

Executive Summary

Workforce Services Policy – Property Management

1. What is the purpose of this policy?

This policy provides procurement procedures and considerations, property management guidelines, and several key definitions and legal references for the local areas. The procedures outlined consists of the required documentation and processes for the state procurement process, as well as ensuring that the local areas have a procurement policy in place that meets outlined federal standards. The guidelines outline what property needs to be maintained, how the property has to be annotated and submitted to the state within federal guidelines.

2. Has this policy been updated? If so, what is the purpose of the policy update?

The policy expired on June 30, 2018 and an update is required.



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Workforce Services Policy – Property Management

Effective Date: November 8, 2019

Duration: Automatic Annual Renewal

Subject: Property Management Policy

Purpose:

This policy communicates methods used by Tennessee Department of Labor and Workforce Development (TDLWD) for the procurement of goods and services obtained with Workforce Innovation Opportunity Act (WIOA) funds. This policy also sets forth the requirements provided by: the Office of Management and Budget (OMB), Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule Title 2 of the Code of Federal Regulations, 2 CFR 200.

Scope:

Office of the Governor, Tennessee Department of Labor and Workforce Development (TDLWD); Division of Workforce Services (WFS); Tennessee Department of Economic and Community Development (ECD); Tennessee Department of Education (TNED); Tennessee Department of Human Services (DHS); State Workforce Development Board (SWDB); **Title I** – Adult, Dislocated Worker, and Youth Programs, **Title II** – Adult Education and Family Literacy Act Program(AE); **Title III** – Wagner-Peyser Act Program (WP); **Title IV** – Vocational Rehabilitation Program (VR); Regional Planning Council (RPC); Local Workforce Development Boards (LWDB); Local Workforce Development Areas (LWDA); American Job Center (AJC); One-Stop Operator (Operator); Workforce System Sub-Recipients (Sub-Recipients); Workforce System Partners (Partners)

I. Instruction:

- Grantees and sub grantees must use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.
- Grantees and sub grantees must maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

- Grantees and sub grantees must maintain a written code of standards of conduct governing the performance of their employees engaged in the selection, awarding of, and administration of contracts. No employee, officer or agent of the grantee or sub grantee shall participate in any way (including discussion, review and/or voting) in the selection, or in the awarding of, or administration of a contract supported by Federal or State funds if a conflict of interest, real or apparent, would be involved. Such conflicts arise when:
 - The employee, officer (*for the purpose of this policy, workforce board members shall be considered as officers*), or agent,
 - Any member of his immediate family,
 - His or her partner, or
 - An organization which employs, or is about to employ any of the above, has a financial or other interest in the firm selected for the award. The grantees or sub grantee's officers, employees, or agents will neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub agreements.

Written prior approval must be obtained from TDLWD for acquisition of sensitive items and nonexpendable property with a unit acquisition cost of \$5,000 or more. In addition, any agreements or activities related to costs associated with real property must receive written approval by TDWLD. Refer to Workforce Services Policy - Sanctions for Failure to Meet Federal and State Standards if this policy is ignored.

Local Workforce Development Boards (LWDBs) must have property inventory systems that meet the standards required by 2 CFR 200.313(d) for equipment and standards required by 2 CFR 200.311-312 for real property. LWDBs must maintain the inventory system at a minimum on a quarterly basis, with scheduled reviews and updates being well documented. The system must include property purchased with WIOA funds as well as property transferred from WIA, JTPA, or CETA to WIOA. The Governor shall maintain accountability for property in accordance with State procedures and the record retention requirements of 2 CFR 200.333. When original or replacement equipment (acquired under a grant or sub grant) is no longer needed for the original project or program or for other activities supported by a Federal agency, the equipment will be subject to the procedures for managing equipment as outlined in 2 CFR 200.313(d)(e).

II. Definitions:

- A. Equipment** - Equipment means tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. Uniform Guidance specifies that equipment include information technology systems, computing devices, software and services (including support services). This includes fees for licensing or subscriptions to software and software support services. This even includes monthly subscription fees under \$5,000 dollars if the total annual cost for the subscription exceeds \$5,000 dollars; for such subscriptions, prior approval must be obtained.
- B. General Purpose Equipment¹** - This is 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).

¹ 2 CFR 200.48

C. Information Technology Systems² – This encompasses computing devices, ancillary equipment, software, firmware, similar procedures, services (including support services), licensing or subscriptions to software and software support services, and related services (2 CFR 200.58).

III. Types of property Which Require Accountability Maintenance:

- Tangible personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. Examples include furniture, machinery, office, operational and educational equipment, etc.
- Sensitive equipment having a unit cost of \$100 to \$5,000. Examples include typewriters, tape recorders, printers, computers, cameras, cell phones, and lap-tops.
- Personal computers will be tagged as a unit consisting of monitor, keyboard, and the computer itself. The printer will be tagged separately.

All LWDB procurements of sensitive equipment or procurements having a unit acquisition cost of \$5,000 or more must have prior written approval from TDLWD. The Governor, on behalf of the US Department of Labor (USDOL), reserves the right to claim title to all property purchased with WIOA, WIA, JTPA or CETA funds with a current per-unit fair market value in excess of \$5,000. (*Property Accountability 114S-60.401 Classification Criteria*).

IV. Equipment Property Management Procedures:

Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, information as to who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property. These records must also include the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

- When property with a current per-unit value in excess of \$5,000 has been stolen or destroyed by fire (or another disaster), is considered obsolete, or is to be traded for new equipment the LWDB shall notify the State office of the particular event and request approval to remove the property from the Record Inventory.
- If any property is stolen a copy of a Police Report must accompany the Report of the Survey. If the stolen property has a current per-unit value of \$5,000 or more the Federal Bureau of Investigation must be notified and a copy of the report must accompany the Report of the Survey.
- If the property is destroyed by fire a copy of a Fire Marshall's Report must accompany the Report of the Survey. When the LWDB determines that the property is non-serviceable due to obsolescence, that LWDB must request the destruction of the equipment through Asset Works (the State system) at which time the State procurement office re-evaluates the condition of the equipment. General Services will review the request and approve it with instructions to forward it to the requesting LWDB before the State Procurement Office re-evaluates the condition of the equipment. All property records must be maintained for five years after final disposition of the property. For additional information regarding disposition of property please see Provision 4 Section D of the Supplementary Financial Guide.
- The sub grantee or the contractor must tag all property with the appropriate tag and the contractor's records must indicate the program under which the property was acquired. Upon

² 2 CFR 200.58

request, tags will be provided by the TDLWD to the contractor. After tagging the equipment the contractor should add the new items to its inventory listing. The contractor inventory records must contain the following information:

- Tag number
 - Program funding the acquisition
 - Percentage federally funded (if not 100%)
 - Date of purchase or acquisition
 - Condition of the property (Cost or Fair Market Value)
 - Location
 - Serial number or other identifying number should be added to other pieces of equipment acquired.
- Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of *five years* from the date of submission of the final expenditure report.

New acquisitions must be reported to TDLWD on the Property Record form. All new property should be clearly marked.

V. Purchase Considerations:

Although Uniform Guidance and DOL Exceptions do not address every possible cost, they serve as the foundation for all grant financial management; for this reason, sub recipients should rely on this guidance to avoid audit findings and potential liability. To ensure that funds are being spent in a fiscally prudent and efficient manner, sub recipients need to consider the following questions prior to requesting approval to direct-charge WIOA funds for the purchase of property:

- Is this purchase reasonable?
- Why is the purchase needed?
- Have the best products been selected?
- What procurement method was used?
- Was a lease option considered in lieu of the purchase?
- Does the State already provide the item, service, or software being considered for rent, purchase, or subscription?
- Can the purchaser show that the purchase and item is allowable under the applicable federal award?

VI. Leasing Considerations:

The decision to lease or buy personal property should be governed by considerations of economy. Consideration for leasing may differ by property type and according to market conditions. The length of the contract period of the lease should also be considered. Leasing with an option to purchase is generally preferable to straight leasing. However, for real property, administrative requirements make leasing the only option since the construction or purchase of real property is not allowed under the WIOA program except in limited circumstances which are outlined in the following section.

VII. Capital Assets and Construction Costs:

The WIOA Title I funds may not be spent on the construction, or may not be used to purchase

facilities or buildings, or used for other capital expenditures for improvement to land or buildings³ except with prior written approval by the USDOL Secretary. The exceptions to that rule in which WIOA Title I funds can be used for construction include the following:

- Meeting obligations to provide physical and programmatic accessibility and certain repairs, renovations, alterations, and capital improvements to the property;
- For disaster relief projects;
- For YouthBuild programs⁴; or
- For any other projects the USDOL Secretary determines are necessary to carry out WIOA Section 189(c) 20 CFR Section 683.235.

VIII. Limitation:

Cost allocable to another Federal grants, WIOA programs, or cost categories may not be shifted to a WIOA grant, sub grant, program or cost categories to overcome fund deficiencies, avoid restrictions imposed by law or grant agreements, or for other reasons⁵.

IX. Real Property:

Real property means land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.

X. Rental Costs:

Subject to the limitations described below, rental costs are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased. Rental costs under sale and leaseback arrangements are allowable only up to the amount that would be allowed had the governmental unit continued to own the property. Rental costs under less-than-arms-length leases are allowable only up to the amount that would be allowed had title to the property vested in the governmental unit. For this purpose, less-than-arms-length leases include, but are not limited to, those where:

- One party to the lease is able to control or substantially influence the actions of the other;
- Both parties are parts of the same governmental unit; or
- The governmental unit creates an authority or similar entity to acquire and lease the facilities to the governmental unit and other parties.

Rental costs under leases, which are required to be treated as capital leases under GAAP, are allowable only up to the amount that would be allowed had the governmental unit purchased the property on the date the lease agreement was executed. This amount would include expenses such as depreciation (please note depreciation is also addressed in the Supplementary Financial Guide), maintenance, and insurance. The provisions of GAAP shall be used to determine whether a lease is a capital lease. Interest costs related to capital leases are allowable to the extent they meet applicable criteria⁶.

³ 20 CFR 683.235

⁴ WIOA Section 171(c)(2)(A)(i)

⁵ 2 CFR 200.405(c)

⁶ 2 CFR 200.449

XI. Maintenance, Operations, and Repairs:

Unless prohibited by law, the cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, necessary maintenance, normal repairs and alterations, and the like are allowable to the extent that they:

- Keep property (including Federal property, unless otherwise provided for) in an efficient operating condition,
- Do not add to the permanent value of property or appreciably prolong its intended life, and
- Are not otherwise included in rental or other charges for space. Costs which add to the permanent value of property or appreciably prolong its intended life shall be treated as capital expenditures⁷.

XII. Costs Allowable With State Office:

For approval of those selected items of cost, requiring prior approval, the authority to grant or deny approval is delegated to the Governor for programs funded under WIOA Sections 127 or 132.

XIII. Rearrangements and Reconversion Costs⁸:

Costs incurred for ordinary and normal rearrangement and alteration of facilities are allowable. Special arrangements and alterations costs incurred specifically for a Federal award are allowable with the prior approval of the Federal awarding agency. Costs incurred for rearrangement and alteration of facilities required specifically for the grant program may be approved by the State or the pass through entity.

XIV. Debarred and Suspended Parties:

LWDBs must not make any award or permit (sub grants or contracts) to any party debarred, otherwise suspended, or otherwise excluded from eligible for participation⁹ in Federal assistance programs in accordance with Department of Labor Regulation at *29 CFR Part 98*. Recipients and sub recipients shall comply with the applicable requirements of the DOL Regulations at *29 CFR parts 98*.

XV. State of Tennessee General Services Real Property and Equipment Standards:

In addition to adhering to the federal standards set forth in this policy, grant recipients and sub-recipients should also adhere to all property requirements set forth by the State of Tennessee General Services requirements. In the event a conflict arises between State of Tennessee General Service requirements and Federal regulations, please note that Federal regulations will take supremacy over State requirements if the property is utilized to carry out activities associated with a Federal award or purchased with monies from a Federal award.

References:

2 CFR 200.48, 200.58, 200.194, 200.195, 200.405(c), 200.449, 200.452, 200.462; 20 CFR 683.200, 683.235; TEGL 15-14; WIOA Section 171(c)(2)(A)(i); WIOA Section 184(a)(2)(A)

Contact:

For any questions related to this policy, please contact the Program Integrity Unit at Workforce.Board@tn.gov

⁷ 2 CFR 200.452

⁸ 2 CFR 200.462

⁹ 20 CFR 683.200

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