



WORKFORCE DEVELOPMENT BOARD

OF SOLANO COUNTY

PLANNING & OVERSIGHT COMMITTEE

Tuesday, April 24, 2017, 3:00 – 5:00 p.m.

320 Campus Lane, Training Room 7

Fairfield, CA 94534

MEETING AGENDA

- I. Welcoming/Convening**
- II. Agenda Additions and/or Deletions**
- III. Public Comment** - *Workforce Development Board (WDB) members, staff, or the public may address the WDB on subjects relating to employment and training in Solano County. A time limit of 3 minutes may be imposed. No action may be taken on non-agenda items.*
- IV. Approval of February 27, 2017 Meeting Minutes**
- V. Action Items**
 - A. Review and Approval of Policy Revisions
 - “Use and Confidentiality of Participant Personally Identifiable Information (PII)” Policy
 - “Procurement” Policy
 - “WIOA Individual Training Contracts” Policy
- VI. Discussion Items**
 - A. Review of Quarterly Programmatic Report
 - B. Update on Hallmark of Excellence
 - C. Discuss Programmatic Contracts for FY19
 - D. Discuss FY18 Lessons and FY19 Programmatic Priorities
- VII. Open Forum**
- VIII. Adjournment**

Note: The next Planning & Oversight Committee meeting will be held Tuesday, June 26, 2018.

TO: Planning and Oversight Committee Members
FROM: Heather Henry
President/Executive Director
SUBJECT: **REVISED “USE AND CONFIDENTIALITY OF PARTICIPANT
PERSONALLY IDENTIFIABLE INFORMATION (PII)” POLICY**
DATE: April 10, 2018

A revised policy on use and confidentiality of participants’ personally identifiable information (PII) is being issued to include federal and state updates, to outline customer awareness requirements, and increase security of high-risk PII.

Overview of Changes

Federal and state guidance has been issued by the Federal Information Security Management Act (FISMA), the Workforce Innovation and Opportunity Act (WIOA), the Office of Management and Budget, and California laws around security of PII. Measures outlined by these laws and guidance have been added to the local policy. Increased security measures for collecting and storing high-risk PII, such as social security numbers and medical/disability records have been added, as well as clearly defined measures for transmission of PII across technological platforms. Additional measures were also added around security breaches and staff compliance.



WORKFORCE DEVELOPMENT BOARD
OF SOLANO COUNTY

POLICY ISSUANCE

Date: May 18, 2018 Number: 2018-02

USE AND CONFIDENTIALITY OF PARTICIPANT PERSONALLY IDENTIFIABLE INFORMATION (PII)

INTRODUCTION

It is the policy of the Workforce Development Board of Solano County (WDB) to protect the privacy of all applicants for program services, as well as the privacy of all customers and clients receiving program services. The purpose of this policy is to describe how the WDB will protect all personally identifiable information (PII) on applicants and customers, and the consequences for not adhering to these safeguards.

Under the Workforce Innovation and Opportunity Act (WIOA), staff obtains personal and confidential information from individuals as part of eligibility determination and continuation of services. WIOA and other federal and state regulations governing information sharing stipulate implementation of confidentiality policies and procedures.

Personal information will be treated in the strictest confidence and will not be shared outside of the WDB without written authorization, except for auditing purposes and other grantor-imposed information-sharing requirements. The purpose of this policy is to specify the requirements for the use, storage, and security of sensitive and confidential information.

QUESTIONS

Questions relating to this policy should be directed to Tracy White, One-Stop Manager, at twhite@solanowdb.org or at 707-863-3520.

ATTACHMENTS

- Attachment A: Staff/Representative Confidentiality Agreement
- Attachment B: Participant Confidentiality Rights
- Attachment C: Definition of Key Terms

POLICY

Employees, contractors, consultants, and volunteers of WDB (herein "staff and representatives") may be exposed to participant information which is confidential and/or privileged and proprietary in nature. As part of grant activities, staff and representatives may have access to large quantities of personally identifiable information (PII) relating to individual program participants. This information could be found in participant files and

Comment [HH1]: This section is expanded to ensure inclusion of any individual with access to WIOA participant data.

data sets, performance reports, program evaluations, grant and contract files, and other sources.

The WDB expects all staff and representatives to respect the privacy of clients and to maintain their personal and financial information as confidential. Access to any PII must be restricted to only those staff and representatives who need it in their official capacity to perform duties pertaining to the scope of work in the grant or contract agreement. No information may be released without appropriate authorization.

CUSTOMER AWARENESS

Individuals must be informed in writing how their information will be used and that their information will be protected and that their personal and confidential information:

- May be shared among federal and state agencies, partner staff and contractors;
- Is used only for delivering services and that further disclosure of their confidential information is prohibited; and that
- PII will be used for grant and eligibility purposes only.

Every individual receiving WIOA or other WDB services must read, sign and date a Release of Information to share their information with partner agencies. Individuals must be informed that they can request that their information not be shared among partner agencies and that this does not affect their eligibility for services.

Staff and representatives should engage in practical ways to reduce potential security breaches and protect sensitive information and PII by:

- Reducing the volume of collected and retained information to the minimum necessary;
- Limiting access to only those individuals who must have such access; and
- Using encryption, strong authentication procedures, and other security controls to make information unusable by unauthorized individuals.

PROTECTING INFORMATION

PII and confidentiality require special precautions to protect them from unauthorized use, access, disclosure, modification, and destruction. Confidentiality means that data, reports, and other outputs are safeguarded against unauthorized access. Staff will exercise extreme care and caution when working with confidential information to ensure the privacy of the applicant or customer.

INFORMATION COLLECTED:

~~Information collected by the WDB on each individual and his/her family members is used for the purpose of determining the applicant's eligibility for program services, for recording membership in the America's Job Center of CaliforniaSM (AJCC), for the appropriateness of specific program services for a client, and for employment purposes. Confidential information collected by the WDB includes, but is not limited to:~~

Comment [HH2]: This section is suggested by, and outlined in, federal guidance and is a best practice in areas of high PII use, such as health care.

Comment [HH3]: This information is highlighted in the customer agreement and is more procedure than policy, so we took it out of the policy language.

WDB Use and Confidentiality of Participant PII

- ~~Birthplace / Birth Certificates~~
- ~~Social Security numbers~~
- ~~Age, gender, ethnicity~~
- ~~Selective Service status~~
- ~~Income history / Tax records~~
- ~~Financial status~~
- ~~Family composition~~
- ~~Living arrangements~~
- ~~Employment history~~
- ~~Education history and records~~
- ~~Medical conditions / Disabilities~~
- ~~Probation / Conviction / Incarceration history and records~~

Physical Data Protection Requirements

All sensitive or PII data obtained should be stored in an area that is physically safe from access by unauthorized persons at all times. Staff and representatives must not leave personal and confidential information left open and unattended.

When a staff or representative's desk is unattended, it is the staff or representative's responsibility to ensure that personal and confidential information, including PII, is secured in closed containers such as locked drawers or offices when not in use. This means that all documents containing personal and confidential information must not be left on desks, fax machines, printers, or photocopiers unattended. Desktops and computers will be kept clear of papers and/or files containing confidential information that are not being used. Desktops and computers will be kept clear of confidential information during non-business hours.

Any papers containing PII and/or confidential information are to remain in the offices of the WDB, except invoices may be transported directly to the County accounting offices, and, upon occasion, there may be other papers that must be transported to other locations for a specific purpose and with the express permission of the Unit Manager. All discarded paper containing confidential information shall be placed in a locked shredder bin or shredded.

Any participant files stored for performance or archiving purposes must be clearly marked as containing personal and confidential information. Staff and representatives should retain participant PII only for the period required for assessment or performance purposes. Thereafter, all data must be destroyed by a qualified company to minimize risk of breach.

Comment [HH4]: This information is outlined in federal and state policy, hence added to our local policy.

Electronic Data Protection Requirements

To safeguard WDB's electronically stored data, each user will receive a designated and authorized log-on(s) and password(s) that restrict users to the applications or functions commensurate with their assigned responsibilities, supporting an appropriate segregation of duties. This is such that unauthorized persons cannot reasonably retrieve the information by means of a computer.

WDB Use and Confidentiality of Participant PII

The WDB expects all staff to secure mobile equipment, such as laptop computers and other devices that may have PII stored on them. Devices should be password protected and safeguarded when not in use. Accessing and storing data containing PII on personally owned equipment at off-site locations, such as the employee's home, and on non-managed IT services, such as Google or Yahoo, is prohibited.

Comment [HH5]: Our policy needed updated language around mobile security.

TRANSMISSION OF CONFIDENTIAL INFORMATION

Staff and representatives should avoid communicating sensitive information or PII about an applicant or participant to partner agencies or other staff via email. If it is necessary, staff and representatives must ensure that the intended recipient is the only individual that has access to the information and that the recipient understands they must also protect the information. Staff and representatives must only communicate sensitive information or PII through WDB emails and not through third party or personal email addresses.

Comment [HH6]: This section is outlined as required in federal and state policy, hence added to local policy.

PII and other sensitive data transmitted via email or stored on mobile data storage (such as thumb drives) must be encrypted. Staff and representatives must not e-mail unencrypted sensitive PII to any entity, including the Department of Labor, WDB staff, or contractors. Staff and representatives should discourage participants from emailing personal and confidential information to their case managers.

Any information posted to social media sites is considered public record and is subject to public disclosure. No sensitive information or PII should be posted to social media sites.

Care shall also be taken to ensure that unauthorized individuals do not overhear any discussion of confidential information.

SOCIAL SECURITY NUMBERS

Social security numbers are protected as high-risk information. When requesting a participant's social security number, staff and representatives should explain how the social security number will be used and how the participant's privacy will be ensured.

Comment [HH7]: Additional federal policies have come out since our last update of local policy that outlines requirements for safeguarding social security numbers, hence added to local policy.

Staff must request a participant's social security number when offering the following services:

- Staff-assisted service related to eligibility determination, job search activity, and employment;
- All training and educational services; and
- Self-services through CalJOBS.

However, an individual is not required to provide their social security number to receive WIOA services, and services cannot be denied to an individual due to their refusal to disclose their social security number.

Whenever possible, staff and representatives should use unique identifiers for participant tracking instead of social security numbers. While social security numbers may be needed for initial eligibility or performance purposes, a unique identifier should be linked to each individual record and used thereafter. This includes such records as training or contract documents. If social security numbers are to be used for specific tracking purposes, they must be stored or used in such a way that it is not attributable to the individual. For example, a training document should not include the participant name and social security number, rather the participant name and a truncated social security number.

Social Security numbers may not be listed on anything mailed to a client or to another agency unless required by law, or the document is a form or application. Social Security numbers may not be left on a voice mail message.

MEDICAL AND DISABILITY RECORDS

Medical and disability records are additionally protected as confidential information. To ensure the information is protected, any medical or disability records must be kept separately from working participant files and kept in a secured physical and/or electronic location. Only the portion of the participant's information that reveals the presence of a disability or other data element should be included in the participant's file to minimize staff and representative access to medical files.

Comment [HH8]: We were hit with a finding from the EEO Monitor around medical and disability records. This section is taken from federal guidance and policy to enhance our medical and disability data safeguarding.

Once collected, access to the medical file should be limited and only accessed:

- With the approval of program management and only when necessary for WIOA service delivery;
- By first aid and safety personnel in the event of an emergency; or
- By local, state, or federal monitors.

When all WIOA or other WDB services are complete and the participant file is ready to be archived, participant medical and disability-related information must be placed in a sealed envelope and marked "Medical and Disability Information."

SECURITY BREACHES

Any staff or representative who becomes aware of any actual or attempted PII security breach resulting from the inadvertent or intentional leak of release of confidential information, including PII, shall immediately inform their direct supervisor. PII security incidents include, but are not limited to, any event (intentional or unintentional) that causes the loss, damage, or destruction, or unauthorized access, use, modification, or disclosure of information assets. The system or device affected by a PII security incident shall be immediately removed from operation. It shall remain removed from operation until correction and mitigation measures are applied.

Comment [HH9]: Federal policy states we must have policy around dealing with security breaches. The added information is taken from DOL, OMB, and NIST regulations.

Supervisors should assess the likely risk of harm caused by the breach and then assess the level of breach. Supervisors should bear in mind that notification when there is little or no risk of harm might create unnecessary concern and confusion.

WDB Use and Confidentiality of Participant PII

Four factors should be considered to assess the likely risk of harm:

- Nature of the Data Elements Breached
- Number of Individuals Affected
- Likelihood the Information is Accessible and Usable
- Likelihood the Breach May Lead to Harm

WDB will inform the California Employment Development Department of breaches believed to cause harm. Breaches subject to notification requirements include both electronic systems as well as paper documents.

STAFF COMPLIANCE

All WDB employees with access to participant PII and/or confidential information must sign an acknowledgement that they have read the policy, understand the confidential nature of participant data and the potential sanctions for improper disclosure, and agree to abide by all other requirements and terms contained therein.

Unauthorized disclosure of confidential or privileged information is a serious violation of this policy. Any failure to comply with confidentiality requirements identified in this policy may result in termination or suspension of contract or employment, or the imposition of special conditions or restrictions to protect the privacy of participants or the integrity of PII data. Misuse or noncompliance with PII data safeguards could lead to civil and criminal sanctions per federal and state laws.

Comment [HH10]: Federal and state law requires this language, but was not included in past iterations of local policy, hence its addition.

Staff and representatives are expected to return materials containing privileged or confidential information at the time of separation from employment or expiration of service.

DISCLAIMER

This policy is based on WDB's interpretation of the statute, along with the Workforce Innovation and Opportunity Act; Final Rule released by the U.S. Department of Labor, and federal and state policies relating to WIOA implementation. This policy will be reviewed and updated based on any additional federal or state guidance.

REFERENCES

Law

- Workforce Innovation and Opportunity Act of 2014 (WIOA)
- Privacy Act of 1974, Section 7
- California SB168, Title 1.81.1 – Confidentiality of Social Security Numbers
- California AB763 – Privacy: Social Security Numbers
- Federal Information Security Management Act (FISMA)

Federal Guidance

WDB Use and Confidentiality of Participant PII

- Training and Employment Guidance Letter (TEGL) 05-08 – [Policy for collection and Use of Workforce System Participants' Social Security Numbers](#)
- TEGL 39-11 – [Guidance on the Handling and Protection of Personally Identifiable Information \(PII\)](#)
- OMB Memorandum M-07-16 – [Safeguarding Against and Responding to the Breach of Personally Identifiable Information](#)
- NIST SP 800-122 – [Guide to Protecting the Confidentiality of PII](#)

Approved by

Workforce Development Board of Solano County

DRAFT

ATTACHMENT A: Staff/Representative Confidentiality Agreement



STAFF/REPRESENTATIVE CONFIDENTIALITY AGREEMENT

Comment [HH11]: The WDB had a number of staff confidentiality agreements across units. We compiled the agreements into one that will serve the entire organization.

I, _____ [print name] certify that I have read and understand the Workforce Development Board of Solano County's (WDB) policy on **USE AND CONFIDENTIALITY OF PARTICIPANTS' PERSONALLY IDENTIFIABLE INFORMATION (PII)**. I understand that I may have access to customer and employer confidential records as part of my employment, contracting, or volunteer work with the WDB. Confidential information provided to our agency by any participant or by any federal, state, or county entity is protected by law, regulation, and policy.

I understand that it is my responsibility as part of the workforce development system in Solano County to protect the confidentiality of all Workforce Innovation and Opportunity Act (WIOA) applicants and participants, as well as customers utilizing the Solano Employment Connection, an affiliate of the America's Job Centers of California (AJCC) system. I understand that in the workforce system's collection, usage, storage and transmission of customer information, the tenets of confidentiality are to be strictly enforced.

I understand that I have the responsibility to know whether information is protected. If I have any questions regarding whether particular information is confidential, I understand it is my responsibility to check with my supervisor.

I understand that unauthorized access, use, modification, or disclosure of confidential information is a crime under state and federal laws, including but not limited to California Information Privacy Act §1798.53-§1798.57, CA Penal Code §502, §2111 of the Unemployment Insurance Code, and §10850 of the Welfare and Institutions Code. I understand that violation of this policy could result in:

- Disciplinary action
- Termination of employment
- Criminal action (including incarceration)
- Civil action

By signing below, I agree to follow and be bound by the terms and conditions regarding confidentiality of personal information contained therein. WDB staff or their designee have answered any questions I may have had regarding this policy.

Signature: _____

Name: _____ Date: _____

ATTACHMENT B: Participant Confidentiality Rights



PARTICIPANT CONFIDENTIALITY RIGHTS

Your privacy is one of our primary concerns. The Workforce Development Board of Solano County (WDB) makes every effort to provide you with a safe and private environment. The information below explains what information we gather and how we use it. It applies to all WDB uses of information and is intended to protect the confidentiality of all customer information.

Comment [HH12]: Federal and state policies outline making participants aware of their confidentiality rights, what information will be collected, how it will be used, and how it will be safeguarded. This agreement will be added in enrollment paperwork.

Access to Data

Program staff must collect data in order to document eligibility and provide services per federal regulation under the Workforce Innovation and Opportunity Act (WIOA). The WDB and subcontractors will make every effort to collect and store data in a secure manner. Access to any personal customer information is restricted to only those staff and representatives who need it in their official capacity to perform duties pertaining to service delivery.

For auditing and monitoring purposes, individuals' personal and confidential information may be shared among federal and state agencies, partner staff and contractors under the WDB umbrella. Access is for the purpose of determining compliance with, and ensuring enforcement of the provisions of WIOA.

Use and Release of Data

We may ask you to provide personal information when you:

- Use the CalJOBS website;
- Request services, support or information to validate eligibility;
- Share WDB content through social media;
- Subscribe to newsletters, or other materials; or
- Contact us for information on services available.

Information we may request includes your email address, name, address, telephone number, proof of U.S. residence, proof of age, selective service verification, and other data elements depending on program eligibility criteria. Data will only be used for the purposes of verifying eligibility, delivering services, and verifying performance measures. Upon request, data can be released to the subject of the information.

You may decide whether or not to provide your social security number. If you do not wish to provide this number, you can still receive services. The authority for the solicitation of social security numbers is from the California Unemployment Insurance Code, Section 15026. If you choose to provide your number, these are the ways it may be used by the WDB or the State of Studies and evaluation of training and employment programs in which you may participate:

- Getting information for future program and budget planning;
- Checking for possible participation by you in other state or federal programs;
- Studying long-term effects on all participants in this program;
- Finding ways to make this program more effective; or
- Sharing information with other employment and training programs.

ATTACHMENT B: Participant Confidentiality Rights

How We Protect Your Data

To protect your personal information from unauthorized access and use, we use security measures that comply with federal law. These measures include computer safeguards, secured files, and secured buildings. All sensitive individual data is stored in an area that is physically safe from access by unauthorized persons at all times and data transmitted electronically is encrypted.

Medical and disability records are additionally protected as confidential information. Any medical or disability records are kept separately in a secured physical and/or electronic location. Social security numbers are also protected as high-risk information. Whenever possible, staff and representatives will use unique identifiers to track individual data rather than personally identifiable information.

Disclosing Personal Information

The WDB may share your Personal Information with California Employment Development Department and U.S. Department of Labor monitors for the purpose of assessing programmatic and fiscal compliance. In addition, we may disclose your personal information when legally required or to protect our rights. Any other use of individual data will require written consent from the customer or customer's parent/legal guardian.

Notification of Privacy Changes

The WDB privacy rights are outlined in the Use and Confidentiality of Participants' Personally Identifiable Information (PII) policy which can be found on the WDB's website at: <http://www.solanoemployment.org/wioa-policies>. The WDB reserves the right to make changes to this policy at any time. When changes are made they will be posted and available immediately with a revised effective date. We encourage you to periodically review the privacy policy.

Acknowledgement of Receipt

By signing below, I acknowledge that I have explained this agreement to the WDB-affiliated customer.

Staff Printed Name: _____

Staff Signature: _____ Date _____

By signing below, I acknowledge that I have read and understand this agreement. WDB staff have explained this agreement and answered any questions I may have had.

Individual Printed Name: _____

Individual Signature: _____ Date _____

Definitions of Key Terms

Comment [HH13]: A new attachment to local policies will include definition of key terms used in the policy.

Personally Identifiable Information (PII) as defined by OMB Memorandum M-07-16 is any information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal information that is linked or linkable to a specific individual.

There are two types of PII as defined by the U.S. Department of Labor in TEGL 39-11 that are based on the "risk of harm" that could result from the release of the PII:

- Protected PII – is any information that if disclosed could result in harm to the individual whose name or identify is linked to that information. Examples include, but are not limited to, social security numbers, credit card numbers, bank account numbers, personal telephone numbers, ages, birthdates, marital status, spouse names, educational history, biometrics identifiers, medical history, financial information, and computer passwords.
- Non-Sensitive PII – is information that if disclosed, by itself, could not reasonably be expected to result in personal harm as it is not linked or closely associated with any protected or unprotected PII. Examples include first and last names, e-mail addresses, business addresses, business telephone numbers, general education credentials, gender, or race.

A combination of non-sensitive PII could potentially be categorized as protected PII. As example, a name and business e-mail address will not result in a high degree of harm to an individual. A name linked to a social security number and date of birth could result in identity theft.

A **Security Breach** as defined by TEGL 39-11 is used to include the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users and for an other than authorized purpose have access or potential access to personally identifiable information, whether physical or electronic.

Sensitive Information as defined by TEGL 39-11 is any unclassified information whose loss, misuse or unauthorized access to or modification of could adversely affect the interest of the conduct of Federal programs, or the privacy to which individuals are entitled under the Privacy Act.

TO: Planning and Oversight Committee Members
FROM: Heather Henry
President/Executive Director
SUBJECT: **REVISED “PROCUREMENT” POLICY**
DATE: April 11, 2018

A revised policy on procurement requirements is being issued to include state updates, to separate policies and procedures, and to allow the greatest flexibility in procurement options while remaining compliant. New state guidance has been issued by the California Employment Development Department (EDD) with changes to the procurement requirements and guidelines. Requirements and procurement types revised by EDD has been added to the local policy.

Significant Changes

The new local policy removes procedural guidelines and processes and focuses on the mandated requirements at the local level. Specific changes include:

- Addition of cooperative procurement, which is recognized by EDD as allowable, and informed by County of Solano’s policy on cooperative procurement.
- Removal of Conflict of Interest sections, as they are duplicative of the Conflict of Interest Policy.
- Addition of required contract clauses based on procurement levels as required by the state.
- Additional detail on minority-owned and local business representation in the procurement process as guided by federal regulations and guidance.
- Revision of method of procurement categories per new EDD guidance.
- Addition of state requirements for procurements over \$5,000 involving equipment and related services.



WORKFORCE DEVELOPMENT BOARD
OF SOLANO COUNTY

POLICY ISSUANCE

Date: May 18, 2018 Number: 2018-01

PROCUREMENT POLICY

INTRODUCTION

Federal, state, and local guidelines require that all WDB procurement is an open and free competition that leads to cost effective and high-quality goods and services. In addition, applicable rules and regulations stipulate that in order for a cost to be allowable, it must be necessary and reasonable for the proper and efficient administration of the program. Workforce Innovation and Opportunity Act (WIOA) Sec. 184(a)(3)(A) requires each state, local area, and WIOA service provider receiving funds under this title to comply with the appropriate uniform administrative requirements for grants and agreements applicable for the type of entity receiving the funds, as disseminated in circulars or rules of the Office of Management and Budget (OMB). The Procurement Policy of the Workforce Development Board (WDB) of Solano County summarizes requirements for the proper procurement of goods, materials and services, with the exception of the procurement of training contract and One-Stop Operator, refer to the One-Stop Operator policy.

QUESTIONS

Questions relating to this policy should be directed to Brian Hooker, Planning and Industry Coordinator, at bhooker@solanowdb.org or 707-863-3588.

POLICY

Procurement transactions, regardless of method or dollar value, will maximize open and free competition consistent with OMB standards. Neither the WDB nor contractors to the WDB shall not engage in procurement practices which may be considered arbitrary or restrictive. The WDB and its contractors will use documented procurement procedures that reflect state and local laws and regulations, provided that the procurements conform to applicable Federal law and standards.

Comment [HH1]: Federal requirements

The Executive Director, whenever and wherever practical and prudent, will designate staff person(s) to be responsible for purchasing transactions and another staff person(s) to be responsible for inventory records and disposition of property. The Executive Director will ensure that systems and procedures within the organization will be sufficient to establish a system of checks and balances in regard to procurement and property management.

All WIOA procurements must be necessary and reasonable in the operation of WIOA programs and conform to the following:

- Consistency with uniform guidance and established policies and procedures;

WDB Procurement Policy

- Similar costs must be considered either direct or in-direct costs;
- Costs must be determined with generally accepted accounting principles;
- Costs must not be used as cost sharing or matching requirements; and
- Documentation concerning all procurements must be maintained in an auditable condition.

All procurement contracts between local boards and units of government must be conducted on a cost-reimbursement basis. The WDB will use federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs. If a fixed amount award with a governmental or nonprofit agency results in revenues in excess of actual costs incurred, the excess revenues will be considered program income. Any fixed amount awards will reference this requirement.

Funds used for procurements that are determined to be unallowable will be returned to the federal government per Uniform Guidance Section 200.345. Questioned costs as defined by DOL Exceptions Section 2900.3 could result from the following:

- Procurements that violate statute, regulations, or terms and conditions of award;
- Procurements without support documentation; or
- Procurements with unreasonable costs.

Comment [HH2]: Federal requirements

Cooperative Procurement

The WDB's procurement procedures will avoid acquisition of unnecessary or duplicative items and promote cost-effective use of shared services by entering into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services as encouraged in 20 CFR Section 200.318(e). In lieu of preparing and issuing procurement instruments, the WDB may, where and when appropriate, engage in Non-Competitive Negotiations with entities that have been procured through an open and free competition with the County of Solano and/or other similar agencies to the WDB. Use of a cooperative or "piggyback" procurement must be consistent with the original solicitation and contract parameters, restrictions, and requirements must remain substantially the same as the existing piggybacked contract.

Comment [HH3]: Section added from county's procurement policy to allow for more flexibility of procurement.

Competitive bidding is not required by the WDB and Solano County Code for the following purchases when the following types of personal property or service are being acquired, obtained, rented, or leased from:

- Any other governmental agency which has a contract with a vendor that allows such other governmental agency to acquire such property or services and re-sell them to other governmental agencies (i.e.: cooperative purchasing agreement, multiple award schedules, etc.), or
- Any private vendor which has a contract with another public agency and ~~such private vendor produces~~ satisfactory documentation is produced to show that:
 - Such other contract is currently then in effect,
 - Such contract was let through a competitive pricing process, such as competitive written bids, request for proposals, or quotes for such items,

WDB Procurement Policy

- o Such items to be acquired by the County of Solano are of comparable description and quality as the items described in such other governmental contract, and
- o The price of such items to be acquired by the County of Solano is not greater than that specified in such other governmental contract.

Code of Conduct and Conflict of Interest

The procurement system of the WDB is designed to avoid all organizational conflicts of interest and appearances of conflict of interest. WDB staff and Board of Directors will conduct themselves in such a way to ensure that no relationship exists whereby Directors, officers, or staff would be in a position to influence the awarding of contracts.

The WDB's Conflict of Interest Policy provides standards of conduct covering conflicts of interest and governing the actions of its employees and representatives engaged in the selection, award, and administration of contracts. Conflicts of interest must be disclosed in writing when known in advance or announced to the voting body. The party must excuse themselves from any further discussion and/or vote on the matter in question. Further information can be found in WDB's Conflict of Interest Policy.

~~No individual in a decision-making capacity, whether compensated or not, including WDB Directors, officers, or staff, shall engage in any activity (including participation in the selection, award, or administration of a subgrant or contract supported by WIOA funds) if a conflict of interest, real or apparent, is involved. Contracts and/or any other procurement, unless justified under Non-Competitive Negotiations as detailed above, will not be negotiated with or awarded to any organization in which a Board Director, Officer, or management staff member or his/her immediate family has a financial interest. Contracts entered into by subrecipients may be fixed price or cost reimbursement, depending on the method of procurement and goods or services being procured.~~

Comment [HH4]: in Conflict of Interest policy.

The receipt of gratuities, favors, and anything of monetary value from a contractor or potential contractor is strictly prohibited for the Board Directors and all WDB staff.

~~In the event of a possible WDB conflict of interest (i.e. One-Stop Operator who will submit a procurement proposal), the WDB must established a neutral third party to solicit, review, and award the procurement. The WDB must ensure that the third party does not participate in any way with the solicitation, bidding, competing, and approval or have any financial interests in the outcome of the procurement. A firewall must be created between the WDB and the third party prior to the start of the procurement process.~~

Comment [HH5]: In conflict of interest policy

Contractors that develop or draft specifications, requirements, statements of work, and information for bids or requests for proposals will be excluded from competing for such procurements to avoid conflict of interest.

Required Contract Clauses

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Each agreement funded by federal funds must contain the following contract clauses referred to in Uniform Guidance Sections 200.318-200.326, as appropriate:

Comment [HH6]: Required clauses outlined in federal Uniform Guidance

- Administrative, contractual, or legal remedies where contractors violate or breach contract terms for all contracts in excess of the Simplified Acquisition Threshold. The clause must also provide for sanctions or penalties, as appropriate.
- Termination for cause and for convenience by the awarding agency, including the process for exercising the clause and any basis for settlement for contracts in excess of \$10,000.
- Compliance with Equal Employment Opportunity provisions identified in 41 CFR Part 60.
- Compliance with the *Davis-Bacon Act* (40 U.S.C. 3141-3144 and 40 U.S.C. 3141-3148) for prime construction contracts in excess of \$2,000.
- Compliance with the *Contract Work Hours and Safety Standards Act* (40 U.S.C. 3701-3708) for contracts in excess of \$100,000 that involve the employment of mechanics or laborers.
- Compliance with *Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants* (37 CFR Part 401) for any small business or nonprofit organization.
- Compliance with the *Clean Air Act* (42 U.S.C. 7401-7671q.) and the *Federal Water Pollution Control Act* (33 U.S.C. 1251-1387) for any contract in excess of \$150,000.
- A provision requiring that contracts should be issued for any entity listed on the Excluded Parties List System in the System for Award Management (SAM).
- Compliance with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) for contractors bidding over \$100,000
- Compliance with Section 6002 of the *Solid Waste Disposal Act* and 40 CFR Part 247 for items in excess of \$10,000.
- A provision that anyone who provides WIOA services must abide by the WIOA equal opportunity and nondiscrimination provisions of Section 188 and 29 CFR Part 38 for all applicable agreements, regardless of the procurement method.

Minority, Women-Owned and Local Businesses

It is the policy of the WDB to aid and encourage the growth and success of minority and women-owned businesses, particularly local ones. WIOA contractors ~~will be~~ required to take affirmative steps to assure minority and women-owned businesses are used when possible. To assure that minority and women-owned businesses are considered for WDB procurement, a diligent effort must be made to contact and advise such businesses of WDB solicitations. Effort should be made to divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises.

Comment [HH7]: Enhanced per federal Uniform Guidance requirements.

Additional effort will be made to conduct outreach to local businesses and organizations in solicitation dissemination. However, the WDB may not use administratively-imposed geographical preferences in the evaluation of bids or proposals.

Comment [HH8]: Additional of federal requirement.

METHODS OF PROCUREMENT

The WDB uses Micro-Purchases, Small Purchases, Sealed Bids, Competitive Proposals, and Non-Competitive Negotiation to procure goods and services. For each method of procurement, the WDB will have written procedures for procurement transactions that ensure all solicitations or quotes incorporate a clear and accurate description of the technical requirements for the material, product or service to be procured, as well as all requirements which the potential vendors must fulfil to be considered. Such descriptions must not, in competitive procurements, contain features which unduly restrict competition.

Comment [HH9]: Section revised to match new state thresholds.

Comment [HH10]: Added to refer to procedures manual.

All contractors are required to assure the administrative capacity to meet Federal, State, and Service Area requirements.

An overview of procurement method, cost limits, and minimum bids/quotes needed can be found in the following table:

Comment [HH11]: Chart added from state directive for quick reference.

Procurement Method	Cost Limits	Minimum Bids/Quotes Needed
Micro Purchases	Less than \$3,500	One quote at a reasonable cost
Small Purchases	\$3,500-\$150,000	Two quotes; written, verbal or from a catalog
Sealed Bids	No limits	Three written bids in response to an IFB
Competitive Proposals	No limits	Three written competitive proposals in response to an RFP
Noncompetitive Proposals	No limits	All bids and quotes obtained

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The County of Solano Purchasing Department is considered a central government purchasing agency which meets the requirements of WIOA regulations for competitive purchasing. ~~The WDB uses Solano County's purchasing system for small and micro purchases except in those cases where:~~

- ~~1. The WDB's direct procurement procedures will result in greater program efficiency or cost savings, or will ensure compliance with grant rules;~~
- ~~2. Services for participants enrolled in grant programs are to be procured;~~
- ~~3. The County Purchasing Department is unable to purchase the item or provide it when needed;~~
- ~~4. The item costs less than \$500 and can be purchased directly from the vendors named on the County's "Annual P.O." list,~~
 - ~~a) EXCEPTIONS to this direct purchasing authoring include: office furniture, telephone answering systems, recording equipment, office supplies, stationery, business cards, rubber stamps, software, large tools, and maintenance agreements;~~
- ~~5. The item costs less than \$50.00.~~

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Comment [HH12]: These restrictions are not requirements from the state or county. This section removed to reduce unnecessary self-restriction.

Micro Purchases

The micro purchase procurement method is used when the per transaction value of a purchase is less than the micro-purchase threshold (currently \$3,500 per Federal

Acquisition Regulation [FAR] 48 CFR Subpart 2.1 and based on inflation). Micro purchases may be made without soliciting competitive quotations if the price is reasonable. To the extent possible, micro-purchases must be distributed equitably among qualified suppliers. Micro-purchases do not require written prior of purchase approval, but they must be documented.

Small Purchases

The small purchases may be used for negotiations when the per transaction value of supplies, equipment, or services is less than the Simplified Acquisition Threshold (currently \$150,000 per FAR Subpart 2.1 and subject to inflation). ~~Informal quotations may be used for small purchases.~~ The main factor for determining awards is price as determined by a price analysis, but availability, delivery time, current stock, location, and other factors can be taken into consideration. All purchases must be reasonable, necessary, and allowable under the grant rules, and have proper documentation of purpose and approval.

Small purchases require a minimum of two documented quotes and may be procured formally or informally depending on the complexity of the purchase. ~~Informal quotes - Documented quotes~~ may be obtained from catalogs, price lists, prior receipts, or from a contractor in writing or via verbal quotes. Price determinants should not be more than one year old. Formal quotes must be solicited through A formal a Request for Quote (RFQ). ~~may be used to solicit proposals for small purchases.~~ Processes for determining informal or formal small purchase procurements must be outlined in procedural documents.

All bids and quotes received must be documented. Proper documentation is outlined in procurement procedures. Single transactions may not be broken down into several small purchases simply in order to to use small purchase procedures.

Comment [HH13]: Added to take the place of having procedures in the policy.

Sealed Bids

Sealed bids are used when the per transaction value of the good or service is more than the Simplified Acquisition Threshold (currently \$150,000 per FAR Subpart 2.1 and subject to inflation), and when the nature can be precisely defined. An Invitation For Bid (IFB) will be used for all sealed bids. The IFB is usually limited to instances where the recognized body of knowledge and experience of the WDB makes it possible to state exactly what is wanted, and complete and realistic specifications or purchase description can be detailed. Examples of services which may be acquired by an IFB include, but are not necessarily limited to audit services, office renovation and other construction services, and trade or craft services.

A diligent effort must be made to secure at least three competitive bids. Federal and California requirements call for awarding a contract resulting from an IFB to the responsible bidder offering the lowest price. The contract award must be made without benefit of discussion or negotiation. Details on IFB preparation, dissemination, and award determination must be detailed in procedural documents.

Competitive Proposals

Competitive Proposals are used when the per transaction value of the good or service is more than the Simplified Acquisition Threshold (currently \$150,000 per FAR Subpart 2.1 and subject to inflation), and when factors other than price are important in the selection decision, or whenever the nature of the goods or services to be acquired cannot be defined precisely. Contracts relating to delivery of participant services over the Simplified Acquisition Threshold must be selected via the competitive proposal method.

Under the Competitive Proposal method, a Request for Proposal (RFP) must be used and be publicly solicited to an adequate number of known suppliers. A RFP must be issued that defines quantity, product requirements, specifications, solicitation timeframes, and the evaluation factors used along with their quantitative importance. Contractors must submit a proposal based on the requirements of the RFP to a specified location by a specified date and time to be evaluated. A minimum of three proposals must be obtained; if less than three proposals are received, the WDB will explain the limited participation. RFPs will be evaluated by a review committee and all documentation must be carefully maintained. A public notice of intent to award should be issued followed by the award and execution of the contract. Details on RFP preparation, dissemination, and award determination must be detailed in procedural documents.

A minimum of three proposals ~~must should~~ be obtained; if less than three proposals are received, the WDB must explain the limited participation. ~~RFPs will be evaluated by a review committee and all documentation must be carefully maintained.~~ A public notice of intent to award should be issued followed by the award and execution of the contract. ~~Details on RFP preparation, dissemination, and award determination must be detailed in procedural documents.~~

Comment [HH14]: Not required.

Comment [HH15]: Added to take the place of having procedures in the policy.

Comment [HH16]: Added to take the place of having procedures in the policy.

Non-Competitive Proposals Procurement (Sole Source)

~~The Non-Competitive Proposal method may be used to request a bid or proposal from only one source, to fund an unsolicited proposal, or when, after solicitation of number of sources, to fund one proposal when competition has been determined inadequate.~~ The WDB's policies and procedures regarding sole source procurement are designed to narrow the scope of sole source selection, entail documented review of each instance of sole source purchase to determine that the particular case falls within allowable circumstances, elevate the decision above standard processing, and require approvals by the Fiscal Manager and Executive Director.

Comment [HH17]: This sentence is confusing and unnecessary. It has previously created unnecessary monitoring complications.

Noncompetitive proposals may only be used under certain limited conditions. All sole source procurement must be infeasible under the other defined procurement methods and meet at least one of the following conditions per Uniform Guidance Section 200.320(f):

- **Uniqueness:** The type of service or product is available from only one source or the type of service or product is not readily available from other dealers within the general geographical area;

- **Timing:** ~~Public~~Emergency creates an immediate procurement need ~~creating that doesn't allow in~~sufficient time to use other procurement methods;
- **Prior Authorization:** The federal awarding agency or pass-through entity authorizes the specific noncompetitive procurement upon a formal request for approval;
- **Failed competition:** A competitive procurement solicitation has failed to secure a minimum of two responsive offers; or
- **Cooperative Procurement:** The WDB is authorized, by the awarding agency, to utilize noncompetitive procurements consistent with the State's normal sole source approval process.

All non-competitive negotiations (sole source procurement) must be recorded and accompanied by written documentation, justification, and appropriate approvals. Further details on sole source determination, processes, and award determination must be detailed in procedural documents.

~~Procurement Responsibility and Approvals~~

~~The authorized signatory for approval of all procurements of goods and services in amounts exceeding \$50,000 is the WDB's Executive Director, except in the case of routine bulk office supply orders from pre-qualified vendors, which may be approved by the WDB's Fiscal Officer. Approval of all procurements other than routine pre-approved office supplies is documented through the use of WDB Form, "Request to Purchase". Approval of routine office supply orders from pre-qualified vendors is documented through the use of a County of Solano Order Form.~~

Comment [HH18]: Will be outlined in the procedures.

~~Procurement activities requiring small purchase procedures (under \$50,000) are the responsibility of the WDB's Fiscal Officer. Procurement will be undertaken by the Fiscal Unit upon receipt of a properly approved "Request to Purchase". The Fiscal Unit will prepare solicitation documents for those generic goods and services that do not require special considerations. Once a properly prepared and approved Authorization to procure goods and services is received by the Fiscal Unit a solicitation will be made.~~

~~Procurements requiring RFPs, IFBs, and Noncompetitive Negotiations are the responsibility of the WDB's Planning Department. The requesting party will be required to submit to the Grants Manager all necessary data in support of the solicitation prior to distribution of a formal document with precise specifications. Formal solicitations will be prepared and made in accordance with the WDB's procurement rules as set forth in WDB procurement procedures.~~

~~Any purchase of procurements of equipment and related services using WIOA funds valued over \$5,000 must receive written approval from the funding agency California Employment Development Department (EDD) before purchase of the good or service.~~

~~This includes:~~

- ~~Procurements with a per-unit cost that exceeds \$5,000,~~

Comment [HH19]: Detailed outlined in revised state directive.

WDB Procurement Policy

- Related procurements with a cumulative cost of \$5,000 within the same fiscal year, and
- Procurements resulting in improvements to land, buildings, or equipment exceeding \$5,000.

Procurement requests should be submitted no less than 30 calendar days before the requested procurement action is scheduled to occur. Details of approval request are outlined in the procurement procedures.

DISCLAIMER

This policy is based on WDB's interpretation of the statute, along with the Workforce Innovation and Opportunity Act; Final Rule released by the U.S. Department of Labor and federal and state policies relating to WIOA implementation. This policy will be reviewed and updated based on any additional federal or state guidance.

REFERENCES

Law

- [Workforce Innovation and Opportunity Act of 2014 \(WIOA\)](#)

Federal Guidance

- Department of Labor [Final Rule](#) – Section 683.200
- ~~Electronic Title 2~~ Code of Federal Regulations ([CFR](#)) – [Part 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#)

State Guidance

- [California State Contracting Manual, Subject: Chapter 5 – Competitive Bidding Methods](#)
- [California Workforce Service Directive \(WSD\) 17-08 – Procurement of Equipment and Related Services](#)
- [WSD 16-16 – Allowable Costs and Prior Written Approval](#)

Local Guidance

- [Solano County Purchasing and Contracting Policy \(2011\)](#)

Approved by

Workforce Development Board of Solano County

Definition of Key Terms

Comment [HH20]: New additional attachment for all policies to aid in clarity.

Cost Analysis as defined EDD Procurement Directive is an element-by-element review and evaluation of the estimated or actual cost to determine the probable cost to the contractor. This is a more detailed and costly method than price analysis in terms of both time and manpower.

Equipment as defined by Uniform Guidance Section 200.33 is considered tangible personal property (including information technology systems) having a useful life of more than one year and a per unit acquisition cost of which equals or exceeds the lesser of the capitalization level established by the non-federal entity for financial statement purposes, or \$5,000.

Information Technology Systems as defined by Uniform Guidance Section 200.58 for the purposes of equipment include computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), licensing or subscriptions to software and software support services, and related resources.

Price Analysis as defined by EDD Procurement Directive is the process of examining and evaluating a proposed price without evaluating its separate cost elements and proposed profit. This process determines whether the price is fair and reasonable.

Procurement as defined by EDD Procurement Directive includes all stages of the process of acquiring property or services, beginning with the process for determining a need for property or services and ending with contract completion and closeout.

Questioned Costs as defined by Uniform Guidance Section 2900.3 are any cost or procurement that is questioned by an auditor, pass-through entity or awarding agency representative. Purchases can be questioned due to possible violations of statutes and regulations, inadequate documentation or possible unreasonable cost.

Supplies as defined by Uniform Guidance Section 200.94 include all tangible personal property other than equipment.

Per Transaction as defined by EDD Procurement Directive is a single solicitation for a single item (e.g. Copy machine), group of related items (e.g. office furniture), or a specified service (e.g. staff training).

TO: Planning and Oversight Committee Members
FROM: Marion J. Aiken
Workforce Services Manager
SUBJECT: “WIOA INDIVIDUAL TRAINING CONTRACTS POLICY”
DATE: April 13, 2018

The policy on WIOA training accounts requirements is to provide guidelines to the WIOA staff with respect to the provision of the Individual Training Accounts (ITA’s) to WIOA participants. Previously, no policy was in place around WIOA training contracts, rather all guidance was provided through procedural manuals. Per WIOA guidelines, certain elements around training contracts must be outlined in local policy.

Overview of Policy

The policy provides information on the requirements for the provision of training services in accordance with WIOA, DOL Regulations and State of California Directives. An Individual Training Account (ITA) is a payment agreement established on the behalf of a participant with a training provider. The ITA is for tuition and training related costs considered as mandatory on a course description or class syllabus.

Additional items needed by the participant to complete the course of study may also be provided, but they must be categorized as a supportive service where the participant’s financial need for such items must be documented in the individual participant file.

Training providers are selected by Adults and Dislocated Workers in consultation and agreement with their Employability Specialists after an assessment and development of an Individual Employment Plan (IEP). ITA’s must be with Training providers who is qualified and approved to be state Eligible Training Providers List (ETPL), however, there are allowable exceptions to the ITA and ETPL requirements.

Key Policy Elements

- Requirements of clients, per Department of Labor (DOL) guidance, in order to receive WIOA training funds
- What the WDB can utilize WIOA training funds for
- Tuition training cap
- How the WDB will coordinate ITAs with other sources of funding (ex: Trade Adjustment Assistance and Pell Grants, Registered Apprenticeship programs)
- Exception to the ITA policy per federal and state guidance, and as outlined in our local plan (these have been previously approved)
- Documentation requirements for ITAs



WORKFORCE DEVELOPMENT BOARD
OF SOLANO COUNTY

POLICY ISSUANCE

Date: May 18, 2018

Number: 2018-03

WIOA ADULT AND DISLOCATED WORKER TRAINING CONTRACTS POLICY

INTRODUCTION

This policy provides guidance regarding the requirements for establishing training contracts for enrolled Workforce Innovation and Opportunity Act (WIOA) clients under the Adult and Dislocated Worker grants. It is the policy of the Workforce Development Board of Solano County (WDBSC) to provide enrolled WIOA clients the opportunity to participate in vocational training via training contracts. Individualized Training Accounts (ITAs) for training services listed on the California-approved Eligible Training Providers List (ETPL) are the primary method to be used for procuring training services under WIOA.

WIOA stipulates that the selection of training services should be conducted in a manner that maximizes customer choice, is linked to in-demand occupations, informed by the performance of relevant training providers, and coordinated to the extent possible with other sources of assistance. Further, training services must be linked to in-demand employment opportunities in the local area or in a geographic area in which the adult or dislocated worker is willing to commute or relocate.

The ETPL list of approved training providers and programs ensure the accountability, quality and labor-market relevance of training services that receive funds through WIOA Title I, Subtitle B. California's ETPL is available online at: www.caljobs.ca.gov. This list is to ensure that individuals participate and are fully informed of vocational options available, as well as promote customer choice in the process. The participatory process also allows individuals to select training programs that offers opportunities for employment in in-demand occupations.

QUESTIONS

Questions relating to this policy should be directed to Marion Aiken, Workforce Services Manager, at maiken@solanowdb.org or at (707) 863-3594.

ATTACHMENTS

- Attachment A: Definition of Key Terms

POLICY

Training services can be critical to the employment success of many adult and dislocated workers. There is no sequence of service requirement for "career services" and training. This means that staff may determine training is appropriate regardless of

WDB Training Contract Policy

whether the individual has received basic or individualized career services first. Under WIOA, training services may be provided if the appropriate WDB staff determine, after an interview, evaluation or assessment, and career planning, that the individual could benefit from training to reach their employment goals. More specifically, staff may issue an ITA to fund training for Adults and Dislocated Workers if the following conditions are met. The client must:

- Be unlikely or unable through career services alone to obtain or retain employment that leads to economic self-sufficiency or wages comparable to/higher than wages from previous employment;
- Be in need of training services to obtain or retain employment that leads to economic self-sufficiency or wages comparable to/higher than wages from previous employment;
- Have the skills and qualifications to successfully participate in the selected program of training services;
- Be determined eligible in accordance with the State and local priority system in effect for Adults under WIOA sec. 134(c)(3)(E) if training services are provided through the adult funding stream;
- Select a program of training services that is directly linked to the employment opportunities in the local area (Solano County) or the planning region (North Bay), or in another area to which the individual is willing to commute or relocate; and
- Not have received WIOA-funded ITA training within 24 months of either their last date of participation or completion of a prior WIOA funded training program through the WDB, whichever date is most recent.

In addition, for training contracts to be approved and awarded to WDB WIOA clients; the client must be unable to obtain grant assistance from other sources to pay the costs of such training, including such sources as State-funded training funds, Trade Adjustment Assistance (TAA), or Federal Pell Grants established under title IV of the Higher Education Act of 1965, or be in need of WIOA assistance in addition to other sources of grant assistance, including Federal Pell Grants.

In making the funding determination, WDB staff should take into account the full cost of participating in training services, including the cost of support services and other appropriate costs. The WDB reserves the right to prohibit the referral of customers to schools that have poor performance records in serving our clients.

TRAINING PARAMETERS

The training must result in an industry-recognized certificate or the attainment of skills or a generally accepted standard. In order for a provider of training services to receive WIOA funds, its program(s) may provide training services, such as:

WDB Training Contract Policy

- Occupational skills training, including training for non-traditional employment and occupational skills training that integrated English-language and math instruction needed to succeed on the job;
- Programs that combine workplace training with related instruction, which may include cooperative education programs;
- Training programs operated by the private sector;
- Skill upgrading and retraining;
- Entrepreneurial training; and
- Apprenticeship and pre-apprenticeship skills training.

The amount of training tuition must not exceed \$7500.00 without justification and management approval. The duration of training must not exceed 12-months in duration.

Internal procedures must outline how assessment for training is provided, the process of issuing an ITA, what costs an ITA will cover, how payments are made, and outcome considerations. In addition, internal procedures must define how WDB staff will record the participant training-related financial assistance needs, the methodology of how the needs were determined, and the mix of funding assistance in the participant's record.

COORDINATING ITAs WITH OTHER SOURCES OF FUNDING

WIOA funding for training is limited to participants who are either unable to obtain grant assistance from other sources to pay the costs of their training, or require assistance beyond that available under grant assistance from other sources to pay the costs of such training. WDB staff must consider the availability of other sources of grants to pay for training costs so that WIOA funds are used to supplement other funding sources.

A WIOA participant may enroll in WIOA-funded training while an application for a Pell Grant is pending as long as the WDB has made arrangements with the training provider and the WIOA participant regarding allocation of the Pell Grant if it is later awarded. If a Pell Grant is later awarded, the training provider must reimburse the WDB the WIOA funds used to begin training. Reimbursement is not required from the portion of Pell Grant assistance to the WIOA participant for education-related expenses, but does include any education fees charged to attend training.

A WIOA participant may also enroll in WIOA-funded training if he/she is a member of a worker group covered under a petition filed for Trade Adjustment Assistance (TAA) and is awaiting a determination. If the petition is certified, the worker may then transition to TAA approved training. If the petition is denied, the worker will continue training under WIOA.

ITAs may be provided to individuals in conjunction with On-the-Job Training (OJT) funds when appropriate, and the ITA may be used before, during, or after an OJT.

Registered apprenticeships automatically qualify to be on a state's ETPL, but may not always be listed on the ETPL because apprenticeship programs may choose whether to be included. ITAs can be used for the following apprenticeship-related costs:

WDB Training Contract Policy

- Tuition, books, and related for pre-apprenticeship training;
- Tuition, books and related for classroom training that is part of the apprenticeship; and
- Supportive services.

EXCEPTIONS TO THE ITA AND THE ETPL REQUIREMENTS

While ITAs are the preferred method of training delivery, a contract for training services may be developed instead of an ITA (or in combination with an ITA) in certain circumstances as allowed under the DOL Final Rule.

The contract exceptions to an ITA are:

1. On-the-job training (which may include placing participants in a Registered Apprenticeship program), customized training, incumbent worker training, or internships, paid or unpaid work experience, and transitional jobs are not included on the ETPL and therefore not subject to ITA eligibility requirements. Separate policies outline the requirements of these training types;
2. If the WDB determines that there are an insufficient number of eligible providers of training services to use ITAs. In this exception, training must be provided in in-demand occupations or industries as determined by the WDB;
3. If an exception is necessary to meet the needs of individuals with barriers to employment;
4. If the WDB determines that the most appropriate training could be provided by an institution of higher education to train multiple individuals for jobs in in-demand sectors or occupations. In this exception, the training provider must still be on the ETPL; and
5. If the WDB determines a pay-for-performance contract is the most effective means of providing training services (up to 10% of local funds). Institutions of higher education, such as community colleges, do not need to be on the state's ETPL to provide training through direct contract with the WDB under this exception.

Details and process for these exceptions must be outlined in procedures.

Additionally, the WDB may determine that providing training through a combination of ITAs and contracts is the most effective approach. This approach could be used to support placing participants in programs such as Registered Apprenticeships and other similar types of training.

DOCUMENTATION

The individual's case file must document that the WIOA approved program on the ETPL at the time that training is approved, or document the exception to the ITA rule. The individual case file must also contain a copy of an ITA commitment or agreement document and supporting training source documentation that identifies at a minimum the training cost, the provider and program, and start and end dates for the training.

DISCLAIMER

This policy is based on WDB's interpretation of the statute, along with the Workforce Innovation and Opportunity Act; Final Rule released by the U.S. Department of Labor, and federal and state policies relating to WIOA implementation. This policy will be reviewed and updated based on any additional federal or state guidance.

REFERENCES

Law

- [Workforce Innovation and Opportunity Act of 2014](#) (WIOA)
- [AB-1270 California Workforce Innovation and Opportunity Act](#)
- Senate Bill 734

Federal Guidance

- Department of Labor Final Rule
- Training and Employment Guidance Letter (TEGL) 03-15 – [Guidance on Services Provided through the Adult and Dislocated Worker Program under the Workforce Innovation and Opportunity Act and Wagner Peyser, as Amended by WIOA, and Guidance for the Transition to WIOA Services](#)

State Guidance

- Workforce Services Directive (WSD) 15-07 – [WIOA Eligible Training Provider List – Policy and Procedures](#)
- WSD 14-1 – [WIA Training Expenditure Requirements](#)
- WSD 08-10 – [Final Rule on Priority of Service for Veterans and Eligible Spouses](#)

Approved by

Workforce Development Board of Solano County

Definition of Key Terms

Informed Customer Choice as defined by WSD15-07 is to ensure job seeking customers may an “informed customer choice” and are prepared with the skills needed to fill hiring opportunities in in-demand sectors and career pathways in high wage occupations, AJCC staff will provide access to skills assessment tools, career planning resources, updated labor market information identifying industry sectors and occupational clusters that are high-growth, high-demand, projecting skills shortages, and/or vital to the regional economy, and access to the eligible list of training providers (ETPL_ provided in electronic format through the CalJOBS system which provides relevant information on available training programs, including performance and cost.

In-Demand as defined by WSD 15-07 refers to occupations, industry sectors or clusters, or career pathways that have been identified in the state, regional, and/or local Workforce Development Plan as emerging, growing, a priority for local workforce partners, or otherwise having the best job prospects due to the workforce needs or hiring demands of employers.

Training Providers

Pre-Apprenticeship Skills Training as defined in 20 CFR 681.480 and WSD 15-07 is a program or set of strategies designed to prepare individuals to enter and succeed in a registered apprenticeship program and has a documented partnership (letter of commitment) with at least one, if not more, approved apprenticeship programs. In California, the apprenticeship partner must be approved by the California Department of Industrial Relations, Division of Apprenticeship Standards (DIR/DAS). Such pre-apprenticeship programs must possess or develop a strong record of enrolling their pre-apprenticeship graduates into a registered apprenticeship program.

Program of Training Services as defined by 20 CFR Section 680,420 is one or more courses or classes, or a structured regimen that leads to one of the following:

- a. A recognized post-secondary credential, secondary school diploma or its equivalent,
- b. Employment,
- c. Or measurable skill gains toward such a credential or employment.