

MISSISSIPPI
Policy Number 36 Revision
LOCAL WORKFORCE DEVELOPMENT AREAS'
PROCUREMENT PROCEDURES
Workforce Innovation and Opportunity Act
Office of Grant Management

I. SCOPE AND PURPOSE

The Workforce Innovation and Opportunity Act references fiscal and administrative procedures needed by both the State and local levels to implement the Workforce Innovation and Opportunity Act system. The purpose of this document is to list the broad requirements related to the procurement process. Local Workforce Development Areas (LWDAs) have the authority and responsibility for establishing procurement procedures.

II. REQUIREMENTS

A. Uniform Fiscal and Administrative Requirements

As stated in 20 CFR 667.200(a)(1) and (2), except for four situations, State, local and Indian tribal government organizations that receive grants or cooperative agreements under WIOA Title I must follow the common rule "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" that is codified at 29 CFR Part 97. With the four exceptions, institutions of higher education, hospitals, and other non-profit organizations must follow the common rule implementing OMB Circular A-110 that is codified at 29 CFR Part 95. The exceptions are described below:

1. Transactions between Local Boards and Units of Government

As stated in 20 CFR 667.200(a)(3), in addition to the requirements at 29 CFR 95.48 or 29 CFR 97.36(i), all procurement contracts and other transactions between Local Boards and units of State or local governments must be conducted only on a cost reimbursement basis. No provision for profit is allowed. (Also see WIOA Section 184(a)(3)(B).)

2. Code of Conduct

- a. As stated in 20 CFR 667.200(a)(4)(i), a Local Board member or Youth Council member must neither cast a vote on, nor participate in, any decision-making capacity on the provision of services by the member (or any organization the member directly represents),

nor on any matter that would provide direct financial benefit to the member or a member of his immediate family.

- b. As stated in 20 CFR 667.200(a)(4)(ii), neither membership on the Local Board or the Youth Council nor the receipt of WIOA funds to provide training and related services, by itself, violates the conflict of interest provisions.

3. Program Income/Addition Method

As stated in 20 CFR 667.200(a)(5), the addition method, described in 29 CFR 95.24 or 29 CFR 97.25(g)(2), must be used for all program income earned under WIOA Title I grants. When the cost of generating program income has been charged to the program, the gross amount earned must be added to the WIOA program. However, the cost of generating program income must be subtracted from the amount earned to establish the net amount of program income available for use under the grants when these costs have not been charged to the WIOA program.

4. Program Income/Excess Revenue

As stated in 20 CFR 667.200(a)(6), any excess of revenue over costs incurred for services provided by a governmental or nonprofit entity must be included in program income. (Also see WIOA Section 195(7)(A) and (B).)

B. WIOA References to Procurement Activity

- 1. CFR 661.300 Section 117(d)(2)(B) states that consistent with Section 123, the local board shall identify eligible providers of youth activities in the local area by awarding grants or contracts on a **competitive** basis, based on the recommendations of the youth council.
- 2. CFR 661.300 Section 117(h)(4)(B) specifies that one duty of the local board is to recommend eligible providers of youth activities to be awarded grants or contracts on a **competitive** basis to carry out the youth activities.
- 3. WIOA Section 118(b)(9) requires the local plan to include a description of the **competitive** process to be used to award the grants and contracts in the local area.
- 4. WIOA Section 121(d)(1)(A) describes the two options for designation or certification of a one-stop operator. One option is through a **competitive** process.

5. WIOA Section 123 deals with the identification of eligible providers of youth activities. The regulation requires the local board to identify eligible providers of youth activities by awarding grants or contracts on a **competitive** basis, based on the recommendations of the youth council and on the criteria contained in the State plan, to the providers to carry out the activities, and shall conduct oversight with respect to the providers, in the local area.
6. WIOA Section 134(d)(3)(B) states that intensive services shall be provided through the one-stop delivery system directly through one-stop operators or through contracts with service providers, which may include contracts with public, private for-profit, and private nonprofit service providers, approved by the local board.

C. Nonduplication

As stated in WIOA Section 195(2), funds provided under Title I of WIOA shall only be used for activities that are in addition to those that would otherwise be available in the local area in the absence of such funds.

D. Allowable Cost/Cost Principles

As stated in 20 CFR 667.200(c), each subrecipient must follow the Federal allowable cost principles that apply to its type of organization. The Department of Labor regulations at 29 CFR 95.27 and 29 CFR 97.22 identify the Federal principles for determining allowable costs that each type of subrecipient must follow. The applicable Federal principles are shown below:

1. Allowable costs for State, local, and Indian tribal government organizations must be determined under OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments."
2. Allowable costs for nonprofit organizations must be determined under OMB Circular A-122, "Cost Principles for Nonprofit Organizations."
3. Allowable costs for institutions of higher education must be determined under OMB Circular A-21, "Cost Principles for Educational Institutions."
4. Allowable costs for hospitals must be determined in accordance with Appendix E of 45 CFR Part 74, "Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals."
5. Allowable costs for commercial organizations and those nonprofit organizations listed in Attachment C to OMB Circular A-122 must be determined under the provisions of the Federal Acquisition Regulation (FAR), at 48 CFR Part 31.
6. In addition to the allowable cost provisions listed in II.D.1-5, the cost of information technology -- computer hardware and software -- will only be

allowable under WIOA Title I grants when the computer technology is "Year 2000 compliant."

E. Debarment and Suspension/Drug-Free Workplace

As stated in 20 CFR 667.200(d), all WIOA Title I subrecipients must comply with the government-wide requirements for debarment and suspension, and the government-wide requirements for a drug-free workplace codified at 29 CFR Part 98.

F. Lobbying

As stated in 20 CFR 667.200(e), all WIOA Title I subrecipients must comply with the restrictions on lobbying that are codified in the DOL regulations at 29 CFR Part 93.

G. Nondiscrimination

As stated in 20 CFR 667.200(f), all WIOA Title I recipients, as defined in 29 CFR 31.2(h), must comply with the nondiscrimination and equal opportunity provisions of WIOA Section 188 and its implementing regulations.

H. Cost Limitations

1. As required in 20 CFR 667.210(a)(2), local area expenditures for administrative purposes under WIOA formula grants are limited to not more than ten percent of the amount allocated to the local area under Sections 128(b) and 133(b) of the Act.
2. As stated in 20 CFR 667.210(a)(3), the ten percent of the amount allotted that may be reserved for local administrative costs need not be allocated back to the individual funding streams.
3. As stated in 20 CFR 667.210(c), the costs of information technology -- computer hardware and software -- needed for tracking and monitoring of WIOA program, participant, or performance requirements; or for collecting, storing and disseminating information under the core services provisions are excluded from the administrative cost limit calculation.
4. As stated in 20 CFR 667.210(d), in a one-stop environment, administrative costs borne by other sources of funds, such as Wagner-Peyser Act, are not included in the administrative cost limit calculation. Each program's administrative activities are chargeable to its own grant and subject to its own administrative cost limitations.

I. Administrative Cost Classifications

WIOA Title I functions and activities that constitute the costs of administration subject to the administrative cost limit are defined in 20 CFR 667.220.

J. American-Made Equipment and Products

As required by Section 505 of WIOA, each subrecipient shall comply with the Buy American Act (41 U.S.C. 10a et seq.).

K. State, Local, and Other Federal Procurement Rules

Applicable State, local, and other federal procurement rules shall also be followed.

III. OTHER CONSIDERATIONS

A. State Oversight

The oversight activities of the Office of Grant Management include a review of locally-established, written, procurement procedures and procurement activities.

B. Local Procurement Activities

Prior to initiating local procurement activities, each local workforce investment areas should establish a written, procurement procedure.

IV. EFFECTIVE DATE

This policy shall be effective immediately.



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11-29-2021

Date