DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 652

[Docket ETA–2025–0005]

RIN 1205–AC22

Wagner-Peyser Act Employment Service Staffing

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The U.S. Department of Labor (DOL or the Department) is removing the requirement that States use State merit staff to provide Wagner-Peyser Employment Service (ES) services. This final rule allows States to use the staffing model that provides the required services with the most efficient and cost-effective model for their State.

DATES: This final rule is effective on October 19, 2026.

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SUPPLEMENTARY INFORMATION:

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I. Acronyms and Abbreviations

2020 Final Rule *Wagner-Peyser Act Staffing Flexibility; Final Rule,* 85 FR 592 (Jan. 6, 2020)
2023 Final Rule *Wagner-Peyser Act Staffing; Final Rule,* 88 FR 82658 (Nov. 24, 2023)
the Act Wagner-Peyser Act of 1933
AI artificial intelligence
AJC(s) American Job Center(s) (also known as one-stop(s) or one-stop center(s))
APA Administrative Procedure Act
ARS Agricultural Recruitment System
BLS U.S. Bureau of Labor Statistics
CARES Act Coronavirus Aid, Relief, and Economic Security Act
CFR Code of Federal Regulations
CHIP Children's Health Insurance Program
Complaint System Employment Service and Employment-Related Law Complaint System
COVID–19 coronavirus disease 2019
CSRA Civil Service Reform Act of 1978
DOL *or* the Department U.S. Department of Labor
DVOP Disabled Veterans' Outreach Program
ED U.S. Department of Education
E.O. Executive Order
ES Wagner-Peyser Act Employment Service
ETA Employment and Training Administration
FR **Federal Register**
FTE(s) Full-Time Equivalent(s)
IPA Intergovernmental Personnel Act of 1970
IT information technology
LVER Local Veterans' Employment Representative
MiDAS Michigan Integrated Data Automated System
MSFW(s) migrant and seasonal farmworker(s)
NAICS North American Industry Classification System
NFJP National Farmworker Jobs Program
NPRM *or* proposed rule notice of proposed rulemaking
OIRA Office of Information and Regulatory Affairs
OMB Office of Management and Budget
OPM Office of Personnel Management
PRA Paperwork Reduction Act of 1995
Pub. L. Public Law
RESEA Reemployment Services and Eligibility Assessment
RFA Regulatory Flexibility Act
RMA(s) Regional Monitor Advocate(s)
Secretary Secretary of Labor
SMA(s) State Monitor Advocate(s)
SNAP Supplemental Nutrition Assistance Program
SOC Standard Occupational Classification
SSA Social Security Act
Stat. United States Statutes at Large
SWA(s) State Workforce Agency/ies
TAA Trade Adjustment Assistance
UI Unemployment Insurance
UMRA Unfunded Mandates Reform Act of 1995
Uniform Guidance Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
U.S.C. United States Code
WIA Workforce Investment Act
WIOA Workforce Innovation and Opportunity Act

II. Background

The Wagner-Peyser Act of 1933, 29 U.S.C. 49 *et seq.,* established the ES program, which is a nationwide program of labor exchange services. The ES program seeks to improve the functioning of the Nation's labor markets by matching job seekers with employers that are seeking workers. Section 3(a) of the Wagner-Peyser Act directs the Secretary of Labor (Secretary) to assist States in coordinating the State public service employment offices throughout the country by developing and prescribing minimum standards of efficiency and promoting uniformity in the operation of the system of public employment offices. The Department has historically relied on the Secretary's authority in secs. 3(a) and 5(b) to require States to provide labor exchange services with State ''merit staff,'' meaning government employees hired and managed under a merit-based personnel system described in title 5 of the Code of Federal Regulations (CFR) at part 900, subpart F.

Beginning in the early 1990s, the Department provided Colorado and Massachusetts with limited flexibility to set their own staffing requirements for the provision of ES services. The flexibility permitted Colorado to use county and State merit staff to deliver ES services. Colorado devolved responsibility for ES activity to the counties through workforce development boards. In Massachusetts, the Department approved use of non-State-merit staff in four of the State's 16 local areas. In 1998, the Department permitted Michigan to use State and local merit staff to deliver ES services, pursuant to a settlement agreement arising out of *Michigan* v. *Herman,* 81 F. Supp. 2d 840 (W.D. Mich. 1998).

In 2014, Congress passed the Workforce Innovation and Opportunity Act (WIOA), Public Law 113–128, to modernize the Nation's workforce development system. Like the Workforce Investment Act (WIA) before it, WIOA did not include an ES merit-staffing requirement. Regulations implementing WIOA were published in the **Federal Register** on August 19, 2016

(81 FR 56072) and were effective on October 18, 2016. Among the provisions codified in the 2016 WIOA regulations was § 652.215, which continued to require the use of State merit-staffing for the delivery of ES services, except for the three States for which the Department previously granted exemptions: Colorado, Massachusetts, and Michigan.

Through rulemaking effective on February 5, 2020, the Department removed the requirement that ES services be provided only by State merit staff (*Wagner-Peyser Act Staffing Flexibility; Final Rule,* 85 FR 592 (Jan. 6, 2020)), hereafter referred to as the 2020 Final Rule. In the preamble to the 2020 Final Rule, the Department explained that it sought to allow States maximum flexibility in staffing arrangements to allow them to better align WIOA and ES staffing. Following the 2020 Final Rule, the Department approved several States to use a variety of staffing models to provide their ES services, as described in their approved WIOA State plans.

In 2023, the Department again changed the requirements in § 652.215 through notice-and-comment rulemaking to reinstate the requirement that States use State merit staff to deliver ES services and reinstated the exemptions for Massachusetts, Michigan, and Colorado. These regulations were published in the **Federal Register** on November 24, 2023 (*Wagner-Peyser Act Staffing; Final Rule,* 88 FR 82658) (the 2023 Final Rule) and became effective on January 23, 2024. The Department also provided 24 months for States to comply with the State merit-staffing requirements in § 652.215. This meant that States would have to comply with the provisions in § 652.215 by January 22, 2026.

On July 1, 2025, the Department published a notice of proposed rulemaking (NPRM or proposed rule) proposing the removal of the State merit-staffing requirement. The NPRM proposed removing the entirety of § 652.215, including the compliance date. The Department invited the public to comment on the proposal and provided a 60-day comment period that ended on September 2, 2025.

Through a final rule published on January 21, 2026, the Department extended the compliance date for States to comply with the State merit-staffing requirements in § 652.215 to January 21, 2027.

III. Discussion on Statutory Basis for Merit-Staffing Requirement

The Department is removing the requirement that ES services must be delivered by State merit staff and reestablishing the flexibility permitted under the 2020 Final Rule, because the best reading of the Wagner-Peyser Act is that there is no statutory basis for the Department to require States to deliver ES services using only State merit staff, as the Department articulated in the NPRM. Section 3(a) of the Wagner-Peyser Act, which the Department historically relied on to impose the State merit-staffing requirement, requires the Department to assist in coordinating State ES offices in developing and prescribing ''minimum standards of efficiency'' in the provision of ES programs but notably does not explicitly require the use of State merit staff. While the Department has previously suggested that sec. 5(b) also supports a State merit-staffing requirement, that section does not impose such a requirement, but rather simply requires the Department to make certifications to the U.S. Department of the Treasury regarding the coordination of ES and Unemployment Insurance (UI), only the latter of which expressly requires merit-staffing for certain activities under 42 U.S.C. 503.

The Department also previously relied on the Intergovernmental Personnel Act (IPA), 42 U.S.C. 4728, as amended, which listed the Wagner-Peyser Act as one of the two acts administered by the Department with a requirement to provide services through merit-staffing. The Office of Personnel Management (OPM) regulations implementing the IPA likewise list the Wagner-Peyser Act as having a statutory requirement for merit-staffing, citing sec. 5(b) of the Wagner-Peyser Act, 29 U.S.C. 49d(b). See 5 CFR part 900, subpart F, Appendix A. However, sec. 5(b) does not impose any statutory requirement for merit-staffing ES services. Rather, as noted earlier in this section, it merely requires the Secretary to certify that States are complying with sec. 303(a)(1) of the Social Security Act (SSA), 42 U.S.C. 503(a)(1) (which requires the use of merit staff by States in administering their UI programs) and that States are coordinating ES activities with the provision of UI claimant services.

The IPA and its implementing regulations apply when a federally funded program requires state or local agencies to establish a merit personnel system in order to receive funds. The Department notes that in March 2025, OPM issued updated IPA guidance stating that the IPA does not prescribe any particular staffing method to meet the merit personnel requirement. *See Certifying the Use of a Merit Personnel System as Required by the Intergovernmental Personnel Act of 1970,* 90 FR 11659 (Mar. 11, 2025). Under the updated IPA guidance, state and local agencies have discretion to determine the most appropriate staffing method for their merit personnel system, absent any statutory or regulatory requirement for a specific staffing method. Importantly though, there is no indication that Congress, in including the Wagner-Peyser Act in sec. 208 of the IPA, intended to impose a merit-staffing requirement not found in the Act itself, or implied to amend the Act itself to include such a requirement. Rather, as the Department noted in the NPRM, this appears to reflect the existing merit system functions being carried out by the Department at that time. Neither the IPA nor the OPM regulations contain an independent legal requirement for merit-staffing in the ES. Even if the IPA could be interpreted to suggest that Congress recognized a merit-staffing requirement in the Wagner-Peyser Act, the plain language of the statute is clear that no such requirement existed at the time the IPA was passed, apart from the Department's regulation requiring merit-staffing. If a statutory requirement had existed, Congress would not have needed to add a provision requiring merit staff in annual appropriations acts, as it did every year from 1946 to 1963 (see former 29 U.S.C. 49n). Additionally, the question of Congress' intent in enacting the IPA, and the Department's authority to impose a merit-staffing requirement via regulation more generally, was considered by the court in *Michigan* v. *Herman,* 81 F. Supp. 2d 840 (W.D. Mich. 1998). After reviewing the text and legislative history of the Wagner-Peyser Act and the IPA, the court concluded that the Wagner-Peyser Act ''does not explicitly require merit-staffing.'' *Id.* at 847–48. The Department acknowledges that while the court concluded that the Act does not explicitly require merit-staffing, the court also concluded that the Department, citing *Chevron, U.S.A.* v. *National Resources Defense Council,* 467 U.S. 837 (1984), had discretion to require merit-staffing because the language in sec. 3(a) was ''broad enough to permit the [Secretary] to require merit staffing'' *Id.* The district court reasoned that ''[w]hile there is ample basis for a conflicting interpretation of the Wagner-Peyser Act's requirements, given the deference owed to the agency charged with administering the Act, the Court can find no compelling indications that the [Department's] construction of the statute is wrong.'' *Herman,* 81 F. Supp. 2d at 848.

But the framework under which the district court reached its decision is no longer legally defensible. In 2024, the U.S. Supreme Court decided *Loper Bright Enterprises* v. *Raimondo* (603 U.S. 369 (2024)), which overruled *Chevron.* Recognizing that for all statutes there is a single, best reading, the Court in *Loper Bright* held that under the Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.,* courts must exercise independent judgment to determine if an agency has acted within its statutory authority and may not defer to the agency's interpretation simply because a statute is ambiguous. The Court recognized that the best reading of a statute may in fact be that Congress delegated discretionary authority to an agency. But ambiguities alone are not necessarily delegations. *Id.* at 404. And even when the best reading of the statute is that it delegates discretionary authority to an agency, reviewing courts must still independently interpret the statute and effectuate Congress' intent subject to constitutional limits by policing the boundaries of that delegation. *Id.* at 395, 404. Under *Loper Bright,* courts are to ''interpret statutes, no matter the context, based on the traditional tools of statutory construction, not individual policy preferences.'' *Id.* at 403. In light of the *Loper Bright* decision, the Department has reassessed the State merit-staffing requirement in the ES program and has determined that the State merit-staffing requirement does not comport with the best reading of the statute.

Contrasting the Wagner-Peyser Act with sec. 303(a)(1) of the SSA, which Congress enacted almost contemporaneously with the Wagner-Peyser Act and which explicitly requires merit-staffing, supports this reading of the Wagner-Peyser Act. The Wagner-Peyser Act was enacted in 1933. The Department consistently applied a merit-staffing requirement beginning in 1934. The SSA was enacted in 1935, with a later 1939 amendment adding an explicit merit-staffing requirement in sec. 303(a)(1) of the SSA. Congress clearly knew how to legislate a merit-staffing requirement. That neither sec. 3(a) nor sec. 5(b) of the Wagner-Peyser Act contains an explicit merit-staffing requirement supports the Department's reading of the Wagner-Peyser Act. The Department acknowledged as much when arguing in *Herman* that the Department had authority to require State merit-staffing. 81 F. Supp. 2d at 844 (W.D. Mich. 1998) (''[The Department] acknowledges that the Wagner-Peyser Act does not explicitly impose or authorize a merit staffing requirement.'').

As noted earlier in this section, the IPA does not provide independent authority to require merit-staffing. Based on the contemporaneous histories of the Wagner-Peyser Act and the SSA, with the latter containing an explicit merit-staffing requirement absent in the former, and *Loper Bright's* directive that there can only be one single best reading of a statute, the Department has determined that the single best reading of the Wagner-Peyser Act is that it does not provide statutory authority for the Department to require merit-staffing for the delivery of Wagner-Peyser Act ES services.

Accordingly, the Department is removing the State merit-staffing requirement, consistent with the directives in Executive Order (E.O.) 14219, ''Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative,'' dated February 19, 2025; the Presidential Memorandum titled ''Directing the Repeal of Unlawful Regulations,'' dated April 9, 2025; and Office of Management and Budget (OMB) Memorandum M–25–28, ''Guidance Implementing the President's Memorandum Directing the Repeal of Unlawful Regulations,'' dated May 7, 2025.

The Department is eliminating the State merit-staffing requirement by removing § 652.215 from the Wagner-Peyser Act regulations. In addition to the merit-staffing requirement in paragraph (a), § 652.215 includes an exception for Colorado, Massachusetts, and Michigan to continue to use staffing flexibilities in paragraph (b), a requirement for these three States to participate in an evaluation concerning their delivery of ES services in paragraph (c), and a date by which all States must comply with the requirements of the section in paragraph (d). Without a State merit-staffing requirement in paragraph (a), the remaining paragraphs are no longer necessary. As such, the Department is removing all paragraphs of § 652.215 from the CFR.

As a result of this rulemaking, States are able to use whichever lawful staffing method they choose. Even assuming, notwithstanding the text of the Wagner-Peyser Act and the SSA, that Congress delegated to the Department discretion to require merit-staffing, this rulemaking would be a valid exercise of that discretion. The Department is removing regulatory requirements that are unduly burdensome and that relate to the employment of personnel only at the State level. The Department concludes that a uniform Federal staffing mandate is not necessary to achieve the Act's objectives of providing minimum standards of efficiency.

The Department further concludes that States should retain flexibility to determine the staffing structures best suited to their labor markets, workforce systems, and administrative arrangements. This conclusion is informed by the Department's own experience administering the Wagner-Peyser Act. For decades, the Department permitted Colorado, Massachusetts, and Michigan to operate under alternative staffing arrangements. During that time, the Department continued to oversee these States' compliance with the Wagner-Peyser Act and its implementing regulations while allowing them flexibility to deliver Employment Service activities through staffing models other than exclusive State merit staffing. The Department's experience with these States demonstrates that alternative staffing can achieve effective administration of Employment Service programs and minimum standards of efficiency.

Regardless of staffing model, States remain responsible for compliance with all applicable statutory and regulatory requirements. States must continue to provide all required Employment Service activities and remain accountable for performance outcomes. The Department retains oversight authority to ensure compliance with applicable performance standards regardless of the staffing model selected by a State.

The Department has considered comments asserting that State merit staffing promotes professionalism, neutrality, accountability, continuity of operations, and service quality. However, the Department concludes that those objectives can be achieved through alternative staffing models and do not require a uniform Federal mandate. The Department's longstanding experience with alternative staffing arrangements in Colorado, Massachusetts, and Michigan demonstrates that States can satisfy Federal program requirements while using different personnel structures. Accordingly, even if the Department possessed discretion to maintain the merit-staffing requirement, it would determine that removal of the requirement is the preferable policy choice because it affords States greater flexibility while preserving accountability for program performance and compliance with Federal law.

While the Department provides oversight of the program, under the Act and regulations, States are responsible for administering ES funds and for providing all required program services through ES-funded staff. 29 U.S.C. 49f; 20 CFR 652.3, 652.203. Any regulatory burden imposed on States, including on States' administration of their own personnel, must be no more than is necessary to achieve program objectives. *See, e.g.,* E.O. 12866, ''Regulatory Planning and Review'' (prioritizing minimization of regulatory burden on entities such as States and avoidance of undue interference with State governments in the exercise of their governmental functions); E.O. 13132, ''Federalism'' (''With respect to Federal statutes and regulations administered by the States, the national government shall grant the States the maximum administrative discretion possible. Intrusive Federal oversight of State administration is neither necessary nor desirable.''). The flexibility provided in this rule, which advances the goal of affording States maximum discretion, will allow States to deliver ES services efficiently with limited resources, using State merit staff, other State staff, subawards to local governments or private entities, a combination of these arrangements, or other staffing arrangements allowable under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) at 2 CFR part 200. This flexibility promotes not only State innovation, but also greater alignment and integration with the services delivered through WIOA title I programs. The Department notes that staffing arrangements other than State-employee staffing would properly be considered subawards and the entities providing services under these arrangements would properly be considered subrecipients. These subawards and subrecipients would be subject to the requirements in the at 2 CFR part 200. Regardless of the staffing method employed, States still must provide services required under the Wagner-Peyser Act. These services include job search and placement assistance for job seekers, recruitment services and special technical services for employers, reemployment services for UI claimants, labor exchange services for workers who have received notice of permanent or impending layoff, referrals and financial aid application assistance for training and educational resources and programs, and the development and provision of labor market and occupational information. These services help the labor market to function more efficiently by matching employers with available workers.

The Department further notes that this rulemaking is narrowly tailored to address only the State merit-staffing requirement in § 652.215 and does not impact other changes made by the Department in parts 651, 652, 653, and 658 in the 2023 Final Rule. The recruitment and staffing requirements described at §§ 653.107, 653.108, and 653.111, which relate to migrant and seasonal farmworker (MSFW) outreach staff, State Monitor Advocates (SMA), and significant MSFW one-stop centers, are not changed by this final rule. For instance, the SMA must continue to be a State Workforce Agency (SWA) official and a senior-level ES staff employee, who reports directly to the State Administrator or their designee, as permitted by § 653.108(c)(2), and must be protected against retaliation for performing their work, as described at § 653.108(a).

IV. Notice of Proposed Rulemaking

On July 1, 2025, the Department published an NPRM in the **Federal Register** proposing the removal of the State merit-staffing requirement. The NPRM proposed removing the entirety of § 652.215, including the compliance date. The Department invited the public to comment on the proposal and provided a 60-day comment period that ended on September 2, 2025. Comments received before 11:59:59 p.m. E.D.T. on September 2, 2025, were considered to be submitted on time, as were emails with time stamps prior to the close of the comment period and letters with a postmark or courier acceptance date on or before September 2, 2025.

During the public comment period, 456 comments were received. The Department read every comment received before the end of the comment period, and considered every substantive comment. Comments came from a wide range of stakeholders, from State government employees and unions to workforce development boards and elected officials. The Department identified eight separate form letter campaigns, and the majority of submissions, 303, appeared to result from these letter writing campaigns. The Department identified 62 comments that were unique and substantive. These comments responded to specific subjects within the proposed changes to the regulations; the Department discusses the comments by topic in the sections that follow.

V. Discussion of Public Comments

A. Comments Regarding the Department's Statutory Authority To Require State Merit-Staffing for ES Service Delivery

Commenters disagreed about the Department's statutory authority to require State merit-staffing for ES service delivery. A State government agency, a professional association, and an anonymous commenter expressed support for the Department's conclusion that it lacks the legal authority to require merit-staffing for ES services. In particular, these commenters agreed with the Department's interpretation that the authorization to set ''minimum standards of efficiency'' under sec. 3(a) of the Wagner-Peyser Act does not provide a statutory basis for requiring the use of State merit staff to deliver ES services. A State government agency and a professional association asserted that the correct interpretation of the Wagner-Peyser Act is to allow States to design staffing models to achieve the best outcomes, with the professional association further stating that this flexibility would allow the best use of Wagner-Peyser funding. An anonymous commenter reasoned that the proposed rule was consistent with administrative law in light of *Loper Bright* and would reduce litigation risk.

Conversely, other commenters, including several unions and a Federal elected official, generally stated that the legislative history and statutory framework of the Wagner-Peyser Act, along with what they described as the inherently governmental nature of ES functions, reflect Congress' clear intent to preserve a professional, merit-based public workforce as a foundation of the ES system. A union argued against removing the merit-staffing requirement, including in the three States that the Department previously granted ''alternative staffing demonstration waivers'' (Colorado, Massachusetts, and Michigan), stating that the proposed rule would dismantle a longstanding, legally grounded requirement and instead permit private entities to receive Wagner-Peyser Act funds. A union stated that the Department's decision to remove the merit-staffing requirement was arbitrary and capricious.

A union remarked that multiple presidential administrations—both Democratic and Republican—have recognized the statutory requirement for merit-based staffing under the Wagner-Peyser Act. A few individual commenters and form letter campaigns elaborated that Congress has historically intervened to block privatization attempts, recognizing the essential role of public accountability in employment services. One such individual commenter, a form letter campaign, and comments from unions cited a 2006 example in which the Bush administration proposed privatizing employment services and Congress blocked the effort through the appropriations process, prohibiting DOL from finalizing the proposed rules, which were later withdrawn by the Obama administration. One of the unions remarked that such congressional efforts affirm the notion of ''a statutory requirement for the establishment and maintenance of personnel standards on a merit basis'' in Wagner-Peyser Act-funded programs. Similarly, a union and a think tank asserted that DOL's proposed rule represents a ''fundamental departure'' from the Wagner-Peyser Act's statutory framework and legislative history, both of which, they argued, affirm Congress' intent to ensure that ES programs are carried out by a professional, merit-based public workforce. A union remarked that the 1939 amendments to the SSA further cemented a State merit system by requiring unemployment compensation payment be delivered through public employment offices and by establishing Federal merit-staffing standards for UI programs.

The Department agrees that Congress designed the Wagner-Peyser Act to establish a national system of public employment offices. However, the Department disagrees that all of the ES functions are inherently governmental and that any of the legislative history laid out by the commenters trumps the plain language of the statute to support the contention that the Department has authority to require State merit-staffing for the delivery of ES services. The Department acknowledges that this position is a departure from the Department's longstanding practice from roughly 1934 to 2020. As explained earlier in this preamble, the Wagner-Peyser Act does not explicitly require that ES services be delivered exclusively by merit-based State employees. Several commenters raised the connection to the SSA, which Congress enacted almost contemporaneously with the Wagner-Peyser Act. Notably, the SSA, in sec. 303(a)(1), contains an explicit merit-staffing requirement. The Wagner-Peyser Act does not. Accordingly, the Department has concluded that, because the Wagner-Peyser Act contains neither an explicit merit-staffing requirement nor an express delegation to the Secretary to decide whether to require one, the Department lacks authority to impose such. The Department determines, consistent with E.O. 14219, that this approach is the single best reading of the statutory framework and judicial interpretations of the Wagner-Peyser Act. It also aligns with the broader goals of WIOA, which emphasize integrated service delivery and State-level innovation.

Multiple commenters, including a farmworker advocacy organization, unions, a think tank, and form letter campaigns, expressed opposition to the Department's conclusion that it lacks the legal authority to require merit-staffing for ES services. A few commenters, including a union, an advocacy organization, and a think tank, stated that the Department's authority under sec. 3(a) of the Wagner-Peyser Act to prescribe minimum standards of efficiency, together with the Wagner-Peyser Act's establishment of a national system of public employment services offices, has long been understood to permit the Department to require State merit-staffing. According to these commenters, the NPRM's shift away from that interpretation lacks a legal rationale and would conflict with a settled statutory and regulatory framework.

Multiple commenters provided examples of Federal actions on merit-staffing to support their opposition to the Departmental conclusion that it lacks authority for the merit requirement. Several commenters, including a union, a think tank, and an advocacy organization, asserted that Congress has reaffirmed ES merit-staffing through related statutes and decades of implementation, with the union and the think tank describing repeated Congressional actions dating back to the 1930s, and an individual commenter stating that the Department ''omits 80 years of ES legislative, appropriation, and administrative history in its explanation.'' Two unions, a think tank, an advocacy organization, and an individual commenter argued that the Department previously withheld certification from States that lacked merit personnel systems and used that leverage to ensure public merit-based ES staffing. Two unions wrote that in 2000 the Department turned down requests for waivers of the merit-staffing requirement when it issued the WIA implementing regulations. A union and an advocacy organization described appropriations provisions from the mid-2000s that blocked prior efforts to relax or rescind merit-staffing as further Congressional reinforcement of merit system requirements.

A union and an individual commenter reasoned that WIOA amended rather than replaced the Wagner-Peyser Act and did not authorize non-merit-staffing with Wagner-Peyser funds, reasoning that Department's longstanding position treats merit-staffing as legally required rather than discretionary.

Several unions and individual commenters pointed to language in sec. 3(a) that requires the Secretary to promote uniformity in administrative procedure in the ES program as authority for a State merit-staffing requirement. Disagreeing with the Department's reasoning in the proposed rule that sec. 5(b) of the Wagner-Peyser Act does not create a State merit-staffing requirement but instead only requires certifying coordination between ES and UI programs, an individual commenter reasoned that the Department has instead relied on sec. 5(b) of the Wagner-Peyser Act to preserve merit-staffing protections and ensure impartial delivery of ES and UI services in accordance with statutory intent. A union wrote that the alignment of ES and UI demonstrates that ES functions are inherently governmental and therefore must be delivered by public, merit-based State employees, asserting that this long-standing integration supports the Department's authority to require merit-staffing.

A think tank asserted that in light of the text in sec. 3(a) of the Wagner-Peyser Act on standards of efficiency and administrative uniformity, as well as Congress' identification of the Act in the IPA in transferring merit-staffing functions, the statutory and historical record of Congressional support for merit-staffing is not ambiguous and thus is not subject to *Loper Bright,* concluding that the Department's position that *Loper Bright* compels revisiting the regulation of merit-staffing in the ES program is inaccurate.

The Department appreciates the detailed perspectives offered by these commenters. However, after careful review of the statutory text, legislative history, and relevant case law, the Department reaffirms its conclusion that it lacks the legal authority to require States to use merit-staffed personnel to deliver ES services under the Wagner-Peyser Act. As noted earlier in this preamble, sec. 3(a) of the Wagner-Peyser Act authorizes the Secretary to establish ''minimum standards of efficiency'' for State ES operations. The best reading of this delegation is that it authorizes the Department to prescribe performance and operational benchmarks governing the delivery of Employment Service activities. While staffing decisions may affect the efficiency with which services are delivered, a staffing model is not itself a ''standard of efficiency.'' A requirement that services be delivered exclusively by State merit staff does not establish a performance or operational benchmark governing the operation of the Employment Service; rather, it dictates the employment status of the individuals providing those services. The Department interprets sec. 3(a) as enabling it to ensure that services are delivered effectively and efficiently to job seekers and employers (*e.g.,* ensuring coordination and nonduplication), but not to dictate the employment status or classification of the individuals providing those services.

Likewise, authority to promote uniformity in administrative procedure under sec. 3(a) does not constitute authority to require State merit-staffing. The Department encourages States to establish policies on service delivery to improve quality and consistency regardless of staffing model. The Department notes that, regardless of how States staff their ES program, they still must provide all of the services the Wagner-Peyser Act requires, and other Wagner-Peyser Act rules found in 20 CFR parts 651, 652, 653, and 658 still ensure uniformity of service. For example, § 652.3 establishes minimum requirements for public labor exchange systems, § 652.207 requires States to provide universal access to the ES, and § 653.101 establishes minimum requirements for the provision of services to MSFWs. Additionally, the ES program is a mandatory one-stop partner program, and the one-stop center certification requirements in the WIOA regulations at 20 CFR 678.800 support consistency across service locations. In addition, States, as Wagner-Peyser Act grantees, still must oversee all operations of the Wagner-Peyser Act, regardless of whether or not they ultimately decide to take advantage of the staffing flexibility provided by this final rule. Consistent with 20 CFR 683.400, the Department will continue to conduct monitoring to ensure States are complying with all of the requirements of the Wagner-Peyser Act, its implementing regulations, and 2 CFR parts 200 and 2900.

The Department acknowledges that it previously interpreted secs. 3(a) and 5(b) to support authority for a merit-staffing requirement. Accordingly, the Department may have previously sought to withhold certification from States to ensure compliance with the merit-staffing requirement. Seeking to withhold certification in those instances does not indicate that the statute in fact required such staffing. Rather, it demonstrated the Department's legal analysis at the time that the statute permitted merit-staffing. And therefore the Department sought to set conditions for participation in the ES program through regulation and administrative practice. However, the Department now concludes that the statutory text does not support such a wide grant of Departmental discretion. A more limited interpretation of the Department's regulatory authority is particularly warranted in light of the *Loper Bright* decision, which instructed courts to ''independently identify and respect [constitutional] delegations of authority, police the outer statutory boundaries of those delegations, and ensure that agencies exercise their discretion consistent with the APA.'' 603 U.S. at 404. Doing so requires using ''all relevant interpretive tools'' to determine the ''best'' reading of a statute; a merely ''permissible'' reading is not enough. *Id.* at 400.

The absence of an express requirement for merit-staffing in the Wagner-Peyser Act supports the Department's revised view that the Department does not have authority to require States to use State merit staff to deliver ES services. With this final rule, States will have the flexibility to determine the best staffing model for ES service delivery for their State.

Regarding WIOA, the Department agrees that WIOA amended but did not repeal the Wagner-Peyser Act. However, WIOA also did not codify a merit-staffing requirement. Instead, it emphasized State flexibility. This organizing principle is more evident in the integration of services through American Job Centers (AJCs). The Department finds no indication in WIOA's text or legislative history that Congress intended to codify a mandatory merit-staffing requirement. Finally, the Department disagrees with the assertion that the statutory and historical record is so unambiguous as to preclude reinterpretation under *Loper Bright.*

Accordingly, while the Department acknowledges the historical context and prior enforcement practices cited by commenters, this final rule reflects a legally sound and statutorily faithful interpretation of the Wagner-Peyser Act.

1. Comments Regarding the Intergovernmental Personnel Act of 1970 and the Civil Service Reform Act of 1978

Several commenters, including an anonymous commenter, a think tank, an advocacy organization, two unions, a farmworker advocacy organization, and an individual commenter, cited the IPA and its implementing regulations to support their position that the Department has statutory authority to require State merit-staffing, asserting that Congress' passage of and amendment to the IPA to maintain merit-staffing in the ES represents Congressional ratification of a statutory requirement for merit-staffing in the Wagner-Peyser Act.

The Department disagrees with the commenters' description of the IPA and its impact on merit-staffing in the ES. Certain Federal grant programs require, as a condition of eligibility, that State and local agencies that receive grants establish merit personnel systems for personnel engaged in administration of the grant-aided program. These merit personnel systems are in some cases required by specific Federal grant statutes and in other cases are required by regulations of the Federal grantor agencies. Title II of the IPA, as amended, transfers to OPM all ''functions, powers, and duties'' relating to the prescription of standards for these federally required merit personnel systems, including the functions, powers, and duties of the Secretary of Labor under ''the Act of June 6, 1933'' (*i.e.,* the Wagner-Peyser Act). 42 U.S.C. 4728(a).

Importantly, however, the IPA and its implementing regulations at 5 CFR part 900, subpart F, do not independently impose a merit-staffing requirement on all federally funded programs. Rather, the IPA and the OPM regulations provide standards for merit systems only when such systems are otherwise required by law or regulation. As noted already, the Wagner-Peyser Act does not contain a merit-staffing requirement. Nor did Congress, by referencing the Wagner-Peyser Act in the IPA, ratify any prior departmental interpretation that the Act authorized a merit-staffing requirement.

To effect ratification of prior agency action, Congress must recognize that the action was unauthorized when taken and must expressly ratify it in clear and unequivocal statutory language. *EEOC* v. *CBS, Inc.,* 743 F.2d 969, 974 (2d Cir. 1984). Legislative acquiescence, awareness, or accommodation is insufficient. Even statutory provisions that explicitly acknowledge and extend existing agency practices do not ratify the agency's underlying claim of authority unless they ''expressly approved the agency's interpretation.'' *Tiger Lily, LLC* v. *HUD,* 992 F.3d 518, 524 (6th Cir. 2021) (holding that congressional recognition and temporary extension of an eviction moratorium did not ratify the agency's unlawful imposition of the moratorium); *accord Alabama Ass'n of Realtors* v. *HHS,* 539 F. Supp. 3d 29, 42 (D.D.C. 2021), *aff'd,* 594 U.S. 758 (''To [ratify], however, Congress must make its intention explicit.''). The IPA neither amended section 3(a) or 5(b) of the Wagner-Peyser Act nor expressly approved any departmental interpretation of those provisions. At most, it transferred administrative functions that the Department was exercising at the time.

In 1963, the U.S. Department of Health, Education, and Welfare; DOL; and the U.S. Department of Defense jointly issued the predecessor to the current 5 CFR part 900 regulations, prior to the passage of the IPA and its resulting transfer of functions. That predecessor regulation was codified at 45 CFR part 70. In prescribing merit standards under the Wagner-Peyser Act at that time, the regulations at part 70 cited as authority a provision in the Department's yearly congressional appropriation requiring merit-staffing (former 29 U.S.C. 49n). This provision was not repeated in the Department of Labor Appropriations Act, 1965 (Pub. L. 88–605, 78 Stat. 959, 960 (1964)), or in any such act thereafter. Thus, the current OPM regulations, as they relate to the Wagner-Peyser Act, originated not only from a former departmental interpretation of the Wagner-Peyser Act, but also in a long-expired appropriations rider. Notwithstanding DOL's imposition of a merit-staffing requirement at the time of the IPA's enactment, there was no longer any corresponding statutory requirement in the Wagner-Peyser Act.

While Appendix A to OPM's regulations does include the Wagner-Peyser Act as a program that requires merit-staffing by virtue of sec. 5(b), sec. 5(b) contains no such statutory requirement. As explained, the enumeration of the Wagner-Peyser Act among the list of programs requiring merit-staffing largely reflects Department practice at the time OPM took over administration of the merit system functions. Accordingly, the IPA does not support any proposition that the Department has authority to require merit-staffing under the Wagner-Peyser Act.

A union and a think tank reasoned that the enactment of the Civil Service Reform Act of 1978 (CSRA) reinforced the existence of authority for the merit-staffing requirement. A union stated that the CSRA implementing regulations have consistently affirmed the conclusion that the merit system requirement is ''a statutory requirement for the establishment and maintenance of personnel standards on a merit basis'' in Wagner-Peyser Act-funded programs. Another union stated that the CSRA modernized Pennsylvania's merit-based hiring system to ensure that all applicants meet uniform qualifications, which has strengthened recruitment and improved performance outcomes within the ES. Lastly, another union said that for over 80 years—until 2020—Federal regulations consistently required a merit-based system for employment in programs funded by the Wagner-Peyser Act. The commenter provided an example that DOL, and later OPM, reflected Congress' intent to uphold merit standards through various legislative updates, including the CSRA and the WIA.

The Department disagrees with the conclusion that the CSRA affirmed the existence of a statutory requirement for merit-staffing in Wagner-Peyser Act-funded programs. The CSRA amended the IPA and modernized the Federal civil service system. It did not, however, impose merit-staffing requirements on State-administered programs. The CSRA maintained the merit protections for programs outlined in the IPA. As noted, inclusion of the Wagner-Peyser Act in the list of programs with a merit-staffing requirement in the IPA originated from the Department's former regulatory posture and a long-expired appropriations rider. Additionally, while the CSRA may have influenced the development of State merit systems, such as in Pennsylvania, it does not extend Federal merit system requirements to State employees unless required by another statute.

The Department acknowledges that from the 1930s until 2020, Department regulations required merit-staffing for ES programs. However, this long-standing regulatory practice does not transform a regulatory requirement into a statutory one.

In the WIA interim final rule preamble, the Department stated that the ''regulations reflect[ed] the Department's interpretation of the Wagner-Peyser Act, affirmed in [*Michigan* v. *Herman*], to require that job finding, placement and reemployment services funded under the Act . . . be delivered by public merit-staff employees.'' 64 FR 18662, 18691 (Apr. 15, 1999). The Department described its interpretation as that affirmed in *Herman,* in which the court held that the Department could require merit-staffing, but not that it must. And the court's opinion in that case describes the Department's own interpretation of the statute as one giving ''discretion to the Secretary'' to require merit-staffing. *Herman,* 81 F. Supp. 2d at 846. In the WIA final rule, the Department did not address whether the Wagner-Peyser Act obligated the Department to impose a merit-staffing requirement for Wagner-Peyser Act-funded services. 65 FR 49294, 49385 (Aug. 11, 2000). Instead, the Department simply noted that the final WIA regulation imposed a merit-staffing requirement reflecting the Department's authority under the Wagner-Peyser Act, as affirmed in *Herman,* to require Wagner-Peyser Act-funded services be provided by merit staff. Thus, in the WIA final rule, the Department did not opine on whether sec. 3(a) mandated the imposition of a merit-staffing requirement for Wagner-Peyser Act funded services.

Finally, in the WIOA NPRM, the Department explained that the Department has maintained the policy of requiring merit-staffing since the earliest years of the ES and that *Herman* upheld this policy. 80 FR 20805 (Apr. 16, 2015). The Department explained that it would continue this policy from WIA to WIOA. Notably, the WIOA NPRM did not suggest that there was a statutory requirement in the Wagner-Peyser Act for merit staff. The preambles in the WIA and WIOA rulemakings demonstrate that since the decision in *Herman,* the Department has not interpreted the Wagner-Peyser Act to include an explicit statutory requirement that Wagner-Peyser Act services be delivered by State merit staff. Instead, the Department has previously interpreted this provision to give it the discretion to impose a merit-staffing requirement. The Department now determines that the best reading of the statute is that it does not authorize the Department to require merit-staffing.

2. Comments Regarding Michigan v. Herman

Some commenters, including unions and a form letter campaign, cited *Michigan* v. *Herman* to support the argument that the Department has authority to require State merit-staffing. A form letter campaign, a union, and an advocacy organization argued that *Herman* upholds the Department's previous position that requiring merit-staffing is reasonable, within statutory authority, and supported by *Herman'*s discretion to require merit-staffing under the Wagner-Peyser Act's structure and standards-setting authority. The form letter campaign reasoned that the NPRM misread *Herman* when it emphasized the absence of an express command for merit-staffing. An individual commenter stated that DOL's proposal would disregard this precedent and failed to justify its reasoning with facts. An individual commenter stated that a court has already upheld requiring merit-staffing in the ES program and stated that ''revisiting this and re-litigating this issue is [a] waste of government resources.''

As noted in the previous section, in *Herman,* the court did conclude that the Department had discretion to require State merit-staffing for ES service delivery. As explained earlier in this preamble, this district court made its decision under a framework used by reviewing courts that is no longer supportable. When the court decided *Herman,* courts were free to defer to ''permissible'' agency interpretation of ambiguous statutes. Under the *Loper Bright* standard articulated by the Supreme Court in 2024, reviewing courts must now decide the single best interpretation of a statute. Courts may continue to use traditional interpretive tools in arriving at the single best interpretation. The Department has determined that based on the almost contemporaneous enactment of sec. 303(a)(1) of the SSA that contains an explicit merit-staffing requirement and the absence of such a requirement in the Wagner-Peyser Act, suggests that the best reading of the Wagner-Peyser Act is that it does not provide the Department authority to require State merit-staffing.

The Department notes that the legal and regulatory framework governing ES staffing has evolved over time, including changes made through rulemaking in 2020 and subsequent reconsideration in later years. Revisiting this issue through notice-and-comment rulemaking is not a wasted effort, but rather a necessary exercise of the Department's regulatory authority under the APA to respond to the *Loper Bright* decision. While the Department acknowledges the resource commitment associated with this rulemaking, it remains committed to the principles of public input and policy refinement that underscore the APA. The Department remains committed to ensuring that staffing models support efficient and high-quality service delivery, and that any changes are made transparently and in accordance with statutory and regulatory obligations.

B. General Opposition to the Proposed Rule

Multiple anonymous commenters and individual commenters opposed the proposed removal of the merit-staffing requirement without providing detailed rationale or supporting data. Arguments provided by commenters against the proposed removal of the merit-staffing requirement included contentions that the proposed change would negatively impact individuals who depend on the services provided by merit staff, potentially harming too many people. Commenters also asserted that the merit-staffing requirement functions adequately and resources should be focused on issues that need to be addressed and that merit-staff workers deserve protection.

The Department acknowledges the comments about changes in services as a result of the rule, but notes that commenters did not provide any data to support these assertions. Regarding statements about the perceived positive effects of merit-staffing, States can make a determination to maintain merit-staffing. However, as described previously there is no statutory requirement to do so. The Department lacks the statutory authority to require States to use State merit staff to deliver ES services. Section 3(a) of the Wagner-Peyser Act authorizes the Secretary to establish ''minimum standards of efficiency,'' but does not expressly or implicitly authorize the Department to require the use of State merit staff. The Department interprets this provision as allowing it to set performance and operational standards that promote effective service delivery, while leaving States with the discretion to determine how best to meet those standards within their unique administrative and labor market contexts. The Department's primary interest is the effective functioning of the workforce system and allowing States to use the same staff to provide WIOA and ES services will allow for more seamless service delivery where States deem it appropriate for their contexts. States may set operational standards to promote seamless and effective service delivery. Furthermore, in light of the Supreme Court's *Loper Bright* decision, the Department has carefully reviewed its statutory authority and concluded that a State merit-staffing requirement would exceed the scope of its authority under the Wagner-Peyser Act.

Numerous commenters, including multiple form letter campaigns, a union, and an advocacy organization, urged the Department to withdraw the proposal and maintain the merit-staffing requirement. A few of the commenters reasoned that the merit-staffing requirement is needed to preserve the integrity of the Wagner-Peyser program. One of the form letter campaigns remarked that the merit-staffing requirement has helped keep the ES fair, professional, and effective since its creation in 1933. Many commenters, including a few unions, several form letter campaigns, and multiple individual commenters, warned that removing the merit-staffing requirement could promote the same kind of fraud, corruption, political influence, and bias in private employment service offices that led to passage of the Wagner-Peyser Act.

The Department acknowledges concern about the proposed removal of the merit-staffing requirement for ES. While the Department acknowledges the role that merit staff have played in the history of the ES, the Department determines that the concerns raised overstate the risks associated with allowing States greater flexibility in staffing models.

First, the NPRM did not propose elimination of Federal oversight or core ES program requirements. States will still be subject to 20 CFR part 683, subpart D—Oversight and Resolution of Findings. Consistent with 20 CFR 683.400, the Department will continue to monitor States to ensure they are delivering ES services in compliance with all of the requirements of the Wagner-Peyser Act, its implementing regulations, the Uniform Guidance at 2 CFR part 200, and the Department's exceptions to the Uniform Guidance at 2 CFR part 2900. The Department will hold States responsible for violations of the ES implementing regulations, the statute, and the Uniform Guidance. States still must meet the universal access requirements in § 652.207, comply with the non-discrimination requirements in WIOA sec. 188, adhere to program and performance accountability mechanisms, follow State and Federal procurement requirements, and disclose conflicts of interest. The Department will continue to monitor compliance and ensure that services are delivered fairly and effectively, regardless of the staffing model States adopt.

Second, the Department believes that professionalism and integrity are not exclusive to merit-based hiring systems. States would retain the ability to implement rigorous hiring, training, and oversight practices to ensure staff are well-equipped to serve job seekers and employers as WIOA assigns a clear role to State boards in supporting the professional development of workforce staff across all programs. Specifically, under WIOA sec. 101(d)(3)(G), State boards are responsible for ''the development and continuous improvement of the workforce development system in the State, including . . . the development of strategies to support staff training and awareness across programs supported under the workforce development system.'' This statutory function ensures that States maintain a coordinated approach to staff development, regardless of the staffing model employed. Further, WIOA sec. 101(d)(7)(C) encourages State Boards to leverage technology to strengthen the professional development of workforce professionals. This includes using digital tools and platforms to enhance training, promote cross-program knowledge, and support continuous learning.

C. General Comments on ES Service Delivery by State Merit Staff Versus Other Models

Many commenters, including multiple individual commenters, form letter campaigns, and a union, described positive outcomes associated with using State merit staff to deliver Wagner-Peyser ES services. For example, several commenters, including a farmworker advocacy organization, form letter campaigns, and a union, wrote that State merit staff are subject to personnel standards and perform their work with integrity, impartiality, and accountability. In line with that point, multiple commenters, including a farmworker advocacy organization, a union, and form letter campaigns, described how State merit staff serve job seekers fairly and equitably, including vulnerable and ''hard-to-place'' populations.

Numerous commenters, including a union, form letter campaigns, and several individual commenters, discussed how State merit staff bring consistency and stability to their roles. Many commenters, including a farmworker advocacy organization, a union, and form letter campaigns, addressed the training and expertise that State merit staff represent. Specifically, several commenters, including unions, a form letter campaign, and multiple individual commenters, remarked that the uniform training State merit staff receive ensures uniformity in service delivery and expressed appreciation for the institutional knowledge and depth of experience embodied in State merit staff. A form letter campaign, individual commenters, and an anonymous commenter wrote that State merit staff have developed an understanding of their communities and relationships with the employers there that are critical to successful job placement. Commenters emphasized the professionalism, impartiality, and accountability of merit staff, as well as their training, institutional knowledge, and deep community relationships.

The Department received comments that seek to make a case for the contributions of State merit staff in delivering Wagner-Peyser ES services. The Department finds that other staffing models are capable of providing professional, skilled personnel with strong community relationships. This final rule allows States flexibility in staffing models, including continuing to deliver ES services with State merit staff if a State chooses. The rule does not critique merit staff performance, but rather it recognizes that high-quality service delivery can be achieved through multiple approaches in particular circumstances. The Department believes that the qualities attributed to merit staff in these comments are not exclusive to merit staff.

The Department remains committed to ensuring that all services are delivered in compliance with Federal standards, including nondiscrimination, performance accountability, and priority of service for veterans. The Department will continue to monitor and evaluate service delivery performance and outcomes to ensure that all job seekers receive high-quality ES services.

1. Comments About ''Privatization'' of the ES Program

Numerous form letter campaigns and individual and anonymous commenters expressed general opposition to ''privatization'' of Wagner-Peyser ES services. Some of the commenters' concerns included that privatization would diminish the quality of services and weaken accountability, oversight, and training while not saving money or improving outcomes. Many commenters, including an advocacy organization, several individual commenters, and multiple anonymous commenters, agreed with the Department's goal of helping States efficiently administer ES services but disagreed that privatization would achieve that goal.

Multiple individual and anonymous commenters and a form letter campaign reasoned that higher rates of turnover in the private sector than in the public sector mean that privatization would increase turnover among ES staff and thus decrease the continuity of service delivery. Several commenters, including a union, a form letter campaign, and a few individual commenters, expressed concern that private entities would not be held to the same transparency standards under which government agencies operate.

A few State government employees, including a form letter campaign, expressed concern that privatization would lower the quality of services. One of the commenters described their experiences working in an office staffed by both State merit staff and private contractor staff, stating that the contractor practices favoritism with staff and customers, contractor staff are subject to little oversight or accountability, and State merit staff receive heavier workloads. The commenter urged the Department, should it finalize the proposed rule, to include strong oversight and accountability measures that can be enforced to protect public workers and their clients.

An individual commenter remarked on the investment of time that would be needed to train private contractor staff up to ''some semblance of the current staff functioning.'' Another individual commenter warned that private entities operating under less oversight could end up costing taxpayers more. An anonymous commenter stated that privatization carries risk compared to the status quo because State merit staff must go through a clearance process to be employed by the government.

An individual commenter reasoned that private contractor staff have no incentive to improve services because their pay and benefits are lower than State merit staff, adding that there are no proven, independent studies showing that government services improve when privatized. Another individual commenter argued that non-State-merit staff who live outside the State in which they work would care less about the people they serve.

Many form letter campaigns and individual and anonymous commenters wrote that privatization of public services in Indiana and Texas resulted in negative outcomes, such as payment errors, delays in service delivery, and harm to vulnerable populations. Similarly, an advocacy organization, a few anonymous commenters, and several individual commenters stated that past attempts at privatization were less effective in delivering services than the merit-staffing model. Specifically, some of the anonymous commenters and individual commenters said that those privatization efforts resulted in higher turnover and costs, lower quality and accountability, and erosion of institutional knowledge.

Numerous individual and anonymous commenters and a form letter campaign expressed general opposition to operating public services for profit rather than for the public good. Many commenters, including a union, a form letter campaign, and several individual commenters, expressed concern that a new emphasis on profit would come at the expense of other goals, including quality, ethics, and unbiased service. For example, a form letter campaign, a union, and an anonymous commenter warned that for-profit providers aiming for volume over fit would harm individuals with barriers to employment, while an individual commenter expressed concern that for-profit providers would ''funnel'' workers toward unskilled jobs rather than the best positions for them. A different individual commenter cautioned that profit-seeking would result in subpar services for vulnerable populations because of the ''need to meet a client quota similar to a sales office.'' Likewise, another individual commenter stated from previous experience as a dislocated worker program employee that private contractors prioritize job seekers who will provide the best outcomes quickly because contractors ''need the numbers to look good'' to get their contracts renewed.

A Federal elected official warned that introducing a profit motive could interfere with the services provided and criticized the proposed rule for its lack of detail about the contracting process (*e.g.,* who will make contracting decisions and how they will avoid a conflict of interest). Using the military and the police as examples, an individual commenter and an anonymous commenter argued that services that exist for the public good should not be privatized because the priorities would then shift from serving the people to maximizing shareholder profits. A few individual commenters objected on the ground that when public services are run for profit, the funding that becomes profit for private entities necessarily takes away from the funding that is available to provide the services to the public. Another individual commenter warned that the profit potential would lead to contractors using unskilled labor or artificial intelligence (AI) to deliver services.

A form letter campaign asserted that eliminating the merit-staffing requirement might result in inconsistent service delivery between States and regions. A State government employee wrote that removing ES staffing would remove the uniform training afforded to merit staff, which would lead to inconsistent quality of service. Similarly, an anonymous commenter cautioned that privatizing services might lead to disparity in service delivery between regions with different profit potential. For example, the commenter said, if less profitable employment offices close, that would harm individuals who live in remote areas without reliable internet service and need to visit a location in person to receive services.

Writing in opposition to removing the merit requirement, a few individual commenters asserted that outsourcing job services to private contractors could harm public trust in the system. An advocacy group expressed concern that contractors might not reliably protect privacy for ES clients. Some individual commenters warned that outsourcing ES job services to private contractors could risk violating labor laws. A form letter campaign, an individual commenter, and an anonymous commenter urged the Department to reject privatization and instead improve the merit-based system from within by investing in training, resources, capacity, and innovation for the public workforce. Writing that the merit-staffing requirement is ''politically tenable and morally justifiable,'' an individual commenter objected to States being allowed to use ES funding under the Wagner-Peyser Act to hire staff not subject to merit standards.

While the Department received numerous comments mentioning privatization, this final rule does not privatize the ES program. The Department reaffirms that regardless of the staffing model adopted by a State, the State retains full responsibility for ensuring compliance with all applicable laws and regulations. This includes the enforcement of protections afforded under the Wagner-Peyser Act, WIOA, and other Federal statutes governing employment standards. This responsibility includes oversight of any subrecipients, if a State chooses to deliver services through a subrecipient instead of State merit staff; this final rule does not require any State to use contracts. Further, the Department notes that it is not privatization that results in numerical targets for services; the Wagner-Peyser Act as amended by WIOA sets performance metrics for ES. That same law requires the Department to take economic conditions and characteristics of participants into account when measuring the performance of grantees, through the use of statistical adjustment models, contrary to the concerns of commenters that believed contracts in ES would mean disincentives to serve certain areas. The Department notes that many local workforce development boards successfully deliver services through a variety of staffing models, and that States already have procurement requirements and experience in contracting for services, if they opt to use that staffing model. Lastly, whether or not individuals or States prefer one staffing model over another, the Department has determined, as described throughout the preamble, that the Department does not have the authority to require State merit-staffing.

One SWA commented in support of the rule, while indicating that merit staff would continue to work best to meet their needs. The Department thanks the SWA for its comment. Whether through State merit-staffing, local merit-staffing, State or local staffing outside the merit system, delivering services through local boards or other subrecipients, or any other creative hybrid model, the most important element of the rule is ensuring State solutions that respond to State needs.

The Department disagrees that services provided by non-State merit staff are inherently inferior to those provided by State merit staff. The Department believes that providing flexibility in staffing models may bring a host of advantages, including cost savings and flexibility to replace poor performers. With proper oversight, transparent subaward mechanisms, and quality training, private and non-profit subrecipients can rapidly deploy staff with niche expertise without waiting on civil service hiring cycles or rigid job classifications. These partnerships potentially allow States to scale up during downturns, potentially absorbing surging demand for ES services more smoothly than under the traditional merit staff model. Rather than weakening continuity, a diversified delivery model may serve to hedge against staffing disruptions and leverages performance incentives to drive consistent outcomes. Commenters that cited examples of increased costs or improper payments after privatization largely referenced cash benefit programs—ES does not distribute cash benefits; it offers career services, which are routinely offered by non-merit staff in other programs, including in the Department's largest workforce grants, WIOA title I. Congress recognized the benefits of contracting for the delivery of career services and training services in title I of WIOA, requiring in WIOA sec. 121(d)(2)(A) that one-stop operators must be selected through a competitive process and in sec. 123(a) that in most instances local boards must award grants or contracts for youth services providers on a competitive basis.

Far from the ''lowest bidder'' stereotype, performance-based subawards (when so selected by the State) may foster accountability and cost savings. Competitive procurements reward providers that meet or exceed benchmarks (retention rates, placement timelines, credential attainment), while poor performers face penalties or contract loss. This dynamic potentially keeps per-participant costs in check and redirects funds toward direct service rather than bureaucracy. Many publicly funded programs use procurements for service delivery.

Concerns that contractors will undermine service quality for vulnerable populations overlook the track record of local workforce development boards and specialized providers. Many public and private organizations regularly deliver services to individuals with barriers to employment with comparable employment outcomes to the results of the Employment Service. State merit staff are not the only people trained to deliver tailored services to certain populations. Many organizations invest heavily in staff training regarding compliance with the Americans with Disabilities Act and career pathways for opportunity youth, beneficiaries of public assistance, seniors, veterans, and individuals with disabilities. Organizations with a mission-driven focus may also yield higher customer satisfaction than one-size-fits-all merit systems. Modern contract models can codify the same rigorous training standards, ethics rules, and nondiscrimination safeguards through clear performance requirements and transparent reporting. As it relates to MSFW services, the Department again notes that the final rule maintains recruitment, training, monitoring, and other service requirements at §§ 653.107, 653.108, and 653.111.

As recipients of Federal Wagener-Peyser ES grants, SWAs must continue to comply with the Uniform Guidance requirements for internal controls. The Uniform Guidance at 2 CFR 200.303 requires recipients to establish, document, and maintain effective internal control over the Federal award that provides reasonable assurance that the recipient or subrecipient is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. Recipients must also evaluate and monitor the recipient's or subrecipient's compliance with statutes, regulations, and the terms and conditions of Federal awards and take prompt action when instances of noncompliance are identified. While some commenters cited instances of contracting, for services other than ES, associated with cost overruns or improper payments, the Department notes that merely administering a program at the State level or with merit staff is no guarantee against improper payments. Therefore, regardless of which staffing model they choose, SWAs will still have to implement effective internal controls over the ES program so that services remain compliant. Such internal controls may include ensuring that there are policies, procedures, training, and monitoring in place to ensure staff, regardless of their status as State or merit staff, provide high quality services to all customers.

Ultimately, the choice of Wagner-Peyser staffing models remains with States. This final rule does not require privatization. By allowing States to choose delivery partners best suited to local labor markets, whether public, private, or hybrid, States can secure cost efficiencies and quality service. Subgrants to private entities is but one of many viable options, is not inherently inferior to the status quo, and is regularly used to deliver career services in other Federal programs and other DOL-funded programs. This rule simply permits States to develop the staffing model that can expand access, elevate quality, and deliver the services that American workers and employers need. Therefore, the Department elects not to make changes to the regulatory text.

2. Impacts on State Merit Staff

Several individual commenters, a form letter campaign, and an anonymous commenter expressed concern about the economic and personal impacts of privatization on current State merit staff, including for their families and communities. Multiple State government employees expressed satisfaction with their work and concern about their jobs being privatized. A union, an advocacy organization, and a Federal elected official cautioned that the proposed rule could put State merit staff jobs at risk. Another union wrote that allowing States to replace skilled public workers with private contractors ''sets a troubling precedent on how the government values public-sector jobs and the public-sector workforce.''

An individual commenter and an anonymous commenter argued that privatization of State merit staff jobs is designed to undermine unions and collective bargaining rights. A union stated that the Department disregarded the reliance interests of public employees by removing the State merit-staffing requirement. Describing potential harm to himself and other public servants, a State government employee argued that the proposed rule would impact their careers.

The Department appreciates these concerns and encourages States to consider labor laws when deciding whether to change staffing models. Any staffing model selected should comply with applicable labor and employment laws that govern the State, and the State may consider the impacts of a change on incumbent employees and potential transition opportunities that exist for any employees who may be impacted.

This final rule does not compel any action by the States, much less the wholesale conversion of merit staff to at-will employees or contractors in every State; it simply permits alternative delivery models where appropriate. The decision rests with the State whether to utilize merit personnel standards or an alternative model. Well-crafted procurements and subawards can serve to protect employee transitions (through redeployment, vacancy prioritization, or other negotiated terms). Further, this final rule does not eliminate or alter any existing State collective bargaining agreement. The Department anticipates that States will appropriately plan any staffing changes, because to do otherwise would disrupt services for which they are held accountable. The Department also weighs the impact of those potential changes to State staff against the importance of effective service delivery, particularly when the Department has determined it does not have the authority to require a specific staffing model. States are capable of making these decisions, and for some States, an analysis of costs and benefits may favor delivery of such services outside of a merit-staffing model.

E. Comments on the Current Regulatory Approach

Critiquing the current regulatory approach to require the use of State merit staff and expressing support for the NPRM, a professional association wrote that the ''one-size-fits-all mandate'' inhibits States from developing new strategies and delivery models tailored to their labor markets and governance structures.

The Department appreciates the professional association's perspective that the current regulatory requirement for State merit-staffing may limit States' ability to tailor service delivery models to their unique labor markets and governance structures. The Department recognizes that States vary widely in their economic conditions, administrative frameworks, and workforce development priorities, and that flexibility can be a valuable tool for fostering innovation and responsiveness. This final rule will provide States with the discretion to adopt staffing models that best support their service delivery goals, while still requiring adherence to Federal performance standards, civil rights protections, and program integrity safeguards.

F. Advantages of Staffing Flexibility

1. Ability To Fill Specialized Roles

A local workforce development board asserted that flexibility in staffing would permit customized recruitment, onboarding, and hybrid positions to fit local needs and enable better management of staffing vacancies than leaving State merit-staff positions unfilled or Wagner-Peyser funds unspent. An anonymous commenter similarly described operational benefits of building business services specialized by sector and filling specialized roles working in information technology (IT), data, or multilingual capacities.

The Department appreciates the comments from a local workforce development board and other stakeholders highlighting the potential operational benefits of increased staffing flexibility under the proposed rule. The Department recognizes that local labor markets vary significantly across the country and that workforce needs are increasingly complex and dynamic. The final rule is intended to support States in designing staffing models that are responsive to these realities. By allowing for greater flexibility, States and local areas may be better positioned to recruit staff with specialized skills, fill critical vacancies more efficiently, and align service delivery with regional economic priorities. At the same time, the Department emphasizes that flexibility must be paired with strong oversight, training, and accountability to ensure that all job seekers receive high-quality services. The Department will continue to support States in implementing staffing models that balance innovation with program integrity and performance.

2. Flexibility for Local Goals

A professional association recommended lifting staffing restrictions to allow local workforce boards to partner with employers, community colleges, and economic development agencies to identify regional sector priorities and use local expertise. The commenter further wrote that staffing flexibility allows streamlining of internal services and resources to align with local goals, referencing legislative priorities of a national association of workforce agencies. Similarly, a State government agency wrote that the integrated service delivery model in Texas promotes full and appropriately targeted local staffing that makes more resources available for effective and innovative service delivery.

The Department appreciates these comments and agrees that staffing flexibility can support innovation, responsiveness, and alignment with local and regional workforce priorities. The Department recognizes that local workforce development boards, in collaboration with State agencies and community partners, are well-positioned to identify and respond to the unique needs of their labor markets. Allowing States discretion in determining staffing models can also free States to provide ES funding to local workforce development areas who can employ ES staff, similar to how workforce development services are devolved and staffed under WIOA title I. Such flexibility to align resources at the local level can facilitate more integrated service delivery, foster partnerships with educational and economic development institutions, and support sector-based strategies that are tailored to local conditions.

The Department also acknowledges that integrated service delivery models, such as those implemented in Texas and other States, can enhance operational efficiency and improve customer outcomes by aligning resources across programs. These models often require flexible staffing approaches that are not easily accommodated under a rigid merit-staffing requirement. By removing the Federal mandate for merit-staffing, the Department aims to empower States and local areas to design service delivery systems that are both efficient and effective, while still meeting the Department's performance and accountability standards.

This approach is consistent with the goals of WIOA, which emphasizes local flexibility, innovation, and the integration of services through AJCs. The Department believes that lifting the merit-staffing requirement will enable States and local areas to align their workforce strategies with economic development goals better and to make more strategic use of Wagner-Peyser funds.

3. Focused Reporting and Accountability

A local workforce development board remarked that State merit staff working under collective bargaining agreements could not be locally managed with performance goals, evaluations, or reporting and accountability processes.

The Department appreciates the comment and agrees that State merit-staffing requirements, particularly when coupled with collective bargaining agreements, can be administratively complex. These structural challenges are important considerations in workforce system design. The Department believes that States should have the flexibility to address these challenges, and the final rule is intended to provide that flexibility in a way that supports both program integrity and local responsiveness.

4. Local Autonomy for Targeted Regional Response

Multiple commenters, including local workforce development boards, State government agencies, and a professional association, wrote in support of staffing flexibility to allow local and regional autonomy in selecting the most appropriate staffing model. A professional association and a State government agency argued that demonstration States have successfully leveraged flexible staffing models for decades, and the professional association further stated that independent evaluations and State data show these models improve local connections, expand service, and address populations in need while meeting or exceeding Federal performance standards. An individual commenter and an anonymous commenter said that the proposed rule would help modernize the public workforce system. A local workforce development board asserted that regional boards are intentionally designed to operate autonomously to address evolving regional needs and that local boards need the authority to build a workforce responsive to these strategies, adding that local boards are experienced with combining Federal and State funding streams.

A professional association wrote that allowing each workforce region to implement the most suitable staffing model would prepare both job seekers and employers to respond to a changing workforce landscape with new priorities and reduced resources, while an anonymous commenter wrote that staffing flexibility would allow better response to the evolving needs of employers because local boards possess an understanding of the needs of their communities that State governments lack. A professional association commented that its local workforce development boards represent rural, suburban, and urban areas with widely diverse workforce needs and successfully leverage partnerships, such as with community colleges.

A State employee association expressed their support for both the States that intend to implement alternative staffing and those that do not, remarking that their association members support the principle of State flexibility in ES services. Writing in opposition to the nationwide merit-staffing requirement, a State government agency expressed its intent, regardless of staffing flexibility, to continue delivering Wagner-Peyer services with State merit staff to provide proven results of a professional, impartial, and accountable workforce.

The Department appreciates the many comments submitted in support of increased staffing flexibility in the delivery of ES. These comments came from a broad range of stakeholders. Collectively, the comments offer valuable insights into the potential benefits of allowing States and local areas to determine the staffing models that best meet their unique workforce needs.

The Department agrees that State and regional autonomy is essential for building responsive, effective workforce systems. The Department also acknowledges the comments from demonstration States and their supporters, who pointed to decades of experience using alternative staffing models. Additionally, the Department recognizes the view that staffing flexibility can support modernization of the public workforce system.

Importantly, the Department appreciates the perspective of a State employee association that expressed support for both States that choose to retain merit-staffing and those that pursue alternative models. This balanced view underscores the principle that flexibility enables States to tailor their approaches while upholding the core values of professionalism and accountability.

5. Locally Focused Accountability

A professional association wrote that local accountability can be fostered by business-led boards aligned with employer needs, still subject to oversight from both State and Federal agencies, and held accountable by outcomes, not processes. An individual commenter stated that strong oversight and accountability to Federal performance and civil rights standards could be implemented into local program services by local workforce development boards regardless of the employment classification of the program staff, reasoning that many local boards already do meet those standards.

The Department appreciates the comments submitted in support of local accountability mechanisms for ES. The Department agrees that strong accountability structures are essential to ensuring the integrity and effectiveness of the public workforce system. Moreover, the Department recognizes that many local boards already demonstrate strong performance and all local boards must comply with Federal standards. The Uniform Guidance and the Department's grant agreements outline clear expectations for subrecipient oversight. The Department's own monitoring also reviews whether services are delivered effectively and in compliance with Federal requirements. These mechanisms remain in place regardless of whether services are delivered by State merit staff or through alternative staffing models.

The Department also acknowledges the view that flexibility in staffing can support ES and other employment and training services modernization and responsiveness. As workforce needs evolve, local boards may be better equipped to adapt service delivery strategies when they have the authority to select staffing models that align with their operational realities and community needs.

6. Improved Integration of Resources

Several anonymous commenters discussed the difficulties of integrating State and local staff under the current merit-staffing requirement. One of the commenters asserted that State and local staff do not integrate well and that the misalignment impedes service efficiency to the detriment of the individuals seeking services. The commenter added that the differing rules and administrative requirements affecting State and local workforce board staff working side by side harms staff morale. The other commenter wrote that the assumption that merit staff are professional and unbiased is not accurate and that merit-staff supervisors are overloaded and often unable to provide a timely response to unprofessional and discriminatory behavior displayed by merit staff. The commenter urged the Department to adopt the proposed rule and put all ES workers in the same chain of command.

Using the pilot staffing model in Michigan as an example, a professional association expressed support for flexible staffing that aligns funding streams and resources to increase efficiency and encourage innovation. A local workforce development board commented that staffing flexibility would maximize the impact of Federal investments. A State government agency remarked that rescinding the merit-staffing requirement would remove an unnecessary administrative burden. A professional association expressed support for the proposed rule, stating that the NPRM would restore much-needed flexibility for States to determine the best staffing arrangements they need to deliver ES effectively as authorized by the Wagner-Peyser Act.

The Department appreciates these perspectives and recognizes that the integration of State and local staff can present administrative and cultural challenges, particularly when staff operate under different employment classifications and reporting structures. While ES merit-staffing may effectively meet the needs of some States, it may impact the efficiency and cohesion of service delivery teams in others.

The Department also acknowledges the view that placing all ES staff under a unified chain of command could enhance coordination, reduce administrative friction, and improve responsiveness to both clients and staff concerns. These are important considerations as the Department seeks to modernize the public workforce system and ensure that services are delivered efficiently and effectively. Such alignment could also help advance improved integration and coordination of service delivery as envisioned by WIOA within the one-stop delivery system, where seamless access to services across programs is a core goal.

G. Proposed Rule's Impacts on Other Programs

A State employee association remarked that a few States have relied on staffing flexibility for decades and that several other States have expressed interest in exploring alternative staffing strategies. The commenter expressed strong support for providing ''maximum flexibility'' to States in their provision of ES services, referencing their own published legislative priorities. A professional association wrote in support of the comment submitted by the State employee association, echoing their warning that removing staffing flexibility would disrupt long-standing and cost-efficient delivery models and adding that almost all SWAs support staffing flexibility.

Another professional association described the demonstration model used for ES services in Massachusetts, writing that ES staffing flexibility is allowed in several workforce areas that provide the same quality of ES delivery services as the areas that use a merit-staffing model. The commenter expressed support for the proposed rule and remarked that some regions within the State may choose to maintain the current model of using both State and local staff to deliver services.

The Department acknowledges that some States have successfully operated under alternative staffing models for decades. These demonstration States have used flexible staffing approaches to integrate services, align funding streams, and respond effectively to local and regional workforce needs.

These comments reinforce the Department's view that flexibility in staffing can support innovation, efficiency, and responsiveness when paired with strong oversight, performance accountability, and adherence to civil rights protections. This final rule is not intended to diminish the value of State merit staff, but rather to empower States to adopt the staffing structures that best support their workforce goals and operational realities.

1. Surge Capacity for Processing UI Claims

Comments from unions, a form letter campaign, and a think tank argued that the merit-staffing model increases surge processing capacity by ensuring a trained and ready workforce that can be deployed into UI positions as needed. A union wrote that a merit-staffed ES has provided impartial and effective UI services during many crises. The form letter campaign cautioned that the privatization of ES services to independent staffing providers not held to the same standards could diminish surge processing capacity, pointing to the surge during the coronavirus disease 2019 (COVID–19) pandemic as an example.

Another union wrote that non-merit workers hired during the pandemic did not receive the training needed for UI administration. Specifically, the commenter referenced an audit of Michigan's ES services during the pandemic finding that insufficient onboarding and offboarding practices led to $3.8 million in UI fraud, ethics violations, unsafe computer sanitization practices, lack of criminal background checks, and vendor staff retaining system access after they stopped working for the vendor. The commenter further remarked on the history of State ES merit staff providing unbiased, high-quality ES services and UI benefits during times of economic crisis, without political coercion. Similarly, a think tank discussed the benefits of having a prepared pool of State workers, writing that States with cross-trained ES staff were able to use them during the pandemic to provide UI services accurately and with fewer overpayments and that States faced issues with filling UI claims roles and had to move experienced specialists in adjudication and fraud prevention into UI claims roles. The commenter further wrote that some States used private for-profit contractors to staff UI call centers and that these contractor services were often overbilled, asserting that a private call center may have overbilled Maryland by as much as $2 million. Providing background for this discussion, the commenter remarked that Federal funding for State UI administration had reached its lowest in decades in 2019.

On the other hand, a few commenters, including professional associations, expressed support for the proposed rule, writing that staffing flexibility would allow administrators to add surge capacity during downturns or disasters. One professional association discussed the adaptability of the pandemic response in Michigan, asserting that their pilot model has integrated funding streams and enhanced efficiency while preserving resources for direct services for job seekers. Relatedly, another professional association discussed the responsiveness of States with flexible staffing models during the pandemic, writing that local workforce areas added processing capacity during surging demand through a variety of collaborations that reallocated staff and integrated technology, including reassigning one-stop center capacity to UI processing. The commenter also described Michigan's rapid reallocation of local staff to UI support during the pandemic and remarked that in Virginia, ES services operated by local workforce development boards achieved performance levels significantly higher than the State agency while also cutting costs.

The Department recognizes that States may want to prepare for UI claims surges. The Department noted such a need in the preambles to its 2022 NPRM and 2023 Final Rule. However, in light of the *Loper Bright* decision that a statute has a single best reading, and the lack of an explicit or implicit grant of authority within the Wagner-Peyser Act to the Department to mandate merit-staffing, this potential need for surge capacity does not provide sufficient basis for the Department to require States to use State merit-staffing for ES service delivery. States can and should prepare for effective surge response, which might include rearranging staff among different functions, as some commenters noted that their States had done, and can also include reform to improve integrity and timeliness. Economic downturns leading to a greater volume of UI claims also are likely to result in an increased need for ES services. Reassigning ES merit staff to help cover UI surges is one option, but the Department has determined that it does not have statutory authority to mandate it. The Department also notes that there may be needs for surge capacity in other parts of the public workforce system that the ES program is not authorized to assist with, such as needing to retrain workers because of economic changes or a spike in employer demand—work carried out by WIOA title I funded staff at the local level. With the ability to determine their own staffing structure, States can best determine how to plan for and respond to surges of needs in various programs.

2. Alignment With UI Programs

Many commenters, including unions, a Federal elected official, and a professional association, discussed the strong connection and coordination between ES services and UI programs. One national union and one of its district offices each argued for the effectiveness of combining emergency UI benefits with maintaining a trained and politically unbiased ES workforce to deliver employee benefits and services nationwide. The commenters referenced multiple studies, including a 2006 study from the W.E. Upjohn Institute for Employment Research, that they said show that a merit-based ES is cost- and time-effective, resulting in lower total benefit payments and reduced unemployment, and reasoned that allowing privatization of ES staffing would undercut the effective and proven alliance of ES and UI. Another union referenced findings from the same Upjohn Institute research, a 2004 Westat evaluation of labor exchange services, a 1989 Mathematica evaluation report on a New Jersey Unemployment Insurance Reemployment Demonstration Project, and various papers summarizing the same research showing the benefit of the merit-staffing requirement to the UI program as an example of decision making supported by expertise. A Federal elected official warned that ending the merit-staffing requirement might impact the UI system, while an individual commenter wrote that the merit staff in ES programs protect the integrity of State UI programs.

Similarly, multiple unions and an individual commenter stated that the founders of the ES and UI programs considered the merit-staffing requirement an essential element of maintaining an effective policy approach to national employment. The unions further described Congressional intent to prevent favoritism and promote equality in employment services delivery by providing Federal oversight of UI through merit-staffing.

Several commenters, including unions and an advocacy organization, reasoned that the UI work test is ''inherently governmental'' and should be performed by government employees. A union discussed the legal history of the Federal-State partnership, arguing that its structure illustrates the intent of the New Deal framers to establish inherently governmental functions requiring State merit-staffing. An individual commenter added that fact gathering and the Reemployment Services and Eligibility Assessment (RESEA) program also create inherently governmental duties.

A few commenters described how merit-staffing improved program delivery and success for UI claimants. A union remarked that research, specifically the 2006 Upjohn Institute article, demonstrates that using State merit staff promotes effective, efficient, and impartial delivery of ES and that multiple studies show that ES produces higher earnings gains, particularly for women. The commenter discussed the 2004 Westat evaluation of labor exchange services, which included the three States using alternative staffing models. The commenter asserted that the study found that traditional ES services produced higher performance and more successful job matching benefits to more UI claimants compared to services provided in the demonstration States.

A think tank, multiple unions, and an advocacy organization stated that research shows the effectiveness of RESEA programs for UI recipients conducted by merit-based Wagner-Peyser staff. The commenters cited a January 2012 study of Nevada's RESEA program by Michaelides et al., which used merit-based State government ES staff, that found that participants were connected to jobs more quickly. The advocacy organization and a union added that the DOL-funded research determined that UI claimants in Nevada were unemployed for shorter periods of time and retained jobs for longer and at higher wages than the control group.

An advocacy organization and a union discussed impacts on the RESEA program and referenced the Nevada Reemployment and Eligibility Assessment model and research that showed positive employment outcomes using State ES staff, with the advocacy organization warning that the proposed rule could impede the program's effectiveness and integration with UI. The advocacy organization further wrote that Congress expanded the RESEA program last year and that privatization of services provided under RESEA grants would not align with the Congressional intent of that expansion.

The Department values the input highlighting the longstanding integration between the Wagner-Peyser ES, UI, and RESEA programs. Where commenters linked ES and UI programs, especially the UI work test, and described the program founders' intent for merit-staffing, the Department notes that regardless of their intent, the statutory text of the SSA requires merit-staffing and the Wagner-Peyser Act does not. This final rule does not change the requirement that State merit staff must make all determinations and redeterminations impacting an individual's eligibility for unemployment compensation. Nonetheless, the Department emphasizes that any shift in staffing models must continue to uphold the integrity and effectiveness of both the UI and RESEA systems. Importantly, the proposed rule does not remove Federal oversight or alter the core responsibilities of these programs. SWAs must still fulfill their responsibilities to comply with § 652.209. States would remain fully accountable for meeting all relevant performance benchmarks, civil rights obligations, and safeguards to ensure program integrity. Where some commenters shared research that they claimed showed evidence that merit staff are cost effective and help job seekers find employment more quickly, upon review, such research did not support these claims. Specifically, the 2006 Upjohn Institute study's key research finding was about the positive impact of the reemployment services provided through ES, and it made no mention of differences attributable to merit or non-merit staffing. Furthermore, the study drew largely on information collected 20 to 40 years ago, including a 2003 survey and a literature review of eight studies published between 1985 and 2002, well before the significant impacts of technology on reemployment services. Cited research from Westat's 2004 evaluation simply does not show that merit-staffing produces better outcomes. The study itself attributes changes in enrollment to multiple IT and data changes, not staffing models, and had to exclude Michigan and Massachusetts, two of the three alternative staffing states, from certain analyses due to data limitations. The evaluation's key findings concluded that high-quality job matching systems well-stocked with job openings, well-trained staff that can meet the needs of a broad range of jobseekers, and well-managed one-stop centers that unify operations across multiple staff from different organizations produce better outcomes.

Cited research about State UI job search rules and research about Nevada's RESEA program did not compare merit staff services with non-merit staff services; these studies did not mention merit staff or the role of merit staffing in the employment outcomes. Further, the permanently authorized and expanded RESEA program includes flexible staffing options that many States have successfully applied to increase service quality and availability. States that wish to maintain merit-staffing in their RESEA program can certainly do so, while other States can use the model that suits them best.

3. Concerns That Using Non-Merit Staff May Reduce ES Service Quality to UI Claimants

Several commenters, including a few unions and a form letter campaign, discussed a number of examples where the commenters believed that non-merit-based staff provided substandard or lower quality services to UI claimants. A few unions wrote that alternative staffing models in the demonstration States of Colorado, Massachusetts, and Michigan have been less effective at assisting workers than State merit-staffed programs. A form letter campaign described a team at an agency in California that employed non-merit-based staff to assist UI claimants, stating that the non-merit staff lacked adequate training and accountability and often provided incorrect information to UI clients. An advocacy organization similarly stated that contracting out administrative services leads to incentives that can undermine the services provided to UI claimants, while a think tank warned that staffing flexibility could result in an individual being led toward lower paying, less stable work.

A few unions criticized the temporary statutory exemption of the merit-staffing requirement during the pandemic as an example of how non-merit staff are not as effective at delivering employment services. The unions stated that under this exemption, many States hired privately contracted staff who were poorly trained, low-paid non-merit staff, resulting in high turnover among contracted staff and poor service for UI claimants. One such union further asserted that the research conducted on alternative staffing models, including those used in the demonstration States and during the pandemic exemption period in the 2004 Westat study and in an inaccessible 2022 working paper, respectively, suggest that the proposed rule change would have negative impacts on State employment services programs.

The Department acknowledges the commenters' concerns regarding the importance of maintaining the highest quality ES and WIOA Title I services for all customers. However, the Department disagrees that States that choose alternative ES staffing models will see a reduction in service quality. Some commenters presented mere anecdotes. The comments citing the Westat research do not show that merit-staffing itself produces better outcomes compared to alternative staffing models; rather, its key findings concluded that high-quality job matching systems, well-trained staff that can meet the needs of a broad range of jobseekers, and well-managed one-stop centers that unify operations across multiple staff from different organizations produce better outcomes. The Department reviewed performance data submitted to the Department by states and did not observe that States using alternative staffing models have worse outcomes than States that use State merit-staffing. All States, no matter what staffing model they use, will still be held accountable for the employment outcomes of the ES program.

4. Local Management of WIOA Services

A few commenters, including a think tank and a union, wrote that the proposed rule could result in local management and staff handling both WIOA and ES services and thus reducing the quality of WIOA services provided. The think tank discussed ES services provided in States with alternative staffing models and cautioned that WIOA one-stop centers primarily serve economically disadvantaged individuals with limited work history and that services for this population tend to prioritize rapid reemployment in jobs with faster and less costly training requirements that are at the lower end of the economic spectrum. Meanwhile, the commenter argued, UI programs integrated with ES typically serve individuals with recent employment history, so this population would benefit from a wide range of suitable employment opportunities that take advantage of prior skills and experience. The commenter discussed WIOA financial incentives based on employment placement and referenced studies, including the 2004 Westat study, that the commenter said concludes that preserving separate goals and funding streams for ES and WIOA agencies was beneficial. A union stated that union members reported misaligned program requirements and timelines across ES and WIOA title I programs. The commenter further discussed the 2004 Westat study of work services in both ''traditional ES States'' and States with alternative delivery models, finding that merging ES with WIOA staff led to reduced quality and effectiveness of services. An anonymous commenter cautioned that ''if WIOA gains control of Wagner-Peyser funding, it could harm job seekers,'' expressing concern that staff would not support all job seekers equally but assist only the individuals likely to achieve positive outcomes.

The Department acknowledges the commenters' concerns regarding the importance of maintaining the highest quality ES and WIOA Title I services for all customers. However, the Department disagrees that States that choose alternative ES staffing models will see a reduction in service quality and has previously noted in this rule the broader findings of the Westat study. While some commenters suggested that the ES and UI programs primarily serve individuals with recent work histories, whereas WIOA serves more economically disadvantaged individuals, the Department notes that these populations often overlap significantly. Many UI claimants are also eligible for and benefit from WIOA services. Further, the most effective integrated service delivery models support a broad range of job seekers, including dislocated workers, low-income individuals, and those with limited work histories, regardless of the entity providing services.

Regarding the concern that systems will shift toward assisting only individuals likely to acquire jobs, the Department emphasizes that WIOA title I and ES programs are held accountable for several of the same statutory performance measures; this rule does not change these accountability measures.

In response to concerns about misaligned program requirements and timelines across ES and WIOA title I programs, the Department notes that both programs are subject to the same statutory expectations for unified or combined State planning, receive program allotments simultaneously, and share common performance accountability measures and reporting timelines, while maintaining separate funding streams. Additionally, most career services authorized under the Wagner-Peyser Act also are authorized under the WIOA Adult and Dislocated Worker programs. This alignment supports staffing models that organize teams based on service functions rather than program funding streams, which can enhance coordination and improve service delivery.

The Department remains committed to ensuring that all job seekers receive high-quality services and that States maintain accountability for meeting Federal performance and service standards, regardless of the staffing model employed.

In contrast, a professional association and some individual commenters expressed support for consistency and continuity across programs, commenting that allowing States to use staffing flexibility would align with the current structure of allowing local workforce development boards to administer title I services. The professional association described Ohio local workforce board development staff delivering RESEA services and stated that single points of contact promote better engagement. An individual commenter also stated that reducing duplication would reduce silos, integrate accountability, and strengthen the one-stop delivery system under the management of local workforce development boards. The commenter added that existing State merit staff could be phased in to local systems to minimize job loss. Another individual commenter remarked that integrated case management also would align more easily with local economic development programs.

An anonymous commenter wrote that merit, non-merit, or hybrid staffing would allow integration across the network of AJCs and related programs, which would improve access to services. The commenter advised the Department to align the effective date of the proposed rule with the WIOA State plan cycle.

The Department appreciates the comments submitted by a professional association, individual stakeholders, and an anonymous commenter in support of the proposed staffing flexibility under the Wagner-Peyser Act. These comments reflect a shared vision for a more integrated, responsive, and locally aligned workforce system. Commenters noted that allowing States to use staffing flexibility aligns with the current structure of local workforce development boards administering WIOA title I services. The Department agrees that this alignment can promote greater consistency and continuity across programs, reduce duplication, and support a more seamless experience for job seekers and employers. The example provided by the professional association regarding Ohio's local workforce board staff delivering RESEA illustrates how local administration can enhance service delivery.

The Department also appreciates the comments emphasizing the benefits of integrated case management and the potential for better alignment with local economic development initiatives. These perspectives are consistent with the Department's broader goals under WIOA to foster collaboration across programs and reduce service silos. Integrated staffing models can support more holistic service delivery, particularly when paired with strong performance monitoring and technical assistance.

The Department further appreciates the recommendation to align the effective date of the final rule with the WIOA State Plan cycle and will take that into consideration. The Department notes that States may modify their WIOA State Plan at any time to propose changes to ES staffing models.

5. Impacts Across Other Programs

A Federal elected official and a union warned that ending the merit-staffing requirement might impact case management services for Trade Adjustment Assistance (TAA) and staff with the Disabled Veterans' Outreach Program (DVOP) and the Local Veterans' Employment Representative (LVER).

While the Department appreciates the concern raised by a Federal elected official and union, the Department disagrees that the flexibility to permit States to select the most appropriate ES staffing model will, on its own, have any impact on the quality of case management across programs. Ending the Wagner-Peyser merit-staffing requirement does not interrupt services for TAA participants or for veterans served by DVOPs and LVERs. TAA case management is governed by the Trade Act and must continue to be delivered by trained TAA staff. DVOP and LVER positions are governed by title 38 of the U.S. Code and remain subject to all requirements in the Jobs for Veterans State Grants program, including the requirement that they be integrated into the ES in the State (38 U.S.C. 4102A(c)(2)(A)(i)(II)). This final rule touches only the staffing model for general ES labor-exchange activities and not the legal requirements or staffing protections for TAA or veteran programs. States will continue delivering these services seamlessly under unchanged Federal oversight, performance measures, and accountability systems.

An advocacy organization warned that contracting out administrative services could result in poor service provision due to the need to secure long-term and less competitive contracts to address complex bureaucratic tasks, as well as contract structures that incentivize contractors to screen or drop clients unlikely to find job placement, giving examples of impacts in States that contracted out services for the Children's Health Insurance Program (CHIP), the Supplemental Nutrition Assistance Program (SNAP), and Medicaid.

The Department here clarifies that CHIP, SNAP, and Medicaid are means-tested benefit programs with eligibility criteria that determine who can receive services. These programs involve complex determinations of income, household composition, and other factors. In contrast, the ES regulation at § 652.207 requires making ES services universally available to all job seekers, regardless of income, background, or employment history. In many States and in many AJCs, job seekers can self-register and access employment services (supported by WIOA title I or ES) almost immediately; there are fewer opportunities for service providers deliberately to select participants who are most likely to succeed while avoiding individuals with more complex barriers to employment. This universal eligibility model inherently limits the potential for ''creaming.'' Further, both WIOA title I and ES have identical performance measures; this final rule does not change performance accountability measures or their related supposed incentives to exclude individuals based on perceived difficulty in achieving job placement. Moreover, the ES operates within the WIOA one-stop delivery system, which is designed to provide seamless and coordinated services across multiple programs and providers. This system emphasizes universal access, co-enrollment, and shared accountability, further reducing the likelihood that any single provider could selectively serve clients without oversight.

A professional association asserted that local workforce development boards have historically integrated multiple funding streams, including WIOA, Temporary Assistance for Needy Families, and SNAP, into integrated delivery processes attuned to the labor markets and goals of the region.

The Department agrees that many local areas have demonstrated the capacity to align programs effectively to serve job seekers and employers. This final rule is intended to provide States with the flexibility to design staffing models that support such integration while maintaining program integrity and responsiveness to local economic conditions.

H. Removal of the Evaluation Requirement

A think tank and an individual commenter recommended that the study required by the 2023 Final Rule (to assess the effectiveness of State merit-staffing and the alternative staffing models used in the three demonstration States) should be completed in order to conduct evidence-based policy making effectively. The individual commenter remarked that maintaining the evaluation requirement and expanding it nationally would provide a comparison of States that retain merit-staffing standards for ES with those that do not.

Similarly, a Federal elected official expressed concern for removing the evaluation requirement, writing that removing the evaluation would be removing any future source of data for appropriate policy decisions. On the other hand, a State employee association expressed strong support for ending the evaluation of the delivery models in the three demonstration States.

The Department's NPRM proposed eliminating § 652.215 in its entirety, which included a mandatory evaluation of staffing models, because the rule is designed to preserve State flexibility and recognize wide variation in local labor markets, governance structures, and program goals. While it is not necessary for the Department to mandate that certain States participate in an evaluation, the Department continues to prioritize evidence-based policy and may study and build evidence in the most effective career services strategies for use in Wagner-Peyser ES and in all programs that help workers find jobs.

Removing the mandate for certain States to participate in an evaluation does not abandon rigor or accountability. This final rule does not prevent the Department from any future studies or evaluations about what strategies improve employment outcomes. The Department also encourages States to incorporate robust monitoring, outcome metrics, and targeted evaluations tailored to local policy questions. Therefore, the Department is finalizing the regulatory text as proposed.

I. ES Service Delivery and Accountability

1. Quality of Service Delivery

a. Concerns About Quality of Service Delivery

Many commenters, including unions, an advocacy group, and a Federal elected official, expressed opposition to eliminating the merit-staffing requirement due to concerns of compromised quality in the services delivered by non-merit staff. A few unions and the advocacy organization asserted that alternative staffing in the demonstration States has been less effective than merit-staffing, with one union and the advocacy organization referencing the 2004 Westat research study on lowered job placement counts. An anonymous commenter remarked that contracted workers focus on short-term performance statistics to the detriment of mission effectiveness, and a think tank asserted that ES has consistently been found effective at engaging workers who would otherwise be ineffective job seekers.

Multiple commenters, including unions, a Federal elected official, and an advocacy organization, provided examples or research to support their assertion that using contract workers lowers the quality of ES services delivery. Referencing data from the U.S. Bureau of Labor Statistics (BLS), a form letter campaign and an individual commenter described insufficiencies in the private sector and the comparative benefit of receiving assistance from knowledgeable career State and local government employees. A union and the Federal elected official referenced studies, including the 2004 Westat study and the 2012 Nevada REA study, finding underperformance of referrals, placements, job openings, and registrations in programs that contracted out ES services, with the union further referencing research, including a March 2018 research briefing from In the Public Interest (ITPI) and a 2008 paper from the National Center for Law and Economic Justice, finding increased levels of Federal program denials under contractor management, including denials to eligible recipients.

A few commenters, including a form letter campaign, a union, and an advocacy organization, described instances of privatization in Indiana and Texas that resulted in a doubled error rate. A union and an advocacy organization referenced research on lowered job placement counts in States using alternative staffing models, with both commenters also citing a 2014 Oxfam briefing paper that, according to the commenters, found that administering government program services using public staff led to more access to those programs. The advocacy organization also described examples of corruption, financial mismanagement, and conflicts of interest in the contracting process, including the Michigan Integrated Data Automated System (MiDAS) contract project in Michigan that created an algorithmic programming system to assess UI claims without human review or sufficient human oversight, as an illustration of private entities prioritizing efficient processes and profits over accuracy.

While the Department acknowledges these generalized concerns about privatization and potential risks associated with contracting generically, they do not reflect rigorous studies of ES nor ES staffing models. For example, the MiDAS system in Michigan refers to a UI automation effort and not staffing or staffing models. The few completed studies referenced, such as the 2005 Connecticut study (Connecticut: An Impact Evaluation of Workforce Development Activities) represents a single State's experience. The Oxfam briefing paper's focus is related to the role of free public health and education services in reducing global income inequality rather than employment services, and the ITPI and National Center for Law and Economic Justice research address Medicaid and eligibility determinations for certain public benefit programs, respectively, but not ES for which eligibility is universal. The Department declines to interpret these studies' findings as broadly applicable to all States or to the topic of this final rule. The 2004 Westat study referenced by several commenters simply does not show that merit-staffing produces better outcomes, and the study itself attributes changes in enrollment to multiple IT and data changes, not staffing models. The Department is currently conducting a multi-year, mixed-methods evaluation of ES and career services, expected to provide insights into the service strategies that produce positive employment outcomes.

A few unions criticized the quality of employment services provided during pandemic-era staffing privatization experiments as inferior, suggesting that those models recruited low-paid and poorly trained staff. One of the unions wrote that the pandemic-era contract staff administered both traditional and temporary UI programs, resulting in errors, corruption charges, and deficient work that increased the workload for State merit staff adjudicators required to correct the errors.

The Department recognizes the challenges experienced during this period; however, pandemic-era circumstances were unprecedented. The COVID–19 public health emergency created an extraordinary surge in demand for UI, requiring States to expand capacity rapidly under extreme time constraints. In response, Congress enacted the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which introduced several new temporary UI programs and significantly expanded eligibility and benefits. These programs were implemented on an emergency basis, with a rapid rollout, and required States to stand up new systems and processes quickly.

Some States turned to temporary, time-limited staffing solutions that were authorized under the CARES Act for UI to meet immediate operational needs. While these emergency measures were not without challenges, they were also not reflective of contracted services per se. Nor were the services procured following the precise rules and data review associated with UI claims at all similar to the career services within ES. The Department does not view the outcomes of these temporary, crisis-driven arrangements for UI service delivery as indicative of the potential effectiveness of alternative ES staffing models under more normal conditions. The Department notes that this final rule does not change the requirement that State merit staff must make all determinations and redeterminations impacting an individual's eligibility for unemployment compensation.

As noted in section V.C.1 of this preamble, the proposed rule does not mandate privatization or the use of contract staff. Rather, it provides States with flexibility to determine the most appropriate staffing structure to meet their workforce development goals while maintaining accountability for service quality and compliance with Federal requirements. States that choose to pursue alternative staffing models must ensure that staff are adequately trained, services are fairly delivered, and program integrity is preserved.

The Department remains committed to supporting States in building resilient, high-quality workforce systems that can serve all job seekers effectively, both in times of stability and in response to future disruptions.

One union remarked that during the pandemic, Congress temporarily waived the legal requirement for merit-based staffing in unemployment programs, which allowed States to hire private contractors, often with what the commenters described as undertrained and low-paid workers, to administer benefits like Pandemic Unemployment Assistance.

As noted earlier in this section, the temporary waiver of merit-staffing requirements for UI programs during the COVID–19 pandemic does not support the existence of a statutory mandate in a separate program like ES. Section 2106 of the CARES Act explicitly waived

Federal merit-staffing requirements for State UI programs on an emergency basis through December 31, 2020. This waiver was a legislative exception for UI, not an acknowledgment of a statutory requirement for ES.

Several commenters, including a form letter campaign, a think tank, and an advocacy group, discussed negative impacts of non-merit-staffing on program processes and procedures within employment services. The think tank asserted that non-merit-staffing may not mitigate some potential harms to customer experience caused by the increased use of AI, and that merit-staffing allows States to monitor the use of AI and algorithms in service delivery. A form letter campaign asserted that States historically have not always adopted the most efficient job service delivery models and reasoned that local priorities for immediate cost savings may not align with ES program goals. Critiquing programs in the demonstration States that provide ES services with other one-stop employment partners, a union asserted that this alignment diverts Federal funding and focus away from the essential and unique service performed by merit staff assisting the chronically unemployed.

The Department recognizes the critical role that career services like those delivered in ES play in serving individuals who face persistent challenges in the labor market. The Department takes seriously any concerns about inefficient service delivery. However, the rule does not alter the statutory mission of the ES program, nor does it reduce the obligation of States to provide high-quality, accessible services to all job seekers, including individuals with long-term unemployment. As noted in section V.C.1 of this preamble, the rule does not mandate the use of non-merit staff or privatization. The Department encourages States to keep the needs of discouraged workers and individuals experiencing long-term unemployment in mind when designing services.

An anonymous commenter urged a reconsideration of the proposal in order to allow continued merit-staffing to make process and efficiency improvements, and an individual commenter wrote that disruptions of employment services would add further negative impacts to individuals currently in need ''at this moment.'' While stating that there might be benefits to integrating ES with local delivery systems, an advocacy organization recommended that funding and operations remain separate in order to utilize statewide matching systems. The commenter further expressed concern that the Department did not release previous study findings supporting this separate structure in a timely manner and might in the future withhold negative study results again. A think tank wrote that merit staff will be essential to continuing program growth and consistently implementing the use and oversight of future AI strategies.

The Department acknowledges the commenters' considerations for current customers, timely research release, and the importance of human stewardship of AI where it intersects with the provision of ES services. The Department encourages any State that pursues an alternative ES staffing mechanism to consider continuity of service for current customers and plan accordingly to ease the transition from one model to another and to implement any staffing changes in a manner that avoids service interruptions. The Department will continue to provide technical assistance and oversight to ensure that transitions, where they occur, are managed responsibly and with minimal impact on job seekers.

Regarding the timely publication of research, the Department is committed to transparency and evidence-based policymaking. The Department has made all of its studies, and related research published by third parties, publicly available on the Department's Clearinghouse for Labor Evaluation and Research or CLEAR, and on the web page for the Department's Chief Evaluation Office, for over 10 years. The Department continues to follow the requirements within the Foundations for Evidence-Based Policymaking Act of 2018, which requires Federal agencies to work together to make data and research available to those who need it.

Finally, the Department agrees that staff expertise will be critical in ensuring that future innovations are implemented ethically and effectively. That staff expertise may be from merit staff or non-merit staff; the final rule does not preclude the use of merit staff for these purposes. The Department encourages States to ensure that the workforce system remains adaptive and forward-looking.

Several commenters, including a form letter campaign and unions, expressed concern about high turnover among non-merit workers. Referencing statistics from BLS, a form letter campaign and an individual commenter cited high turnover in the private sector and the comparative benefit of receiving assistance from knowledgeable career State and local government employees, while an anonymous commenter similarly described turnover issues and comparative service quality among title I staff. A State government employee and an individual commenter gave personal negative examples of contracted workers providing job placement services, describing low-paid workers and high turnover, while an anonymous commenter similarly described high turnover, inconsistent training, and lack of experience. A State government employee asserted that the proposed rule would risk the loss of State merit staff's institutional knowledge.

A few commenters, including a union and a form letter campaign, expressed support for the regulated nature of merit-staffing and described positive impacts on work performance. The union cautioned that contracting services introduces unhealthy competitive motivations for the service providers to keep costs and salaries low and for the contracted employees to meet job placement incentives, adding that these factors can interfere with effective service provision to underserved and less employable job seekers. Similarly, an individual commenter wrote that quality staffing is tied to the salaries and benefits provided to public merit staff working under regulated conditions, describing negative outcomes of privatization of government services such as prison health care, hospital services, and youth services. Providing survey findings on human services workers from a 2020 study by Zelnick and Abramowitz in the journal *Social Work,* a union wrote that using business strategies in human services agencies led to stress, burnout, time-consuming documentation and tracking of performance and outcomes, and insufficient time to interact with clients. The form letter campaign stated that State merit staff work under uniform standards and civil service protections and deliver services aligned with Federal guidelines, while an individual commenter stated that contract workers would not receive the uniform training given to merit staff and the quality of the service provided would suffer.

The Department agrees that worker competencies and expertise can affect customer experience and employment outcomes. Therefore, this final rule allows States to choose how to staff the important components of ES. The Department also acknowledges the comments concerned about turnover and the effects it may have on customers. Under this rule, States have the ability to determine their staffing models, and can therefore calibrate the compensation, training, career advancement opportunities, and organizational culture, which can impact turnover, and which already vary significantly across staffing models and jurisdictions. The Department encourages States to consider these factors carefully when designing or modifying their staffing structures. As noted elsewhere, the final rule does not endorse or encourage any individual ES service model.

b. Flexible Staffing Could Improve ES Delivery and Claimant Engagement

A professional association argued that staffing flexibility would help streamline ES program service offerings to customers in need of training, upskilling, and job referrals. The commenter added that local workforce development systems with single points of contact promote better customer engagement leading to employment.

The Department appreciates the comment and agrees staffing flexibility and a single point of contact may improve customer engagement. This final rule permits States to determine the model most appropriate to their needs and the needs of job seekers.

2. ES Accountability

a. Concerns About Accountability

Multiple commenters, including a union and State government employees, opposed the proposed rule on the grounds that eliminating the merit-staffing requirement could compromise accountability in employment programs and staff. A State government employee stated that job centers need trained State merit staff to be held accountable for providing Wagner-Peyser services effectively and consistently, describing personal experiences as a State employee working with Wagner-Peyser staff in an employment program and witnessing ongoing lack of accountability to work standards from local workforce development management unfamiliar with workforce programs. Another State government employee wrote that private contracting companies often fire individual employees after issues arise rather than being accountable and addressing the issue. An individual commenter remarked that the Department has insufficient staff and resources to oversee employees working nationwide in 2,500 AJCs without the reliability of merit-staffing standards.

The Department agrees that accountability is essential to the effective delivery of ES services. Regardless of the staffing model a State adopts, it remains responsible for ensuring that services are delivered in accordance with Federal requirements, including those related to performance and program integrity. The final rule does not diminish these responsibilities. To that end, the Department emphasizes the critical role of State oversight in maintaining accountability. States must establish clear expectations, training standards, and performance benchmarks for all staff delivering ES services. States are also responsible for monitoring service delivery, addressing deficiencies, and ensuring that all ES providers adhere to program goals and quality standards.

Moreover, accountability in the public workforce system is a shared responsibility. While the Department provides national guidance, technical assistance, and oversight, States and local areas play a central role in managing day-to-day operations and ensuring compliance. This multi-tiered structure is designed to promote transparency, responsiveness, and continuous improvement across AJCs.

The Department will continue to support States in building strong oversight systems, including through monitoring, performance reporting, and technical assistance. The goal of the final rule is not to reduce accountability, but to remove requirements the Department does not have the authority to set, and to provide States with the flexibility to design staffing models that best meet their workforce needs.

b. Contention That Merit-Staffing Could Improve In-Person Accountability in ES Provided by AI

A think tank discussed how the White House's AI action plan intends to have Federal agencies use AI to assist with public benefits delivery. While stating that AI is a potentially useful tool that could enhance employment services, the commenter warned that there is evidence to suggest that AI could exacerbate inequality. The think tank stated that using merit staff in conjunction with AI would alleviate this concern by ensuring fair and accountable service delivery as merit staff would be able to step in when algorithms fail and ensure that vulnerable populations such as women, older workers, and racial minorities would not be directed away from jobs where they are under-represented.

The Department appreciates the commenter's perspective and shares the view that emerging technologies, including AI, can play a valuable role in modernizing the public workforce system. This final rule does not address the use of AI in ES delivery. The rule maintains the requirement that States comply with all applicable civil rights and nondiscrimination obligations under Federal law, regardless of the tools and staffing models used.

J. Concern for Negative Impacts on Farmworkers

An advocacy organization expressed concern that the proposed rule would undermine long-standing statutory and regulatory protections established under the Wagner-Peyser Act, particularly those designed to support MSFWs, arguing that Congress intended for ES functions to be carried out by professional, merit-based State staff due to the specialized and vulnerable nature of the MSFW population. The commenter stated that SWAs play a critical role in ensuring fair wages, safe housing, and compliance with labor protections—especially in the context of the growing reliance on the H–2A temporary agricultural labor program.

An advocacy organization and a farmworker advocacy organization outlined potentially negative impacts on farmworkers from the proposed rule change on merit-staffing. The advocacy organization and the farmworker advocacy organization asserted that non-merit staff are likely to lack expertise, oversight, and institutional accountability, resulting in a reduction in both quantity and quality of service to MSFWs, as well as enforcement capacity. The farmworker advocacy organization asserted that the proposed removal of the merit-staffing requirement would undermine the legal and ethical foundation of the Wagner-Peyser program and would have negative impacts on employment services for farmworkers. The commenter wrote that MSFWs face many barriers to employment services, including discrimination, geographic isolation, limited English proficiency, and fear of retaliation, reasoning that due to these barriers the merit-staffing requirement would be necessary to ensure qualitatively and quantitatively equitable access to employment services.

The farmworker advocacy organization further expressed concern that the rule would eliminate qualified, experienced Monitor Advocate positions designed to protect farmworker interests and cautioned that replacing them with untrained non-merit staff would risk undoing the progress made to date by the Monitor Advocate System. The commenter also asserted that elimination of Monitor Advocates would undermine DOL's own civil rights obligations, leaving MSFWs to face ongoing abuses such as wage theft, unsafe working conditions, and restricted access to services. The advocacy organization similarly argued that outside contractors would not easily be able to obtain informational data to assist with evaluating job orders because they might lack the established relationships with employers, extension service agents, and farmworker advocates that many Monitor Advocates and longtime MSFW outreach workers have developed over time.

The advocacy organization cautioned that the SWAs that make up the Wagner-Peyser Act's ES system ensure that temporary farm labor jobs offer minimum prevailing wages and working conditions, as well as provide workers with safe and healthy accommodations. According to the commenter, allowing SWAs to outsource these services would likely lead to a deterioration of employment services to MSFWs. The commenter stated the Office of Foreign Labor Certification relies on SWAs to review job orders for compliance with H–2A regulations, which according to the commenter is essential to reduce errors that can disqualify dozens of potential U.S. job candidates. The commenter argued that non-merit staff with limited experience evaluating jobs against the Wagner-Peyser and H–2A criteria would be more likely to overlook improper job terms in clearance orders, resulting in a reduction of job opportunities for domestic MSFWs. The commenter concluded that the expertise possessed by merit-staff employees would be especially important due to recent exponential growth in the number of temporary labor certification applications.

Though commenters stated that non-merit staff would reduce quality and quantity of service due to their lack of expertise and ability, the commenters did not support that claim with evidence, and the Department has seen no evidence that merit-staffing changes impact quality or quantity of service. Even if States decide to provide services under a different staffing model, they would still be responsible for ensuring that outreach services are still being delivered and are high quality.

The Department reaffirms its commitment to ensuring that all workers, including MSFWs, receive the full range of career services as defined in WIOA sec. 134(c)(2). This final rule does not eliminate the Monitor Advocate System or the regulatory protections established under 20 CFR parts 653, 654, or 658. The Department continues to expect States to ensure robust protections for all workers, including MSFWs, regardless of the staffing method they implement. This final rule maintains requirements at part 653, subparts B and F, as well as at part 658. This includes the requirement in § 653.108 that each State designate an SMA who is a SWA official, which § 651.10 defines as an individual employed by the SWA or any of its subdivisions. As such, the SMA must continue to be State staff, though this final rule will no longer require SMAs to be merit staff. The rule also maintains that State Administrators and ES staff must not retaliate against any staff, including the SMA, for self-monitoring or for raising any issues or concerns regarding noncompliance with the ES regulations. Therefore, the Department believes that this final rule retains sufficient requirements to preserve the expertise necessary for staff to serve the MSFW population effectively.

With respect to concerns about the evaluation of job orders and enforcement of labor protections, the Department emphasizes that SWAs retain responsibility for reviewing job orders for compliance with Wagner-Peyser ES requirements. States must ensure that staff performing these functions are qualified and adequately trained. The Department will continue to provide compliance assistance and conduct monitoring to help ensure SWAs meet the requirements for processing job orders, including temporary agricultural clearance orders processed through the Agricultural Recruitment System (ARS) at part 653, subpart F, which include steps designed to ensure U.S. workers are not displaced or denied opportunities. Finally, the Department notes that this final rule does not authorize the outsourcing of core ES responsibilities without accountability. States that choose to use alternative staffing models must still comply with all applicable Federal requirements, including those related to MSFW services, complaint resolution, and job order clearance. The Department will continue to monitor State performance and enforce compliance to ensure that the integrity of the ES system and the rights of workers, including MSFWs, are preserved.

1. Comments Regarding Judge Richey Court Order Protections

An advocacy organization expressed further concern that the proposed changes would reverse reforms stemming from the case *NAACP, Western Region* v. *Brennan,* No. 2010–72 (D.D.C. Aug. 13, 1974), which addressed systemic discrimination and service denial to farmworkers and resulted in regulations, including merit-staffing and Federal-State oversight, that were designed to address these findings and ensure services to MSFWs are qualitatively equivalent and quantitatively proportionate to those provided to non-MSFWs (known as the Judge Richey Court Order). The commenter concluded that allowing SWAs to outsource Wagner-Peyser services would erode institutional expertise.

Multiple advocacy organizations referenced the Judge Richey Court Order and subsequent departmental actions designed to address deficiencies in protections for MSFWs and require SWAs to be more responsive. A farmworker advocacy organization cautioned that MSFWs continue to face employment-related violations and that a reduction in the professionalism and accountability of those delivering employment and training services would further those injustices. Another advocacy organization stated that the proposed regulatory changes would undercut reforms such as affirmative action hiring, stronger outreach, and a Federal-State monitoring system brought about by the Judge Richey Court Order, asserting that in hopes of cutting costs many SWAs would choose to outsource their responsibilities to MSFWs. According to the commenter, outsourcing to non-merit staff would further weaken protections for U.S. workers at a time when more employers are looking to employ H–2A workers in place of their domestic workforce, which the commenter reasoned would directly contradict the Department's obligation to maximize hiring of U.S. workers and represent the sort of unlawful practices the Judge Richey Court Order was meant to address.

With respect to concerns that the rule would reverse reforms stemming from *NAACP, Western Region* v. *Brennan,* the Department respectfully disagrees. The Judge Richey Court Order resulted in the establishment of regulatory safeguards that are unaffected by this final rule (*e.g.,* MSFW outreach, SMA requirements, the ES and Employment-Related Law Complaint System (Complaint System), and agricultural clearance order processing requirements, among other requirements).

This final rule does not alter the regulatory framework that protects MSFWs. Rather, it provides States with flexibility to determine the most effective staffing model for delivering ES services, while continuing to require that all services be delivered in accordance with applicable regulations at 20 CFR parts 651, 653, and 658. The Department agrees that the ES has an important role in recruiting U.S. workers before an employer can use the

H–2A program, which the Monitor Advocate System within the ES facilitates, while ensuring that MSFWs continue to have access to services and that employment law violations are identified and addressed.

2. Support for the Rule With Recommendations on Impacts to MSFWs

An anonymous commenter expressed support for the proposed rule, while also recommending potential safeguards and accountability measures that could ensure that MSFW protections would not be compromised by the staffing flexibility. The commenter urged that the final rule reaffirm the continued application of parts 653 and 658, provide uniform training and qualifications for all merit-based and non-merit-based ES staff, include strong quality assurance practices, promote transparent performance reporting, and provide for responsive corrective action.

The Department appreciates the commenter's support and recommendations. The final rule reaffirms that all States, regardless of staffing model, must continue to comply with the regulatory requirements under 20 CFR parts 653 and 658. These provisions include protections specific to MSFWs, complaint resolution procedures, and performance accountability measures. The Department will continue to provide technical assistance and training resources to States to support consistent implementation of ES services.

In addition to expressing its support for the proposed rule change, a State government agency urged DOL to rescind the language implemented under 20 CFR 653.107(a)(4) that defines ''full-time'' as requiring individual outreach staff to spend 100 percent of their time on outreach duties, arguing that this requirement limits staffing flexibility in large and agriculturally diverse States where MSFW activity is cyclical and geographically varied. The commenter also asserted that the mandate for States to contact a majority of MSFWs in the State annually constitutes a Federal overreach that limits State control and program autonomy. The commenter argued that the highly transient nature of the farmworker population in Texas creates challenges in determining an accurate count of the number of MSFWs at any given time, ''making this metric difficult to measure and operationally burdensome to pursue.'' The commenter reasoned that the mandate requires States to prioritize quantity over quality regarding engagement with MSFWs and limits States' ability to focus outreach efforts strategically to areas of greatest need, suggesting that allowing Texas to have more agility and local control in managing its outreach program would serve farmworkers more effectively.

As the Department did not propose changes to § 653.107(a)(4), the State government agency's recommendation is outside the scope of this rulemaking and the Department declines to adopt it at this time. The Department notes that States have flexibility in how they staff outreach positions and that States will continue to retain preexisting flexibility in determining how to structure their MSFW outreach.

K. Concerns About Effects on Other Vulnerable Populations

1. Potential Increase in Inequities in Service Access and Quality

Many commenters, including a form letter campaign, a few unions, and an advocacy organization, stated that eliminating the merit-staffing requirement could have disproportionately negative outcomes for vulnerable populations, including veterans, seniors, people with disabilities, and people living in rural communities. The form letter campaign argued that contracted or non-merit staff would lack the training, expertise, and accountability required to provide the specialized services that vulnerable populations rely on. A union warned that removing the merit-staffing requirement could compromise the impartiality of the ES system by enabling the type of widespread system abuses that led to the Wagner-Peyser Act's passage in the first place. The commenter added that the government has a duty to serve all individuals and that without merit-based staff, the government would not be able to guarantee meeting service obligations for vulnerable populations.

Many commenters, including a union and a form letter campaign, warned that because private entities may be motivated by profit, allowing States to contract out ES responsibility and oversight could result in a decrease in services provided to vulnerable individuals who may be viewed as more challenging to place in jobs. Several of these commenters added that because merit-based staff do not profit from the services they provide, they would be more likely to provide consistently high-quality support and ensure equity among all unemployed individuals. An individual commenter described for-profit providers as ''incentivized by volume and speed, not by quality or fit'' and thus less likely to focus on job seekers such as seniors, those with disabilities, and the long-term unemployed, who need the most help.

Several commenters, including a union and an advocacy organization, argued that current and historical programs that eliminated the merit-staffing requirement experienced high rates of staff turnover, errors, and erosion of institutional knowledge and reduced accountability, which led to negative impacts on vulnerable populations. A few individual commenters described the impacts on programs in Indiana and Texas as examples of the negative outcomes that can result from the privatization of such programs, while an anonymous commenter wrote that veteran service delivery in the demonstration State of Michigan is inconsistent.

This final rule does not alter States' core responsibilities under the Wagner-Peyser Act. Regardless of the staffing model adopted, States must continue to comply with the full scope of applicable Federal regulations, including those found in 20 CFR parts 651, 652, 653, 654, and 658. These provisions set minimum service requirements, establish service delivery benchmarks, and require robust performance accountability. States also remain responsible for complying with all relevant nondiscrimination laws and regulations in their delivery of services. The Department remains steadfast in its commitment to ensuring that rural communities, like all others, have adequate access to ES services and that no population is left behind. The Department also affirms the value of a skilled and knowledgeable workforce. As noted earlier in this preamble, the Department fully expects States to ensure that all ES staff are properly trained, qualified, and supervised. States are ultimately responsible for delivering services that are fair and responsive to the needs of their communities.

In response to concerns about privatization and profit-driven service models, the Department reiterates that States remain accountable for the integrity and outcomes of their ES programs. States must ensure that all job seekers, including those who may be harder to serve, receive appropriate and effective assistance. The Department will continue to monitor program implementation through established oversight mechanisms, including routine monitoring and compliance assistance, in addition to ensuring States comply with self-monitoring requirements described at § 653.108 and internal controls applicable to Federal grants.

The final rule also preserves the requirement that each State designate an SMA, who will continue to be State staff because they must be a SWA official. The SMA position ensures institutional oversight of services to MSFWs, many of whom also belong to other vulnerable groups.

2. Flexible Staffing Could Protect or Improve ES Delivery and Outreach

An anonymous commenter argued that allowing staffing flexibility would assist States that serve a wide variety of labor markets, in part by deploying bilingual and rural outreach. The commenter reasoned that providing safeguards and accountability, as well as corrective-action triggers if outcomes deteriorate, would prevent the removal of the merit-staffing requirement from negatively impacting services provided to vulnerable populations. The commenter also suggested that the final rule should retain protections for priority populations and include continued application of outreach, the Complaint System, and SMA independence.

The Department appreciates the commenter's perspective and agrees that staffing flexibility must be accompanied by safeguards to ensure high quality and compliant service delivery. The Department reiterates that this final rule maintains all existing regulatory protections under 20 CFR parts 653 and 658, such as the complaint resolution system and performance accountability, and that States remain responsible for complying with all nondiscrimination laws, including the requirements of WIOA sec. 188 that apply to ES.

L. Other Comments on the Proposed Changes

1. Policy Recommendations

A farmworker advocacy organization, while opposed to the elimination of the merit-staffing requirement, provided policy recommendations should the Department decide to finalize a rule rescinding the merit-staffing requirement. The organization recommended that Regional Monitor Advocates (RMAs) must remain dedicated to MSFW-related work. It also urged that States must demonstrate that any non-merit-staffing models would provide the same consistency, efficiency, accountability, and transparency as the merit system. Finally, the organization requested that National Farmworker Jobs Program (NFJP) grantees are formally recognized as partners in MSFW outreach.

The Department appreciates the recommendations and provides the following response. First, Federal RMA staffing is outside of the scope of this rule. Second, the final rule explains in several places that using whatever staffing model States choose, States must continue to provide high-quality services that meet the ES grant requirements.

An individual commenter reasoned that the best reading of the Wagner-Peyser Act requires the use of State merit-based ES staff to administer the willingness to work test and requested that the Department address this issue in the final rule. The commenter discussed sec. 7(a)(3)(F) of the Wagner-Peyser Act regarding the RESEA program as well as the use of cross-trained ES staff funded under Federal grants-to-aid to assist in inherently governmental duties associated with the work test, fact gathering, and RESEA.

The Department appreciates the comment and its emphasis on the importance of UI work test requirements. Ultimately, this final rule does not change the requirement that State merit staff must make all determinations and redeterminations impacting an individual's eligibility for unemployment compensation, including determinations related to work search requirement compliance. Any appropriately trained staff member, including Wagner-Peyser and RESEA staff members, may support UI claimants in their work search, but if such staff members detect any potential eligibility issues during the provision of these services, they must communicate those to appropriate State merit staff for adjudication.

2. In Support of the Rule Change With Clarification

An anonymous commenter expressed their support for the proposed rule change and argued that it allows States to deliver faster, higher quality services, without sacrificing protections for those served. The commenter urged the Department to finalize the proposed rule with several clarifications. Specifically, the commenter recommended repealing § 652.215 and reaffirming State discretion for flexible staffing while meeting ES, MSFW, and Complaint System standards. The commenter also suggested requiring State Plans to describe the chosen staffing model, staff training and credentialing, MSFW coverage and language access, data privacy, and quality assurance. Furthermore, the commenter proposed that the Department publish model contract clauses regarding training, confidentiality, conflicts of interest, complaint handling, and data security to ensure alignment with merit standards. Finally, the commenter emphasized the importance of preserving SMA independence, including access to records and authority to take corrective action, regardless of staffing model implemented.

The Department appreciates the commenter's recommendations and notes that the final rule already incorporates or addresses most of the noted clarifications. Specifically, this final rule maintains parts 653, 654, and 658, without revisions. The Department believes that the requirements are sufficiently clear and does not believe it is necessary to revise the regulations further.

The Department appreciates the recommendation regarding publishing model contract clauses regarding training, confidentiality, conflicts of interest, complaint handling, and data security. The Department will provide training and compliance support to SWAs to help ensure ES programs comply with preexisting requirements for these topics, which are preserved by this final rule in parts 653 and 658, as well as in the Uniform Guidance. The Department notes, however, that the requirements at parts 653 and 658, and in the Uniform guidance, are distinct from the merit standards, which this final rule does not maintain.

VI. Rulemaking Analyses and Notices

A. Review Under Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review), and 14192 (Unleashing Prosperity Through Deregulation), and Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act)

E.O. 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits; (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

Under section 6(a) of E.O. 12866, the Office of Information and Regulatory Affairs (OIRA) within OMB determines whether a regulatory action is significant and, therefore, subject to OMB review. E.O. 12866 also requires agencies to submit ''significant regulatory actions'' to OIRA for review. OIRA has determined that this final rule is a ''significant regulatory action'' under section 3(f) of E.O. 12866. Accordingly, the Department submitted this final rule to OIRA for review under E.O. 12866.

E.O. 13563 directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; it is tailored to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits.

President Trump issued E.O. 14192, titled ''Unleashing Prosperity Through Deregulation,'' on January 31, 2025. Section 3(a) of E.O. 14192 requires an agency, unless prohibited by law, to identify at least 10 existing regulations to be repealed when the agency issues a new regulation. In furtherance of this requirement, section 3(c) of E.O. 14192 requires that the ''new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs'' associated with prior regulations. A significant regulatory action (as defined in section 3(f) of E.O. 12866) that would impose total costs greater than zero is considered an E.O. 14192 regulatory action. This final rule is not subject to the requirements of E.O. 14192 because this rule results in no more than de minimis costs.

Pursuant to subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996, also known as the Congressional Review Act (5 U.S.C. 801 *et seq.*), OIRA has designated this final rule as not a ''major rule,'' as defined by 5 U.S.C. 804(2).

The Department received a comment regarding the required cost-benefit analysis. An anonymous commenter described E.O.s 12866 and 13563 as emphasizing evidence-based policymaking and argued that the proposal's cost-benefit and historical analyses do not meet those standards. The Department appreciates the commenter's emphasis on the importance of evidence-based policymaking. While the Department recognizes the need for comprehensive cost-benefit and historical analyses, the Department currently faces limitations due to insufficient data. The Department is committed to rigorous analysis and will continue to seek relevant data that align with these standards in future assessments.

1. Statement of Need

The Department is rescinding its requirement that services in the Employment Service (ES) be delivered exclusively by State merit staff because, upon reexamination, that mandate lacks a sound statutory foundation and exceeds the Department's authority under the Wagner-Peyser Act. Section 3(a) of the Act empowers the Department to assist States in prescribing ''minimum standards of efficiency'' for ES programs, but it nowhere compels the use of State merit-system employees. Reading the provision as authorizing a blanket merit-staffing rule distorts the Act's plain text and legislative design and imposes undue burden upon States' limited State ES resources. This burden falls disproportionately on States that made changes to their ES staffing models in response to the 2020 Final Rule.

2. Alternatives Considered

OMB Circular A–4, which outlines best practices in regulatory analysis, directs agencies to analyze alternatives if such alternatives best satisfy the philosophy and principles of E.O. 12866. The Department considered alternatives as part of determining whether to issue this final rule. These alternatives included delaying the compliance date of the merit-staffing requirement in § 652.215 by 1 year, 2 years, and 3 years. While the Department decided to delay the compliance date for 1 year in a final rule published on January 21, 2026, ultimately the Department decided that removing § 652.215 in its entirety would be the least burdensome for the States, as the existing merit-staffing requirement is not consistent with the Department's statutory authority.

The Department considered merely delaying the compliance date in § 652.215 to allow additional time for the Department to review the 2023 Final Rule. However, the uncertainty associated with only delaying the compliance date would have placed additional cost burdens on the States, as this uncertainty would have prevented States from effectively planning their services, staffing, and IT systems. Ultimately, the Department determined that the removal of the merit-staffing requirement in its entirety would be the least burdensome to the States.

During the public comment phase, a union criticized the regulatory alternatives proposed by the Department as unsubstantial and simply various timelines for the States to comply with eliminating the merit-staffing requirement, warning that any such change would cause chaos within State ES service programs.

The Department understands the commenter's concerns. However, the Department did not receive suggestions for more substantive alternatives during the comment period. Additionally, it is important to clarify that the Department is not eliminating merit-staffing; rather, the Department is offering States added flexibility to determine the most cost-effective means of delivering Wagner-Peyser ES services and is removing the mandatory merit-staffing requirement to be more consistent with the Department's statutory authority.

3. Economic Analysis

This final rule eliminates a requirement rather than imposing a new one. The Department anticipates that the final rule will result in costs related to rule familiarization. Any voluntary changes to staffing models may incur transfer costs during a transition phase. In addition to monetized cost savings, this final rule will likely provide non-quantifiable benefits to States and to society. For example, the added staffing flexibility this final rule gives to States will allow them to identify and achieve administrative efficiencies.

In the NPRM, the Department asked for comments on anticipated costs, benefits, and transfers, including overlooked studies and data. Several commenters, including a Federal elected official, identified flaws in the NPRM's economic analysis, especially noting the lack of a formal cost-benefit analysis.

In the NPRM, the Department estimated familiarization costs and clarified that any voluntary changes in staffing models may incur transfer and transition costs. However, the Department argues that many of the rule's projected effects, such as shifts in staffing mixes, localized procurement choices, and differing State labor markets, are highly heterogeneous and hinge on State policy decisions, collective bargaining outcomes, and transient economic conditions. As such, producing a single monetized estimate across such varied contexts with a reasonable degree of confidence is not feasible.

Opposition to the Rule on a Cost Basis

Many commenters, including a form letter campaigns, a union, and an advocacy organization, stated that the NPRM does not provide evidence or data that support its cost saving claims.

A form letter campaign, an advocacy organization, and a Federal elected official described the Department's cost-benefit analysis as inadequate. The form letter campaign stated that the analysis failed to meet the ''reasoned determination'' requirement under E.O. 12866 because it did not account for social and institutional costs of undermining a merit-based public service infrastructure. A union criticized the Department's assumption that ''economic actors are rational and select the best choice after considering information on costs and outcomes,'' the lack of quantified cost savings, and the non-quantifiable and undefined benefits.

A Federal elected official criticized the analysis as limited in scope, failing to compare similar workers in the private and public sectors. The commenter further asserted that research performed by the Economic Policy Institute contradicted the analysis and that the analysis relied on Occupational Employment Statistics data that are inappropriate for the comparison.

Several commenters, including an advocacy organization, a union, and a few individual commenters, contended that privatization of employment services would increase costs. Several individual commenters warned of potential contract cost inflation or profit motives from privatization. A union and an individual commenter argued privatization could introduce additional levels of program and contract management, which would increase costs and impact services. The union cited a March 2014 working paper from Rutgers University that stated that monitoring and compliance expenditures associated with contracting services added 20 percent to project costs, and they also cited the standard assumption from the Government Finance Officers Association of 10–20 percent for contract monitoring and administration costs. The union cited another study that stated that completely merging the ES with WIA staff led to a reduction in cost effectiveness. The advocacy organization asserted contracting out complex employment services requires long term contracts that eliminate beneficial competitive pressure and would not reduce costs. An advocacy organization cited a study from the Project on Government Oversight that stated that the Federal government paid 1.85 times more for contracted work compared to using Federal workers. The advocacy organization also cited numerous audits of State public services, including in California, Arizona, and Florida, all of which stated that privatizing the public services led to cost overruns and overbilling.

Several commenters, including a Federal elected official, an advocacy organization, and a State government agency, argued merit staff provide direct and indirect cost savings to employment services. The State government agency described their merit-staffing employment services as lower in cost than would be the case with contracting services. The advocacy organization claimed the 2004 Westat study stated that placements through a merit-staffing system both increase claimant earnings and save money per claimant. The advocacy organization also cited several other audits, including in Tennessee and Indiana, that stated that public services provided by State employees would or did save money. The commenter further elaborated that savings in labor costs do not necessarily lead to overall savings in program costs due to inefficiencies, misallocation, and kickbacks. The Federal elected official cited the same 2004 Westat study as stating that the merit-staffing-based States' benefits exceeded costs by as much as two to three times, and the official represented the January 2012 study of Nevada's RESEA program by Michaelides et al. as stating that merit-staffing requirements led to lower total benefit payouts.

Several individual commenters asserted that the long tenure of merit staff avoids turnover or training costs. Similarly, an individual commenter argued that revisiting the merit-staffing requirement is an ineffective use of Government resources.

The Department acknowledges commenters' concerns and arguments, and notes the extremely mixed results from studies. The Department is committed to providing flexibility to States and removing regulatory mandates that exceed the Department's statutory authority. The Department encourages each State to conduct its own cost-effectiveness analysis to determine the most advantageous approach for its unique circumstances. The Department is not mandating that States discontinue their merit-staffing systems; rather, the Department recognizes that if the provision of services by the private sector or local governments proves to be more cost-effective, it may be beneficial to explore that option. Conversely, if maintaining State merit-staffing is the most effective choice, it may be beneficial to retain the status quo. Ultimately, each State should assess and choose the option that yields the highest net benefit for its residents.

Support for the Rule on a Cost Basis

A State government agency and a local workforce development board expressed support for the rule for its proposed cost savings. The commenters argued that merit-staffing increases costs and reduces the number of job seekers served. The local workforce development board described administration and indirect fees that the Massachusetts SWA requires and argued that, without merit-staffing, those funds could be directed toward additional staffing. The State government agency stated that reinstituting their service delivery model with the rule would make more resources available to help job seekers find employment and save administrative costs. The State government agency argued that allowing States to choose the most effective staffing model would result in the most efficient use of Federal funds.

The Department appreciates the feedback and reiterates its commitment to removing regulatory mandates that exceed the Department's statutory authority and providing States the flexibility to make staffing decisions that best meet their unique needs. Each State has the opportunity to perform its own cost-effectiveness analysis to evaluate its options. The Department is not imposing a requirement to abandon State merit-staffing; rather, the Department acknowledges that if utilizing private sector or local government services is deemed more cost-effective, it may be a prudent choice to make that transition. On the other hand, if State merit-staffing is more advantageous, its continuation may be the prudent choice. Ultimately, it is up to each State to determine which approach offers the greatest net benefit for its residents.

a. Rule Familiarization Costs

Regulatory familiarization costs represent direct costs to States associated with reviewing the new regulation. The Department anticipates that Human Resources Managers (SOC code [1] 11–3121) employed by SWAs will review the changes in the final rule. The Department anticipates that it will take one Human Resources Manager an

[1] This analysis uses codes from the Standard Occupational Classification (SOC) system and the North American Industry Classification System (NAICS).

average of 1 hour to review the final rule.

BLS Occupational Employment and Wage Statistics data show that the mean hourly wage of State government Human Resources Managers is $51.90.[2] The Department assumes a 62-percent benefits rate [3] and a 17-percent overhead rate,[4] so the full loaded hourly wage is $92.90 [= $51.90 + ($51.90 × 62%) + ($51.90 × 17%)]. Therefore, the Department estimates the one-time rule familiarization cost for all 54 jurisdictions (the 50 States, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands) to be $5,017 (= $92.90 × 1 hour × 54 jurisdictions).

b. Transition Costs and Transfer Payments From States to Employees

As there is no mandate within these regulations to use one specific staffing model, any changes from one staffing model to another would be voluntary by the State, and such changes would result in transition costs to States as well as transfer payments from States to employees providing ES services. Changing staffing systems is not without costs. Even if the same employees provide Wagner-Peyser services, changing the staffing system may still create burdens for the State and the employees themselves. This may require a change in employer by moving from State employment to local government employment and may have consequences for the employee in terms of pay and benefits, including health insurance and retirement benefits. Changing employers would also require the time and expertise of Human Resources professionals to process the paperwork to affect these changes. Because of these considerations, the Department anticipates that States will need to weigh the costs and benefits of any staffing model before making changes.

In previous Wagner-Peyser rulemakings, the Department attempted to quantify potential costs or cost savings for the States. In the 2020 Final Rule, the Department surveyed a range of States of different size classes and attempted to infer the cost savings nationwide from allowing staffing flexibility. The total estimated wage savings for the 2020 Final Rule was $6,754,691 per year (2018$), which is approximately $8,631,000 in 2025 dollars. The Department's analysis assumed a 50 percent substitution rate, meaning that States would choose to re-staff half of their positions with personnel other than State merit staff based on States' determination that such models would be more efficient and less expensive. The Department expects wage savings to vary among States based on each State's substitution rate.

In the 2023 Final Rule, the Department provided estimates of rule familiarization costs and information collection costs; however, due to data limitations, the Department was unable to quantify the transition costs or transfer payments that were likely to be incurred by the three States (*i.e.,* Delaware, Indiana, and Missouri) that implemented the staffing flexibility provided by the 2020 Final Rule as they re-transitioned the delivery of all ES services to State merit staff. The Department did not anticipate that the transition costs or transfer payments would be large enough for the 2023 Final Rule to be deemed a significant regulatory action under sec. 3(f)(1) of E.O. 12866.

Neither analysis was a comprehensive analysis of the specific individuals performing ES services for each specific State, the cost of providing the same services under a different staffing model, or whether there were other barriers or impediments to changing staffing models other than the regulation at § 652.215.

Removing the merit-staffing requirement allows the States to perform this granular analysis, consider their own State statutes and agreements, and select the staffing model that delivers the required services in the most efficient manner available to them. Some jurisdictions may find that their current models are the most cost effective. Others may find that a more cost-efficient model exists and decide to change staffing structures. Still others may find that a more cost-efficient option exists but choose to remain with State merit-staffing due to State statutes, collective bargaining agreements, or the need to use ES staff as surge capacity for other governmental functions. The Department lacks sufficient information about the changes States will make to their staffing models; therefore, we are unable to conduct a quantitative analysis of the transition costs to States associated with this rulemaking. In the NPRM, the Department invited comments on the anticipated transition costs to States with the goal of ensuring thorough consideration and discussion at the final rule stage.

In economic theory, it is assumed that economic actors are rational and select the best choice after considering information on costs and outcomes. Based on this, in practice, if States are deciding based on staffing costs, it is unlikely that States would switch to a more costly staffing model that would provide the same required services. States would either choose their current status quo or a more cost-efficient staffing model. Therefore, while the Department cannot quantify the exact cost savings to the States, it can conclude that the removal of the merit-staffing requirement will not be more costly than the current baseline, and may yield cost savings to the States.

A form letter campaign and a union criticized the Department's discussion of the transition costs for States. The union argued that the Department did not provide an estimate of the transition costs, and the form letter campaign wrote that the proposed rule would create added complexity, burdens, and potential labor disputes to workforce planning, particularly for States that already restructured their staffing models to comply with the 2023 Final Rule.

The Department recognizes that transition costs can vary significantly from State to State. These costs are short-term expenses that States should carefully consider when evaluating the long-term net benefits of staffing changes. Unfortunately, the Department lacks sufficient data to provide specific estimates of such costs for each State. The Department encourages each State to factor these transition costs into their cost-effectiveness analyses to ensure a comprehensive assessment of their options.

The Department recognizes that some States may find it more cost-effective to maintain the status quo rather than implement staffing changes, while others may identify long-term benefits in making such changes. Each State should carefully weigh the potential advantages against the short-term transition costs involved. By making informed decisions based on long-term outcomes, States can achieve net benefits while also considering the implications of either retaining or modifying their current staffing systems.

c. Transfers From Employees to States

For the economic analysis in the 2020 Final Rule, the Department surveyed a sample of States to estimate the wage

[2] BLS, ''Occupational Employment and Wage Statistics, National Industry-Specific Occupational Employment and Wage Estimates, NAICS 999200'' SOC Code 11–3121, May 2024, *https://data.bls.gov/oes/#/industry/999200* (last visited Feb. 10, 2026).

[3] BLS, ''National Compensation Survey, Employer Costs for Employee Compensation,'' *https://www.bls.gov/ecec/data.htm* (last visited Feb. 10, 2026). For State and local government workers, wages and salaries averaged $38.45 per hour worked in 2024, while benefit costs averaged $23.81, which is a benefits rate of 62 percent.

[4] Cody Rice, U.S. Environmental Protection Agency, ''Wage Rates for Economic Analyses of the Toxics Release Inventory Program,'' June 10, 2002, *https://www.regulations.gov/document/EPA-HQ-OPPT-2014-0650-0005* (last visited Feb. 10, 2026).

savings that would result from the added staffing flexibility. The Department surveyed eight States—representing three tiers of Wagner-Peyser Act funding—and asked them to provide the total number of Full-Time Equivalent (FTE) hours worked by State merit staff dedicated to delivering Wagner-Peyser Act-funded services, as well as the occupational title for all employees included in the FTE calculations. Based on the staffing patterns in the three States that the Department previously granted exemptions (*i.e.,* Colorado, Massachusetts, and Michigan), the Department assumed a 50 percent substitution rate in its wage savings calculations.

The Department then calculated the difference between the fully loaded wage rates of government workers and workers in all sectors to estimate the wage savings for the States within each of the three funding tiers. The Department then multiplied the results for each tier by the appropriate ratio to estimate the wage savings for the entire tier, and then added together the estimated wage savings for each tier. In total, the estimated savings of the 2020 Final Rule was $6,754,691 per year (2018$), which is approximately $8,631,000 in 2025 dollars. Wage savings will vary among States, with each State's wage savings dependent on the choices it makes for staffing.

For purposes of E.O.s 12866 and 14192, the base wage and fringe benefit portions of these estimated savings are categorized as transfers from employees to States.

A form letter campaign and a union argued that the NPRM's characterization of wage savings as transfers from employees to States is insufficiently supported. The form letter campaign asserted the characterization overlooks the value of skilled, experienced ES staff providing individualized service while maintaining consistent quality and compliance with Federal mandates. The union argued the characterization overlooks the cost of poorer service that would result from privatization and further asserted the only cost estimates tied to transfers from employees to States inherit methodological flaws from the 2020 Final Rule, including inaccurate estimates of wages and compensation, inappropriate data and assumptions, and lack of comparison between the public and private sectors. The union wrote that when DOL substituted updated data but kept the same methodology, the purported annual savings fell by more than 76 percent, and concluded that DOL's own data would show cost increases rather than net savings for States.

The Department lacks the data necessary to calculate transfer amounts for each State and did not receive data during the public comment period that could assist in estimating these transfers. As a result, the Department must base its assessments on the information currently available.

d. Non-Quantifiable Benefits

This final rule will likely provide benefits to States and to society. The added staffing flexibility will allow States to identify and achieve administrative efficiencies. Given the estimated cost savings that will result, States will be able to dedicate more resources under the Wagner-Peyser Act to the provision of services to job seekers and employers. These services, which help individuals find jobs and help employers find workers, will provide economic benefits through greater employment. These resources can also provide States with added capacity to deliver more career services, including individualized career services, which studies have shown improve employment outcomes.

An individual commenter and a professional association asserted both quantifiable and non-quantifiable benefits would result from the proposed rule. The individual commenter argued that small businesses in particular would enjoy benefits by allowing local workforce development boards to oversee both WIOA and Wagner-Peyser services, which would streamline and simplify communication. The professional association contended benefits from staffing flexibility are quantifiable, describing examples from Michigan and Virginia where the commenter stated that flexible staffing used during the COVID–19 pandemic resulted in increased performance and decreased operational costs and stating that in Colorado, every $1 in Wagner-Peyser funding generates $44.80 in local economic benefits. The commenter concluded the return on investment in Colorado demonstrates the value the proposed rule could bring.

The Department appreciates the acknowledgment of these benefits. As States conduct their own cost-effectiveness analyses, some may find that these advantages resonate with their goals. By providing States the flexibility to evaluate these benefits in their unique contexts, the Department aims to enhance overall outcomes and support informed decision making that reflects the specific needs of each State.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. chapter 6, requires the Department to evaluate the economic impact of this final rule on small entities. The RFA defines small entities to include small businesses; small organizations, including not-for-profit organizations; and small governmental jurisdictions. The Department must determine whether the final rule will impose a significant economic impact on a substantial number of such small entities. The Department concludes that this final rule does not regulate any small entities directly, so any regulatory effect on small entities will be indirect. Accordingly, the Department has determined this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the RFA.

C. Paperwork Reduction Act of 1995

The purposes of the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* include minimizing the paperwork burden on affected entities. The PRA requires certain actions before an agency can adopt or revise a collection of information, including publishing for public comment a summary of the collection of information and a brief description of the need for and proposed use of the information.

As part of its continuing effort to reduce paperwork and respondent burden, the Department conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the PRA. See 44 U.S.C. 3506(c)(2)(A). This activity helps to ensure that the public understands the Department's collection instructions, respondents can provide the requested data in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the Department can properly assess the impact of collection requirements on respondents.

A Federal agency may not conduct or sponsor a collection of information unless OMB approves it under the PRA and it displays a currently valid OMB control number. The public also is not required to respond to a collection of information unless it displays a currently valid OMB control number. In addition, notwithstanding any other provisions of law, no person will be subject to penalty for failing to comply with a collection of information if the collection of information does not display a currently valid OMB control number (44 U.S.C. 3512).

This final rule does not impose any new collection of information. The Department notes that the change of the staffing requirement will necessitate simple changes to the WIOA State Plan Information Collection Request (1205–0522), which currently requires States to provide information regarding the staffing model States use to deliver ES services, among the other information States submit in their State Plans. However, this final rule will not change the burden hours associated with submitting the State plans to the Department. In accordance with the PRA, the Department submitted an information collection request (ICR) to OMB in association with the publication of the NPRM. In addition to the substantive merit-staffing requirement change, the Department also proposed non-substantive changes to the State Plan ICR to conform with requirements in E.O. 14151. The public had the opportunity to submit comments on the ICR, either directly to the Department or to OMB. The 60-day period for the public to submit comments began with the submission of the ICR to OMB. The Department did not receive comments on the ICR. The Department notes that OMB approved the non-substantive changes to the State Plan ICR on December 1, 2025. The remaining changes to the State Plan ICR made in association with the NPRM are consistent with the narrow focus of the merit-staffing requirement change outlined in this final rule. The other core programs will not be impacted by the changes in this ICR package. Therefore, the ICR is being finalized consistent with this final rule.

The information collection in this final rule is summarized as follows.

Unified or Combined State Plan and Plan Modifications Under the Workforce Innovation and Opportunity Act, Wagner-Peyser WIOA Title I Programs and Vocational Rehabilitation Adult Education

Agency: DOL–ETA.

Title of Collection: Unified or Combined State Plan and Plan Modifications under the Workforce Innovation and Opportunity Act, Wagner-Peyser WIOA Title I Programs and Vocational Rehabilitation Adult Education.

Type of Review: Revision.

OMB Control Number: 1205–0522.

Description: Under the provisions of WIOA, the Governor of each State or Territory must submit a Unified or Combined State Plan to DOL, which is approved jointly with the U.S. Department of Education (ED), that fosters strategic alignment of the six core programs, which include the adult, dislocated worker, youth, Wagner-Peyser Act Employment Service, Adult Education and Family Literacy Act, and Vocational Rehabilitation programs.

Affected Public: State, local, and tribal governments.

Obligation to Respond: Required to obtain or retain benefits.

Estimated Total Annual Responses: 38.

Estimated Total Annual Burden Hours: 8,135.8.

Estimated Total Annual Other Burden Costs: $501,503.

Regulations Sections: DOL programs—20 CFR 652.211, 653.107(d), 653.109(d), 676.105, 676.110, 676.115, 676.120, 676.135, 676.140, 676.145, 677.230, 678.310, 678.405, 678.750(a), 681.400(a)(1), 681.410(b)(2), 682.100, and 683.115. ED programs—34 CFR parts 361, 462, and 463.

D. Review Under Executive Order 13132 (Federalism)

E.O. 13132, ''Federalism,'' 64 FR 43255 (Aug. 10, 1999), imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. E.O. 13132 requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to assess carefully the necessity for such actions. E.O. 13132 also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. The Department has reviewed this final rule in light of these requirements and has concluded that it meets the requirements of E.O. 13132 by enhancing, rather than limiting, States' discretion in the administration of the Wagner-Peyser Act ES program.

Accordingly, the Department has reviewed this final rule and has concluded that the rulemaking has no substantial direct effects on States, the relationship between the Federal Government and the States, or the distribution of power and responsibilities among the various levels of government as described by E.O. 13132. Therefore, the Department has concluded that this final rule does not have a sufficient federalism implication to require further agency action or analysis.

E. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted annually for inflation), sec. 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. 2 U.S.C. 1532(a), (b). The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them.

DOL examined this final rule according to UMRA and its statement of policy and determined that it does not contain a Federal intergovernmental mandate, nor does DOL expect this final rule to require expenditures of $100 million or more in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

The Department received one comment related to unfunded mandates. While expressing support for the proposed rule, a State employee association urged the Department to consider further means to enhance staffing flexibility, including reconsidering provisions in the 2023 Final Rule. The commenter argued that requiring MSFW outreach staff to spend 100 percent of their time on outreach activities and requiring that States contact a majority of MSFWs in their jurisdictions annually represent unfunded mandates for States and create operation challenges and rigidity.

The Department did not propose reconsideration of these particular 2023 Final Rule provisions in the NPRM and declines to address these provisions in this final rule. The Department repeats what the Department stated in the 2023 Final Rule. The Wagner-Peyser Act, as amended by WIOA, authorizes ES activities. These program requirements are supported by Federal formula grant funds, and accordingly, are not considered unfunded mandates.

F. Executive Order 13175 (Indian Tribal Governments)

The Department has reviewed this final rule under the terms of E.O. 13175 and DOL's Tribal Consultation Policy and has concluded that the changes to regulatory text will not have tribal implications. These changes do not have substantial direct effects on one or more Indian tribes, the relationship between the Federal government and Indian tribes, nor the distribution of power and responsibilities between the Federal government and tribal governments.

G. Plain Language

E.O. 12866, E.O. 13563, and the Presidential Memorandum of June 1, 1998 (Plain Language in Government Writing), direct executive departments and agencies to use plain language in all rulemaking documents published in the **Federal Register**. The goal is to make the government more responsive, accessible, and understandable in its communications with the public. Accordingly, the Department drafted this final rule in plain language.

List of Subjects in 20 CFR Part 652

Employment, Grant programs—Labor, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of Labor amends 20 CFR part 652 as follows:

PART 652—ESTABLISHMENT AND FUNCTIONING OF STATE EMPLOYMENT SERVICE

■ 1. The authority citation for part 652 continues to read as follows:

Authority: 29 U.S.C. chapter 4B; 38 U.S.C. chapters 41 and 42; Secs. 189 and 503, Public Law 113–128, 128 Stat. 1425 (Jul. 22, 2014).

§ 652.215 [Removed and Reserved]

■ 2. Remove and reserve § 652.215.

Marek Laco,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2026–16982 Filed 8–19–26; 8:45 am]

BILLING CODE 4510–FN–P