

## ALLOWABLE COSTS AND PRIOR WRITTEN APPROVAL

### EXECUTIVE SUMMARY

This policy provides guidance and establishes procedures regarding general cost principles, allowable costs, and prior written approval related to *Workforce Innovation and Opportunity Act* (WIOA) Title I funds. This policy applies to subrecipients of WIOA funds and is effective immediately.

This policy contains some state-imposed requirements. All state-imposed requirements are indicated by ***bold, italic*** type.

This directive finalizes Workforce Services Draft Directive *Allowable Costs and Prior Written Approval* (WSDD-157) issued for comment on November 14, 2016. The Workforce Development Community submitted one comment during the draft comment period. A summary of comments, including all changes, is provided as Attachment 3.

This policy supersedes Workforce Services Directive *Allowable Costs* (WSD15-15), dated January 22, 2016. For the purposes of prior written approval, this policy also supersedes Workforce Services Directive *Property –Prior Approval, Purchasing, Inventory, and Disposal* (WSD14-3), dated April 29, 2015. Retain this directive until further notice.

### REFERENCES

- WIOA (Public Law 113-128) Sections 184(a)(3), 134(c)-(d), 129, and 195
- Title 2 *Code of Federal Regulations* (CFR) Part 200: “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (Uniform Guidance)
- Title 2 CFR Part 2900: “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (Department of Labor [DOL] Exceptions)
- Title 21 *United States Code* (USC) Section 812
- Training and Employment Guidance Letter (TEGL) 15-14, Subject: *Implementation of the New Uniform Guidance Regulations* (December 19, 2014)
- Workforce Investment Act Directive WIAD03-10, Subject: *Allowable Costs* (April 09, 2004)

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

## BACKGROUND

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On December 26, 2013, the Office of Management and Budget (OMB) issued the [Uniform Guidance](#), which establishes uniform administrative requirements, cost principles, and audit requirements for federal awards. The Uniform Guidance consolidated multiple, previously separate, sets of OMB guidance into one combined set of rules. The following year, the DOL adopted the OMB Uniform Guidance and issued [DOL Exceptions](#).

The Uniform Guidance applies to all federal awards made on or after December 26, 2014. Therefore, beginning with WIOA Program Year (PY) 2015-16 funds, all subrecipients of this funding must adhere to the Uniform Guidance, DOL Exceptions, and corresponding WIOA administrative requirements, cost principles, and audit requirements. For more information on Uniform Guidance implementation, please see [TEGL 15-14](#).

## POLICY AND PROCEDURES

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Each state, Local Workforce Development Area (Local Area), and provider that receives funds under WIOA Title I is required to comply with Uniform Guidance (WIOA Section 184[a][3]). This includes general principles and guidance on selected items of cost. However, if more restrictive city, state, or federal guidelines exist, they take precedence. Local Areas should review and update their local policies and procedures to ensure compliance with this guidance.

The Employment Development Department (EDD) has compiled a high-level matrix listing various cost items referenced in Uniform Guidance Sections 200.420 through 200.475 (Attachment 1). The columns in the matrix contain various entity types, specific CFR sections, and DOL Exceptions sections (if applicable). The matrix also provides a quick reference guide indicating whether a cost item is allowable or not. WIOA subrecipients can use the matrix as an initial tool, rather than the final authority, to determine whether a cost is allowable or not.

In general, to be an allowable charge to WIOA, a cost must meet the following criteria:

- Be necessary and reasonable for the performance of the award.
- Be allocable to the award.
- Conform to any limitations or exclusions set forth in the award.
- Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-federal entity.
- Be accorded consistent treatment.
- Be determined in accordance with generally accepted accounting principles.
- Not be used to meet cost sharing or matching requirements of any other federally financed program (without prior approval from the state).
- Be adequately documented.

Expenditure of WIOA funds is only allowable for those activities permitted by the WIOA statute or federal regulations. Required and permissible program activities for adult and dislocated workers can be found in WIOA Sections 134(c) and (d), respectively. Similarly, allowable program activities for the youth program can be found in WIOA Section 129.

### **Funds Awarded Prior to December 26, 2014**

Funding received prior to December 26, 2014 (i.e., PY 2014-15 funds and before) must continue to follow the terms and conditions of those awards, including the cost principles required under the former OMB circulars. For information on allowable costs under the former OMB circulars, please refer to Workforce Investment Act Directive WIAD03-10.

### **Prohibited Use of Funds**

#### *Lobbying*

Subrecipients that receive WIOA Title I funds must comply with the restrictions on political activities as specified in WIOA Section 195. This provision prohibits the use of WIOA Title I funds for publicity or propaganda purposes, or for materials designed to support or defeat the enactment of federal, state, or local legislation; proposed or pending regulation; administrative action; or order issued by the executive branch of any state or local government. This also includes prohibition of the use of Title I funds for activities designed to influence the enactment or issuance of legislation; appropriations; regulations; administrative action; or an Executive Order proposed or pending before Congress, any state government, state or local legislature, or legislative body.

#### *Marijuana Industry*

Uniform Guidance Section 200.331 requires the state, as the pass-through entity, to advise subrecipients of imposed requirements by federal laws, regulations, and the provisions of contracts or grant agreements, as well as additional requirements imposed by the state. Although California passed Proposition 64, in accordance with federal law (21 U.S.C 812), marijuana is classified as a Schedule 1 narcotic, and is therefore illegal from a federal standpoint.

All grant agreements between the DOL and the state must follow all applicable federal statute, regulations, and policies. Therefore, in accordance with federal law, WIOA funds cannot be used to directly or indirectly support the marijuana industry including, but not limited to, use, possession, growth or distribution of marijuana. This applies to WIOA; Wagner-Peyser; Trade Adjustment Assistance; Veterans' Employment and Training Service; and National Dislocated Worker Grant programs and services including, but not limited to, training, employer outreach, hiring events, career counseling, job orders and referrals.

## Prior Written Approval

The Uniform Guidance includes administrative requirements and cost items that are allowable only with prior written approval from the federal awarding agency or pass through entity. Subrecipients should review the terms and conditions of their grant agreements to determine the appropriate authority to grant prior approval. As the pass-through entity of WIOA Title I funds, the EDD is responsible for granting prior approval in most cases.

Under any given federal award, the reasonableness and allocability of certain cost items may be difficult to determine. In order to avoid subsequent disallowance or dispute, subrecipients should obtain prior written approval for the incurrence of special or unusual costs. The following matrix lists key sections of the Uniform Guidance that address when prior written approval is required.

<b>Circumstance</b>	<b>Section</b>
Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts	<a href="#">§200.201</a> , paragraph (b)(5)
Cost sharing or matching	<a href="#">§200.306</a>
Program income	<a href="#">§200.307</a>
Revision of budget and program plans	<a href="#">§200.308</a>
Real property	<a href="#">§200.311</a>
Equipment	<a href="#">§200.313</a>
Fixed amount sub awards	<a href="#">§200.332</a>
Direct costs	<a href="#">§200.413</a> , paragraph (c)
Compensation—personal services	<a href="#">§200.430</a> , paragraph (h)
Compensation—fringe benefits	<a href="#">§200.431</a>
Entertainment costs	<a href="#">§200.438</a>
Equipment and other capital expenditures	<a href="#">§200.439</a>
Exchange rates	<a href="#">§200.440</a>
Fines, penalties, damages and other settlements	<a href="#">§200.441</a>
Fund raising and investment management costs	<a href="#">§200.442</a>
Goods or services for personal use	<a href="#">§200.445</a>
Insurance and indemnification	<a href="#">§200.447</a>
Memberships, subscriptions, and professional activity costs	<a href="#">§200.454</a> , paragraph (c)
Organization costs	<a href="#">§200.455</a>
Participant support costs	<a href="#">§200.456</a>
Pre-award costs	<a href="#">§200.458</a>
Rearrangement and reconversion costs	<a href="#">§200.462</a>
Selling and marketing costs	<a href="#">§200.467</a>
Taxes (including Value Added Tax)	<a href="#">§200.470</a>
Travel costs	<a href="#">§200.474</a>

Subrecipients should thoroughly review the Uniform Guidance sections referenced above to determine when prior written approval must be obtained, and assess if their specific

circumstance(s) require prior approval. As indicated in DOL Exception Section 2900.407, inclusion of item(s) in the statement of work or budget when awarded **does not** constitute prior approval; subrecipients must still follow all applicable policies and procedures outlined in this directive.

Property procurements with a unit acquisition cost of \$5,000 or more must have prior written approval. A non-property related purchase or circumstance that fits into one of the above referenced categories may still require prior written approval, regardless of the dollar amount.

### **Prior Written Approval Procedures**

Subrecipients must complete and submit the Prior Written Approval Request (Attachment 2), along with all necessary supporting documentation, to their assigned Regional Advisor no less than 30 days before the requested action is to occur.

The EDD will consider the following factors in its review of the requests:

- Is this purchase necessary and reasonable?
- Have the best products been selected?
- What other costs are associated with the purchase?
- If applicable, what procurement method will be used?
- If applicable, was a lease option considered in lieu of the purchase?

The Prior Written Approval Request and supporting documentation can be submitted to the assigned Regional Advisor electronically or through one of the methods listed below:

Mail	ATTN: (Name of Regional Advisor) Workforce Service Division, MIC 50 Employment Development Department P.O. Box 826880 Sacramento, CA 94280-0001
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Courier Service/ Overnight Mail	ATTN: (Name of Regional Advisor) Workforce Services Division, MIC 50 Employment Development Department 722 Capitol Mall Sacramento, CA 95814
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Subrecipients will receive a formal notification from their assigned Regional Advisor providing approval or denial of their request. Written approval must be received prior to the cost being incurred.

Approval is based on the supplied justification and supporting documentation for the proposed expenditure. If the actual expenditure is not in accordance with the justification or Uniform

Guidance requirements, the expenditure can still be questioned or disallowed. Factors affecting this include, but are not limited to, the following:

- Inadequate justification.
- Failure to follow internal, state, or federal policies.
- Expenditure is not necessary or reasonable.
- Failure to comply with applicable federal law or regulations.

### **Documentation**

Supporting documentation must be retained for all costs associated with a prior approval request. The documentation must establish that the expenditure meets the following criteria:

- Meets the cost principles (is necessary and reasonable for proper and efficient performance and administration of the grant).
- Is allocable to the grant based upon the benefits received.
- Is authorized or not prohibited under state or local laws and regulations.
- Conforms to any limitations or exclusions of cost item types or amounts, as set forth in the Uniform Guidance, federal law, federal award, or other governing regulations.
- Is consistent with applicable policies, regulations, and procedures.

## **ACTION**

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Please bring this directive to the attention of all appropriate staff and subrecipients.

## **INQUIRIES**

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If you have any questions, contact your assigned [Regional Advisor](#) at 916-654-7799.

/S/ JAIME L. GUTIERREZ, Chief  
Central Office Workforce Services Division

Attachments are available on the internet:

1. [Cost Items Matrix](#)
2. [Prior Written Approval Request](#)
3. [Summary of Comments](#)
4. [Errata Chronology](#)