows subsequent users to copy, distribute, transmit, and adapt the copyrighted work and requires such users to attribute the work in the manner specified by the grantee. Notice of the license shall be affixed to the work. For general information on CC BY, please visit <https://creativecommons.org/licenses/by/4.0>.

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This is described in Section IV.E of the FOA.