

# REPORT OF THE CHIEF LEGISLATIVE ANALYST

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DATE: June 10, 2019

TO: Honorable Members of the Economic Development Committee

FROM: Sharon M. Tso   
Chief Legislative Analyst

Council File No: 19-0555  
Assignment No: 19-06-0579

SUBJECT: **Workforce Development Board Annual Plan Program Year 2019-20  
New Policies**

## SUMMARY

The Economic and Workforce Development Department (EWDD) develops the City of Los Angeles Workforce Development Annual Plan (Annual Plan) at the direction of the Workforce Development Board (WDB), City Council, and Mayor. The Annual Plan establishes priorities, strategies and policies for the City's Workforce Development System (WDS) which provides the following:

- Workforce and training services for adults in the City's WorkSource Centers (WSC)
- Education and employment support for youth in the City's YouthSource Centers (YSC)

The Annual Plan focuses on the delivery of workforce development services to vulnerable populations such as: homeless individuals, persons with disabilities, single parents, older workers, formerly incarcerated individuals, disconnected youth, LGBTQ individuals, and veterans.

The Council, Mayor, and WDB provide policy guidance and oversight of the City's WDS as set forth in the WDB/Local Elected Officials (LEO) Agreement which is prepared every four years and was last approved by Council in 2016 (C.F. 12-0602-S2). The Annual Plan includes the services and budget of the City's WDS for the upcoming Fiscal Year. The City Administrative Officer (CAO) will report on the budgetary components of the Annual Plan under separate cover.

It has been the practice since the Program Year 2 Annual Plan (2001-02) to include policies in the Annual Plan which govern the use of Workforce Innovation and Opportunity Act (WIOA) funds. Policies are drafted in response to new City policies, State requirements, and to codify operating efficiencies that have been identified by EWDD staff.

There are a total of 61 policies that govern the delivery of services in the 2019-20 Annual Plan. Of the 61 policies, 27 have been adopted without change and 24 have been revised to make technical changes. The remaining 10 policies are new, subject to approval, and are listed below:

1. CalJOBS Request for Correction (CRFC) Form Policy
2. Cash Advance Policy
3. Disallowed Cost Resolution and Repayment Policy and Procedures
4. Financial Reporting Procedure
5. Policy to Ensure Gender Equity Throughout the Workforce Development System
6. Indirect Cost Rate Policy
7. Personally Identifiable Information (PII) Policy

8. Single Audit Policy and Procedures
9. Stand-In Cost Policy
10. WIOA Grievance and Complaint Procedures

As further detailed in the Background section of this report, our office recommends approval of these new policies inasmuch as they streamline the administration of WIOA funds and provide further clarity and guidance to contractors who use these funds to provide services to City residents.

## **RECOMMENDATIONS**

That the City Council:

1. Approve and implement all proposed new policies included in the Program Year 2019-20 Workforce Development Board Annual Plan (C.F. 19-0555).
2. Request the Workforce Development Board, and instruct the Economic and Workforce Development Department, to monitor the implementation of the modified and proposed new policies and report on any impact incurred by the operators or the Department.

## **FISCAL IMPACT**

The recommendations in this report will not result in a fiscal impact to the General Fund.

## **BACKGROUND**

The Program Year 20 Workforce Development Board Annual Plan for Program Year 2019-20 (2019-20 Annual Plan) details major funding sources and is aligned with the City's Fiscal Year. The 2019-20 Annual Plan is consistent with the federal Workforce Innovation and Opportunity Act (WIOA) and the California Unified State Plan. The 2019-20 Annual Plan was transmitted to Council on May 24, 2019 (C.F. 19-0555).

### Annual Plan Budget

For Program Year 2019-20 (July 1, 2019-June 30, 2020), the City will receive approximately \$31.58 million in WIOA Adult, Dislocated Worker, Youth, and Rapid Response Formula funds from the State and approximately \$35.71 million in non-WIOA workforce-related grant funds that have been secured from State and other sources. In addition, WIOA carry-over funds from PY 2019-20 in the amount of \$3.25 million and \$1.83 million in other workforce-related grant funds are estimated to be available for reallocation in Fiscal Year 2019-20.

Total funding for WDS activities for Program Year 2019-20, including carry-over funds, is projected to be approximately \$72.37 million. The CAO will report on the budgetary components of the Annual Plan under separate cover.

### Annual Plan Policies

There are a total of 61 policies that govern the delivery of services in the 2019-20 Annual Plan. Of the 61 policies, 27 have been adopted without change and 24 have been revised to make technical changes in response to new State and federal directives and to enhance services to clients. The remaining 10 policies are new, subject to approval, and further discussed below.

This report focuses on the 10 new policies proposed by the WDB (attached). Highlights of these new policies are presented below:

1. CalJOBS Request for Correction (CRFC) Form Policy

EWDD and grant recipients are required by the State to report participant information via the CalJOBS system, which is the State of California online resource that helps individuals access the State's workforce services.

The 2019-20 Annual Plan provides a new policy in response to a new directive from the California Employment Development Department (State EDD) for local jurisdictions (such as the City of Los Angeles) to update existing procedures. This policy would streamline procedures to correct/update the information of CalJOBS enrollees and to submit the form for approval.

2. Cash Advance Policy

The EWDD states that contractors for WIOA-funded services normally receive payments for services on a reimbursement basis after the contractor has incurred expenses. If a grant recipient would rather receive a cash advance than be reimbursed, they must submit a written request to EWDD and meet certain financial criteria. This new proposed Cash Advance Policy would streamline existing procedures by codifying conditions for receiving cash advance payments.

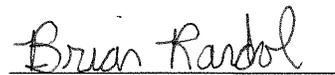
3. Disallowed Cost Resolution and Repayment Policy and Procedures  
This new Disallowed Cost Resolution and Repayment Policy and Procedures Policy codifies new streamlined procedures into the Annual Plan regarding activities that cannot be funded with the WIOA grant as well as the appeals process for contractors.
4. Financial Reporting Procedure  
These financial reporting requirements are intended to enhance the EWDD's ability to carry out its responsibilities in monitoring how grant funds are expended. This policy would codify existing financial reporting procedures into the Annual Plan. This would allow these procedures to be applied consistently as well as provide guidance to contractors on the financial reporting process.
5. Policy to Ensure Gender Equity Throughout Workforce Development System  
This policy was requested by the Commission on the Status of Women and was prepared in accordance with Executive Directive 11 (Gender Equity in City Operations). This policy was briefly referenced last year in the 2018-19 Annual Plan. The 2019-20 Annual Plan includes a detailed description of this new policy and its goals. It includes training on the prevention of gender bias within the WDS, prevention of sexual harassment, and increased services to domestic violence survivors and victims of human trafficking.
6. Indirect Cost Rate Policy  
This policy provides guidance and establishes procedures regarding indirect cost rate, which is the ratio of indirect costs to direct costs. Direct costs are incurred during the delivery of a WIOA-funded program, while indirect costs are incurred for such activities as human resources and accounting. EWDD states that this policy conforms to State EDD requirements.
7. Personally Identifiable Information (PII) Policy  
All programs receiving funding under the WIOA are required to protect personally identifiable information and other sensitive information. This policy specifies the procedures to securely store and safeguard such information.
8. Single Audit Policy and Procedures  
This policy provides guidance to grant recipients on the revised audit requirements for federal awards in accordance with the provisions of the Uniform Guidance 2 CFR 200, Sub Part F, 200.500 to 200.521, Audit Requirements. Under this policy, grant fund recipients that expend \$750,000 or more annually must conduct a single audit. The policy also outlines the audit process.
9. Stand-In Cost Policy  
This policy codifies existing procedures concerning Stand-In Costs into the Annual Plan in order to align with federal requirements. Stand-In Costs are allowable costs that were incurred during the operation of a program but paid from a non-federal funding source. Stand-In Costs may be substituted for disallowed grant costs when certain conditions are met. This policy describes the criteria used by EWDD to evaluate these costs.

10. WIOA Grievance and Complaint Procedures

This policy provides guidance and establishes procedures regarding grievances and complaints alleging non-criminal violations of WIOA requirements, such as violations of wage and labor standards. This policy is in alignment with State EDD directives.

Conclusion

Our Office recommends approval of the new and revised policies inasmuch as they provide greater oversight of funds, are aligned with City policies, and are required by the WIOA. In addition, we recommend that staff be instructed to monitor these policies and report on any impact incurred by the operators or the department as a result of the implementation of the new policies.



Brian Randol

Analyst

Attachment: Proposed New Policies

SMT:IS:JW:BR

**CalJOBS<sup>SM</sup> Request for Correction (CRFC) Form Policy**

EFFECTIVE DATE: July 1, 2019

**POLICY STATEMENT**

This policy provides guidance and establishes the procedures regarding the CalJOBS<sup>SM</sup> Request For Correction (CRFC) Form.

**BACKGROUND**

WIOA Title I Adult, Dislocated Worker, Youth, and National Dislocated Worker Grant Subrecipients, and Employment Development Department (EDD) Workforce Services Branch (WSB) staff are required to report participant information via the CalJOBS<sup>SM</sup> system. Managers, staff, and LA City Management Information System (MIS) Administrators have the ability to change active participant data. After 30 calendar days, the CalJOBS<sup>SM</sup> system does not allow certain areas of the participant record to be changed or updated by managers, staff, or LA City MIS Administrators. The CRFC Form is a tool to enable the participant data to be changed or updated. Its purpose is to correct data key entry errors and other circumstances that are beyond the control of staff.

**POLICY**

The CRFC Form is intended to maintain data integrity, promote consistent and accurate data in the DOL Quarterly and Annual reports, and enable performance to be properly calculated.

Data within the program application cannot be updated or changed once the individual becomes a participant in the program. It is the staff's responsibility to ensure that all application data is accurate **prior** to enrolling an individual. The only time a program application can be updated is when additional program eligibility is being determined. Only new data associated to that program eligibility can be added to the application.

WorkSource/YouthSource Centers, LA City MIS and WSB staff must ensure records are updated within 30 calendar days of the activity's Projected End Date/Scheduled Date to avoid a "System Closed" completion status. Once the activity becomes "System Closed," the data cannot be changed or updated. Activities with a "System Closed" status are **included** in performance calculations.

A participant's application is system-exited after 90 calendar days of inactivity *across all programs* within CalJOBS<sup>SM</sup>, and when no new activity has been scheduled for the participant in CalJOBS<sup>SM</sup>. If services (except post-program/follow-up services) need to be provided to an applicant who has been system-exited, the application intake process must be completed again. Participants who repeat the application intake process will have their new enrollment counted separately in performance calculations.

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If any data needs to be added or changed after 30 days, the CRFC Form must be completed and submitted to the LA City MIS Administrator. Any requests associated to data beyond 90 days will be reviewed on a case-by-case basis and may not be approved.

The State Program Reporting and Analysis Unit (PRAU) will review the request and analyze the overall impact of the proposed change, especially with respect to current WIOA performance outcomes. Each request will be considered on a case-by-case basis, contingent upon the detailed reasons listed, and the supporting documentation provided. If additional information is required, the PRAU will email the requestor for clarification. The requestor must reply to the PRAU message within seven calendar days, or the request may be denied. The reply must include the entire email stream and all attachments.

If the CRFC is approved, the PRAU will make the request changes and respond to the WSB office or the LA City MIS Administrator. It is the requestor's responsibility to verify that the changes made by the PRAU are accurate. If the CRFC is denied, the PRAU will notify the LA City MIS Administrator or WSB office and explain the reason(s) for the denial.

**PROCEDURE**

The CRFC Form requires: 1) Requestor Identifying Information and 2) Detailed Reason for Requested Correction.

Requestor Identifying Information

This section of the form includes: Request Date; Agency Name; MIS Administrator; Requested By; Requestor Phone; and Requestor Email Address.

Detailed Reason for Requested Correction

This section of the form includes: Reason for Correction; Participant Name; User Name; User ID; Last Four Digits SSN; and Reason for Correction.

Complete all data fields and make sure that a participant's full Social Security Number is not included. Any request without a detailed reason or explanation as to why the change needs to occur will be **denied**. When selecting a reason for correction, make sure to select only **one** reason. All applicable documentation must accompany the request.

**REFERENCES**

- WIOA (Public Law 113-128)
- Department of Labor (DOL) Training and Employment Guidance Letter (TEGL) 10-16, Change 1 Performance Accountability Guidance for Workforce Innovation and Opportunity Act (WIOA) Title I, Title II, Title III, and Title IV core Programs
- EDD Directive WSD 18-02, Data Change Request Form

(New PY 19-20)

## **Cash Advance Policy**

**EFFECTIVE DATE:** July 1, 2019

### **POLICY STATEMENT**

This policy provides the requirements to receive cash advances from the City.

### **BACKGROUND**

The Uniform Guidance 2 CFR 200.305, Subpart D, states that payment methods must minimize the time elapsing between the transfer of funds and the disbursement of funds. In order to be allowed to receive cash advances, a subrecipient must be able to demonstrate that it meets the financial management system standards as set forth in the Uniform Guidance.

### **POLICIES & PROCEDURES:**

A subrecipient receiving awards from the City will not automatically be allowed to receive cash advances. To receive cash advances, a subrecipient must submit a written request to EWDD's Financial Management Division (FMD). The following conditions must be met:

- Satisfactory cash management review by FMD's Audit Section and
- Submission of a Special Bank Account Agreement signed by the subrecipient and the bank where cash advances will be deposited,

If approved for cash advance payments, the Cash Request form may be submitted by the 25<sup>th</sup> day of the month.

Cash advances may be withheld or reduced under the following conditions:

- Cash advance request not in accordance with the approved Spending Plan and no explanation or justification was provided for the discrepancy;
- Delinquent submission of Expenditure Reports and all required supporting schedules and/or attachments;
- Subrecipient has audit findings related to cash management controls;
- Delinquent Single Audit report;
- Expired insurance coverage; and
- Other special conditions.

**REFERENCES**

- WIOA (Public Law 113-128)
- Office of Management and Budget (OMB), Title 2 Code of Federal Regulations (CFR) Part 200: “Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards” (Uniform Guidance)
- Office of Management and Budget (OMB), Title 2 Code of Federal Regulations (CFR) Part 200.305 “Payment” (Uniform Guidance)

(New PY 19-20)

**Disallowed Cost Resolution and Repayment Policy and Procedures**

**EFFECTIVE DATE:** July 1, 2019

**POLICY STATEMENT:**

This policy and procedures provides guidelines and establishes procedures for the resolution and repayment of disallowed costs.

Disallowed costs means those charges to a Federal, City, or local award that are found to be unallowable or unauthorized, in accordance with the applicable Federal, State, City and other local agency statutes, regulations, or the terms and conditions of the award or contracts (2 CFR 200.31, Disallowed costs). Disallowed costs are based on an audit or other reports by the City, Federal agency or other entities that conducted an audit.

**PROCEDURES**

**Initial Determination**

The subrecipient is responsible for addressing all findings or questioned costs identified in EWDD Financial Management Division's (FMD's) fiscal review report. If the subrecipient fails to provide the necessary support or fails to address the findings, then EWDD FMD will issue a Final Resolution/Initial Determination letter. The Initial Determination letter will include:

- A list of all questioned costs;
- Determination as to whether the costs are allowed or disallowed, including the reasons with appropriate citations for such actions;
- Acceptance or rejection of any corrective action taken to date, including correction on administrative findings;
- Possible sanctions; and
- The opportunity for an informal resolution of no more than sixty (60) days from the date of the Initial Determination.

**Informal Resolution**

Following the issuance of the Initial Determination, the subrecipient will have ten (10) days to request an informal resolution of the audit issues. The request must be made in writing to the City's EO Compliance Unit as follows:

City of Los Angeles  
Economic and Workforce Development Department (EWDD)  
Attn: Richard Cheng  
EO Compliance Unit  
1200 West 7<sup>th</sup> Street, 6<sup>th</sup> Floor Garland Building  
Los Angeles, CA 90017

During the informal resolution, the subrecipient may provide documentation to support allowability of costs and proposed action of administrative findings. Negotiations of repayments may be initiated at this time.

### **Final Determination**

EWDD FMD will issue a Final Determination, which will include the following:

- Reference to the Initial Determination;
- Summation of the informal resolution meeting, if held;
- Decisions regarding the disallowed costs listing each disallowed cost and noting the reason for each disallowance;
- Questioned costs that have been resolved and the reasons for the resolution;
- Demand for payment of the disallowed costs;
- Description of the debt collection process and other sanctions that may be imposed if payment is not received;
- Rights to a hearing; and
- Status of each administrative finding.

### **Administrative Hearing**

The subrecipient will have twenty-one (21) days after the Final Determination is issued to submit a written request for hearing with the EO Compliance Unit, EWDD. *If there is no appeal request, the Department's Final Determination shall be submitted to the Mayor for consideration by the Community and Economic Development Committee (CEDC) of the City of Los Angeles City Council.*

The subrecipient will receive written notice of the scheduled hearing at least ten (10) days before the hearing. The 10-day notice may be shortened with the written consent of both parties. The subrecipient may withdraw the hearing request. The withdrawal request must be submitted in writing.

The hearing officer's report which should be completed within twenty (20) days after the conclusion of the hearing, and any other reports or documentation, will be submitted to the Mayor for transmittal to the CEDC. The EO Compliance Unit, EWDD, will notify the subrecipient of the date of the CEDC meeting and provide the contractor with a copy of

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the Department's report to the Mayor on the hearing officer's findings and recommendations.

Note: Any hearing and issuance of the Final Determination are the final level for appeal of disallowed costs up to \$500,000.

The CEDC will review the matter and may allow testimony by the parties in accordance with its rules and procedures.

The recommendation of the CEDC will be sent to City Council and the Mayor for final consideration. The subrecipient will be notified in writing of the final decision of the City Council and Mayor. The written notification will include a summation of the issues identified and determinations therein, and shall be given 60 days from the date of the receipt of the subrecipient's request for appeal.

If the subrecipient does not appeal the final finding, the subrecipient shall agree to a repayment plan within thirty (30) days of the final decision of the City Council and Mayor.

**PAYMENT OF DISALLOWED COST**

1. If the subrecipient agrees with the findings and the related questioned costs or if the disallowed costs have been finally determined under the City and applicable grant's resolution procedures, the subrecipient shall pay the questioned and /or disallowed costs as follows:
  1. Issue a check payable to the City of Los Angeles - EWDD.
2. Apply stand-in costs in accordance with the conditions set forth by the City.
3. Request for a repayment plan to the Director, EWDD Financial Management Division and comply with the approved repayment plan.

Upon notice to the subrecipient, the EWDD may withhold questioned or disallowed costs from amounts due to the subrecipient pending resolution or payment of questioned or disallowed costs.

**REFERENCES**

- Public Law 109-234
- DOL Training and Employment Guidance Letter (TEGL) 05-06, Implementing the Salary and Bonus Limitations in Public Law 109-234, dated August 15, 2006
- State of California Employment Development Department Workforce Services Directive (WSD) 17-02, Salary and Bonus Limitations for 2017, dated August 4, 2017 (EDD has not issued a directive for 2018 as of the issuance of this policy.)
- City of Los Angeles Workforce Innovation and Opportunity Act (WIOA) Complaint Resolution Procedures (rev. Oct. 2017)

**INQUIRIES**

If you require further information regarding this policy, please contact your EWDD Program Monitor or the Financial Management Division at (213) 744-9000.

(New PY 19-20)

**Financial Reporting Procedure**

**EFFECTIVE DATE:** July 1, 2019

**POLICY STATEMENT**

This policy provides the financial reporting requirements for all subrecipients.

**BACKGROUND**

The Economic and Workforce Development Department Financial Management Division (EWDD-FMD) is responsible for submitting required financial reports to grantors. Grant reporting and timeframes vary based on the types of grants received and each grantor's unique requirements. EWDD's financial reporting requirements are in place to allow EWDD-FMD to manage the cash disbursed to subrecipients and meet each grantor's reporting requirements and assist with the department's oversight and monitoring responsibilities on how grant funds are spent.

**POLICIES & PROCEDURES:**

EWDD's subrecipients must submit **monthly** financial reports. These reports, commonly known as the "invoice", consist of the following forms:

- Cash Request,
- Expenditure Report:
  - Schedule of Personnel Costs,
  - Attachment (if required),
- Schedule of Leveraged Resources (if required),
- General Ledger, and
- General Ledger vs Expenditure Report Reconciliation

Subrecipients are required to submit monthly invoices on a cumulative basis which must include accrued expenditures and all the required expenditure breakdowns and other financial data. Delinquent reporting may impede payment of invoices and will have a negative impact on a subrecipient's Annual Performance Evaluation.

**Deadlines:**

LA County Grants:           5<sup>th</sup> day of the month

All Other Grants:           15<sup>th</sup> day of the month

If the deadline falls on a weekend or a holiday, the reports are due the weekday prior.

**General Ledger and General Ledger-Expenditure Report Reconciliation:**

The Uniform Guidance 2 CFR 200 and the City Contract require that expenditures reported be accounted for in the grantee's financial systems and accounting records and supported with adequate documentation.

All subrecipients must submit the following on a **quarterly basis**:

- General Ledger and
- Reconciliation of General Ledger and Expenditure Report

These are due by the end of the month following each quarter, i.e. October 31<sup>st</sup>, January 31<sup>st</sup>, April 30<sup>th</sup>, and July 31<sup>st</sup>. Earlier deadlines may be imposed as a result of audit findings, special conditions, closeout deadlines, etc.

As part of the fiscal monitoring review process, additional documentation may also be requested by EWDD-FMD's Audit staff.

**REFERENCES**

- WIOA (Public Law 113-128)
- Office of Management and Budget (OMB), Title 2 Code of Federal Regulations (CFR) Part 200: "Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards" (Uniform Guidance)
- Office of Management and Budget (OMB), Title 2 Code of Federal Regulations (CFR) Part 200.305 "Payment" (Uniform Guidance)
- State of California EDD WSD 16-13: "Monthly and Quarterly Financial Reporting Requirements"
- Financial Management Division (FMD) Directive 17-001: "New Financial Reporting Requirements for Workforce Innovation and Act (WIOA) Adult, Dislocated Worker, Youth, Governor's Discretionary, 25% Additional Assistance, and Special Grants"
- Financial Management Division (FMD) Directive 17-002: "New Financial Reporting Requirements Quarterly Submission of General Ledger"

(New PY 19-20)

**Policy to Ensure Gender Equity throughout the Workforce  
Development System**

**EFFECTIVE DATE:** July 1, 2019

**GENDER EQUITY DEFINED**

“Gender Equity” implies that the interests, needs and priorities of both women and men and those who identify as women or men are taken into consideration, recognizing the full spectrum of diversity within and between gendered groups.<sup>1</sup>

**POLICY STATEMENT**

The goal of this policy is to address the continuing challenge of occupational sex segregation in the workplace and the gender wage gap by integrating a gender perspective into the design, implementation, monitoring, and evaluation of all workforce development services offered through the Workforce Development System. These challenges must be addressed to ensure women and men, girls and boys, and people of various gender identities, and of all racial backgrounds, have equal opportunities to access job training and quality jobs that lead to living wage jobs with opportunities for career advancement.<sup>2</sup>

**BACKGROUND**

In 2015, Mayor Eric Garcetti issued an Executive Directive on Gender Equity<sup>3</sup> which called on City departments to implement the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) within their organizations and throughout their operations, and services. Gender Equity is defined

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<sup>1</sup> Mount Saint Mary's University, The City of Los Angeles 2015 Report on the Status of Women and Girls.

<sup>2</sup> Letter from Jackie Filla, President of the Los Angeles Commission on the Status of Women, Submitted as Public Comment during the Development of the City of Los Angeles Workforce Development Annual Plan Year 19/2018-2019.

<sup>3</sup> Mayor Garcetti, Executive Directive Number 11, Gender Equity in City Operations, August 2015.

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The directive requires each General Manager or Head of a City of Los Angeles Department to submit a Gender Equity Action plan by annually to implement a gender-sensitive strategy that:

- Upholds an inclusive work environment that promotes fairness and fosters the equal participation of women in leadership positions at all levels;
- Tracks recruitment in fields where women remain underrepresented (such as public safety, science, technology, engineering and mathematics) and addresses underrepresentation;
- Tracks contracts and promotes ways to ensure equal contracting opportunities for women-business enterprises;
- Evaluates City services to discover ways to increase gender equity parity and to promote equal opportunities for, and the advancement of women and girls;
- Provides any raw data regarding sex and gender on the City's open-data portal;
- Identifies and develops baseline metrics regarding the status of women and girls: and
- Publishes to the online Gender Equity Dashboard metrics and indicators related to the status of women and girls.

In alignment and support of Mayor Garcetti's commitment to achieving gender equality, the Workforce Development Board (WDB) will continue to strengthen its efforts to integrate a gender perspective into the design, implementation, monitoring, and evaluation of services provided through the Workforce Development System. Additionally the WDB will continue to actively collaborate with the City of Los Angeles Commission on the Status of Women to accelerate the implementation of this Executive Directive by enacting this policy.

**PROCEDURES**

**Data Gathering & Reporting**

In order to establish a baseline to determine whether workforce development programs and services meet the unique needs of women and men, girls and boys, and people of various gender identities, and of all racial backgrounds, all Workforce Development Service Providers shall gather data and report quarterly on the following data sets:

- Disaggregate data by gender, ethnicity and race for all WIOA funded workforce development programs for adults, dislocated workers, and youth by type of program to on the following:
  - Wage by gender and distribution in common jobs
  - Wage by race and ethnicity in common jobs
  - Employment by occupations

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- Training provided by industry sector and occupations
- School to career services for in-school and out-of-school youth
- Program enrollment and exit information by type
- Participation characteristics including: Veterans Status, Labor Force Status, School Status at Participation, Unemployment Insurance Status, Barriers to Employment, and Income/Public Assistance

The results will be reported quarterly as part of the City of Los Angeles Economic and Workforce Development Department's (EWDD) performance report to the: WDB, the Mayor's Gender Equity Team, and the City of Los Angeles Commission on the Status of Women. These data sets will be used to form a standard baseline to determine whether additional assessments of workforce development programs will be required to ensure that Angelenos benefit equally from Workforce Development Services.

**Outreach Efforts**

Workforce Development System providers shall ensure all outreach programs/efforts and materials are designed to meet the unique needs of women and men, girls and boys, and people of various gender identities.

**REFERENCES**

City of Los Angeles Workforce Development Board Annual Plan Year 19 2018-19

Letter from Jackie Filla, President of the Los Angeles City Commission on the Status of Women, Submitted as Public Comment during the Development of the City of Los Angeles Workforce Development Annual Plan Year 19 / 2018-2019.

Mayor Garcetti, Executive Directive Number 11, Gender Equity in City Operations, August 2015.

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## **Indirect Cost Rate Policy**

EFFECTIVE DATE: JULY 1, 2019

### **POLICY STATEMENT**

This policy provides guidelines and establishes the procedures for proposal, negotiation, and approval of indirect cost rate with the federal cognizant agency for indirect cost or the City of Angeles in appropriate cases.

Indirect (Facilities & Administrative (F&A)) Costs are those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. To facilitate equitable distribution of indirect expenses to the program, function, activity, award, organizational division, contract, or work unit served (2 CFR 200.28, Cost objective), it may be necessary to establish a number of pools of indirect (F&A) costs. Indirect (F&A) cost pools must be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived. (2 CFR 200.56)

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. The use of an indirect cost rate enables the organization to determine the proportion of indirect cost each program should bear.

### **PROCEDURES**

#### **SUB-RECIPIENTS WITH FEDERAL COGNIZANT AGENCY FOR INDIRECT COST**

- Develop and submit an Indirect Cost Proposal to your federal cognizant agency for indirect cost. The requirements for negotiation and approval of indirect cost rates are in Appendices III for Institutions of Higher Education (IHE), IV for Non-Profits, VII for State and Local Government (2 CFR 200.414(e); 2 CFR 200.57), and Federal Acquisition Regulations (FAR), Part 31.2, Contracts with Commercial Organizations, and FAR Part 42.7, Indirect Cost rates, for commercial entities (<https://www.acquisition.gov/Far/>). The U.S. Department of Labor, Office of Cost Determination, has issued a Guide for Indirect Cost Determination (<https://www.dol.gov/oasam/boc/dcd-2-cfr-guid.pdf>). Sub recipients must follow these requirements and regulations.

Indirect Cost Proposal is the documentation prepared by a non-Federal entity to substantiate its request for the establishment of an indirect cost rate (2 CFR 200.57) Cognizant Agency for Indirect Costs is the federal agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals developed on behalf of all Federal agencies. (2 CFR 200.19)

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- Upon negotiation and approval of an Indirect Cost Rate, submit a copy of the Indirect Cost Rate Agreement from the federal cognizant agency to the City of Los Angeles Economic and Workforce Development Department (EWDD), Financial Management Division (FMD) along with a copy of the indirect cost proposal submitted.
- This Indirect Cost Rate Agreement will be the basis for EWDD's approval of the sub-recipient's indirect cost rate, subject to funding availability and grant restrictions.
- For WIOA and those City contracts subject to an administrative cost cap/limit (currently at 4% of total contract), subrecipient must submit a detailed breakdown of its indirect cost components into administrative and program and the calculation of the proportion (percentage) of each category to the total indirect costs. If this breakdown and calculation is not submitted, indirect costs will be considered administrative. In addition, indirect program cost must be documented.
- The procedures or methodology for calculating indirect administrative and program costs are as follows:
  - Review all the costs included in the indirect pool and label them as program or administrative costs based on the WIOA definition (20 CFR 683.215, What WIOA functions and activities are subject to cost limitations)
  - Calculate the proportion (percentage) of total costs for each of the two categories.
  - Calculate the total dollar amount of indirect costs attributable to the particular WIOA program (i.e., apply the negotiated indirect cost rate to the specified base).
  - Apply the percentages of administrative and program as calculated to the total dollar amount of indirect costs to establish the dollar amount that is to be recorded/reported as administrative costs and the amount that is program costs for that particular program (U.S. Department of Labor One-Stop Comprehensive Financial Management Technical Assistance (TAG) Guide Part II).

**SUB-RECIPIENTS WITHOUT A FEDERAL COGNIZANT AGENCY**

- Submit your indirect cost rate proposal package to the City EWDD FMD consisting of the following:
- Worksheet(s) showing the computation of the indirect cost rate – (including notes for adjustments).
- Audited financial statements – The direct and indirect costs in the worksheet should be traceable and reconcilable with the costs in the audited financial statements.

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- A breakdown of its indirect cost components into administrative and program and the percentage of each to the total indirect costs. In accordance with 20 CFR 683.215 and One-Stop Comprehensive Financial Management Technical Assistance Guide Part II (TAG).
- Certificate of Indirect Costs signed by a staff at a level no lower than Executive Director or Chief Financial Officer.
- A cost policy statement that identifies what the agency consider as direct and indirect costs and the rationale to support those costs.
- Latest Organization Chart.
- A cover letter forwarding these documents to the Director, Financial Management Division.
- All other documents that the City may require.
- If the proposal is complete and approved, EWDD FMD will issue a formal letter stating the following:
  - a final rate and period covered
  - tentative rate and period covered, if applicable.
  - direct cost base (example direct salary, or total direct cost)
- The tentative rate will be revised and a final rate approved for the same period when a new indirect cost rate proposal is submitted the following year.

**DUE DATES TO SUBMIT AN INDIRECT COST PROPOSAL**

A non-profit organization which has not previously established an indirect cost rate with a Federal agency must submit its initial indirect cost proposal immediately after the organization is advised that a Federal award will be made and, in no event, later than three months after the effective date of the Federal award, except when the organization has elected to use the 10% de minimis rate. (2 CFR 200, Appendix IV C (2) (b))

A non-profit organization with previously submitted or established rates must submit a new indirect cost proposal to the cognizant agency for indirect costs within six months after the close of each fiscal year, unless an extension has been approved in accordance with the procedures stated below. (2 CFR 200, Appendix IV C (2) (c))

**EXTENSIONS**

Any non-Federal entity that has a current federally negotiated indirect cost rate may apply for a one-time extension of the rates in that agreement for a period of up to four years. This extension will be subject to the review and approval of the cognizant agency for indirect costs. If an extension is granted the non-Federal entity may not request a rate review until the extension period ends. At the end of the 4-year extension, the non-Federal entity must re-apply to negotiate a rate. Subsequent one-time extensions (up to

four years) are permitted if a renegotiation is completed between each extension request (2 CFR 200.414(g)).

These rules on submission and extensions shall apply to indirect cost rates negotiated with the City.

**10% DE MINIMIS RATE**

2 CFR 200.414(f) allows any non-Federal entity (NFE) that has never received a negotiated indirect cost rate to charge a *de minimis* rate of 10% of modified total direct costs (MTDC).

The NFE may use of the 10% de minimis indirect cost rate for City Contracts indefinitely until it elects to negotiate an indirect cost rate.

In accordance with the provisions of the Uniform Guidance 2 CFR §200.414 (f), Indirect (F&A) Costs, the use of the 10% de minimis rate shall be based on the organization meeting the following eligibility criteria and requirements:

- The organization has never received a negotiated indirect cost rate from any Federal agency.
- The organization has never received a negotiated indirect cost rate from any City of Los Angeles (City) department or any local governmental agency.
- The 10% rate will be applied to Modified Total Direct Costs (MTDC), as defined in 2 CFR §200.68.
- MTDC shall include:
  - All direct salaries and wages, applicable fringe benefits,
  - Materials and supplies,
  - Services,
  - Travel, and
  - Up to the first \$25,000 of each sub award (regardless of the period of performance of the sub awards).
- MTDC shall exclude:
  - Equipment, capital expenditures,
  - Charges for patient care,
  - Rental costs,
  - Tuition remission, scholarships and fellowships,
  - Participant support costs, and

- The portion of each sub award in excess of \$25,000.  
Note: Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs.
- Costs must be consistently charged as either indirect or direct and not double charged or inconsistently charged as both (2 CFR §200.403, Factors affecting allow ability of costs).
- The organization is responsible for the proper use and application of the de minimis rate.
- The organization shall disclose its election to use the 10% de minimis rate in its budget proposals or modifications with the City.
- The organization is required to track all administrative costs as defined in 20 CFR §683.215 separately from program costs, including the administrative cost portion of the indirect cost pool. The total administrative costs may not exceed 4% of your award or actual expenditures, if lower. The organization must provide a breakdown of the indirect costs between administrative and program indicating the percentage of each to the total indirect cost. The same breakdown must be used in reporting its monthly expenditures. The City will not reimburse administrative costs in excess of the current 4% limit and/or costs that are inherently administrative but are classified and reported as program without adequate supporting documentation.
- Upon review of the request to use 10% de minimis rate, EWDD-FMD will issue a formal letter approving/disapproving the request based on the above criteria and requirements.
- The City - EWDD FMD will verify the organization's compliance with 2 CFR §200.414(f),
- 2 CFR §200.68, 2 CFR §200.403, 20 CFR §683.215, and City requirements.

## **REFERENCES**

- Title 2 Code of Federal Regulations (CFR) Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements;
- Title 2 Code of Federal Regulations (CFR) Part 2900 Uniform Administrative Requirements, Cost Principles, and Audit Requirements – Department of Labor;
- 2 CFR 200.414 – Indirect (F&A) costs;
- 20 CFR 683.215, What WIOA administrative functions and activities constitute the costs of administration subject to administrative cost limitation?
- U.S. Department of Labor One-Stop Comprehensive Financial Management Technical Assistance Guide Part II, Chapter 11-5, Cost Classification, Indirect Costs pages 11-5-6 to 11-5-7.  
[https://www.doleta.gov/grants/pdf/TAG\\_PartII\\_July2011.pdf](https://www.doleta.gov/grants/pdf/TAG_PartII_July2011.pdf)

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- Federal Acquisition Regulations (FAR), Part 31.2, Contracts with Commercial Organizations, and FAR Part 42.7, Indirect Cost rates.  
(<https://www.acquisition.gov/Far/>)
- City Contract, Section 301 (F) Indirect Cost

(New PY 19-20)

## **Personally Identifiable Information (PII) Policy**

**EFFECTIVE DATE:** July 1, 2019

### **POLICY STATEMENT**

All programs receiving funding under the Workforce Innovation and Opportunity Act (WIOA) must protect all personally identifiable information (PII) and other sensitive information. All WIOA funded agencies are required to take aggressive measures to mitigate the risks associated with the collection, storage, and dissemination of sensitive data, including PII.

An agency's failure to comply with the requirements identified in this policy, or any improper use or disclosure of PII for an unauthorized purpose, may result in the termination or suspension of the agreement with the City, or the imposition of special conditions or restrictions, or such other actions as the City may deem necessary to protect the privacy of participants or the integrity of data.

### **BACKGROUND**

As part of its grant activities, the City of Los Angeles Workforce Development System (WDS) may have in their possession large quantities of PII relating to their organization and staff; partner organizations and their staff; and individual program participants. This information is generally found in personnel files, participant data sets, performance reports, program evaluations, grant and contract files and other sources.

### **Definitions**

- PII – 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.
- Sensitive Information – 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.
- Protected PII and Non-sensitive PII – The United States Department of Labor (DOL) has defined two types of PII: (1) Protected PII and (2) Non-sensitive PII. The differences between protected PII and Non-sensitive PII are primarily based on an analysis regarding the "risk of harm" that could result from the release of the PII.
  - Protected PII is information that if disclosed could result in harm to the individual whose name or identity is linked to that information. Examples of protected PII include, but are not limited to, social security numbers (SSNs), credit card numbers, bank account numbers, home telephone numbers, ages, birthdates, marital status, spouse names, educational

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history, biometric identifiers (finger prints, voiceprints, iris scans, etc.), medical history, financial information, and computer passwords.

- Non-sensitive PII, on the other hand, is information that if disclosed, by itself, could not reasonably be expected to result in personal harm. Essentially, it is stand-alone information that is not linked or closely associated with any protected or unprotected PII. Examples of non-sensitive PII include information such as first and last names, e-mail addresses, business addresses, business telephone numbers, general education, credentials, gender, or race. However, depending on the circumstances, a combination of these items could potentially be categorized as protected or sensitive PII.

**PROCEDURE**

Federal regulations require that PII and other sensitive information be protected. The WDS must secure transmission of PII and sensitive data developed, obtained, or otherwise associated with WIOA funds and must comply with all of the following:

- To ensure that such 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. The WIOA funded agencies must not e-mail unencrypted sensitive PII to any entity.
- The City and all WIOA funded agencies must take the steps necessary to ensure the privacy of all PII obtained from participants and/or other individuals and to protect such information from unauthorized disclosure. All agencies must maintain such PII in accordance with the DOL Employment and Training Administration standards for information security described in this policy.
- The WIOA funded agencies shall ensure that any PII used during the performance of their agreement with the City has been obtained in conformity with applicable federal and state laws governing the confidentiality of information.
- The WIOA funded agencies further acknowledge that all PII data shall be stored in an area that is physically safe from access by unauthorized persons at all times.
- The WIOA funded employees and other personnel who will have access to sensitive/confidential/proprietary/private data (1) must be informed of the confidential nature of such information and of the safeguards required to protect such information; and (2) must be advised that, per federal and state laws, civil and criminal sanctions may be imposed for noncompliance.
- The WIOA requires that funded agencies have in place policies and procedures under which their employees and other personnel acknowledge (1) their understanding of the confidential nature of the data, (2) the requirements with which they are required to comply when handling such data, and (3) that they may be liable to civil and/or criminal sanctions for noncompliance with statutory nondisclosure requirements.

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- Grantees must not extract information from data supplied by the CalJOBS<sup>SM</sup> system for any purpose not stated in their contract agreement with the City.
- Access to any PII must be restricted to only those employees who need it in their official capacity to perform duties in connection with the scope of work in the agreement with the City.
- All PII data must be processed in manner that will protect the confidentiality of the records/documents and is designed to prevent unauthorized persons from retrieving such records by computer, remote terminal or any other means. Data may be downloaded to, or maintained on, mobile or portable devices only if the data are encrypted.
- The WIOA funded agencies must permit city, state, and federal staff to make onsite inspections during regular business hours for the purpose of conducting audits and/or conducting other investigations to assure that the WIOA funded agency is complying with the confidentiality requirements described in this policy.
- The WIOA funded agencies must retain data only for the period of time required to use it for assessment and other purposes, or to satisfy applicable Federal records retention requirements, if any. Thereafter, all data will be destroyed, including the degaussing of magnetic tape files and deletion of electronic data.

**Protecting PII**

- Before collecting PII or sensitive information from participants, the WIOA funded agencies must have participants sign releases acknowledging the use of PII for grant purposes only.
- Whenever possible, the use of unique identifiers for participant tracking instead of SSNs. While SSNs may initially be required for performance tracking purposes, a unique identifier could be linked to each individual record. Once the SSN is entered for performance tracking, the unique identifier would be used in place of the SSN for tracking purposes. If SSNs are to be used for tracking purposes, they must be stored or displayed in a way that is not attributable to a particular individual, such as using a truncated SSN.
- Use appropriate methods for destroying sensitive PII in paper files (i.e., shredding or using a burn bag) and securely deleting sensitive electronic PII.
- Do not leave records containing PII open and unattended.
- Store documents containing PII in locked cabinets when not in use.

**REFERENCES**

- Privacy Act of 1974
- Computer Security Act of 1987
- Title III of the E-Government Act of 2002
- Office of Management and Budget (OMB) M-0615, Safeguarding Personally Identifiable Information
- OMB M-06-19, Reporting Incidents Involving Personally Identifiable Information and Incorporating the Cost for Security in Agency Information Technology Investments
- Executive Order 13402 established the President's Task Force on Identity Thief

(New PY 19-20)

## Single Audit Policy and Procedures

EFFECTIVE DATE: JULY 1, 2019

### POLICY STATEMENT

This policy is to provide guidance to all Economic and Workforce Development Department (EWDD) subrecipients on the revised audit requirements for federal awards in accordance with the provisions of the Uniform Guidance 2 CFR 200, Sub Part F, 200.500 to 200.521, Audit Requirements.

### POLICY AND PROCEDURES

#### Requirement for Audit:

The Uniform Guidance 2 CFR 200.501 requires subrecipients that expend \$750,000 or more of Federal awards and sub awards during the entity's fiscal year to have a single audit or a program-specific audit.

Single Audit. A subrecipient that expends \$750,000 or more of Federal awards and sub awards during the entity's fiscal year must conduct a single audit.

Program-Specific Audit: When a sub recipient expends \$750,000 or more during the entity's fiscal year under only one Federal program, the sub recipient may elect to have a program-specific audit conducted in accordance with the provisions of the Uniform Guidance. The cost of a program specific audit is allowable to that program.

Exemption from Audit: When Federal awards and sub-awards expended are less than \$750,000 during the entity's fiscal year, a sub recipient is exempt from Federal audit requirements for that year. In those instances, EWDD requires the sub recipient to submit a written certification stating the exemption.

For-profit Subrecipient: The audit requirements at 2 CFR 200.500 to 200.521 do not apply to for-profit subrecipients. Those requirements make the pass-through entity responsible for establishing requirements, as necessary, to ensure compliance by for-profit sub recipients. In accordance with that direction, the City EWDD is requiring all for-profit sub recipients to follow the guidance established in this policy and procedures for the conduct of audits, either single audits or program specific audits, depending on whether the entity is multiple funded or receives only one source of Federal funds, and the level of total Federal expenditures incurred in the organization's fiscal year.

Subrecipients and Contractors: An auditee may simultaneously be a subrecipient and a contractor. Federal awards expended as a subrecipient are subject to audit. The payments received for goods or services provided as a contractor are not Federal awards.

**Frequency of Audits (2 CFR 200.504):**

Audits must be performed annually.

**Sanctions (2 CFR 200.505):**

In cases of continued inability or unwillingness to have an audit conducted in accordance with these requirements, the EWDD may impose sanctions which may include but are not limited to suspension of payments or termination. EWDD may, at its sole discretion, have a single audit or program specific audit conducted in accordance with the provisions of the Uniform Guidance. The cost of such audit will be chargeable to the subrecipient.

**Auditee Responsibilities (2 CFR 200.508):**

The auditee must:

- Procure or otherwise arrange for the audit (2 CFR 200.509, Auditor Selection).
- Provide EWDD with a copy of the engagement letter no later than 6 months prior to the audit submission due date.
- Prepare the appropriate financial statements and the schedule of expenditures of Federal awards for the fiscal year audited (2 CFR 200.510, Financial Statements).
- Promptly follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit findings and a corrective action plan (2 CFR 200.511, Audit Findings)
- Provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit (2 CFR 200.508(d)).

**Report Submission:**

- The single audit report package must be completed and submitted electronically to the Federal Audit Clearinghouse (FAC) within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period (2 CFR 200.512, Report Submission).
- A copy of the single report must also be submitted within the same period stated above to :

Economic and Workforce Development Department  
City of Los Angeles  
1200 West 7th Street  
Los Angeles, CA 90017  
Attn: Financial Management Division (FMD) - Audit Section

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- If the due date falls on a Saturday, Sunday, or Federal holiday, the reporting package is due the next business day.
- The auditee must make copies available for public inspection. Auditees and auditors must ensure that their respective parts of the reporting package do not include protected personally identifiable information.

**Audit Documentation and Access to Documentation (2 CFR 200.517):**

The auditee must ensure that the auditor retains audit documentation and reports for a minimum of three years after the date of issuance of the auditor's report(s) to the auditee, unless the auditor is notified in writing by the cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or EWDD to extend the retention period.

When the auditor is aware that the Federal agency, EWDD, or auditee is contesting an audit finding, the auditor must contact the parties contesting the audit finding for guidance prior to destruction of the audit documentation and reports.

Audit documentation must be made available upon request to the cognizant or oversight agency for audit or its designee, cognizant agency for indirect cost, the General Accounting Office or EWDD and its representatives at the completion of the audit, as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities. Access to audit documentation includes the right of the above agencies to obtain copies of audit documentation, as is reasonable and necessary.

**REFERENCES**

- Uniform Guidance 2 CFR 200, Sub Part F, Audit Requirements, 200.501 to 200.521
- Uniform Guidance 2 CFR 200, Sub Part D, Post Federal Awards Requirements, 200.331, Requirements for Pass-Thru Entities
- City Directive FMD 17-003, Audit Requirements-Policies and Procedures
- City Contract, Section 608, Audit and Inspections

(New PY 19-20)

**Stand-In Cost Policy**

**EFFECTIVE DATE: July 1, 2019**

**POLICY STATEMENT**

This policy establishes guidelines for the proposal and approval of stand-in cost to replace questioned/disallowed costs.

**BACKGROUND**

Stand-in costs are non-Federal costs that may be substituted for disallowed grant costs identified through monitoring, audit, or other type of review, when certain conditions are met.

**POLICIES & PROCEDURES**

Stand-in costs must meet the following criteria to be considered and accepted:

- Must be allowable costs that were actually incurred for the benefit of the funded program and paid by non-federal fund sources. Thus, for example, the dollar value of in-kind donations cannot be recognized as stand-in costs. Also, inasmuch as costs must be net of credits under the governing cost principles, the dollar value of discounts cannot be considered as an allowable grant costs.
- Must have been included within the scope of the organization's single audit (not necessarily tested but potentially subject to testing). This means that the costs must be recorded and included in the financial statements presented by the agency to the auditor for audit. Failure to include unbilled costs disqualifies the costs for stand-in consideration.
- Must have been accounted for in the sub recipient's financial system. This means that the unbilled expense must be recorded and documented in the books of accounts. It cannot be presented as a separate consideration outside the entity's accounting system.
- Must be adequately documented in the same manner as all other program costs. This means that the unbilled expense must be treated in a manner consistent with cost principles affecting other expenses, including but not limited to the cost allocation methodology, cost classification methodology, and supporting documentation requirements.
- Must be reported to the City in the period in which it was incurred. The sub recipient shall report stand-in on the Stand-in line item in its report of expenditures to the City. The subrecipient shall submit a written request to use stand-in costs stating the purpose, amount of stand-in and disallowed costs to be substituted, and the documentation to support the stand-in for City audit. City

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staff will make a determination whether the stand-in costs will be accepted as a resolution for disallowed /questioned costs.

The source of stand-in costs is intended to be limited to the same entity that incurred the disallowed costs. If the cause of the disallowed costs was fraud, then the City will not consider proposals of stand-in costs to substitute for such costs.

**Examples of Stand-In Costs:**

1. Staff salaries and benefits paid from the subrecipients' own general fund,
2. (2) Facility costs paid for by the contractor from its own general fund,
3. (3) Supplies, transportation expenses and other program related expenditure paid for by the subrecipient's own funds,
4. (4) Cash match (i.e., expenditures of the organization used as match) in excess of the required match may also be considered for use as stand-in costs.

**Exclusions to Stand-in Costs:**

Stand-in Costs cannot be created using circumstances or conditions that appear to be legitimate liabilities if no actual costs are incurred by any entity. Certain costs, including in-kind contributions, are not considered unpaid program liabilities, but rather as in kind match; therefore, they cannot be used as stand-in costs because they cannot be charged to the federal grant. **Examples of other costs that are not Stand-in Costs include:**

- Uncompensated overtime;
- Unbilled premises costs associated with fully depreciated publicly owned buildings;
- Discounts and rebates;
- Allocated costs derived from an improper allocation methodology; and
- Any State share of the cost of State and community college tuition.

**REFERENCES**

- US Department of Labor One-Stop Comprehensive Financial Management Technical Assistance Guide Part II, Chapter 12, Audits and Audit Resolution, pages 12-12 to 12-14, [https://www.doleta.gov/grants/pdf/TAG\\_PartII\\_July2011.pdf](https://www.doleta.gov/grants/pdf/TAG_PartII_July2011.pdf)
- 68 Comptroller General 247, B-208871.2, February 9, 1989, Procurement Payment/Discharge - Costs – Substitution, <https://www.gao.gov/products/464734>
- Employment Development Directive WIAD05-17, Audit Resolution, [https://www.edd.ca.gov/jobs\\_and\\_training/Active\\_Directives.htm](https://www.edd.ca.gov/jobs_and_training/Active_Directives.htm)

(New PY 19-20)

## WIOA Grievance and Complaint Procedures

EFFECTIVE DATE: July 1, 2019

### POLICY STATEMENT

The principles and procedures set forth in this WIOA Title I Complaint Resolution Procedure shall be used by all WorkSource and YouthSource Centers, and subcontractors with the City of Los Angeles to resolve complaints which arise in connection with programs operated under the WIOA Title I grant funded programs.

### BACKGROUND

The City of Los Angeles, Local Workforce Development Area (LWDA), hereby establishes this Workforce Innovation and Opportunity Act (WIOA) Complaint Resolution Procedure pursuant to Title 20 CFR Section 683.600-683.650, [Subpart F—Grievance Procedures, Complaints, and State Appeals Processes]; and, Title 29 CFR Part 38, [Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act]. The City's Workforce Innovation and Opportunity Act, WIOA, Title I programs are administered by the Workforce Development Division (WDD) of the Economic & Workforce Development Department (EWDD).

### POLICIES

#### Retaliation Prohibition

No person, organization or agency may discharge, or in any other manner discriminate or retaliate against any person, or deny any person a benefit to which that person is entitled under the provisions of the WIOA Title I regulations because such person has filed any complaint, instituted or caused to be instituted, any such proceeding or investigation, or has provided information or assisted in an investigation.

#### Confidentiality

The identity of any person who has furnished information relating to, or assisting in, the investigation of a possible violation of the Act shall be confidential to the extent possible, consistent with a fair determination of the issues.

In any case where the alleged violation of the Act or WIOA Title I regulations is also an alleged violation of another law, regulation or agreement, nothing shall preclude an individual or an organization from filing a complaint or grievance under the other law or agreement with respect to the non-WIOA Title I cause of action, as well as filing a complaint under the WIOA Title I in accordance with the procedures described herein.

#### Time Frames

All time frames specified in these procedures refer to consecutive calendar days including weekends and holidays. *When the time frame stated refers to a receipt of notice mailed certified return receipt requested, the time frame shall commence when*

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*the Postal Service first attempts delivery; (i.e., leaves a notice). It is the responsibility of all parties to pick up mail in a timely manner.*

“Complaint” means a written expression by a party alleging a violation of the Act, regulations promulgated under the Act, recipient grants, sub-agreements, or other specific agreements under the Act.

**WORKSOURCE/YOUTHSOURCE CENTERS' COMPLAINT REQUIREMENTS**

Each of the designated WorkSource/YouthSource Centers has the duty and responsibility to ensure that the WorkSource/YouthSource Agency is in compliance with the provisions of the WIOA complaint resolution procedure and shall work cooperatively with the City of Los Angeles' designated EO Compliance Officer to process all complaints filed with their agency involving WIOA Title I funded participant activities.

**Orientation**

At Orientation, each participant in the WIOA Title I program will be provided with a copy of the Summary of the WIOA Complaint Resolution Procedure. Each participant will sign a receipt indicating that he or she has received the complaint information and that receipt, along with a copy of the Summary of the Complaint Procedures, shall be maintained in the participant's file. This information shall be provided in other languages and in electronic format upon request.

These procedures will be available for use by all individual entities, including unsubsidized employees in an employment activity operating with WIOA Title I funds, participants in an employment activity operated with WIOA funds, subcontractors of LWDA, entities and individuals that are applicants for WIOA program funding, labor unions, community based organizations, education agencies, private employers and other interested parties.

**TYPES OF COMPLAINTS COVERED UNDER WIOA**

There are four distinct procedures for filing WIOA complaints. The WIOA Complaint procedures cover the following types of complaints:

1. Program Complaint (Noncriminal)
2. Discrimination Complaint
3. Questioned/Disallowed Costs Complaint
4. Fraud, Waste and Abuse [20 CFR Part 683, Subpart B, Administrative Rules, Costs, and Limitations]

Program complaint issues covered by the WIOA are:

**Displacement [§683.270 & §680.840]**

A participant in a program or activity authorized under Title I of WIOA must not displace (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits) any currently employed employee (as of the date of the

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participation). Where an employment activity would violate a collective bargaining agreement, the regulations provide that the appropriate affected labor organization and employer must provide written concurrence before the employment activity can be undertaken. The employment or assignment of a WIOA participant or the filling of a position is prohibited when the employer has terminated any regular, unsubsidized employee or otherwise reduced its workforce with the intent of filling the vacancy with a WIOA participant. A WIOA participant may not be employed or assigned to a position where the employer has caused an involuntary reduction to less than full time in hours of an employee in the same or substantially equivalent job.

Health and Safety [§683.280]

Health and safety standards established under the Federal and State Law otherwise applicable to working conditions of employees are equally applicable to working conditions of participants engaged in programs and activities under Title I of the WIOA.

Workers' Compensation: To the extent that workers' compensation law applies, workers' compensation must be provided to participants in programs and activities under Title I of the WIOA on the same basis as the compensation provided to other individuals in similar employment.

**NOTE:** In the case of a complaint alleging a violation of health and safety standards by a contractor (employer), the contractor will be required to demonstrate its compliance with State and Federal regulations governing health and safety requirements for that industry [e.g., CAL/OSHA certification].

Wage and Labor Standards [§683.275 & §684.920]

Individuals in On-The-Job training or employed in activities under Title I of the WIOA must be paid at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience and skills. Such rates must be in accordance with applicable law [Fair Labor Standards Act of 1938, Section 6(a)(1) 29 U.S.C. 206(a)(1) or applicable State or local minimum wage law].

Violation of the Act, grant or agreement (including retaliation), [WIOA Section 188(a)]:

- Terms and conditions of WIOA participant employment (On-the-Job Training, Customized Training, Work Experience)

Complaints filed under this section relate only to the terms and conditions of WIOA participant employment. Typical complaints under this section include disputes over wages or working hours, working conditions, employee and/or training evaluations and disciplinary actions, including termination for cause. The responsibility for resolving the complaint rests initially with the employer and/or contractor.

Discrimination Complaints [WIOA Section 188, 29 CFR Part 38]

**PROGRAM COMPLAINTS: WIOA TITLE 20 CFR §683.600 (Subpart F)**

These procedures will guide the receipt, hearing and resolution of noncriminal complaints filed at the City of Los Angeles LWDA level for complaints relating to WIOA programs and services.

**REFERENCES**

- WIOA Section 181
- Title 20 CFR §683.600
- Title 29 CFR §38.35
  
- Only a complaint which alleges a violation of the WIOA, regulations promulgated under the Act, recipient grants, sub-agreements, or specific agreements under the Act, including terms and conditions of **participant** employment, may be filed.
- Complaints may be brought by any individual or organization including, but not limited to: WIOA applicants/participants, contractors, collaborators, vendors (ITA's), staff of the LWDA or contractors, applicants for participation or financial assistance, labor unions, community based organizations or any other interested persons.
- With the exception of complaints alleging fraud or criminal activity, the filing of a noncriminal complaint must be made within 1 year of the alleged occurrence.
- A complainant who has not exhausted this procedure may appeal directly to the Governor's Office if the LWDA has not rendered a decision within the 60 days of the filing of the complaint specified in the procedures, if the complainant believes the LWDA's complaint procedure is not in compliance with the WIOA.

**FILING OF A WIOA COMPLAINT:**

Per WIOA regulations, every complaint must be in writing before the official complaint resolution process will commence. The complaint must be signed and dated. *A written complaint may be submitted via facsimile or scanned and sent as an e-mail attachment.*

The complaint must contain the following information:

- The full name, mailing address and telephone number of the Complainant;
- The full name, mailing address and telephone number of the Respondent;
- A clear and concise statement of the facts and dates describing the alleged violation(s);
- The provisions of the Act, regulations, grant or other agreements under the WIOA believed to have been violated. Complaints against individuals, including staff or participants, must indicate how those individuals did not comply with the WIOA law, regulation, or contract;

**New Policies**

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- ❑ Complaints may be amended to correct technical deficiencies at any time up to the time of the hearing. Complaints may not be amended to add new issues. The 1 year time period in which a complaint may be filed is not extended for complaints that are re-filed with amendments. Complaints may be withdrawn at any time prior to the issuance of the hearing officer's decision;
- ❑ The remedy to the complaint which would satisfy the Complainant; If the Complainant fails to cooperate or is unavailable, the complaint may be dismissed upon reasonable notice to the last known address of the Complainant;
- ❑ It is the responsibility of both the Complainant and the Respondent to notify the City of Los Angeles' EO Compliance Unit of any change of address.

**LEVEL ONE — FILE WITH THE WORKSOURCE/YOUTHSOURCE CENTERS**

- The WorkSource Center/YouthSource Center receiving WIOA funds through the Workforce Development Division grant programs agree to adopt the City of Los Angeles' WIOA Complaint Resolution procedures.
- It is the policy of the City of Los Angeles, LWDA, that complaints under WIOA should be resolved at the lowest level possible. Therefore, under the City of Los Angeles' WIOA complaint resolution procedures, complaints filed under the WIOA (with the exception of those complaints involving allegation(s) of discrimination) must first be filed with the designated EO Complaints Officer at the WorkSource/YouthSource Center level.
- The WorkSource/YouthSource Center must notify the City LWDA within 24 hours of the receipt of a written WIOA complaint. The notification should be sent to:

**City of Los Angeles  
Economic & Workforce Development Department  
1200 West 7<sup>th</sup> Street, 6<sup>th</sup> Floor  
Los Angeles, CA 90017  
Attn: Richard Cheng, EO Compliance Officer**

**Telephone: (213) 744 - 9351  
Fax: (213) 744 - 7118  
TTY: (213) 744 - 7290  
E-Mail: [Richard.Cheng@LACity.Org](mailto:Richard.Cheng@LACity.Org)**

- The City of Los Angeles, LWDA, reserves the right to intervene in the processing of any WIOA complaint at the informal resolution stage in order to assist in resolution, clarify the issues, provide technical assistance, conduct the informal resolution meeting or schedule a hearing before an impartial hearing officer in order to ensure due process and compliance with the 60 day time limit required for resolution pursuant to the WIOA regulations.

**New Policies**

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- The WorkSource/YouthSource Center has ten (10) days from the receipt of the written complaint to schedule and conduct an informal complaint resolution meeting at the WorkSource/YouthSource Center level.
- After the complaint is accepted, the Complainant will be notified by the WorkSource/YouthSource Center, in writing, of the date, time and place of the informal resolution meeting. At the informal resolution meeting an attempt to resolve the complaint will take place. Respondents must make "good faith" efforts to resolve all complaints prior to scheduling an administrative hearing in the matter.
- Failure on the part of any party in the complaint to exert good faith efforts shall not constitute a basis for dismissing a complaint, nor shall this be considered to be a part of the facts to be judged in the resolution process. The LWDA or sub-grantees must assure that every complaint not resolved informally is given a formal hearing, regardless of the complaint's apparent merit or lack of merit.
- In the event of an informal resolution of the WIOA complaint at the WorkSource/YouthSource Center level, the WorkSource/YouthSource Center will provide a written settlement agreement to the Complainant which describes the issues, provides the date of the informal resolution meeting, the attendees, and the terms of the agreement which has been reached by the parties as full and complete settlement of the complaint. The written agreement will be signed by the Executive management or their authorized representative and the Complainant. A copy of the signed settlement agreement will be maintained in the Complainant's participant file, in the complaint log of the WorkSource Center and at the LWDA level for audit purposes. A copy of the signed settlement agreement will be faxed to the City LWDA EO Compliance Unit within 24 hours.
- If no resolution is reached, the Complainant will be notified immediately in writing of the impasse and his/her right to request an administrative hearing. The WorkSource/YouthSource Center will also mail a copy of the notice of impasse certified mail return receipt requested. The request for administrative hearing must be made in writing; it may be transmitted by facsimile or e-mail.

**Individual Training Account (ITA) Complaint Procedures**

**A. Denied Training Complaint Procedures**

Should a participant be dissatisfied with a denial of request for training, the participant may request a WorkSource/YouthSource Center (WSC/YSC) ITA Panel review. A participant's request for WSC ITA Review Panel must be made within five (5) working days of the notification of the denial of the request for training. The WSC ITA Review Panel will **only** review requested training denial that is determined not to be in a demand occupation, or on issues relating to the assessment process. Denial based on training requests exceeding maximum limit (\$7,500 for 12 months technical training) is reviewed on a case-by-case basis.

The WSC ITA Review Panel will be comprised of staff with decision-making authority and business members with industry-specific knowledge of technical skill sets. The