

DIRECTIVE

WORKFORCE SERVICES

Number: WSD14-13

Date: April 29, 2015

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TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: PROPERTY—PRIOR APPROVAL, PURCHASING, INVENTORY, AND DISPOSAL

EXECUTIVE SUMMARY

Purpose

The Workforce Services Branch (WSB) has provided guidelines for obtaining the state's approval prior to charging Workforce Investment Act (WIA) grant funds for the following:

- The purchase of property with a per-unit single cost totaling \$5,000 or more.
- The purchase, rent, licensing, maintenance fee, or subscription of information-technology applications/software/services with a per-unit single or cumulative cost totaling \$5,000 or more within a twelve-month period.

In addition, guidelines related to the inventory and disposal of property for governmental and nonprofit agencies are also described in this directive.

Scope

These requirements apply to all subrecipients and their lower-tier subrecipients who plan to purchase property with a per-unit single cost totaling \$5,000 or more, or to purchase, rent, license, maintain, or subscribe to information-technology applications/software/services with a per-unit single or cumulative cost totaling \$5,000 or more within a twelve-month period, and charge any of the cost to the WIA grant funds. Also included in these requirements are guidelines for subrecipients and lower-tier subrecipients that want to dispose of property originally charged to a federal grant.

Effective Date

This directive is effective upon date of issue.

The EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.

REFERENCES

- Title 20 *Code of Federal Regulations* (CFR), “WIA Final Rule,” Section 667.260
- Title 29 CFR Part 95, Sections 95.34, 95.40 through 95.48 and 95.53
- Title 29 CFR Part 97, Sections 97.32, 97.36 and 97.42
- OMB Circular A-21, *Cost Principles for Educational Institutions* (05/10/2004) HTML or PDF (109 pages, 263 kb), Relocated to 2 CFR, Part 220 (30 pages, 384 kb)
- OMB Circular A-87, *Cost Principles for State, Local and Indian Tribal Governments* (05/10/2004) HTML or PDF (58 pages, 216 kb), Relocated to 2 CFR, Part 225 (18 pages, 362 kb)
- OMB Circular A-122, *Cost Principles for Non-Profit Organizations* (05/10/2004) HTML or PDF (55 pages, 220 kb), Relocated to 2 CFR, Part 230 (17 pages, 235 kb)
- *One-Stop Comprehensive Financial Management Technical Assistance Guide* (Department of Labor – July 2002)

STATE-IMPOSED REQUIREMENTS

This directive contains federal and state requirements. The state-imposed requirements are printed in ***bold, italic type***.

FILING INSTRUCTIONS

This directive finalizes Workforce Services Draft Directive WSDD-112, issued for comment on February 9, 2015. The Workforce Services Division received 33 comments during the draft comment period. These comments resulted in minor changes to the directive which can be viewed as highlighted text. A summary of the comments is provided as Attachment 4. This directive supersedes *Workforce Investment Act Directive WIAD03-9*, dated March 25, 2004. Retain this directive until further notice.

BACKGROUND

“The WIA Final Rule,” Title 20 CFR Section 667.200, provides fiscal and administrative guidance for the administration of the WIA 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 nonprofit and commercial organizations, and to Title 29 CFR **Part 97** for states and local governments. While the format and wording of Part 95 and Part 97 vary slightly, the intent of the federal government is consistent. The intent is to ensure that purchases of property **or licensing/subscriptions of information-technology application/software/services** 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.

Hardware—physical components of computer systems.

Information Technology—computer hardware and application/software, including licensing or subscriptions to software and software support services.

Intellectual Property—recognized protectable rights and interest, such as patents, copyrights, trademarks, service marks, etc. (also referred to as intangible property).

License Fee—payment for authorization allowing use of property, equipment or proprietary software.

Property—durable goods, equipment, buildings, installations, and land.

Software—programs, procedures, data, and routines used, accessed, and/or stored by computers.

Subrecipient—refers to all Local Workforce Investment Areas (LWIA) and other subrecipients of WIA federal funds.

Subscription—refers to the regular remittance of pay for the licensed use of services, application/software, equipment, or property with a cost of \$5,000 or more per unit, or cumulative cost within a twelve-month period.

PURCHASE CONSIDERATIONS

In order to satisfy federal and state procurement requirements, you must consider the following prior to requesting approval to direct charge WIA funds for the purchase of property or licensing/subscription cost of \$5,000 or more per unit, or cumulative cost for a twelve-month period (these considerations are also on the approval form attached to this directive):

- Is this purchase necessary and reasonable?
- Why is the purchase needed?
- Have the best products been selected?
- What procurement method will be used?
- Was a lease option considered in lieu of the purchase?
- What other costs are associated with the purchase?
- Is there a cost sharing agreement if multiple partners will share the cost of the purchase? See "Cost Sharing Information" section if costs are being shared.

- Does the state already provide the item, service, or software being considered for rent, purchase, or subscription?

PROCEDURES – Prior Approval Process

To direct charge the WIA funds account for any property purchase with a per-unit single cost totaling \$5,000 or more, or the purchase, rent, licensing, maintenance fee, or subscription of information-technology application/software/services with a per-unit or cumulative cost for a twelve-month period the following steps must occur:

- 1. Subrecipients must complete a “Request for Approval to Charge WIA Funds for the Cost of Property” form (attached to this directive).**
- 2. Documentation describing item(s) to be purchased, rented, or subscribed to as well as an explanation of functionality, submitted with request.**
- 3. If purchasing or subscribing software, submit documentation clarifying how new software will deliver functionality not provided by state or local partners.**
- 4. The completed form must be submitted to their designated Regional Advisor (RA) or Program Manager (PM).**
5. The RA or PM will review the form and either approve or disapprove the request. The signed form will be forwarded to the Section Manager for review and action.
6. Once the Section Manager makes approval/disapproval, the state will make every effort to provide a prompt written response. However, there will be no default approval if a response is not provided promptly.
7. An unfavorable decision may be forwarded to the Chief of the Central Office Workforce Services Division for review and reconsideration.

If an approval letter is issued, the WIA funds account may be charged for the purchase. A letter not approving a request for purchase will specify the reason for the disapproval. If the request is not approved and property is charged, the subrecipient may incur a disallowed cost.

BUDGET PLANS

An entity may occasionally submit budget plans that include an equipment request. The approval of the budget plan DOES NOT constitute approval of the equipment request. A separate request to purchase equipment must be submitted for approval by the state at time of purchase.

COST SHARING INFORMATION

When an entity plans to enter into a “cost sharing” agreement for the purchase of property with a per unit (or cumulative cost for a twelve month period) purchase price or subscription cost of \$5,000 or more, it must obtain prior approval no matter the portion it plans to contribute. This is based upon direct guidance from the Department of Labor (DOL).

LEASING CONSIDERATIONS

The decision to lease or buy personal property must be governed by considerations of economy. Consideration for lease 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 generally preferable to straight leasing. However, for real property, administrative requirements make leasing the only option, as the construction or purchase of real property is not allowed under the WIA program except in certain limited circumstances. These limited circumstances are described in the “Capital Assets and Construction Costs” section of this directive.

CAPITAL ASSETS AND CONSTRUCTION COSTS

The WIA Title I funds must not be spent on construction or purchase of facilities or buildings, except under the following conditions (after obtaining prior approval, regardless of the dollar amount):

- To provide physical and programmatic accessibility and reasonable accommodation 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 the following:
 - State Employment Security Agency real property, identified at WIA Section 193, using a formula that assesses costs proportionate to space utilized.
 - Job Training Partnership Act owned property, which is, transferred to WIA Title I programs.
- Job Corps facilities, as authorized by WIA 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 within 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 shall include the following information:

- A description of the equipment.
- Manufacturer's serial number, model number, Federal Stock number, national stock number, or other identification number.
- Source of the equipment, including the award number.
- Whether title vests in the recipient or the federal government.
- Acquisition date (or date received, if the equipment was furnished by the federal government).
- Per unit cost at acquisition.
- Records showing maintenance procedures to keep the equipment in good operating order.
- Location and condition of the equipment and the date the information was reported.
- Disposition date, sale price, loss, theft, etc.

DISPOSITION OF EQUIPMENT (GOVERNMENTAL AGENCIES)

For equipment with a residual fair market value of \$5,000 or more, recipients of WIA funds must use the following guidelines (Title 29 CFR Part 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 WIA federal funds used in the equipment purchase. If only WIA federal funds were used for the purchase then the percentage would be 100 percent. If both WIA federal and local funds were used in the purchase then use the WIA 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 WIA federal funds must be submitted within 30 days to the address provided below. 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.

Funds received from the sale of equipment should be sent to the following address:

Fiscal Programs Division, MIC 70
Employment Development Department
P.O. Box 826217
Sacramento, CA 94230-6217

For property with a fair market value of less than \$5,000 subrecipients may retain, sell or dispose of the property and nothing needs to be reported to the state. A disposition record must be kept for any transaction in accordance with WIA record retention requirements.

DISPOSITION OF EQUIPMENT (COMMUNITY BASED ORGANIZATIONS, INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, OTHER NONPROFIT AND COMMERCIAL ENTITIES)

For equipment with a residual fair market value of \$5,000 or more, recipients of WIA funds should take the following steps (Title 29 CFR Part 95.34):

- The recipient may use the equipment in the program or project for which 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 recipient shall use the equipment in connection with its other federally sponsored activities. Priority should be given to programs funded by the DOL Employment Training Administration.
- If the equipment is no longer needed by the program/project or used in connection with other federally sponsored activities, the recipient may retain the equipment for other uses. If the equipment is/is not retained then compensation must be made for the WIA federal funds used in the purchase. The amount of compensation shall be computed by applying the percentage of WIA federal funds used in the purchase. If only WIA federal funds were used for the purchase then the percentage would be 100 percent. If both WIA federal and local funds were used in the purchase then use the WIA federal funds percentage for the calculation. This percentage is applied to the fair market value or proceeds of the sale for the equipment. Recipients of subgrants are permitted to deduct actual reasonable selling and handling expenses (\$500 or 10 percent of the proceeds of the sale, whichever is less) from the proceeds of the sale. The balance of WIA federal funds must be sent within 30 days to the address provided below. 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.

Funds received from the sale of equipment should be sent to the following address:

Fiscal Programs Division, MIC 70
Employment Development Department
P.O. Box 826217
Sacramento, CA 94230-6217

- If the recipient has no further use of the equipment and wishes to dispose of the equipment (other than selling the equipment), they must request disposition instructions from the state.

For property with a fair market value of less than \$5,000 subrecipients may retain, sell or dispose of the property and nothing needs to be reported to the state. A disposition record must be kept for any transaction in accordance with WIA record retention requirements.

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, the following:

- 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 Central Office Workforce Services Division. If any litigation, claim, or audit is started before the expiration of the three-year period, all records must be retained until all findings have been resolved and final action taken.

ACTION

Bring this directive to the attention of all affected staff and subrecipients.

INQUIRIES

Please direct inquiries about this directive to your assigned [Regional Advisor](#) or Program Manager.

/S/ JOSÉ LUIS MÁRQUEZ, Chief
Central Office Workforce Services Division

Attachments are available on the Internet:

1. [Request for Approval to Charge WIA Funds for the Cost of Property](#)
2. [Approval Process Timeline](#)
3. [Approval Process Flowchart](#)
4. [Summary of Comments](#)