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
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Date: October 30, 2024
To: WIOA Subrecipients of the Orange County
Workforce Development Board
From: Nancy Cook 
Director of Workforce and Economic Development
Subject: Allowable Costs and Prior Written Approval
Information Notice No.24-OCWDB-09
Supersedes Information Notice No. 16-OCDB-06

PURPOSE

This policy provides federal and state guidance regarding general cost principles, allowable costs and prior written approval related to Workforce Innovation and Opportunity Act (WIOA) funds. This policy applies to subrecipients of WIOA funds.

EFFECTIVE DATE

This policy is effective on the date of issuance.

REFERENCES

- WIOA (Public Law 113-128) Sections 184(a)(3), 134(c)-(d), and 129
- Title 2 Code of Federal Regulations (CFR) Part 200, *“Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (Uniform Guidance)*
- Title 2 Code of Federal Regulations (CFR) Part 2900, *“Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”* [Department of Labor (DOL) Exceptions]
- Title 21 United States Code (USC) Section 812
- Training and Employment Guidance Letter (TEGL) 15-14, *Implementation of the New Uniform Guidance Regulations* (December 19, 2014)
- Workforce Services Directive WSD16-16, *Allowable Costs and Prior Written Approval* (February 21, 2017)
- Workforce Services Directive WSD16-10, *Property-Purchasing, Inventory, and Disposal* (November 10, 2016)
- OCDB Information Notice 16-OCWDB-06, *Allowable Costs-Workforce Innovation and Opportunity Act* (March 23, 2017).



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BACKGROUND

On December 26, 2013, the U.S. Office of Management and Budget (OMB) issued the [Uniform Guidance](#) under Title 2 CFR Part 200, which established uniform administrative requirements, cost principles, and audit requirements for federal awards. The Uniform Guidance consolidated multiple, previously separate, sets of OMB guidance into one combined set of rules. The following year, the United States Department of Labor (DOL) adopted the OMB Uniform Guidance and issued DOL Exceptions under [Title 2 CFR Part 2900](#).

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

DEFINITIONS

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

Please note, Uniform Guidance specifies that equipment includes: information technology systems, computing devices, software, and services (including support services). *This includes fees for licensing or subscriptions to software and software support services. Even if a monthly subscription fee is under \$5,000, if the total annual cost for the subscription exceeds \$5,000, then prior approval must be obtained.*

General Purpose Equipment - Equipment which is not limited to research, medical, scientific, or other technical activities. Examples include office equipment and furnishings modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles (Uniform Guidance Section 200.48).

Information technology systems - Computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), *licensing or subscriptions to software and software support services* and related services (Uniform Guidance Section 200.58).

Intangible Property - Property having no physical existence, such as trademarks, copyrights, patents, patent applications, and property such as loans, notes and other debt instruments, lease agreements, stock, and other instruments of property ownership (whether the property is tangible or intangible) (Uniform Guidance Section 200.59).

Personal Property - Property other than real property. It may be tangible, having physical existence or intangible (Uniform Guidance Section 200.78).

Property - Real property or personal property (Uniform Guidance Section 200.81).

Real Property - Land, including land improvements, structures, and appurtenances thereto, but excludes moveable machinery and equipment (Uniform Guidance Section 200.85).

Subrecipient - A non-federal entity that receives a subaward from a pass-through entity to carry out part of a federal program but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (Uniform Guidance Section 200.93).

Supplies - All tangible personal property other than equipment. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-federal entity for financial statement purposes or \$5,000, regardless of the length of its useful life (Uniform Guidance Section 200.94).

POLICY AND PROCEDURES

The Orange County Workforce Development Board (OCWDB) and its subrecipients, as recipients of WIOA Title I funds are required to comply with Uniform Guidance [WIOA Section 184(a)(3)]. This includes general principles and guidance on selected items of cost. However, if more restrictive city, county, state, or federal guidelines exist, they must take precedence. OCWDB and its subrecipients should review and update their internal policies and procedures to ensure compliance with the new guidance.

This policy transmits a high-level matrix, issued by EDD, listing the various cost items referenced in Uniform Guidance, 2 CFR parts 200.420 through 200.475 (Attachment I). The columns in the matrix contain the various entity types, the specific CFR sections, and DOL Exceptions sections (if applicable). The matrix also provides a quick reference guide indicating whether a cost item is allowable or not. OCWDB and its subrecipients can use the matrix as an initial tool, rather than a final authority, in determining whether or not a cost is allowable.

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

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

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

Prohibited Use of Funds

Lobbying

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

Marijuana Industry

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

All grant agreements between the DOL and the state, and between the state and OCWDB must follow all applicable federal statute, regulations, policies, and state requirements. Therefore, in accordance with federal law, WIOA funds cannot be used to directly or indirectly support the marijuana industry including, but not limited to, use, possession, growth or distribution of marijuana. WSD16-16 specifies that this applies to WIOA; Wagner-Peyser; Trade Adjustment Assistance; Veterans' Employment and Training Service; and National Dislocated Worker Grant programs and services including, but not limited to, training, employer outreach, hiring events, career counseling, job orders and referrals.

Prior Written Approval

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

Under any given federal award, the reasonableness and allocability of certain cost items may be difficult to determine. In order to avoid subsequent disallowance or dispute, subrecipients should obtain prior written approval for the incurrence of special or unusual costs.

The matrix below outlines the key sections on the Uniform Guidance related Cost Principles under 2 CFR parts 200.402 through 200.415.

Circumstance	Section
Composition of costs	§200.402
Factors affecting allowability of costs	§200.403
Reasonable costs	§200.404
Allocable costs	§200.405
Applicable credits	§200.406
Prior written approval (prior approval)	§200.407
Limitation on allowance of costs	§200.408
Special considerations	§200.409
Collection of unallowable costs	§200.410
Adjustment of previously negotiated indirect (F&A) cost rates containing unallowable costs	§200.411
Classification of costs	§200.412
Direct costs	§200.413
Indirect costs	§200.414
Required certifications	§200.415

The following matrix lists key sections of the Uniform Guidance that address when prior written approval is required.

Circumstance	Section
Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts	§200.201 , paragraph (b)(5)
Cost sharing or matching	§200.306
Program income	§200.307
Revision of budget and program plans	§200.308
Real property	§200.311
Equipment	§200.313
Fixed amount sub awards	§200.333
Direct costs	§200.413 , paragraph (c)
Compensation—personal services	§200.430 , paragraph (h)
Compensation—fringe benefits	§200.431
Entertainment costs	§200.438
Equipment and other capital expenditures	§200.439
Exchange rates	§200.440
Fines, penalties, damages and other settlements	§200.441
Fund raising and investment management costs	§200.442
Goods or services for personal use	§200.445
Insurance and indemnification	§200.447
Memberships, subscriptions, and professional activity costs	§200.454 , paragraph (c)
Organization costs	§200.455
Participant support costs	§200.456
Pre-award costs	§200.458
Rearrangement and reconversion costs	§200.462
Selling and marketing costs	§200.467
Taxes (including Value Added Tax)	§200.470
Travel costs	§200.475

Subrecipients should thoroughly review the Uniform Guidance sections referenced above to determine when prior written approval must be obtained and assess if their specific circumstance(s) require prior approval. As indicated in DOL Exception Section 2900.407, inclusion of item(s) in the statement of work or budget when awarded **does not** constitute prior approval; subrecipients must still follow all applicable policies and procedures outlined in the State directive WSD16-16 and this policy.

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

Prior Written Approval Procedures

OCWDB subrecipients must complete and submit the OCWDB Subrecipient Prior Written Approval Request (Attachment II), along with all necessary supporting documentation, to the OCWDB Executive Director less than 45 days before the requested action is to occur.

Consistent with the requirements in WSD16-16, OCWDB will consider the following factors in its review of the requests:

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

The OCWDB Subrecipient Prior Written Approval Request and supporting documentation can be submitted to the assigned Contract Administrator electronically or via mail to the following address:

ATTN: (Name of Contract Administrator)
Orange County Workforce Development Board
1300 South Grand Avenue, 2nd floor Bldg. B
Santa Ana, CA 92705

OCWDB shall review the subrecipient's written request for prior approval and, following the state requirements in WSD16-16, shall submit the corresponding OCWDB request for approval to the assigned Regional Advisor.

Subrecipients will receive a formal notification from their assigned Contract Administrator providing approval or denial of their request. Written approval must be received prior to the cost being incurred. Approval is based on the supplied justification and supporting documentation for the proposed expenditure. If the actual expenditure is not in accordance with the justification or Uniform Guidance requirements, the expenditure can still be questioned or disallowed. Factors affecting this include, but are not limited to, the following:

- Inadequate justification

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

Documentation

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

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

ACTION

Bring this policy to the attention of all staff and relevant parties.

INQUIRIES

If you have any questions regarding this policy, please email

info@ocworkforcesolutions.com.

ATTACHMENTS

1. [Cost Items Matrix](#)
2. [OCWDB Subrecipient Prior Written Approval Request](#)

COST ITEMS MATRIX

THIS COST ITEMS MATRIX SHOULD ONLY BE USED AS A QUICK REFERENCE GUIDE.

The *Workforce Innovation and Opportunity Act (WIOA)*, Title 2 *Code of Federal Regulations (CFR) Part 200 (Uniform Guidance)*, and Title 2 *CFR Part 2900 (Department of Labor [DOL] Exceptions)*, contain definitive guidance and final authority for determining whether or not a cost is allowable.

The matrix on the following pages identifies the cost items and different types of entities. When determining whether the cost of an item is allowable, users must also refer to the applicable sections of the Uniform Guidance, DOL Exceptions, and WIOA.

Failure to address a particular cost item is not intended to imply that it is allowable or unallowable. Rather, the determination of allowability in each case must be based on the treatment or principles provided for similar or related costs. In the case of a discrepancy between the Uniform Guidance and the provisions of a specific federal award administered by the pass-through entity, the federal award provisions govern. Note also that, in some instances, different cost items may be similarly named, and there may be some overlap between the various cost items.

When reviewing the matrix please use the following legend:

Legend Key	Legend Key Definition
A	Allowable
AP	Allowable with Prior Approval
AC	Allowable with Conditions
U	Unallowable
NS	Not Specified in the Uniform Guidance

If a cost item is denoted with two or more legend keys, users should delve further into the various information sources as they may provide the additional clarity that is needed. If this effort does not provide the necessary information, then subrecipients should contact their Regional Advisor/Project Manager.

The “NS” legend key denotes that information may not be readily available. In this event, the subrecipient should seek other sources before contacting their Regional Advisor/Project Manager.

The “AP” legend key denotes that, in some instances, prior written approval will be required from the Cognizant Agency or Governor. In this event, one should adhere to the Uniform Guidance Section 200.407, DOL Exceptions Section 2900.16, and review the existing policies and procedures established in Workforce Services Directive WSD16-16, until further guidance is provided by the state.

	Cost Item	Educational Institutions	Non-Profit Organizations	State, Local and Indian Tribal Governments	Uniform Guidance Section	DOL Exception Section
1	Advertising and public relations	A/U	A/U	A/U	200.421	
2	Advisory councils	AC/U	AC/U	AC/U	200.422	
3	Alcoholic beverages	U	U	U	200.423	
4	Alumni/ae activities	U	NS	NS	200.424	
5	Audit services	AC/U	AC/U	AC/U	200.425	
6	Bad debts	U	U	U	200.426	
7	Bonding costs	A	A	A	200.427	
8	Collection of improper payments	A	A	A	200.428	
9	Commencement and convocation costs	AC/U	NS	NS	200.429	
10	Compensation – personal services	A/U	A/U	A/U	200.430	
11	Compensation – fringe benefits	A /U	A /U	A /U	200.431	
12	Conferences	A	A	A	200.432	
13	Contingency provisions	AC/U	AC/U	AC/U	200.433	2900.18
14	Contributions and donations	U	U	U	200.434	
15	Defense and prosecution of criminal and civil proceedings, claims, appeals, and patent infringement	AC/U	AC/U	AC/U	200.435	
16	Depreciation	AC	AC	AC	200.436	
17	Employee health and welfare costs	A	A	A	200.437	
18	Entertainment costs	U/AP	U/AP	U/AP	200.438	
19	Equipment and other capital expenditures	AP/U	AP/U	AP/U	200.439	
20	Exchange rates	AP	AP	AP	200.440	
21	Fines, penalties, damages and other settlements	U/AP	U/AP	U/AP	200.441	
22	Fund raising and investment management costs	U/AP/A	U/AP/A	U/AP/A	200.442	
23	Gains and losses on disposition of depreciable assets	AC	AC	AC	200.443	
24	General cost of government	NS	NS	U/A	200.444	
25	Goods or services for personal use	U/AP	U/AP	U/AP	200.445	
26	Idle facilities and idle capacity	AC/U	AC/U	AC/U	200.446	
27	Insurance and indemnification	AC/U	AC/U	AC/U	200.447	
28	Intellectual property	A/U	A/U	A/U	200.448	
29	Interest	AC/U	AC/U	AC/U	200.449	
30	Lobbying	U	U	U	200.450	
31	Losses on other awards or contracts	U	U	U	200.451	
32	Maintenance and repair costs	A	A	A	200.452	
33	Material and supplies costs, including costs of computing devices	A	A	A	200.453	
34	Memberships, subscriptions, and professional activity costs	A/U	A/U	A/U	200.454	
35	Organization costs	U/AP	U/AP	U/AP	200.455	
36	Participant support costs	AP	AP	AP	200.456	
37	Plant and security costs	A	A	A	200.457	
38	Pre-award costs	AP	AP	AP	200.458	
39	Professional services costs	A	A	A	200.459	
40	Proposal costs	A	A	A	200.460	
41	Publication and printing costs	A	A	A	200.461	
42	Rearrangement and reconversion costs	A/AP	A/AP	A/AP	200.462	

	Cost Item	Educational Institutions	Non-Profit Organizations	State, Local and Indian Tribal Governments	Uniform Guidance Section	DOL Exception Section
43	Recruiting costs	A/U	A/U	A/U	200.463	
44	Relocations costs of employees	AC/U	AC/U	AC/U	200.464	
45	Rental costs of real property and equipment	AC/U	AC/U	AC/U	200.465	
46	Scholarships and student aid costs	AC	NS	NS	200.466	
47	Selling and marketing	U/AP	U/AP	U/AP	200.467	
48	Specialized service facilities	AC	AC	AC	200.468	
49	Student activity costs	U/AP	U/AP	U/AP	200.469	2900.19
50	Taxes	AC	AC	AC	200.470	
51	Termination costs	AC/U	AC/U	AC/U	200.471	
52	Training and education costs	A	A	A	200.472	
53	Transportation costs	A	A	A	200.473	
54	Travel costs	AC	AC	AP	200.474	
55	Trustees	A	A	NS	200.475	

**Orange County Workforce Development Board (OCWDB)
Subrecipient Prior Written Approval Request**

Subrecipient Name _____

Subrecipient Program _____ Request Date _____

Instructions:

- For Prior Written Approval Requests that include costs, complete Sections A, C and D. For requests that do not include costs, complete Sections B, C and D.
- Refer to State Directive WSD16-16 dated February 21, 2017 for guidance on Prior Written Approval before completing this request form.

Section A – Requests that include costs

Item of cost being requested _____

Estimated total cost _____

Is this purchase necessary and reasonable? Describe the item of cost and its functionality.

Is the purchase needed? Describe the reason for the purchase/rent/subscription including functionality not provided by state or local partners.

What other costs are associated with the purchase? Describe additional costs (maintenance, set up, taxes, fees, etc.) associated with the purchase.

Have the best products been selected? Describe how the product will be selected.

If applicable, what procurement method will be used? Describe the procurement method selected.

If applicable, was a lease option considered in lieu of the purchase? Describe leasing options as part of the consideration.

If applicable, name and address of the entity where the property will be located.

Section B – Requests that do not include costs but still require prior written approval

Describe the circumstance that requires prior written approval.

Section C – 45-day requirement

Is this request being made more than 45 days before the requested action is to occur?

Yes No

If approved, date that the requested action is to occur. _____

Section D – Signature

By signing below, the authorized representative requests a prior written approval for the item of cost listed above.

Name _____ Signature _____

Title _____ Date _____

For OCWDB Use

Contract Administrator _____ Date _____

Executive Director _____ Date _____

(If computer-related equipment, software or subscription is being purchased, the OCCR IT Unit's recommendation is required.)