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MDOL Financial Manual : A Guide for the Fiscal Management of WIOA Funded Programs, June 2016

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MAINE DEPARTMENT OF LABOR

FINANCIAL MANUAL

A guide for the fiscal management of WIOA funded programs

Revised June 2016



MDOL FINANCIAL SYSTEMS MANUAL

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Note: Form Templates for BES-99, FR-10, FR-30 and FR-40 must be requested from the SESC.

DEFINITIONS

Accrued Expenditures: the charges incurred by the subrecipient or contractor during a given period requiring the provision of funds for:

1. Goods and other tangible property received;
2. Services performed by employees, subcontractors, and other payees; and
3. Other amounts owed by the subrecipient or contractor under programs for which no current service or performance is required, such as annuities, insurance claims, and other benefit payments. [29 CFR 97.3](#)

Acquisition Cost: the net price of property, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges, such as the cost of installation, transportation, taxes, duty, or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the subrecipient's or contractor's regular accounting practices. [29 CFR 95.2 & 97.3](#)

Advance: a payment that the State makes by any appropriate payment mechanism, including a predetermined payment schedule, before the subrecipient disburses the funds for program purposes. [2 CFR 200.3](#)

Audit / Monitoring Finding: a deficiency that the auditor or monitor is required to report in the schedule of findings and questioned costs.

Audit /Monitoring Resolution: the process of resolving findings or exceptions noted in a formally issued audit or monitoring report.

Auditee: a non-Federal entity that expends Federal awards that must be audited per Uniform Guidance Subpart F.

Auditing / Monitoring: objective, systemic review process that involves selecting and evaluating evidence for the purpose of:

1. Ascertaining the reliability of reported financial information in terms of its:
 - a) Correspondence with the underlying economic events being accounted for and reported; and
 - b) Conformity with generally accepted accounting principles for recording and reporting such events; or
2. Appraising activities from the standpoint of the:
 - a) Adequacy and effectiveness of controls established over activities;
 - b) Efficiency with which the activities are carried out; and
 - c) Effectiveness of the activities in accomplishing the objectives.

Auditors / Independent: public accountants or independent contractors primarily engaged to attest to the reliability of financial information reported, reliability of financial information, adequacy and effectiveness of activities on accomplishing objectives.

Award, Federal: Federal financial assistance and Federal cost-reimbursement awards that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities. [29 CFR 99.105](#)

Bureau: for the purposes of this manual, the Maine Department of Labor, Bureau of Employment Services.

Capital Assets: tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with GAAP. Capital assets include:

- a) Land, buildings(facilities), equipment and intellectual property (including software) whether acquired by purchase, construction, manufacture, lease-purchase, exchange, or through capital leases; and
- b) Additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life (not ordinary repairs or maintenance).

Capital Expenditures: expenditures on facilities, equipment or other capital assets, and repairs that materially increase the value or useful life of capital assets.

Capital Leases: are agreements that transfer substantially all the benefits and risks incident to ownership of the property so that the economic effect of the parties is similar to that of an installment purchase. A capital lease is, for the most part, viewed as an installment purchase of property rather than the rental of property. The lease must meet one of the following four criteria to be classified as a capital lease:

1. The lease transfers ownership of the property of the lessee
2. The lease contains a bargain to purchase option
3. The least term is equal to 75% or more of the estimated economic life of the leased property
4. The present value of the minimum lease payments, excluding executorial costs, equals or exceeds 90% of the fair value of the leased property.

Cash Contributions: are the subrecipient's or contractor's cash outlay, including the outlay of money contributed to the subrecipient or contractor by other public agencies and institutions, private organizations and individuals [29 CFR 97.3 & 95.2](#). When authorized by Federal legislation, Federal funds received from other assistance agreements may be considered as cash contributions. [29 CFR 97.3 only](#)

CFDA Number: is the number assigned to a Federal program in the Catalog of Federal Domestic Assistance. It can be found on the MDOL award/contract document.

Claim: a written demand or a written assertion by the grantee seeking, as a matter of right:

- a) The payment of money in a certain sum
- b) The adjustment or interpretation of award terms
- c) Or other relief arising under or relating to the award.

A voucher, invoice or other routine request for payment that is not in dispute when submitted is not a claim. Appeals, such as those filed by a governmental unit in response to questioned costs are not considered claims until a final management decision is made by the federal awarding agency.

Contract Closeout: is the final report package by which the subrecipient/contractor certifies completion of all applicable administrative actions and all required work of the contract.

Contractor: is an entity from which property or services are procured (not awarded as a recipient or subrecipient of the federal award). Service providers are considered contractors because their services must be competitively procured.

Corrective Action: for audit or monitoring purposes, action taken by the entity being audited or monitored that:

1. Corrects identified deficiencies
2. Produces recommended improvements
3. Demonstrates that the audit/monitoring findings are either invalid or do not warrant action. 2 CFR 200.26

Cost: any cash or accrued expenditure.

Cost Allocation: the rational and equitable process by which allowable costs are distributed among benefiting cost objectives.

Cost Allocation Plan: is a written document describing how the allowable costs of the subrecipient or contractor are identified, accumulated, and allocated (assigned) to the appropriate funding sources.

Cost Objective: is a program function, organizational subdivision, contract, grant, or other activity for which cost data is identified and for which provision is made to accumulate and measure such costs. 2 CFR 200.28

Cost Pools: are temporary accounts. Costs that are charged initially to a cost pool are then allocated to the benefiting programs according to the shared cost plan developed by the subrecipient or contractor and approved by the Bureau.

Disallowed Costs: are charges to an award or contract that the Bureau or USDOL determines to be unallowable in accordance with applicable Federal cost principles or other terms and conditions contained in the contract. 2 CFR 200.31

Drawdown: the process by which subrecipients or contractors request and receive monies in accordance with open award agreements or contracts. See the Reports section of this manual for the MDOL Request for Funds form BES-99.

DW: means Dislocated Worker as defined by WIOA regulations.

ETA: means the Employment & Training Administration of the USDOL.

Equipment: means tangible, personal property, having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. Equipment includes, but is not limited to, equipment acquired with subrecipient award or contract funds. [2 CFR 200.33](#) (Note: purchase of equipment with a cost of more than \$5,000 per unit requires prior approval by the Bureau).

Expenditures: are charges made to the project or program (award/contract). They are to be reported on an accrual basis. As such, they are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase (or decrease) in the amounts owed by the subrecipient or contractor for goods and other property or services, or for which no current services or performance are required, such as annuities, insurance claims, and other benefit payments. [2 CFR 200.34](#)

Federal Audit Clearinghouse (FAC): is an agent for Office of Management & Budget (OMB) to maintain a government-wide database of single audit results and reports.

Fiscal Year: For the State, the period between July 1 of a calendar year and June 30 of the following calendar year with subsequent calendar year as the FY designator. For example, fiscal year 20XX or FYXX begins on July 1, 20XX and ends on June 30, 20XX. The Federal fiscal year is the period between October 1 of a calendar year and September 30 of the following calendar year, again with the subsequent year acting as the designator.

GAAP Generally Accepted Accounting Principles: are accounting standards issued by the Government Accounting Standards Board.

Grantee: is the direct recipient of Federal grant funds from USDOL. A grantee may also be referred to as a recipient.

Indirect Costs: are those costs incurred for a common or joint purpose benefiting more than one cost objective and not readily assignable to the cost objective specifically benefiting without effort disproportionate to the results achieved. [2 CFR 200.56](#)

Internal Controls: is a process designed and implemented by an agency to provide reasonable assurance regarding the achievement of objectives such as: effectiveness and efficiency of operations, reliability of

financial reporting and compliance with applicable laws and regulations see [2 CFR 200.61](#) & [20 CFR 683.220](#).

Internal controls over requirements for Federal awards are designed to provide reasonable assurance regarding the achievement of the following objectives for Federal awards:

1. That transactions are properly recorded and accounted for to:
 - a. Permit the preparation of reliable financial statements and Federal reports
 - b. Maintain accountability over assets, and
 - c. Demonstrate compliance with laws, regulations, and other compliance requirements
2. That transactions are executed in compliance with :
 - a. Laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on a Federal program, and
 - b. Any other laws and regulations identified in the compliance supplement pertaining to that program.
3. Funds, property, and other assets are safeguarded against loss from unauthorized use or disposition. [2 CFR 200.62](#)

LWDB: Local Workforce Development Board

Management Decision: is the evaluation by the Federal awarding agency or the pass-through entity of the audit or monitoring findings and the issuance of a written decision as to what corrective action is necessary. [2 CFR 200.66](#)

Obligations: are orders placed for property and services, and subawards and contracts made, and similar transactions during a given period that will require payment by a subrecipient or contractor during the same or future period. [2 CFR 200.71](#)

Pass-Through Entity: is a non-Federal entity that provides a Federal award to a subrecipient to carry out part of a Federal program. [2 CFR 200.74](#)

Participant Support Costs: are direct costs for items such as stipends or subsistence allowances, travel allowances, child care, and registration fees paid to, or on behalf of, participants or trainees (but not employees). [2 CFR 200.75](#)

Personal Property: is property of any kind except real property (real estate). It may be tangible, having physical existence, or intangible. [2 CFR 200.78](#)

Personally Identifiable Information (PII): is information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. Some information that is considered to be PII is available in public sources such as telephone books, public websites, and university listings. This type of information is considered to be Public PII and includes, for example, first and last name, address, work telephone

number, email address, home telephone number, and general education credentials. The definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. Non-PII can become PII whenever additional information is made publicly available, in any medium and from any source, that, when combined with other available information could be used to identify an individual.

Procurement: is the acquisition of property or services- through purchase orders, contract release, sealed bids, and/or competitive and non-competitive proposals that are needed to accomplish program objectives.

Program Income: is gross income earned by the subrecipient or contractor that is directly generated by a supported activity or earned as a result of the award. Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under Federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights and interest on loans made with award funds. (Note: interest earned on advances of WIOA money is considered program income; whereas, interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal awarding agency regulations or the terms and conditions of the award, program income does not include credits, discounts, etc. or interest on these. [2 CFR 200.80](#))

Program-Specific Audit: is an audit of one Federal program as provided for in [2 CFR 200.507](#)

Program Year (PY): is the period between July 1 of a calendar year and June 30 of the following calendar year. The PY designator is the year the period begins. For example, Program Year 2017 (PY17) is the program year that begins July 1, 2017 and ends June 30, 2018. However, awards may be issued at other times of the year; in those cases, the PY year is the year the grant is awarded.

Project Period: is the period established in the award agreement or contract, during which contract activities may occur and expenditures may be incurred.

Project Costs: The total allowable costs incurred under a Federal award and all required cost sharing and voluntary committed cost sharing, including third-party contributions. [2 CFR 200.83](#)

Property: unless otherwise stated, this is real property, equipment, intangible property, and debt instruments.

Questioned Cost: is a cost that is questioned by an auditor or monitor because of a finding that:

1. Resulted from a violation or possible violation of a provision of the law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the use of Federal funds, including funds used to match federal funds
2. Where the costs, at the time of audit or monitoring, are not supported by adequate documentation; or

3. Where the costs incurred appear unreasonable and to not reflect the actions a prudent person would take in the circumstances.

Real Property: can include land, including land improvements and/or structures and appurtenances thereto, excluding movable machinery and equipment. [2 CFR 200.85](#)

Recipient: *See Grantee*

Request for Funds: *See Drawdown. (The request for funds form is included in this manual).*

Subrecipient: is a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual or participant that is the beneficiary of such program.

SWDB: State Workforce Development Board

Uniform Guidance: are the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards. [2 CFR 200](#) See also, [20 CFR 683.200](#) for fiscal and administrative rules that apply to the use of WIOA Title I and Title III funds.

Unliquidated Obligations: means, for financial reports prepared on a cash basis, obligations incurred by the non-Federal entity that have not been paid (liquidated). For reports prepared on an accrual expenditure basis, these are obligations incurred by the non-Federal entity for which expenditure has not been recorded. [2 CFR 200.97](#)

Unobligated Balance: means the amount of funds under a Federal award, that the non-Federal entity has not obligated. The amount is computed by subtracting the cumulative amount of the non-Federal entity's unliquidated obligations and expenditures of funds under the Federal award from the cumulative amount of the funds that the awarding agency or pass-through entity authorized the non-Federal entity to obligate. [2 CFR 200.98](#)

Vendor: is a dealer, distributor, merchant or other seller providing goods or services that are required for the conduct of a Federal program. These goods or services may be for an organization's own use or for the use of beneficiaries of the Federal program. [29 CFR 99.105](#)

Wagner-Peyser Act: the Wagner-Peyser Act as amended by WIOA [Public Law 113-128](#).

Important Disclaimer: The Title 20 Codes of Federal Regulations referenced throughout this revised manual are based on the NPRM Proposed revisions under WIOA. If any of these have changed when the final regulations come out, this manual will be modified accordingly.

ACRONYMS

AEFLA: Adult Education & Family Literacy Act

CBO: Community Based Organization

CEO: Chief Elected Official

CFR: Code of Federal Regulations

CSBG: Community Services Block Grant

ETP: Eligible Training Provider

FEIN: Federal Employer Identification Number

FTE: Full-time Equivalent

GAO: Government Accountability Office

LMI: Labor Market Information

MOU: Memorandum of Understanding

OIG: Office of the Inspector General

OMB: Office of Management and Budget

RFP: Request for Proposals

SESC: Security and Employment Service Center of Maine Dept. of Administrative and Financial Services

TAA: Trade Adjustment Act

TAG: Technical Assistance Guide

U.S.C. United States Code

VR Vocational Rehabilitation

WIOA: Workforce Innovation & Opportunity Act

WRIS: Wage Record Interchange System

FINANCIAL REPORTING

The accounting system used by the subrecipient or contractor must be able to record transactions by contract and grant program year and category. In the case of WIOA Title I formula grant funds the categories include Adult, Dislocated Worker, In-school Youth, and Out-of-school Youth.

FR-10 Financial Report for WIOA Formula Funds (*Adult, DW, Youth*)

Due: Quarterly on the 25th of the month following the last day of each quarter. Quarter end-dates are March 31, June 30, September 30, and December 31.

Instructions: This is a Federal report that has been modified to accommodate State needs. Expenditures are to be reported on an accrual basis cumulative to the start of the contract. A separate report must be submitted for each contract that has not been formally closed out. NOTE: FIFO (*first-in, first-out*) is applicable to each funding silo (*WIOA Adult, DW, & Youth*). Contracts are to be closed only after all contract funds have been expended or the contract term (*end-date*) has passed.

- a. **Cash Receipts:** Enter the cumulative amount of actual cash received from MDOL as of the end of the reporting period. This amount should reconcile to the grant revenue recorded in the LWDB's accounting system. (NOTE: Line a. cannot exceed line d.)
- b. **Cash Disbursements:** Enter the cumulative amount of actual disbursements – cash and/or checks as of the end of the reporting period utilizing only the cash received for this contract/grant. Disbursements are the sum of actual cash disbursements for direct charges for goods and services and the amount of indirect expenses charged to the award. Accrued expenditures are not included in this amount.
- c. **Cash on hand (line a. minus line b.):** Enter the amount of unspent cash, cash drawn on the contract or award that remains available for use to the end of the reporting period. If this amount exceeds zero provide an explanation in the Remarks section. This amount should not be a credit or less than zero.
- d. **Total Federal Funds Authorized:** Enter the total contract amount. These amounts must remain the same for each reporting period unless additional funds are added or funds are subtracted from the contract via an amendment or modification to the contract.
- e. **Total Administrative Expenditures:** Enter the cumulative amount of actual and accrued Federal expenditures for administrative activities as of the end of the reporting period. Administrative activities are necessary and reasonable costs which are **not** related to direct provision of participant services, but to overall general administrative functions. Consult the appropriate program rules and regulations or award or contract specification regarding any limitations on administrative costs.

Accrued expenditures include the total costs of all goods and property received or services performed, whether or not a cash payment has occurred.

- f. Total Program Expenditures:** Enter the cumulative amount of actual and accrued Federal expenditures for program activities as of the end of the reporting period. Program activities are those necessary and reasonable costs related to the direct provision of participant services. Accrued expenditures include the total costs of all goods and property received or services performed, whether or not a cash payment has occurred.
- g. Grand total of Federal Share of Expenditures:** Add lines **e.** and **f.** The total cannot exceed line **d.**
- h. Federal Share of Unliquidated Obligations:** Enter any obligations incurred against Federal funds that are not already included as an accrued expenditure. This amount should include unexpended portions of awards to subrecipients and contractors. *(A local entity that administers programs directly would incur, and thus record, obligations over time as services are provided or individual training contracts are executed. A local entity that contracts out program delivery would incur, and thus record, obligations when the contract with the independent entity is executed).*
- i. Total Federal Obligations (line g. plus h.):** Grand total of Federal Share of Expenditures plus Federal Share of Unliquidated Obligations.
- j. Unobligated Balance of Federal Funds (line d. minus line i.):** Federal funds remaining to be spent or obligated.
- k. % Administrative Expenditures to Funds Authorized (line e. divided by line d.):** Administrative Expenditures divided by Funds Authorized. The result cannot exceed specific administrative funding limits identified in the contract or award.
- l. Recipient Share of Expenditures:** Enter any non-Federal funds expended or accrued for the purposes or activities of the contract which are allowable under the Federal grant but paid for with non-Federal funds as of the end of the reporting period. Such share of cost must be something that would have been allowable for implementing the award or contract.
- m. Recipient Share of Unliquidated Obligations:** Enter any obligations (legal commitments to expend non-Federal funds) that are not already included as an accrued expenditure.
- n. Total Federal Program Income Earned:** Enter the amount of program income that has been earned as a result of allowable activities. The addition method is required for recording and reporting program income. See 29 CFR 95.24 and 97.25. The program income is added to the grant to further the program objectives. Please note also that program income includes interest paid on WIOA Title I funds, including Adult, Youth, and Dislocated Worker programs. See 20 CFR 683.200

- o. Program Income Expended:** Enter the cumulative amount of accrued expenditures incurred against the program income earned on line n. as of the end of the reporting period. These expenditures are not included in lines e. or f.
- p. Unexpended Program Income (Line n. minus line o.)** Enter program income earned but not yet expended or obligated.
- q. Other Federal Funds Expended:** Enter other Federal funds from both USDOL and non-USDOL programs expended for the same purposes of the contract. Expenditures must be allowable costs which could have been paid for with WIOA formula funds.
- r. Real Property Proceeds Expended:** Enter expenditures resulting from the sale of real property purchased with WIOA funds. See the amendment to WIOA Section 193 and TEGl 03-07 for additional information.
- s. Expenditure of Adult Funds Transferred to DW Program:** Enter expenditures resulting from the transfer of Adult funds to the Dislocated Worker program. With prior approval, up to 100% of Adult funds may be transferred. Expenditures are also included in line f. in the Adult program. Line d. does not get changed if or when these transfers occur.
- t. Expenditure of DW Funds Transferred to the Adult Program:** Enter expenditures resulting from the transfer of DW funds to the Adult program. With prior approval, up to 100% of DW funds may be transferred. Expenditures are also included in line f. in the Dislocated Worker program line. Line d. does not get changed as the result of transfers.
- u. Expenditures for Out-of-School Youth (OSY):** Enter the portion of expenditures from line f. that relates to OSY youth activities. An OSY youth is a youth as defined under WIOA Section 129 (a)(1)(B). A minimum of at least 75% of youth funds (excluding the local area administrative costs), in accordance with WIOA Section 129(a)(4)(A), must be used to provide activities for OSY youth.
- v. Expenditures for In-School Youth (ISY):** Enter the portion of expenditures from line f. that relates to ISY youth activities. The total of lines u. and v. must equal the expenditure on line f.
- w. Expenditures for Youth Work Experience:** Enter the portion of expenditures from line f. that relates to Youth Work Experience. WIOA Section 129(c)(2)(c) identifies youth work experience as any of the following: work experience, summer youth employment, pre-apprenticeship programs, internships, job shadows, and on-the-job training (OJT). WIOA Section 129(c)(4) requires that not less than 20% of all youth formula funds (ISY and OSY) be expended on work experience activities. (Note: the cost of these activities can include staff costs related to work experience site development and agreement negotiations with entities provide the work experience activity.

- x. **Total Program Funds Available:** Enter the Subrecipient/Contractor total contract amount minus Administrative Funds. These amounts must remain the same for each reporting period unless additional funding is provided or funding is reduced via modification or amendment to the award or contract.
- y. **Program Expenditures for Participant Training and Support Services:** Enter the portion of expenditures from line g. that was for participant training and supportive services.
- z. **% of Total Program Funds Spent on Training and Support Services (Line y. divided by Line x.):** Calculation of Program Training and Supportive Services divided by the Total Program Funds Available. There is no cap on this percentage.

FR-30 Financial Report for Miscellaneous Grants and Contracts (WP, NDWG)

This format is to be used when reporting expenditures related to activities funded by the following sources: WIOA National Dislocated Worker Grants, Wagner Peyser Contracts, or other Contracts as indicated.

Due: Quarterly, on the twenty-fifth (25th) of the month following the last day of each quarter. Quarter end dates are March 31, June 30, September 30, and December 31.

Instructions: This is a Federal report that has been modified to accommodate state needs. Expenditures are to be reported on an accrual basis cumulative to the start of the contract. A separate report must be submitted for each contract that has not been formally closed out. Contracts are to be closed only after all federal funds have been expended in accordance with contract requirements or returned to BES if not able to be expended by the end of the performance period.

- a. **Cash Receipts:** Enter the cumulative amount of actual cash received from Maine Department of Labor as of the end of the reporting period. This amount should reconcile to federal revenue recorded in the LWIB accounting system.
- b. **Cash Disbursements:** Enter the cumulative amount of actual disbursements –cash and/or checks- for the report period utilizing only the cash received for this contract/grant. Disbursements are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expenses charged to the award, and payments made to subgrantees.

- c. **Cash on Hand (line a minus b):** This amount should represent cash available to be spent-by the entity. An amount greater than zero requires an explanation in the Remarks section. This amount should not be a credit or less than zero.
- d. **Total Federal Funds Authorized:** This is the subrecipient's total contract amount. These amounts must remain the same for each reporting period unless additional funds are added to or removed from the contract via a contract modification or amendment.
- e. **Total Administrative Expenditures:** Enter the cumulative amount of accrued federal share expenditures for administrative activities. Administrative activities are necessary and reasonable costs which are not related to the direct provision of participant services, but to overall general administrative functions. See [20 CFR 683.215](#) for additional guidance. See award stipulations pertaining to any administrative cost limitations that may be applied to the award/contract. Accrued expenditures include the total costs of all goods and property received or services performed, whether or not a cash payment has occurred.
- f. **Total Training Expenditures:** Enter the cumulative amount of accrued federal share expenditures for participant training activities. Accrued expenditures include the total costs of all goods and property received or services performed, whether or not a cash payment has occurred.
- g. **Total Career Services Expenditures:** Enter the cumulative amount of accrued federal share expenditures for Career Services activities. Accrued expenditures include the total costs of all goods and property received or services performed, whether or not a cash payment has occurred.
- h. **Total Supportive Services Expenditures:** Enter the cumulative amount of accrued federal share expenditures for supportive services activities. Accrued expenditures include the total costs of all goods and property received or services performed, whether or not a cash payment has occurred.
- i. **Total Other Expenditures:** Enter the cumulative amount of accrued federal share expenditures for "other" activities. Under the Remarks section enter an explanation for other activities. On the Job Training (OJT) expenditures are included here. Accrued expenditures include the total costs of all goods and property received or services performed, whether or not a cash payment has occurred.
- j. **Grand Total Federal Expenditures:** Add lines e through i. The total cannot exceed line d.
- k. **Federal Share of Unliquidated Obligations:** Enter any obligations incurred against federal funds that are not already included as an accrued expenditure. This amount should include unexpended portions of awards to subgrantees. *(A local entity that administers programs directly would incur, and thus record, obligations over time as services are provided or individual training contracts are executed. A local entity that contracts out program delivery would incur, and thus record, obligations when the contract with the independent entity is executed).*
- l. **Total Federal Obligations (line j plus k):** Self-explanatory
- m. **Unobligated Balance of Federal Funds (line d -minus l):** Self-explanatory
- n. **% Administrative Expenditures to Funds Authorized (line e divided by d):** Self- explanatory.

- o. Recipient Share of Expenditures:** Enter any non-Federal funds expended for the purposes or activities of the contract. Expenditures on this line must be for allowable costs which could have been paid for with grant funds. This line is non-additive.
- p. Total Federal Program Income Earned:** Enter the amount of program income that has been earned as the result of allowable activities. The addition method is required for recording and reporting program income. See [29 CFR 95.24](#) and [29 CFR 97.25](#). Please note also that program income includes interest paid on WIOA Title I funds including National Dislocated Worker Grant programs. See [20 CFR 683.200](#)
- q. Program Income Expended:** Enter the cumulative amount of accrued expenditures incurred against the program income earned on line n. Note that these expenditures are in addition to those included on lines e through i.
- r. Unexpended Program Income (Line n minus o):** Self-explanatory.

FR-40 Financial Report - Labor Committee

Applicable to: Local Areas (and indirectly, Service Providers)

Due: Quarterly, on the 25th of the month following that last day of each quarter.

Instructions: Expenditures for PY to be reported cumulatively on an accrual basis starting July 1. **They must reflect total expenditures regardless of whether monies are old or new.**

Total One-Year Availability:

These should include all available funds for the year, old monies and new monies. **Local Areas** are to aggregate their Service Providers' reports and then include any funds from the list of identified funding sources (Adult and DW) that they, the Local Areas, receive but do not pass through.

NOTE: Dislocated worker monies are NOT to include any 25% Rapid Response contracts.

Salaries and Benefits: are the amounts paid for staff salaries and benefits including accruals.

All Other: includes any other operating costs (but not any participant costs) accrued during the timeframe being reported.

Training Costs are accrued participant costs incurred for training.

Support Services Costs are accrued participant costs incurred for support services.

Contract Close-Out Package

Purpose: The contract closeout package is required for any contracts written between the Bureau of Employment Services and the Local Areas or the Service providers. Closeouts are required within **sixty (60) days** of the contract end-date **or** full disbursement of the contract's financial resources, whichever comes first.

Instructions: For the most part the forms are self-explanatory. At minimum each closeout package must contain the following:

1. The Financial Closeout Package Transmittal Sheet, **FR-01**
2. The final FR-10 report or the final FR-30 report.
3. A Cash Report form, **FR-02**
4. The Closeout Tax Certification form, **FR-03**
5. The Awardee's Release form, **FR-04**; and
6. The Property Inventory Certification form, **FR-05**.

Where forms request a Contract / Agreement Number please include the number from the contract.

FINANCIAL MANAGEMENT SYSTEMS

Regulations

Regulations for the management of ETA grant funds are specified in 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The One-Stop Comprehensive Financial Management Technical Assistance Guide (TAG) must be used for administration of WIOA funds.

Standards:

Each of the following standards must be included in the financial management systems of all subrecipients:

1. **Financial Reporting:** Accurate, current and complete disclosure of the financial activities of each grant awarded must be made as required by the terms of the grant. All allowable costs must be traceable to the accounting records. See Section B for additional reporting information.
2. **Accounting Records:** Records must be maintained that identify the source and expenditures of grant funds by contract and program year. The records must contain information pertaining to the award and authorization, obligations, unobligated balances, assets, liabilities, outlays or expenditures and income. The records must be maintained in accordance with Generally Accepted Accounting Principles. Subrecipients are required to report all expenditures on an accrual basis.

3. **Internal Control:** Effective control and accountability must be maintained for cash, real and personal property and other assets. All such assets must be adequately safeguarded and used solely for authorized purposes.
4. **Budget Control:** To ensure that overspending does not occur, actual expenditures must be compared with budgeted amounts for each grant award. Financial information must be related to performance or productivity data, including the development of unit cost information when specifically required in the award.
5. **Allowable Costs:** The subrecipient must determine what costs are allowable in accordance with the Uniform Guidance; grant regulations, and the terms of the grant award or contract. In addition, no grant may pay more than its fair share of the costs (allocability). See Section E for further information on cost principles and Section F, for further information on allowable costs see 20 CFR 683
6. **Source Documentation:** Accounting records must be supported by source documentation such as cancelled checks, invoices, purchase orders, paid bills, payrolls, time and attendance records, and award documents. The source documentation must related directly to the costs claimed on the drawdown requests and quarterly financial reports.
7. **Cash Management:** Procedures for minimizing cash-on-hand must be established by each subrecipient. See Section D for Cash Management Requirements.

The State at any time subsequent to an award, may review the administrative and financial management system of a subrecipient. The subrecipient should have processes and procedures that clearly document how it will adhere to the seven aforementioned standards. These processes and procedures should be reviewed on an annual basis by the LWDB to ensure their accuracy.

Agreements and contracts are generally for the purpose of carrying out the intent of the grant funding source. LWDBs and subrecipient or contractors are responsible for maintaining books and records for each funding source separately.

Precedence of Requirements, the WIOA and other Federal laws take precedence in the event of a conflict of directives to subrecipients and service provider contractors. Regulations promulgated under the Federal law and regulations, provider agreements, and this policy manual guide the use of program funds.

Any conflict of directives should be determined based on the reference source having the greatest precedence. The Bureau and the Security and Employment Service Center (SESC) reserve the right to update, amend, and waive any and all policies in this manual.

DRAWDOWNS / CASH MANAGEMENT

The federal regulations at 2 CFR 200 (Uniform Guidance) governs the cash management requirements for subgrantees and are summarized as follows:

- Cash drawdown procedures shall minimize the time between transfer of funds and the disbursement of funds.
- Subrecipients or contractors who have failed to meet the above standard will be paid on a reimbursement basis.
- For WIOA Title I programs, interest earned from an interest-bearing account is treated as program income.
- Subrecipients/contractors must have written policies and procedures addressing segregation of duties, reconciliations, and safeguarding of funds.

Subgrantee Payments

Subrecipients/contractors are required to submit a Maine Department of Labor Request for Payment Form (BES-99 form). As a general rule, requests will be processed once a week on Tuesday. Subgrantees should adjust disbursement cycles to coincide with the receipt of federal cash.

All requests are to be emailed to the Security & Employment Service Center (SESC) not later than 5:00 p.m. each Friday. Notice will be provided for changes of a due date if the State will not open for business (No notice will be provided for weather related closures). Requests must be signed by an authorized staff person. SESC will review all weekly drawdown requests. Subgrantees will be notified by email and/or telephone of any discrepancies that will prevent the final processing of the BES-99. A revised BES-99 must be submitted for any corrections required.

The request shall include any expenditure expected to be paid within seven calendar days from the receipt of the federal cash. Cash management goals are to minimize the time from the receipt of federal cash to the disbursement of federal cash.

The following example will illustrate how the drawdown process typically works:

SUN	MON	TUE	WED	THU	FRI	SAT
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

Subgrantees submit the Request for Payment form (BES-99) on Friday, the 3rd. SESC draws the funds from the Federal Division of Payment Management on Tuesday the 7th. The funds are then transferred electronically to the State Treasury on Wednesday the 8th.

On Wednesday the 8th, any BES-99 invoice greater than \$4,999 is submitted to the Office of the State Controller by 4:00 p.m. for approval for check issuance or electronic funds transfer to the subgrantee.

All BES-99 invoices less than \$5,000 are approved by SESC for check issuance or electronic funds transfer to the subgrantees by 5:00 p.m. on Friday the 10th. All BES-99 invoices approved for payment by Friday the 10th at 5:00 p.m. will generate checks or EFT transfers on Monday the 13th. Paper checks mailed should arrive by Wednesday the 15th.

Note that in this example the “Funding Period End Date” would be one week from either the 14th (EFT) or the 15th (check). In other words, the funds received would be used to pay out of cash from the 13th through the 21st (EFT) or 22nd (check). Cash for the week of the 20th through the 29th would be requested on Friday the 10th.

The above process is the best case scenario. It makes the assumption that each step is accomplished in a timely and accurate manner to avoid delays at the next step.

Additional Cash Forecasting Considerations

Some additional considerations for cash forecasting include:

- Net payroll should be used for cash forecasting purposes instead of gross salaries and wages. Normally, payroll deductions and tax deposits are submitted at a time different from the payroll dates. Fringe benefits, such as retirement, medical, FICA, and workers compensation are also normally paid in a period different from the corresponding payroll dates. Cash should not be requested for such items until those expenditures will be made.
- Cash is not needed to accommodate an accrual until the actual disbursement is made.
- Incurring an obligation does not require cash. Cash is needed only when checks written against those obligations clear at the bank.
- Interest earned on cash drawn down for WIOA Title I grants is considered program income and shall be disbursed before requesting additional funds. This requirement is to ensure that cash attributable to WIOA does not remain in a bank account at the same time the subrecipient is drawing additional cash to meet immediate WIOA cash needs. Any cash attributable to WIOA should be immediately disbursed for whatever WIOA disbursement need exists. At any time the program cash is needed for the purposes for which the program income was planned to be used, it can be accessed through the normal grant drawdown process.
- Subrecipients must remit interest earned on Federal funds to the Payment Management System that is in excess of \$250 per year. See [29 CFR 95.22\(I\)](#)

Reimbursement Method

Reimbursement process may be used. Under this method, payment is made to subrecipients after the costs have been paid. The Request for Payment Form BES-99 must be completed with the “Funding Period End-Date” being the date of submission. Additional information may be required based on the individual circumstances. The transfer of funds will be accomplished in the same manner as described in the section above.

State-Level Cash Management

As required by the Cash Management Improvement Act (CMIA), the Treasury-State Agreement sets forth the terms and conditions for implementing the funding arrangement for certain programs between the Federal Government and State recipients. Additional information on funding techniques is available from Department of Treasury regulations at [31 CFR Part 205](#).

Excess Cash

Excess Cash is the average daily cash balance maintained that exceeds three to five days of average expenditures. If the subrecipient or contractor fails to operate within this requirement and accumulates excess cash, the following may be required:

- MDOL may require corrective action to eliminate excess cash.
- MDOL may charge the subrecipient a penalty assessment based on the amount of interest income earned. The subrecipient may pay this amount from the account where interest earned on the excess cash was credited. Otherwise, the payment must be from non-MDOL funding sources.
- In the event of serious abuse, determined on a case-by-case basis, MDOL may seek recovery of funds.

BES-99 Request for Payment Form Instructions

Each subrecipient or contractor will receive a pre-filled spreadsheet with a tab for each contract. A separate BES-99 will need to be submitted for each contract request. As new contracts are approved and received from the State Division of Purchases, subrecipients must contact the SESC to obtain a new worksheet.

When a subrecipient contracts with other entities, this form is also required to be used by the other subrecipients/contractors. The completed form received from the other contractor/subrecipient must be attached to the form submitted to SESC when the subrecipient requests funds to make a payment to the other entity.

SECTION I – GENERAL DATA Line Item Instructions:

- A. Service Provider Name and Address (pre-entered)**
- B. Federal ID and Vendor Number (pre-entered)**

- C. Contract Number (pre-entered)
- D. Drawdown Request Number
Request Date (is the date that you are submitting the request)
Funding Period End Date (should be seven days from the day you expect to receive the check from the state of Maine Department of Labor).

SECTION II – SUBRECIPIENT / CONTRACTOR REQUEST

- A. Funding Source (pre-entered)
- B. Program Year (pre-entered)
 - 1. Contract Award (pre-entered)
 - 2. **Enter** requests received (paid) to-date – this should be the cumulative amount of cash received from the State of Maine Department of Labor
 - 3. **Enter** cash disbursements to-date – this should only be the cumulative amount of actual disbursements – cash and/or checks written. Disbursements are the sum of actual cash disbursements for direct charges for goods and services and the amount of indirect expenses charged to the award. **Any future check to be written with the cash you will be receiving must be shown on line 6.**
 - 4. Cash on Hand to-Date will be calculated (line 2 less line 3)
 - 5. **Enter** requests submitted but not paid as of this request. (Amounts requested from MDOL but that have not been received).
 - 6. **Enter** Subrecipient Reimbursement AND immediate cash needs for the applicable time frame. This is for such things as payroll needed from the date of the request until a week from when the cash is received (funding report end date), current reimbursement payments that have been requested from the subrecipient, or immediate cash need demands.
 - 7. This is the payment amount for this request (calculated).
 - 8. Total cash requests including this one is a calculated amount (line 2+5+7).
 - 9. Balance Available to Draw is a calculated amount (line 1 less line 8).
- C. Explanation required for extraordinary cash needs or excessive cash on hand. Explain any extraordinary request, such as a large payment for pre-approved equipment purchase, or why the cash on hand is excessive.
- D. Authorized Signature
- E. Name and Title
- F. Contact Person (if different) Telephone

COST PRINCIPLES

There are federal cost principles that define when and how costs can be charged to grants. See Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (known as Uniform Guidance) at 2 CFR 200. Even though the Uniform Guidance does not address every possible cost,

it is lays the groundwork for all grant financial management, and grantees and subgrantees/contractors should rely on the guidance to avoid audit or monitoring findings and potential liability.

The following general cost principles may be used in determining allowability for grants:

- A. Costs must be necessary and reasonable:** Any cost charged to a grant must be necessary and reasonable for the proper and efficient performance and administration of the grant. A grantee or subgrantee is required to exercise sound business practices and to comply with its procedure for charging costs.
- B. Costs must be allocable:** A grantee or subgrantee may charge costs to the grant if those costs are clearly identifiable as benefiting the grant program. Costs charged to the grant should benefit only the grant program, not other programs or activities. In order to be allocable, a cost must be treated consistently with like costs and incurred specifically for the program being charged.
- C. Costs must be authorized or not prohibited under Federal, State or Local laws or regulations:** Costs incurred must not be prohibited by any Federal, State or Local laws.
- D. Costs must receive consistent treatment by a grantee:** A grantee or subgrantee must treat a cost uniformly across program elements and from year to year. Costs that are indirect for some programs cannot be considered direct ETA grant costs.
- E. Costs must not be used to meet matching or cost-sharing requirements:** A grantee may not use federally funded costs, whether direct or indirect, as match to meet matching fund requirements unless specifically authorized by law.
- F. Costs must be adequately documented:** A grantee must document all costs in a manner consistent with GAAP. Examples include: retaining evidence of competitive bidding for services or supplies, adequate time records for employees who charge time against the grant, invoices, receipts, purchase orders, etc.
- G. Costs must conform to ETA grant exclusions and limitations:** A grantee or subgrantee may not charge a cost to the grant that is unallowable per the grant regulations or the cost limitations specified in the regulations.

ALLOWABLE COSTS

As the first source of reference, subrecipients of federal awards should use the Uniform Guidance for determining allowable costs. Subrecipients are expected to become thoroughly familiar with the Uniform Guidance and related regulations applicable to their organization. Likewise, subrecipients are expected to become familiar with the following guidance

- Training and Employment Guidance Letters (TEGLs)
- USDOL Technical Assistance Guides (TAGs)
- Training Employment Notices (TENs)
- Codes of Federal Regulation (CFRs)

Note that any capital expenditure, including expenditures on equipment costs that exceed \$5,000 per unit must be approved by the Bureau in advance.

Subrecipients/Contractors should also be familiar with appropriate ETA regulations which may impose conditions or disallow a cost allowable per circulars.

WIOA Provisions

Following are WIOA specific provisions relate to **unallowable** costs:

- Legal expenses for the prosecution of claims against the federal government are unallowable. [20 CFR 667.200 \(c\)\(6\)](#)
- Costs of construction or purchase of facilities are unallowable other than the four exceptions noted in regulations at [20 CFR 667.260](#).
- Employment-generating or economic development activities that are not tied directly to employment and training opportunities for WIOA participants are unallowable. [WIOA Section 181\(e\) and 20 CFR 683.245](#)
- Cost of public service employment except to provide disaster relief employment, are unallowable. See [20 CFR 683.250\(a\)\(2\)](#)
- Wages of incumbent employees participating in statewide economic development activities are unallowable. [WIOA Sections 181 \(b\)\(1\) and 181\(b\)\(2\) and 20 CFR 683.250\(a\) \(1\)](#).
- Employment or training programs for sectarian activities are unallowed. [20 CFR 683.255](#)
- Use of funds for business relocation that results in the loss of an employee's job is prohibited. See WIOA Section 181(d) and [20 CFR 683.260](#) also [683.245](#)
- Use of funds for foreign travel is unallowable. [20 CFR 683.250\(b\)](#)
- Nepotism - No individual may be placed in a WIOA employment activity if a member of that person's immediate family is directly supervised by or directly supervises that individual. [20 CFR 683.200\(g\)](#)
- Subrecipients must adhere to the mileage and per diem rates identified in the subaward agreement.

RECORDS MAINTENANCE & RETENTION

This section provides guidance for subrecipients and contractors on proper maintenance of financial and program records. These records must be accessible to authorized federal, state, and local area staff (where the local area is the awarding agency) and must be verifiable for monitoring, reporting, audit and evaluation.

Grant recipients, subrecipients, and contractors are required to take aggressive measures to mitigate the risks associated with the collection, storage, and dissemination of **Personally Identifiable Information** (PII). PII is information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked to a specific individual.

Sensitive Information is any unclassified information, whose loss, misuse, or unauthorized access to or modification of could adversely affect the interest or the conduct of Federal programs, or the privacy to which individuals are entitled under The Privacy Act. There are two types of PII - Protected PII and Non-Sensitive PII.

The differences are as follows:

1. Protected PII is information that if disclosed could result in harm to the individual whose name or identity is linked to that information. Examples: SSNs, Credit Card numbers, home telephone numbers, ages, birthdates, marital status, spouse names, biometric identifiers, medical history, financial information, computer passwords.
2. Non-sensitive PII is information that if disclosed by itself could not reasonably be expected to result in personal harm. It is stand-alone information that is not linked or closely associated with any protected PII. Examples: Business addresses and telephone numbers, general education credentials, gender or race. However, depending upon the circumstances, a combination of such items could potentially be categorized as protected or sensitive PII.

(Note: As the terms "grantee", "subgrantee", "recipient", and "subrecipient" tend to be relative terms, for the sake of clarity, this section will use the terms **awarding agency** to describe the entity issuing an agreement for the purchase of services and **"subrecipient or contractor"** to describe the agency receiving funds to provide those services).

Applicability

For WIOA programs, the technical requirements applicable to state and local governmental entities are found in [29 CFR 97.42](#). The requirements applicable to nonprofits are found in [29 CFR 95.53](#).

The requirements apply to financial records, supporting documents, statistical records, and all other records pertinent to a grant.

Although these regulations are federal and written specifically for WIOA programs, the State is adopting them for all programs / services contracted through the Bureau of Employment Services.

Length of Retention Period

All records must be retained for three (3) years following the date on which the expenditures report containing the final expenditures charged to a grant is submitted by the State to *its* awarding agency.

Example: Local Area 4 closes out its PY15 WIOA formula contract with BES on October 20, 2016. The State (BES), however, does not close out the PY15 WIOA formula grant with the USDOL until April 14, 2017. The three year start date for all PY15 WIOA recipients would be on April 14, 2017. In all cases the onus to discover the start date of the three-year records retention period lies with the subrecipient. As a matter of procedure it would be advisable to consult the awarding agency or the State (BES) before destroying any records related to the contract. The three year records retention period may be affected by any audit or litigation problems. Records must be maintained, then for a full three years after the closeout date or until any audit or litigation issues are resolved, whichever comes later. Audit or litigation issues do not reset the retention clock to zero.

Other Rules

- Nonexpendable Property Records must be retained for three years after final disposition of the property
 - Property records consist of purchase documents, inventory records, and disposition documents. Disallowed costs can result from inadequate documentation and record retention. [29 CFR 95.53](#)
- Complaint Records and actions related to resolving complaints must be maintained for not less than three (3) years from the date of resolving the complaint.
 - All records shall be retained beyond the prescribed period if any litigation, investigation, or audit is begun or if a claim is instituted involving the grant or agreement covered by the records. In these instances, the records will be retained until litigation, audit or claim has been resolved. [29 CFR 95.53 \(b\)](#)
- Records must be retained beyond the prescribed period in the event of delays or failure to obtain or resolve a required and appropriate audit. Failure to obtain an audit extends the record retention requirement indefinitely. A delay in obtaining an audit or in resolving audit findings extends the record retention period until all audit requirements have been satisfied and all the findings have been resolved to the satisfaction of the awarding agency.
- Indirect-Cost Records, such as computations or proposals, cost allocation plans, and supporting documentation and records, must be retained for three years from the date the Indirect Cost Rate

package is submitted to the cognizant agency for negotiation. If not submitted for negotiation, the records must be maintained for the three year period specified for grant records.

- Subrecipients, the LWDBs must ensure all subrecipients will be required to include record retention procedures in their contractual agreement and must ensure compliance through monitoring. In the event of the termination of the relationship with a subrecipient, the LWDB shall be responsible for the maintenance and retention of the subrecipient records for those unable to retain them.

Custody of Records

Federal law requires that Personally Identifiable Information and other sensitive information be protected. Grantees must take the steps necessary to ensure the privacy of all PII obtained from or about participants and other individuals and to protect such information from disclosure. Grantees must ensure that records are stored in an area that is physically safe from access by unauthorized persons at all times and that data will be processed using grantee issued equipment, managed information technology services, and designated approved locations. Records must not be left open and/or unattended. Stored records must be kept in locked cabinets when not in use. Any breach or suspected breach of PII must be reported immediately to the MDOL who are in turn required to report to the Regional Grant Officer.

The awarding agency may request transfer of records to its custody when it determines that the records possess long-term value. When the records are transferred to or maintained by the awarding agency, the retention requirement does not apply to the entity that relinquished its records. Transfer of records must follow procedures that protect personally identifiable information (PII) as outlined below.

Record Storage

Records shall be retained and stored in a manner that will preserve their integrity and admissibility as evidence in any audit/litigation or other proceeding. As stated above records in storage must be protected, unable to be accessed by unauthorized persons and stored in locked cabinets or storage buildings that can only be accessed by authorized persons. The burden of production and authentication of the records shall be on the custodian of the records.

Microfilmed or photocopied records can be substituted for original records because they are generally accepted as admissible for evidentiary purposes. The BES does not take a position on the use of electronic media for the storage of records, but this should not be construed to mean that they cannot be used. Due to rapid advances in technology, the better approach is to specify the criteria that must be met for whatever medium, including electronic media or other storage mediums, is used for record storage. When choosing media for record retention, the custodian must ensure security safeguards and protections sufficient for the records to be accepted by a court as evidence. As in any case where a record is maintained, the burden of producing and authenticating it is on the custodian of the record, and failure to authenticate the record will deny the custodian the right to use it for any evidentiary purpose. Thus, if a grantee maintains its participant eligibility records on computer files and is unable to show that the records were secure or were tamperproof, the records cannot be used to prove that participants were eligible for services they receive.

Access to Records

The U.S. DOL, the Bureau of Employment Services , the awarding agency, or any of their authorized

representatives, have the timely and reasonable right to access to pertinent books, documents, papers or other records of subrecipients/contractors to m conduct audits, monitoring, examinations, and/or review excerpts and transcripts. The rights of access are not limited to the required retention period but last as long as the records are retained. (The Director of the Office of Civil Rights has the same rights of access described above per the requirements of [29 CFR Part 37](#).)

Subrecipients have the right and responsibility to define conditions for providing access to records, i.e., time and place. The Freedom of Information Act and Privacy Act ([5 U.S.C. 552](#)) do not apply to ETA-funded records in the possession of subrecipients. The provisions of these Acts apply to subrecipient records only if they have been transferred to the U.S. Secretary of Labor. Fees may be charged only to recover the costs of processing information requests.

Transfer of Records

Records that are being transferred that contain Personally Identifiable Information (PII) must be transferred in accordance with the following requirements in place:

1. To ensure that PII is not transmitted to unauthorized users, all PII and other sensitive data transmitted via e-mail or stored on CDs, DVDs, thumb drives, etc., must be encrypted using Federal Information Processing Standards (FIPS) 140-2 compliant and National Institute of Technology (NIST) validated cryptographic module.

For more info on FIPS140-2 and standards and cryptographic modules visit:

<http://csrc.nist.gov/publications/fips/fips140-2/fips1402.pdf>

2. Records containing PII that are being transported in vehicles must remain in the custody of an authorized person throughout the transfer and until the records are deposited at the archive or end-storage site. It is recommended that documentation of the transfer of records and sign-off sheets be maintained at the sending site and the receiving site showing the records reached their destination without breach.
3. Access to any records containing PII must be restricted only to those employees of the grant who need it in their official scope of work and who have been advised of the confidential nature of the information contained in the records and have signed a confidentiality agreement providing assurance that the employee understands the consequences of protection of PII contained within the records.

Discovery Recovery

Occasionally, records are destroyed by fires, vandalism, or natural disasters such as floods, storms and earthquakes. Subrecipients have record retention responsibility and must have a satisfactory plan of record recovery if critical records are lost. An example is off-site storage of computerized / microfilmed records.

Destruction of Records:

Records must be retained for the required periods of time to satisfy the record retention requirements outlined

above. Thereafter, the subrecipient must destroy all records in a manner that will ensure the data contained in the records is protected, using appropriate methods for destroying sensitive PII in paper files by shredding using a protected shredding service, or burning using a burn bag, degaussing of magnetic tape files, and final deletion of electronic data.

Additional Considerations

In implementing record retention policies, subrecipients must consider Federal, State (BES) and the awarding agency's policies and requirements. Local requirements cannot be less restrictive than the Federal/State policies.

PROGRAM INCOME

Definition: For governmental agencies, program income is defined in [29 CFR 97.25\(b\)](#) as the "gross income received by the grantee or subgrantee directly generated by a grant supported activity, or earned only as a result of the grant agreement during the grant period."

Examples: The following are items that would be included as program income:

- Income from fees charged for services
- Income from the use or rental of personal property acquired with grant funds.
- Income from the sale of goods constructed under a grant agreement.
- Revenues received by a governmental or nonprofit organization that are in excess of its costs under a WIOA Title I program. [20 CFR 667.200\(a\)\(6\)](#)
- Interest paid on WIOA Title I funds including Adult, Youth, and Dislocated Worker programs. [20 CFR 667.200 \(a\)\(7\)](#)

Exclusions: The following are items that would not be included as program income:

- Reductions to grant costs as a result of refunds, rebates, credits, discounts, or the interest earned on them.
- Proceeds from the sale of personal property.
- Income from royalties and license fees for copyrighted material, patents, and inventions developed by a subgrantee. However, DOL policy is that Federal funds may not be used to pay royalties for projects or works developed using federal funding.
- Income earned after the end of the award period.
- Donations and contributions that are voluntarily given (not generated by the use of grant funds) to a subrecipient.
- Profits earned by commercial for-profit organizations.

- Funds that are utilized to satisfy the matching requirements of Federal grants.

Accounting for Program Income Revenue

A subrecipient may use either the net income method or the gross income method to account for program income revenue.

Net Income Method

Under this method, the costs incidental to the generation of program income are deducted from gross program income to determine the amount of net program income. The expenditures and revenues associated with the activities that generate program income are identified and accounted for separately in the accounting system. Periodically, revenues and expenditures are netted and the net income is then recorded as program income for the appropriate Federal grant.

Gross Income Method

Under this method, all gross revenues derived from activities that generate program income are treated as program income. In the accounting system, the entire amount of gross revenues is recorded in the program income account for the funding period. Expenditures associated with generating the revenue are charged to the appropriate program and cost categories. The funding period for revenues should be the same funding period in which the expenditures are charges.

Accounting for Program Income Expenditures

Two different approaches are available to account for program income expenditures. A subrecipient may either account for additional services separately or transfer previously recorded expenses.

Separate Accounting

Under this approach, program income is treated as if it were a separate grant, but with the intention of providing additional services for the same purposes of the original grant under which the program income was earned. The expenditures resulting from the additional services are accounted for separately from the original grant.

Transfer of Expenditures

Under this approach, expenditures that have been recorded in the accounts of the original grant are transferred to the program income account in the same amount of income earned.

Uses of Program income

Program income is to be expended on allowable grant activities for the same purposes of the original award and within the time period of the original award.

AUDITS & MONITORING

Audit Requirements

All non-Federal entities that expend \$750,000 or more of Federal funds (received from all Federal sources combined) in a fiscal year must have a single or program-specific audit conducted for that year in accordance with

Subpart F of the Uniform Guidance. Any entity that spends less than \$750,000 a year in Federal funds is exempt from the audit requirements, but records must be made available for review or audit by Federal agencies or the pass-through entity, if requested.

Also exempt from the audit requirements is any entity that receives funds exclusively as a vendor regardless of funding amount. See [2 CFR 200.330](#) for additional explanation of subrecipient versus vendor relationships.

Audit reports are to be submitted within thirty days after receipt of the auditor's report or no later than nine months after the end of the audit period. The reports are to be submitted to the Federal Audit Clearinghouse. A copy of the audit report is also to be submitted to the pass-through entity no later than nine months after the end of the audit period.

Recipients (*who may also be subrecipients*), whether a State or Local Area, that pass down funds to another subrecipient, must ensure that the entity receiving the funds has an audit conducted if the entity meets the \$750,000 expenditure threshold. The grantor agency is also responsible for ensuring that findings are resolved within six months of receipt of the audit report.

To ensure these timelines are met, the LWDBs and their subrecipients will be required to submit to BES letters of engagement from an independent auditing firm within one month after the end of their respective fiscal years. The letter of engagement must include a start date and anticipated completion date.

Failure to meet the timelines for the submission of either the letters of engagement or the required audit will result in one of the following actions in accordance with the Uniform Guidance [2 CFR 200.338](#):

- Withholding federal cash payments;
- Withholding or disallowing costs;
- Suspending Federal awards; or
- Terminating the award.

Audit / Audit Report

For ETA-funded entities subject to audit requirements, the only type of audit report that is acceptable is the single audit unless the entity receives funds under only one Federal program. See Subpart F of the Uniform Guidance at 2 CFR 200.

RESOLUTION OF AUDIT OR MONITORING FINDINGS

A. Written procedures:

Local Workforce Investment Boards (LWDBs) must have written procedures for resolving subrecipient and/or contractor audit findings. These procedures must include, but are not limited to, the following elements:

1. Audit Resolution Plan that includes corrective action steps and timetable for completion.

2. An initial determination, if necessary, which states:
 - All costs questioned or recommended for disallowance and administrative findings;
 - Whether these costs are allowed or disallowed and the reasons for such actions;
 - Acceptance or rejection of any corrective action taken to date including corrective action on administrative findings;
 - Statement of possible sanctions;
 - An offer for informal resolution of at least 60 days from issuance of the initial determination;
3. An informal resolution period in which a subrecipient may present documentation to support allowability of costs;
4. A final determination, which states:
 - a) Matters discussed during informal resolution and the results of the discussion;
 - b) A summation of the costs allowed and disallowed and acceptability of corrective action on administrative findings with reasons for any changes from the initial determination;
 - c) Establishment of a debt, if appropriate;
 - d) Time by which debt must be repaid and when debts become delinquent;
 - e) Whether or not interest will be charged and the interest rate;
 - f) Any other required corrective actions and time frames by which they will be accomplished;
 - g) Statement of possible sanctions;
 - h) Procedures by which subrecipient may appeal to the State a decision of the entity making the determinations.

Time frames must be established for each step in the process and will be a part of the written audit resolution procedures. Total time for the resolution of an audit finding may not exceed 90 days from receipt of the final audit report of the subrecipient. Initial and final determinations will be mailed "Certified - Return Receipt Requested" to the State. Time frames established must be within the limits established in this policy.

B. State Review of LWDB Resolution of Subrecipient Audit or Monitoring Findings:

Local Boards are responsible for resolving adverse audit findings of its subrecipients in accordance with Audit, Audit Resolution, Sanctions and Debt Collection Procedures. A copy of the audit resolution plan, which includes audit findings, resolution of questioned costs, costs recommended for disallowance, and administrative findings, must be sent to the State no later than thirty (30) days from the receipt of the final audit report from the audit firm.

Any requests for waivers of imposition of sanctions or of costs improperly incurred by subrecipients must be submitted to the State with supporting documentation no later than thirty (30) days after the issue of the final audit report [20 CFR 667.720](#) "The recipient requests such a waiver and provides documentation to demonstrate that it has substantially complied with the requirements of [WIOA Sec. 184 \(d\)\(2\)](#) and this section and [TAG 11-13-4](#)

and 5 If the waiver request is made during the ETA audit resolution period, it must be made during informal resolution. If the waiver request relates to a debt established during the grantee's resolution process, then a copy of the audit resolution document(s) or a resolution report must accompany the request.”

When the State receives the resolution package from the Local Board, a letter will be sent within thirty (30) days indicating whether the documentation is sufficient for resolution and whether the request for waiver of imposition of sanctions is:

1. Approved and forwarded to the USDOL Grant Officer;
2. Disapproved and the reasons therefore; or
3. Pending until further documentation can be obtained to support the waiver request.

Note: When the State disapproves the resolution by the LWDB, procedures outlined in paragraphs IV. C. will be followed

C. State Resolution Process

The resolution process described below is patterned after the Initial and Final Determination process used at the Federal level. Specific guidelines are found at [29 CFR 96.53](#) and for WIOA programs at [20 CFR 667.510](#)

Comment Period

The State will complete a review of each audit within 45 days of receipt. After review of an audit report that contains questioned costs or administrative findings, the State will send the subrecipient a request for additional comments or explanation. The subrecipient will have 15 days to respond. This information will be used in preparing the initial Determination.

Initial Determination

The Initial Determination is a preliminary decision on whether to allow or disallow questioned costs and resolve administrative findings. To the extent possible, an Initial Determination will be issued within 90 days of receipt of the audit from the subrecipient.

A questioned cost will be disallowed if the basis is a clear violation of applicable laws and regulations. In addition, costs not supported by source documentation may be disallowed.

Administrative findings will require corrective action of the deficiency. If the corrective action has already taken place at this point, the manner in which the finding was resolved will be indicated. If future corrective action is still necessary, the specific action required will be indicated, including date of completion. Progress reports will be required to be provided by the subrecipient.

For findings considered serious, sanctions and remedial actions that may be taken against the subrecipient for deficiencies not corrected will be included.

Informal Resolution

The informal resolution period may last 60 days and commences on the date of the issuance of the initial determination. During this period, the subrecipient has an opportunity to present documentation or arguments to resolve informally those matters in controversy contained in the initial determination. Possible resolution includes the acceptance of such documentation or arguments, subrecipient agreeing to corrective action, or the re-payment of a questioned cost.

Final Determination

The Final Determination will be sent to the subrecipient within 30 days of the end of the informal resolution period.

The Final Determination will:

- Reference the Initial Determination
- Include the State's final decision to disallow any costs, listing each specifically and noting the reason for disallowance
- Identify the questioned costs that will be allowed and the basis for such allowance
- Demand repayment of disallowed costs
- Describe debt collection actions or other sanctions if repayment is not made
- Inform the subrecipient of its right to appeal
- Restate the status of each administrative finding
- List those matters upon which the parties continue to disagree

When a cost is disallowed at this point, a debt is established; however, if the subrecipient appeals no further collection action will be taken, pending the outcome of the appeal.

Stand-In Costs

In some cases the USDOL may accept stand-in costs as a substitute for disallowed costs in audit resolution. Stand-in costs must meet the following criteria:

- Must be allowable costs that were actually incurred for the benefit of the ETA-funded program and paid by a non-ETA and non-Federal fund source
- Must have been included within the scope of the subrecipient's single audit and included in the financial statements
- Must have been accounted for in the subrecipient's financial system
- Must come from the same year as the costs they are proposed to replace
- Must not cause a violation of administrative or other cost limitations
- Must be from the same entity that incurred the disallowed costs
- Must not be to substitute for disallowed costs caused as a result of fraud

D. Debt Establishment / Collection:

1. A debt will be established for disallowed costs included in the final determination. All questioned costs or costs recommended for disallowances that have not been resolved in the final determination will become disallowed costs.
2. Interest may be charged on debts established for disallowed costs. Interest may be charged from the day the debt becomes delinquent. The interest rate will be the current rate the State receives on its 90-day U. S. Treasury Bill Investment. After 90 days, if the debt is, not resolved without good cause, a penalty fee of 5 percent of the debt and interest due will be included and added to the debt.

E. Appeals process:

1. In a contested case, all parties must be afforded an opportunity for hearing after reasonable notice.
2. The notice must include:
 - a. A statement of the time, place and nature of the hearing.
 - b. A statement of the legal authority and jurisdiction under which the hearing is to be held.
 - c. A reference to the particular sections of the statutes and regulations involved.
 - d. A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement must be furnished.
3. Any party is entitled to be represented by counsel.
4. Opportunity must be afforded all parties to respond and present evidence and argument on all issues involved. An agency may by regulation authorize the payment of fees and reimbursement of mileage to witnesses in the same amounts under the same conditions as for witnesses in the courts of this state.
5. Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default. In an informal disposition is made the parties may waive the requirement for findings of fact and conclusions of law.
6. The record in a contested case must include:
 - a. All pleadings, motions and intermediate rulings
 - b. Evidence received or considered
 - c. A statement of matters officially noticed.
 - d. Questions and offers of proof and objections and rulings thereon.
 - e. Proposed findings and exceptions
 - f. Any decision, opinion or report by the hearing office presiding at the hearing.
7. Oral proceedings, or any part thereof, must be transcribed on request of any party.
8. Findings of fact must be based exclusively on substantial evidence on matters officially noticed.

PROCUREMENT / CONTRACTING

The following presents a discussion of the various methods available for procurement, development of procurement policies and procedures, and discusses additional requirements that may apply. There are

Federal, State and often, local guidelines that govern agency procurement activities for goods and services. *It is important to note that in any given procurement situation, the most stringent of the three guidelines will apply.*

Background

The WIOA Final Rule [20 CFR 667.200](#) provides fiscal and administrative guidance for the administration of the WIOA program, including specific requirements for purchasing property. This guidance includes direction and referral to Title [29 CFR Part 95](#) for institutions of higher education, hospitals and other non-profit and commercial organizations, and to [29 CFR Part 97](#) for states and local governments. While the format and wording of Part 95 and Part 97 vary slightly, the intent is to ensure that purchases and changes to the disposition of property are per applicable guidelines, performed through fair and open competition, and managed according to proper inventory, maintenance, and disposition procedures.

For the purposes of this section, subrecipients/providers are most often defined as the Local Area Workforce Investment Boards and Service Providers. Typically, the Local Areas contract directly with the Service Providers in their jurisdiction although occasionally, the BES contracts directly with Service Providers.

Definitions:

- A. Request for Proposal (RFP)** - A document listing the scope of work, requirements of the recipient and all evaluation criteria for a service needed by the recipient.
- B. Contract** - Means the agreement between a recipient or subrecipient and a contractor, describing the services to be performed, the terms and conditions agreed to by the parties, the cost of the services and how payment will be made.
- C. Grant**- Means an agreement between an agency, organization or other recipient and the subrecipient which describes terms and conditions and scope of performance or actions expected of the recipient or subrecipient.
- D. Equipment** - Is tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit, including all costs related to the property's final intended use.
- E. Information Technology** - Is computer hardware and software. Purchase is only allowable when such computer technology is "Year 2000 compliant" (Title 20 CFR 667.200(c)(7)).
- F. Intellectual Property** includes that which has recognized protectable rights and interest such as: patents, copyrights, trademarks, service marks, etc., also referred to as intangible property.
- G. Property** – includes durable goods, equipment, buildings, installations and land.

Required Standards

The following standards must be maintained by the subrecipient in order to meet Federal and State requirements:

1. Maintenance of a contract administration system that ensures that subrecipient perform in accordance with the requirements of any awards.
2. A written code of conduct for employees engaged in the award and administration of agreements, which must include the standards of conduct specified at [20 CFR 667.200 \(a\)\(4\)](#), which addresses conflict of interest for local area subrecipient board members.
3. Procedures that detail the requirement for a review of prospective procurements to avoid purchase of unnecessary or duplicate items, including analyses of lease versus purchase.
4. A process that promotes the use of intergovernmental agreements for procurement or use of common goods and services, as well as the use of federal excess and surplus property wherever possible.
5. A process to ensure that awards are made only to responsible vendors with the ability to perform successfully. The awarding agency may include standards such as integrity, compliance with public policy, past performance, and vendor resources, both technical and financial.
6. Documentation of each of the significant steps followed in making an award. These must include rationale for selection, selection of agreement type, selection or rejection criteria, and the basis for the contract price, including the independent agency estimate of price.
7. A settlement process. Subrecipients are solely responsible for the settlement of all procurement issues, including those related to source evaluation, protests, claims and disputes. Violations of law must be referred to the appropriate Local, State or Federal authority.
8. Protest procedures to handle disputes related to procurement, which must include available remedies. All of the information related to protests must be disclosed to the Grantee. Protesters must exhaust all subrecipient administrative remedies before pursuing a protest with BES.

Procurement Methods

All procurement actions are to be conducted in a manner that is consistent with [29 CFR 97.36](#) and which provides for “full and open competition.” See also [2 CFR 200.317-326](#). Within the context of open competition, there are four methods by which agencies may procure goods or services:

- 1. Small Purchases.** This is a relatively informal method used primarily to procure goods (supplies and equipment). If small purchase procedures are used, price or rate comparisons from an adequate number of sources must be obtained. This method is appropriate only when: price is an overriding factor and may be easily quoted and compared, delivery is standardized, and performance outcomes are not dependent upon the content of the goods being procured. While the federal threshold for small purchase is currently \$150,000 and the State threshold is \$5,000, the locally imposed threshold may be substantially smaller and subrecipients must adhere to the lowest of the three. *Example:* The agency has a need for printers; it compares the prices at three different sources and makes selection based on lowest price.

- 2. Sealed Bids (Invitation for Bid-IFB).** Under sealed bid procedures, bids are publicly solicited and the procurement is awarded to the lowest responsible bidder, resulting in a fixed-price (either lump-sum or unit-price) contract. In order for this process to be feasible, three conditions must be met: **a)** complete and realistic specification of required goods or services is available and is part of the solicitation; **b)** there are at least two bidders; and **c)** the procurement may be made principally on the basis of price. The requirements for use of sealed bids are specific:
 - a.** The IFB is publicly advertised and bids are solicited from an adequate (more than two) number of known suppliers;
 - b.** The IFB contains all pertinent specifications and defines the items or services to be procured in sufficient detail for a response;
 - c.** All bids are publically opened;
 - d.** A firm fixed-price contract is awarded to the lowest and most responsive bidder; and
 - e.** Any or all bids may be rejected if there is a documented reason.

Example: the organization is looking to procure computer hardware, including printers and peripheral hardware. The exact specification for the computer hardware, including numbers and required capacity, are contained in the IFB, published in the newspaper and sent to prospective suppliers. The award is a fixed-price contract to the lowest bidder.

3. Competitive Proposals (Requests for Proposal – RFP)

- A.** All contracts issued which do not qualify as sole-source or emergency procurements must be competitively bid using the Request for Proposal (RFP).

- B.** The RFP must contain at a minimum a clear definition (scope) of the project, the evaluation criteria and relative scoring weights to be applied, the proposal opening date and time and subrecipient contact person.
 - a.** Cost of the contract must be included in the evaluation criteria and must receive a minimum 25% of the total weight of all criteria.

- b.** All proposals shall be made available to the public upon request. Proposals received by the subrecipient after the opening time shall be rejected, unless the advertised opening date and time have been extended by the subrecipient due to circumstances requiring such an extension of time.
- C.** Requests for Proposals must be submitted to the subrecipient for review prior to release. Review includes, but is not limited to, appropriateness of scope and clearly defined evaluation criteria with cost weighted at a minimum of 25%.
- D.** RFPs must be advertised for a minimum of three consecutive days in the newspaper, allowing a minimum of fifteen (15) calendar days from the final day of advertising to the proposal opening date. This section does not limit advertising in any other publication, trade publication, or other media.
- E.** Advertisements must include, at a minimum, a brief description of the service requirements of the subgrantee, the name of the subgrantee issuing the RFP, the name of the contact person and address where copies of the RFP can be obtained, the opening date, the opening time and the opening location.
- F.** Pre-Bidders conferences are allowed, but not required. These conferences are used to be certain that all bidders have an equal understanding of the subgrantee requirements.
 - a.** Pre-bidders conferences must be advertised with the RFP advertisement, including location, day and time. Conference must be scheduled a minimum of seven (7) calendar days from the final day of advertising and minimum of two weeks prior to proposal opening date. The subgrantee may authorize a pre-bidders conference on shorter notice than has been advertised in the RFP, providing they notify all prospective bidders who requested the RFP guidance of the date and time of the conference under these circumstances.
 - b.** Conferences must be open to the public, questions raised must be documented in writing and responses must be written and forwarded to each prospective bidder who received the RFP, whether or not they were in attendance at the conference.
 - c.** No alterations or changes to any requirement or specification within the original RFP can be made without notifying all bidders in writing a minimum of seven (7) calendar days before opening date.
- G.** Proposals shall be opened publically at the main headquarters of the subgrantee or a nearby appropriate facility. The opening of proposals shall be open to public attendance. The name of the respondent will be read aloud. No other information will be made available prior to evaluation and award notification. All proposals shall be sequestered from this time until notification of the award by the subgrantee, after which time they become public record. Proposals received by the subgrantee later than the date and time specified will not be accepted and will be returned unopened or held at the headquarters of the recipient to be picked up by the respondent. Late proposals not picked up seven (7) calendar days will be destroyed.

- H. A written record of the vendor names, date, and time received, cost /price and subgrantee representative, shall be kept at the headquarters of the subgrantee.

Award

The subgrantee is responsible for reviewing all RFPs based on the criteria established in the original Request for Proposal document. The subgrantee shall document the scoring, substantive information that supports the scoring, and make the award decision.

- a. **Interviews/Presentations:** Interviews and/or presentation may be considered within the review for information and scoring, if that provision was included in the original RFP document.
- b. **Pricing/Negotiations:** Pricing changes, alterations or negotiations are not allowed prior to the award decision and must not be used in scoring. Minor negotiations after notice of award are allowed and if agreement cannot be reached, the proposal may be rejected and the award made to the next highest rated bidder who was in compliance with all terms, conditions and requirements.
- c. **Documentation:** Written records must be kept by each person reviewing or ranking proposals. These records must be made available upon request.
- d. **Award:** Award must be made to the highest rated proposal which conforms to the requirements of the subrecipient as contained in the RFP.
- e. **Proposed Award Decision Notification:** The subgrantee must notify all bidders responding to the RFP of the award decision in writing, postmarked or delivered a minimum of fourteen (14) calendar days prior to contract effective date.

4. Non-Competitive Proposals (Sole Source)

This method is the solicitation of a proposal from a single source, or, after solicitation of more than one source, competition is determined inadequate to fulfill the requirements of the funding agency. If this method is used, the following requirements apply:

The award is infeasible per one of the methods discussed above, **and** one of the following applies:

- The item is available from only one source;
- Public emergency precludes delay (for example, a flood at the local day care center requires acquisition of additional services);
- The awarding agency authorizes the specific non-competitive procurement (upon a formal request for approval); or
- Competition is determined inadequate. This usually occurs after a competitive process has been used and there are insufficient bidders.

- A cost analysis is required. This entails verification of the proposed cost data and evaluation of the specific elements of costs and profits, including comparison with the agency's prior independent price estimate. Profit must be separately negotiated in the award, and cost plus a percentage of cost agreements are not allowed.

Subgrantees may be required to submit the proposed non-competitive procurement to their awarding (contracting) agency for approval.

Non-competitive procurements are allowable under [29 CFR 97.36](#) but they are to be considered a "**last resort**" option to be used only when there is a documented reason for sole source selection. Therefore, subrecipients should ensure that the competitive process is open and fair. They must exercise considerable caution when using non-competitive procurements.

Example: A local board solicits proposals for the provision of certain core services through a satellite CareerCenter in a very rural area and only one bid is received. Rather than change the specifications and reissue the RFP, the organization may enter into an agreement with the single bidder. Documentation to support the decision will be required, i.e., a cost analysis and a determination by the awarding agency that the proposal will meet a critical need for services in the community. If required by the awarding agency, such an agreement would have to be approved by the awarding agency prior to execution.

Additional Guidelines:

- Each subrecipient must maintain written standards of conduct, including conflict of interest provisions and disciplinary actions for violations. The conflict of interest standards must address the requirements of [29 CFR 667.200\(a\)\(4\)](#) related to local board (LWDB) members.
- Each subrecipient must maintain a system that provides for open and full competition whenever practicable and possible. Awards should be based on the most responsive bid or offer and the one most advantageous to the recipient after considerations of price, quality and any other factors contained in the solicitation.
- Each subrecipient must establish written procurement procedures that provide for:
 - No purchases of unnecessary items; and
 - An analysis of lease vs. purchase options to determine the most "economical and practical" procurement.
- All solicitations must provide for the following:
 - Clear and accurate descriptions of the goods or services being procured. The description must not contain features that restrict competition;
 - All requirements that must be fulfilled and all other factors used in evaluating bids or proposals;
 - Technical requirements described in terms of functions to be performed or performance required, including a range of acceptable or minimally acceptable standards;
 - Specific features of "brand-name or equal" description, if included in the solicitation;
 - If procuring goods or certain types of services, the acceptability of metric measurements; and
 - Preference for ecologically sound and energy-efficient products.

Subrecipients are also responsible for the resolution of all contractual and administrative issues arising out of the procurements unless the issues concern violations of statute. Those matters are to be referred to the proper federal, state, or local authority as may have jurisdiction.

In addition, subrecipient procurement practices should encourage the utilization of small businesses, minority-owned firms, and women's business enterprises whenever possible.

PROPERTY MANAGEMENT & EQUIPMENT PURCHASE

In instances where a purchase is to acquire property costing \$5,000 or more, the following guidelines must be adhered to:

BACKGROUND:

The WIOA Final Rule, [20 CFR 667.200](#), provides fiscal and administrative guidance for the administration of the WIOA program, including specific requirements for purchasing property. The intent is to ensure that purchases of property are approved, performed through fair and open competition, and managed according to proper inventory, maintenance, and disposition procedures.

Definitions:

- **Equipment:** tangible, nonexpendable personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per-unit, including all costs related to the property's final intended use.
- **Information Technology:** computer hardware and software. Purchase is only allowable when such computer technology is [20 CFR 667.200\(c\)\(7\)](#)
- **Intellectual Property:** recognized protectable rights and interest such as: patents, copyrights, trademarks, service marks, etc., also referred to as intangible property.
- **Property:** durable goods, equipment, buildings, installations, and land.

Purchase Considerations:

In order to satisfy federal and state procurement requirements, the following considerations must be made prior to requesting approval to use WIOA funds for the purchase of property with a per-unit cost of \$5,000 or more:

- Is the purchase necessary and reasonable for carrying out grant requirements?
- Why is the purchase necessary?
- Has the best product been selected?
- What procurement method will be used?
- Was a lease option considered in lieu of a purchase?
- What other costs are associated with the purchase?
- Is there a cost sharing agreement required because multiple partners will share the cost of the purchase?

(See "Cost Sharing Information" section if costs are being shared).

Prior Approval Procedures:

1. Subrecipients must complete a “Request for Prior Approval to Charge WIOA Funds for the Cost of Property” form;
2. The completed form must be submitted to the Bureau of Employment Services Director;
3. The BES director will review the request and approve or disapprove it. In some instances, an approval may also be required from the federal agency.
4. A decision of disapproval at the Bureau level will be forwarded to the Commissioner of Labor for review, if the Commissioner approves the request an approval in writing will be issued stating WIOA funds may be charged for the purchase. If the commissioner disapproves the request a letter will be issued with an explanation as to why. If WIOA funds are charged for a disapproved purchase request the subrecipient will incur a disallowed cost.

Budget Plans:

An entity may submit budget plans that include an equipment request. The approval of the budget plan DOES NOT constitute an approval of the equipment request. As outlined above, a separate request to purchase equipment must be submitted for approval.

Cost Sharing Information:

When an entity plans to enter into a “cost-sharing” agreement for the purchase of property with a per-unit purchase price of \$5,000 or more, the entity must obtain prior approval no matter the portion of the purchase price they plan to contribute. This is based upon guidance from the USDOL.

Leasing Considerations:

The decision to lease or buy personal property must be governed by cost/benefit considerations. Consideration may differ by property type and according to market conditions. The length of the contract period of the lease should also be considered. Leasing with an option to purchase is preferable to straight leasing. For real property, administrative requirements in OMB Circular A-94 make leasing the only option, as the construction or purchase of real property is not allowed under the WIOA program except in certain limited circumstances. These circumstances are described in the “Capital Assets and Construction Costs” section of this manual.

Capital Assets and Construction Costs:

WIOA Title I funds cannot be spent on construction or purchase of facilities or buildings except under the following condition, after obtaining prior approval, regardless of the dollar amount:

- To provide physical and programmatic accessibility and reasonable accommodations as required by the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.
- To fund repairs, renovations, alterations and capital improvements of property, including:
 - State Employment Security Agency real property identified in WIOA Section 193, using a formula that assesses costs proportionate to space used.
 - JTPA owned property, which is transferred by WIOA Title I programs
 - Job Corps facilities, as authorized by WIOA Section 160 (3) (B)

- To fund disaster relief employment on projects for demolition, cleaning, repair, renovation and reconstruction of damaged and destroyed structures, facilities, and lands located in a disaster area.

Inventory Records:

Subrecipients must maintain accurate inventory records of all equipment purchased with federal funds. All equipment should have a unique identification mark to be used for inventory purposes. A physical property inventory must be taken and reconciled with the property records at least once every two years.

The equipment records must include the following:

1. A description of the equipment,
2. A manufacturer's serial number, model number, federal stock number, national stock number or other identification number,
3. The source of the equipment, including the award number and name of the vendor it was purchased from,
4. Whether Title of Ownership vests in the recipient or the federal government,
5. Acquisition date (or date received, if the equipment was furnished by the federal government),
6. Per unit cost at acquisition,
7. Records showing maintenance procedures established to keep the equipment in good operating order.

Disposition of Equipment (Governmental Agencies):

For equipment with a residual fair market value of less than \$5,000, recipients of WIOA funds may retain, sell or dispose of equipment with no further obligation to the awarding agency.

For equipment with a residual fair market value of \$5,000 or more, recipients of WIOA funds must use the guidelines identified in [29 CFR 97.32](#)

The recipient may use the equipment in the program or project for which it was acquired, as long as needed, whether or not the project or program continues to be supported by federal funds.

If the equipment is no longer needed by the original program/project, the equipment may be used in other activities currently or previously supported by a federal agency.

If the equipment is no longer needed by the program/project or for other activities currently or previously supported by a federal agency, the recipient may retain or sell the equipment and reimburse the state for the federal share of the equipment. The compensation due to the state is determined by multiplying the current fair-market value or proceeds from the sale by the percent of WIOA federal funds used in the equipment purchase. If only WIOA federal funds were used for the purchase then the percentage would be 100 percent. If both WIOA federal and local funds were used in the purchase then use the WIOA federal funds percentage for the calculation. Actual and reasonable selling and handling expenses (*\$500 or 10 percent of the proceeds of the sale, whichever is less*) may be deducted from the proceeds of the sale. The balance of WIOA federal funds must be submitted within 30 days to the Security & Employment Service Center. The name of the entity, subgrant number, year of appropriation, and funding stream must be provided when

submitting the funds. These returned funds will be sent to the federal government once the state receives the funds.

Calculation of “Fair Market Value”:

The selling price of an item that is sold through auction, advertisement, or a dealer is the fair market value of the item regardless of any prior estimates. An item that is not sold but retained by the entity has a fair market value based on similar items that are offered for sale, using the selling price if known. Methods for determining fair market value include, but are not limited to:

- Auctions
- Classified advertisements for similar used items
- Dealers
- Licensed appraisers

For automobiles, trucks, and vans, the standard authority on the value of used vehicles is the Kelley Blue Book.

Property Records Retention:

All property records must be maintained from date of acquisition, through final disposition. Subrecipients must also retain those records for a period of three years from the date of their last expenditure report submitted to the Security & Employment Service Center. If any litigation, claim, or audit is started before the expiration of the three-year period, all records must be retained until all audit findings have been resolved and final action taken.

SUBRECIPIENT MONITORING

The grantee must comply with the following provisions for subrecipient monitoring. The subrecipients must also comply with the following provisions to monitor their own subrecipients (if applicable).

1. **Monitoring Plan Requirements:** The grantee shall develop a monitoring plan that addresses the scope, frequency, and subrecipient performance standards. The subrecipient monitoring plan must be included in the grant plan which is submitted to BES annually.
2. **Grantee General Requirements:** The grantee must conduct annual on-site monitoring of subrecipient program, financial, compliance, nondiscrimination and EEO to ensure that all terms of their agreement and the appropriate laws and regulations are complied with. The grantee must also ensure that all subrecipients conduct onsite monitoring of all work/educational sites to ensure that program objectives have been met.
3. **Compliance Monitoring:** The grantee must monitor the performance of its subrecipients to ensure compliance with appropriate laws, regulations, MDOL policy, and the terms and conditions of the agreement.
4. **Systematic Reviews:** The grantee must systematically, through desk review and on-site review, monitor performance based on established criteria.
5. **Report:** The grantee must document any findings and issues in written reports to the subrecipient.

6. **Corrective Action:** The grantee must comply with the following provisions for corrective action and sanctions:
- a. **Corrective Action for Noncompliance:** The grantee must attempt to resolve noncompliance issues by:
 - i. Notifying the subrecipient of the identified monitoring findings;
 - ii. Either requiring or providing a correction action plan that provides resolution within a specific timeframe and includes the sanctions to be applied if the corrective action is not implemented.
 - b. **Notification of Sanctions:** The grantee must provide written notification to the subrecipient of sanctions to be invoked if:
 - i. The subrecipient refuses to submit or agree to adhere to the plan;
 - ii. The monitoring finding continues after corrective action is required. The notification shall provide the rights to an appeal and hearing process.
 - c. **Severity of Sanctions:** the sanctions must reflect the severity of the monitoring finding and shall take into consideration conditions. The subrecipient must inform the BES, in writing, of any sanction imposed or any referral to other agencies for prosecution. Other sanctions may result due to referral from the appropriate government agency, referral from a law enforcement agency for prosecution, or other action as provided by law.
 - d. **Monitoring of Corrective Action Results:** The grantee must monitor the corrective action plan to ensure that the results and timeframes specified are achieved.
7. **Records:** The grantee must maintain written records to verify that required monitoring, corrective action, follow-up and resolution have occurred.
8. **Results:** Monitoring findings must be considered in subsequent planning and in the selection of subrecipients. Monitoring reports of the subrecipient’s monitoring of other entities will be reviewed as part of the grantee’s monitoring of the subrecipient.

PRE-AWARD COSTS

1. Introduction:

Pre-award costs are costs incurred prior to the date of the fully executed contract directly pursuant to the negotiation and in anticipation of the contract where such costs are allowable if incurred after the date of the contract.

2. Prior Written Approval Requirements for Local Workforce Development Boards (LWDBs):

- Prior to any pre-award costs being incurred by the LWDB a written request needs to be submitted to Bureau of Employment Services (BES)
- The request must include a justification for incurring pre-award costs, an estimation of the pre-award costs, and why such costs are necessary to comply with the proposed delivery schedule or period of performance.

- BES will provide a response to the LWDB within ten (10) working days after receipt of the request.

LWDB Subrecipients:

- Prior to any pre-award costs being incurred by the LWDB subrecipients a written request needs to be submitted to LWDB
- The request should include a justification for incurring costs pre-award, an estimation of the pre-award costs, and why such costs are necessary to comply with the proposed delivery schedule or period of performance.
- LWDB will provide a response to the subrecipient within ten (10) working days after receipt of the request.
- Sub-recipient justification and LWDB responses are to be maintained in the individual contract file at the LWDB administrative offices for a period of not less than three (3) years following the date on which the final expenditure report has been submitted to the Security & Employment Service Center.

3. Disallowed Costs

- Any pre-award costs incurred by either the LWDB's or their subrecipients without prior written approval will be disallowed
- Any disallowed costs must be returned to the State using nonfederal funds. Source of funding used to pay these disallowed costs needs to be specified when funds are returned.

SUSPENSION / DEBARMENT

Purpose:

- a. Executive Order ([E.O.\) 12549](#) provides that, to the extent permitted by law, executive departments and agencies shall participate in a government-wide system for non-procurement debarment and suspension. A person who is debarred or suspended shall be excluded from federal financial and nonfinancial assistance and benefits under federal programs and activities. Debarment or suspension of a participant in a program by one agency shall have government-wide effect.

ALLOCATION OF COSTS

The grantee shall comply with the provisions of allocating costs described as follows:

1. Allocable Costs: Costs are allocable to grants according to the following:

- a. Relative Benefits and Consistent Treatment - A cost is allocable to a particular cost objective, such as a title, program activity, or cost category in accordance with the relative benefits received. A cost is allocable to a grant if it is treated consistently with other costs incurred for the same purpose in similar circumstances and if the following applies:
 - i. The cost is incurred specifically for the grant.
 - ii. The cost benefits both the grant and other work and can be distributed in reasonable proportion to the benefits received.

- iii. The cost is necessary to the overall operation of the organization, although a direct relationship to any particular cost objective cannot be shown.
 - b. Avoiding Deficiencies or Restrictions - Any cost allocable to a particular grant or other cost objective under these principles may not be shifted to other federal grants to overcome funding deficiencies or to avoid restrictions imposed by law or by the terms of the grant.
2. **Direct Costs:** Direct costs must be charged directly to a particular grant and cost objective
3. **Shared Costs:** The allocation method used to distribute shared costs must be based on a reasonable measurement of benefit received by each cost objective and must be supported by a written shared cost allocation plan, which includes all grantee funding whether or not it originates as a BES grant. Cost allocation plans must distribute costs based on actual activities. Budget estimates do not qualify as support for final charges. However, the effort required for distributing the cost should not be disproportionate to the amount of costs charged.
4. **Cost Allocation Plans** Costs shall be allocated according to the following provisions:
- a. **Written Support** For audit purposes, a written plan for allocation of costs related to all funding sources is necessary to support the distribution of any joint costs related to the grant. Accounting records must support the final charges allocated by the plan.
 - b. **Content** The allocation plan of the grantee shall cover all shared costs, including costs to be allocated under plans of other organizational units, which are to be included in the costs of BES programs. The cost allocation plan shall be presented in a single organization-wide document. The allocation plan shall contain, but not necessarily be limited to, the following:
 - i. An organization chart of the agency
 - ii. A listing of all programs administered by the agency
 - iii. A description and explanation of the activities/services performed by the agency
 - iv. The procedures used to identify and a listing of all allocated costs
 - v. The methods and justification used in distributing costs, including examples of the allocation
 - vi. If a governmental agency, description and basis of services provided
 - vii. Certifications that the plan is in accordance with the Uniform Guidance
 - viii. Other data as required by the grant agreement
 - c. **Methodology:** The cost allocation methodology must be consistent with GAAP and the Uniform Guidance and be accepted by the grantee's independent auditors.
5. **Administrative Cost Pool:** Administrative costs may be pooled according to the following provisions:
- a. **Amounts Pooled** Grantees may choose to pool all of their administrative funds. Where this is done, the administrative cost pool must include all of the costs of administration for BES programs. Only actual allowable, not budgeted, administrative costs may be charged to the administrative cost pool.

- b. Distribution to Fund Source** Where an administrative cost pool is used, the pool must be distributed among the various funding sources for reporting purposes. While the method of distribution need not meet the normal criteria for cost allocation, the method used shall be in writing and shall be applied consistently from period to period.
- c. Distribution to Programs** For federal reporting purposes, administrative costs, which are initially charged to an administrative cost pool, must be allocated based on the benefits received by each program.

6. **Due Date of Plan:** The cost allocation plan is due to BES/SESC **April 1st**. This proposal should be based upon audited financial statements for the prior fiscal year to calculated allocated costs for the upcoming fiscal year (*e.g. 2015 financial statement used to prepare cost allocation plan for 2016*). SESC may withhold payment of the grantee's costs incurred under the current grant or subsequent active grants until the required plan is received.

INDIRECT COST PLANS

I. Purpose of the Indirect Cost Rate:

The Uniform Guidance requires agencies to establish an approved indirect cost allocation plan and rate to recover indirect costs related to federal grants and contracts. An indirect cost rate is established on the basis of a federally-approved indirect cost rate proposal and supporting documentation submitted by organizations. Indirect costs allocable to DOL programs should be reimbursed if an organization has a federally-approved rate. Reimbursement, however, is subject to any administrative limitations established in the grants and/or contracts.

An indirect cost rate is simply a device for determining fairly and conveniently within the boundaries of sound administrative principles, what proportion of indirect cost each program should bear. Note that indirect costs are incurred for common or joint objectives and cannot be readily identified with a particular grant, contract or other activity of the organization. An indirect cost rate is the ratio between the total indirect expenses and some direct cost base. The indirect cost allocation methods used by each organization depend on its own structure, program functions, and accounting system.

II. Requirements for Indirect Cost Plans

An incurred cost, or final indirect cost rate proposal, together with the supporting documentation must be developed and submitted on an annual basis no later than six months after the close of the organization's fiscal year, unless an exception is approved by the DCD. For organizations with no prior approved indirect cost rate, a budget (or provisional) proposal must be submitted no later than three months after the effective date of the DOL award.

All LWDB's and subgrantees are required to have an approved indirect cost plan; a copy of this plan needs to be submitted to SESC and BES. On an annual basis the approved indirect cost plan will be reviewed by SESC to

ensure the LWDB's are only charging the indirect cost rate approved by the cognizant agency; any additional amount will be considered a disallowed cost under the OMB Circulars.

All LWDB's are required to have their subgrantees submit a copy of their approved indirect cost plan on a yearly basis. On an annual basis the approved indirect cost plan will be reviewed by the LWDB's to ensure that the subgrantees are only charging the indirect cost rate approved by the cognizant agency; any additional amount will be considered a disallowed cost under the OMB Circulars.

FRAUD / ABUSE REPORTING

Detection of fraud and abuse in programs authorized by the USDOL, are of the highest priority. States, local governments, and grantees may become aware of actual, potential or suspected fraud; gross mismanagement or misuse of program funds; conduct violations; violations of regulations; and abuse in ETA programs and operations provided by ETA grantees. [20 CFR 667.630](#) identifies how complaints and reports of criminal fraud and abuse are addressed under WIOA, TEGL 02-12 provides updated policy and procedures for reporting and investigating allegations of wrongdoing or misconduct.

The Incident Report (IR) form, Office of Inspector General (OIG) 1-156: is the official form used for reporting allegations of criminal and other illegal or improper activities in ETA funded programs. Allegations are to be reported to the OIG and, within ETA, the Office of Financial and Administrative Management (OFAM) and the Office of Regional Management (ORM). Incidents using the IR form may involve allegations of fraud, misfeasance, nonfeasance or malfeasance; allegations involving misapplication of funds, allegations of gross mismanagement; allegations of employee/participant misconduct and other potential or suspected criminal actions. The IR form can be accessed at: <http://wdr.doleta.gov/directives/attach/TEGL/TEGL 2 12 att c.pdf>

When the OIG receives an IR, they determine whether the allegations have merit and, when appropriate, conduct or arrange for an investigation or audit. If the OIG determines that the case does not have investigative or audit merit, the case is referred back to the ETA for resolution.

Grant recipients must use the following procedures for notifying the appropriate administrators of known or suspected cases of criminal or other illegal or improper activities involving grantees and other recipients or subrecipients of Federal funds from ETA. The OIG operates a Hotline to receive and process allegations of fraud, waste, and abuse concerning DOL grants, programs and operations. Allegations received directly through the Hotline, and written complaints from the public pertaining to ETA, are referred by the OIG to OFAM when appropriate.

1. Grant recipients must immediately document allegations, suspicions and complaints involving possible fraud, program abuse and criminal misconduct using the IR form available at: [http://wdr.doleta.gov/directive/attach/TEGL/TEGL 2 12 att\)c.pdf](http://wdr.doleta.gov/directive/attach/TEGL/TEGL 2 12 att)c.pdf) .
2. Situations involving imminent health or safety concerns, or the imminent loss of funds exceeding an amount larger than \$50,000 are considered emergencies and must immediately be reported to the OIG and OFAM by telephone and followed up with a written report in the form of an IR, no later than one (1) working day after the telephone report.

OIG Hotline Referrals

All LWDB's/Grantees must notify their employees of the availability of the "OIG/DOL Hotline" to report information, confidentially. The Hotline (1-800-347-3756) or hotline@oig.dol.gov was established for employees and the public to notify the OIG of suspected fraud, abuse or waste without fear of reprisal, the Hotline permits reporting of matters anonymously.

Grant recipients must be familiar with the content of this TEGl and follow the procedures set forth herein for documenting, immediately reporting to the OIG, and following up on instances of alleged, suspected or known fraud, program abuse and criminal misconduct involving grantees and other recipients or subrecipients of Federal funds from ETA.

Related Definitions:

Emergency: A situation involving imminent health or safety concerns, or the imminent loss of funds exceeding an amount much larger than \$50,000 (e.g., \$500,000).

Employee/Participant Misconduct: Actions occurring during or outside work hours that reflect negatively on the Department or its mission including, but not limited to: conflict of interest or the appearance of conflict of interest involving outside employment, business and professional activities; the receipt or giving of gifts, fees, entertainment, and favors; misuse of Federal property; and, misuse of official information and such other activities as might adversely affect the confidence of the public in the integrity of the government (See [29 CFR Part 0](#); [5 CFR Parts 2635 and 5201](#)) as well as serious violations of Federal and State laws.

Fraud, Misfeasance, Nonfeasance or Malfeasance: Any alleged deliberate action which may be in violation of Federal statutes and regulations. This category includes, but is not limited to, indications of bribery, forgery, extortion, embezzlement, theft of participant checks, kickbacks from participants or contractors, intentional payments to a contractor without the expectation of receiving services, payments to ghost enrollees, misuse of appropriated funds, and misrepresenting information in official reports.

Gross Mismanagement: pertains to actions or situations arising out of management ineptitude or oversight and leading to a major violation of the legislative process, regulations, or contract/grant provisions. Such actions or situations have the potential to severely hamper accomplishment of program goals, waste government resources, and jeopardize future support for a particular project, including but not limited to: un-auditable records, unsupported costs, highly inaccurate fiscal reports or program reports, payroll discrepancies, payroll deductions not paid to the Internal Revenue Service and lack of good internal control procedures.

Misapplication of Funds: Any alleged deliberate use of funds, assets or property not authorized or provided for by legislation or regulations, grants or contracts. This category includes but is not limited to:

nepotism, political patronage, use of participants for political activity, ineligible enrollees, conflict of interest, and failure to report income from Federal funds, violation of contract/grant procedures, and the use of Federal funds for other than specified purposes. An incident report should be filed when there appears to be an intent to misapply funds rather than merely for a case of minor mismanagement. Indian and Native American programs are excluded from the nepotism category, as cited in [20 CFR 632.118](#) subpart F of WIOA regulations.

Special Notes:

Any person or organization who knowingly submits false or fraudulent claims or written, certified statements for money, services, or property is subject to the Program Fraud Civil Remedies Act. The LWDB's are required to maintain a fraud and abuse policy that complies with this regulation. This policy and procedure will be reviewed during the annual monitoring of the LWDB.

The LWDB has the responsibility to ensure that any subrecipients comply with this regulation. This policy and procedure should be reviewed during the annual subrecipient monitoring. The LWDB must provide its subrecipients with written notification of their responsibility regarding instances and reporting of fraud, abuse, and criminal activity or noncriminal incidents, such as waste, committed by staff, contractors, or program participants and to report all such instances to the LWDB, BES, and OIG immediately. The LWDB will maintain a file of such written notification and provide clear and concise reports on any such activity or incident.

Employee Rights:

The State Whistle Blower Law protects employees reporting fraudulent or wrongful acts and those who cooperated with the investigation will be protected from retaliatory actions.

Examples of Fraudulent or Wrongful Acts:

Fraudulent or wrongful acts include, but are not limited to, the following:

- Establishing claims with bogus wages
- Taking and processing unemployment claims of friends or relatives
- Conducting any type of audit of employers or claimants that are relatives or friends
- Intentionally authorizing an improper claim
- Initiating claims for fictitious claimants
- Misappropriating outgoing or returned benefit checks
- Pocketing repayment made by overpaid claimant.
- Extorting money or accepting favors from program participants
- Receiving kickbacks
- Diverting refund checks
- Receiving gifts from vendors or prospective vendors

- Initiating bogus refunds
- Misusing blank or voided checks
- Overstating travel expense reimbursements
- Forging checks or other source documents
- Misuse of Agency owned property
- Intentional authorization of ineligible participation in agency programs
- Deliberately inputting erroneous data
- Abuse of position for personal gain
- Obtaining conflicting secondary employment
- Intentional preparation of inaccurate fiscal or program reports
- Misuse of confidential information
- Failure to report income from Federal grants
- Destroying Agency records to conceal fraudulent or wrongful acts
- Authorizing invoices for which you know goods or services will not or have not been received
- Misuse of petty cash

Reporting Contacts

<p>Office of Inspector General 200 Constitution Avenue, N.W. Room S-5502 Washington, DC 20210 202-693-5100</p>	<p>OIG Complaints Analysis Hotline 200 Constitution Avenue, N.W. Room S-5506 Washington, DC 20210 202-693-6999 or 1-800-347-3756</p>
<p>Region 1 – Regional Administrator U.S. Department of Labor Employment & Training Administration JFK Federal Building, Room E-350 Boston, MA 02203 617-788-0170</p>	<p>Office of Audit Assistant Inspector General 200 Constitution Avenue, N.W. Room S-5512 Washington, DC 02010 202-693-5170</p>

SALARY & BONUS LIMITATIONS

BACKGROUND:

Congress passed Public Law 109-234, limiting salary and bonus compensation for individuals who are paid by funds appropriated to the U.S. Department of Labor, Employment and Training Administration and provided to recipients and subrecipients.

This Law was signed by President Bush on June 15, 2006. Section 7013 states: "None of the funds appropriated in Public Law 109-149 or prior Acts under the heading 'Employment and Training Administration' that are available for expenditure on or after the date of enactment of this section shall be used by a recipient or subrecipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II, except as provided for under section 101 of Public Law 109-149. This limitation shall not apply to vendors providing goods and services as defined in OMB Circular A133."

POLICY:

Affected Programs

All programs, including the Workforce Investment Act (WIOA) program, administered by ETA are covered by this provision unless the program falls within a listed exception available on the federal ETA website. The limitation also applies to programs funded by an ETA appropriation, but administered by another agency.

Covered Individuals and Transactions

The provision in Public Law 109-234 limits the amount of funds used by a recipient or subrecipient to pay for salary and bonuses of an individual.

Application of the Limitation

The law sets the limit on salaries and bonuses at a rate equivalent to no more than Executive Level II. A salary table providing this rate is listed on the Federal Office of Personnel Management Web site (www.opm.gov) under Federal Salaries & Wages. These levels are adjusted annually.. The Public Law 109-234 limitation does not apply to benefits that are not salary and bonuses.

BUDGETING

The State of Maine's budget process for WIOA is designed to be the vehicle that brings together all of the planned activities into one master set of meaningful actions. The budget provides BES managers a planning tool that assists in the determination of the goals for the WIOA program.

Standards:

1. Annual Operating Plan Preparation- on an annual basis, the LWDB and sub-recipients will identify "budget year" objectives and priorities linked to the updated strategic goals of BES relating to the WIOA program.
2. Operating Budget Preparation: An operating budget will be prepared each year by the LWDB and sub-recipients. It will be based on the objectives and priorities for the WIOA program for the upcoming budgeting year. This budget is submitted to BES for approval once approved by the LWDB board of

directors. Once the budget is approved, the LWDB's and sub-recipients will enter this information into their accounting system by line item (Advantage does not have this capability); this will allow them to monitor expenditures based upon the executed contract.

Budgeting by month: The operating budget for LWDB's and sub-recipients will be spread by months throughout the fiscal year. In addition to being a planning tool, the budget acts as a financial guide to be used throughout the year; monthly budgeting best serves this purpose. It also enhances an organization's ability to "know where they are" during the year and to forecast year-end results. This spread must reasonably reflect how a LWDB's and sub-recipients revenue and expense will occur during the fiscal year. It is not acceptable to spread the budget evenly by month.

3. **Capital Budget Preparation:** A separate capital budget will be prepared annually. It will identify the capital assets that have been assigned a high priority for acquisition along with the expected source of funds. The capital budget will contain all capital expenditures as defined by Section L of this manual.
4. **Variance Analysis:** a summary of variances from budget will be prepared and analyzed on a monthly basis. Results of this analysis will be distributed and reviewed at the board of directors meeting.
5. **Request for budget revisions:** any budget modification to increase or decrease a line item by more than 20% needs to be submitted to BES prior to adjusting the LWDB's and/or sub-recipients accounting system. The budget modification request needs to provide written justification for the change in the originally approved line item budget.
6. **Rescissions procedures:** if USDOL (ETA) issues a rescission of WIOA funds; BES/SESC will work with the LWDB's and subrecipients to adjust the budgets accordingly to comply with the reduction of funds.
7. **Request for carry-forward:** At the end of the fiscal year (June 30), any unspent funds on prior year contracts will be carried forward automatically to the next fiscal year. The carry forward monies must be spent prior to spending any funds for the new fiscal year. LWDB's and sub-recipients need to implement a First in First Out policy (FIFO) when expending grant funds.

DEBT AND DEBT COLLECTION

The subrecipients shall comply with the provisions of debt and debt collection described as follows:

1. **Local Collection Procedures.** Subrecipients must develop written debt collection procedures. These procedures are to provide for timely collection of debts or attainment of waivers from DOL in coordination with BES & SESC.
2. **Establishment of Debt.** A debt to BES is established when costs are disallowed in writing by one of the following:
 - a. **Audit:** An audit resolution, findings and determinations letter;
 - b. **Ruling:** A complaint and appeal ruling;
 - c. **Report:** A report of an investigation;

- d. Closeout: A grant closeout report;
- e. Monitoring: A monitoring report.

3. Collection of Debt. Collection options available to BES, include but are not limited to, the following:

- a. Cash Repayment: Requiring cash repayment from Non-Federal sources;
- b. Withholding Funds: Withholding from current grant costs an amount equal to the disallowed costs to offset the debt;
- c. Noncash Repayment: Requiring repayment with the use of stand-in costs.

Stand-in costs are costs paid from non-federal sources that a grantee proposes to substitute for disallowed costs. In-kind contributions do not qualify as stand-in costs. To be valid substitutions, the proposed stand-in costs must:

- Have been reported as uncharged program costs under the same title and program year as were the disallowed costs;
- Have been incurred in compliance with laws, regulations, and contractual provisions governing expenditures;
- Be accounted for in the grantee's final system records; and
- Not result in a violation of cost limitations.

4. Waiver of Sanctions Relating to Debt: A waiver of all or a part of the sanctions related to a grant debt can be obtained if the USDOL determines that the grantee and the state have demonstrated substantial compliance with the applicable requirements, sanctions against the state may be waived. The state may transfer this waiver to the grantee. All waiver requests must be processed through BES. The grantee must request the waiver and must demonstrate it has established an adequate subcontracting system that included timely monitoring and audit resolution activities. Waivers will only be issued by the DOL if the misexpenditure of grant funds:

- a. Occurred at the subrecipient level;
- b. Was not due to willful disregard, gross negligence, failure to observe accepted administrative standards or did not constitute fraud; or
- c. If fraud did exist, it was perpetrated against the grantee and its appeal and debt collection process has been exhausted with no repayment rendered. No waiver will be granted unless the USDOL determines that further collection action would be inappropriate or prove futile.
- d. A waiver request must be accompanied by the resolution reports that established the debt. If the USDOL ETA Grant Officer is resolving the finding, a request for waiver shall be made prior to the conclusion of the informal resolution period, normally 60 days from the date of the ETA Grant Officer's Initial Determination Letter.

Additional Resources:

- OneStop Comprehensive Financial Management Technical Assistance Guide
http://www.doleta.gov/grants/pdf/finaltag_august_02.pdf
- OneStop Comprehensive Financial Management Technical Assistance Guild Part II
http://www.doleta.gov/grants/pdf/TAG_PartII_July2011.pdf
- Guide for Indirect Cost Rate Determination
<http://www.dol.gov/oasam/programs/boc/costdeterminationguide/cdg.pdf>
- ETA Financial Grants Management Training
<http://etasmarttraining.org/>

Inquiries related to this manual can be addressed to:

<p>Virginia Carroll, Division Director MDOL Bureau of Employment Services 55 State House Station Augusta, ME 04333-0055 207-623-7974 Virginia.A.Carroll@maine.gov</p>	<p>Marilyn Leimbach, Deputy Director DAFS Security & Employment Service Center 108 State House Station Augusta, ME 04333-0108 207-623-6700 Marilyn.Leimbach@maine.gov</p>
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