



**Workforce Innovation and  
Opportunity Act Policy  
Employment System Administration and Policy**

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Washington envisions a nationally recognized fully integrated One-Stop system with enhanced customer access to program services, improved long-term employment outcomes for job seekers and consistent, high quality services to business customers. In order to achieve this vision, Employment System Administration and Policy sets a common direction and standards for Washington's WorkSource system through the development of WorkSource system policies, information memoranda, and technical assistance.

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**Policy Number:** 5250

**To:** Washington WorkSource System

**Effective Date:** July 1, 2015

**Subject:** Subrecipient/Contractor and Pass-Through Entity Determination Requirements

**1. Purpose:**

To communicate the requirements regarding Subrecipients/Contractors and Pass-Through Entities as outlined in the Workforce Innovation and Opportunity Act (WIOA) Title I.

**2. Background:**

As the Grant Recipient for WIOA funds in Washington, the Employment Security Department (ESD) is responsible for ensuring that all budget and accounting requirements for all WIOA funds, whether at the state or local level, meet the requirements of the Act, regulations, and Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

**3. Policy:**

Fiscal agents for Local Workforce Development Boards (LWDBs), and any other entities authorized to subaward/subcontract WIOA funds, shall include in these subawards/subcontracts assurances that acceptable standards for accountability are observed. Additionally, when applicable, such awards/contracts will ensure that subrecipients' systems provide the necessary information and controls needed to comply with the current regulations published by the Department of Labor. Such information will

include Catalog of Federal Domestic Assistance (CFDA) numbers, mandatory audit requirements, debarments, and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

Subrecipient accounting systems must follow the current Generally Accepted Accounting Principles (GAAP).

LWDB agreements with other entities may be classified as either a Subrecipient or a Contractor. If the agreement meets the requirements of a subrecipient, the LWDB is a Pass-Through Entity. The information below is provided to assist with subrecipient and contractor determinations and the requirements of a pass-through entity.

### 2 CFR 200.330 Subrecipient and contractor determinations.

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

- a. Subrecipients. A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. See 2 CFR Part 200.92- Subaward. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:
  - i. Determines who is eligible to receive what Federal assistance;
  - ii. Has its performance measured in relation to whether objectives of a Federal program were met;
  - iii. Has responsibility for programmatic decision making;
  - iv. Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
  - v. In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.
  
- b. Contractors. A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. See 2 CFR Part 200.22 - Contract. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:
  - i. Provide the goods and services within normal business operations;
  - ii. Provides similar goods or services to many different purchasers;

- iii. Normally operate in a competitive environment;
  - iv. Provide goods and services that are ancillary to the operation of the Federal program; and
  - v. Not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.
- c. Use of judgement in making determination. In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgement in classifying each agreement as a subaward or a procurement contract.

## 2 CFR 200.331 Requirements for pass-through entities

All pass-through entities must:

- a. Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward, and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:
  - i. Federal Award Identification
    - (i) Subrecipient name (which must match the name associated with its unique entity identifier);
    - (ii) Subrecipient's unique entity identifier;
    - (iii) Federal Award Identification Number (FAIN);
    - (iv) Federal Award Date (see 2 CFR 200.39 Federal award date);
    - (v) Subaward Period of Performance Start and End Date;
    - (vi) Amount of Federal Funds Obligated by this action;
    - (vii) Total Amount of Federal Funds Obligated to the subrecipient;
    - (viii) Total Amount of the Federal Award;
    - (ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);
    - (x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official,
    - (xi) Catalog of Federal Domestic Assistance (CFDA) Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;
    - (xii) Identification of whether the award is Research and Development; and
    - (xiii) Indirect cost rate for the Federal award (including if the de minimis rate is

charged per 2 CFR 200.414 Indirect (F&A) costs).

- ii. All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award.
  - iii. Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports;
  - iv. An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a de minimis indirect cost rate as defined in 2 CFR Part 200.414 - Indirect (F&A) costs, paragraph (f).
  - v. A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this part; and
  - vi. Appropriate terms and conditions concerning closeout of the subaward.
- b. Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in paragraphs (d) and (e) of this policy, which may include consideration of such factors as:
- i. The subrecipient's prior experience with the same or similar subawards;
  - ii. The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F-Audit Requirements, and the extent to which the same or similar subaward has been audited as a major program;
  - iii. Whether the subrecipient has new personnel or new or substantially changed systems; and
  - iv. The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a Federal awarding agency).
- c. Consider imposing specific subaward conditions upon a subrecipient if appropriate as described in 2 CFR Part 200.207 - Specific conditions.

- d. Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:
  - i. Reviewing financial and performance reports required by the pass-through entity.
  - ii. Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.
  - iii. Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by 2 CFR Part 200.521 - Management decision.
- e. Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as described in paragraph (b) of this policy), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:
  - i. Providing subrecipients with training and technical assistance on program-related matters; and
  - ii. Performing on-site reviews of the subrecipient's program operations;
  - iii. Arranging for agreed-upon-procedures engagements as described in 2 CFR Part 200.425 - Audit services.
- f. Verify that every subrecipient is audited as required by 2 CFR Part 200 Subpart F—Audit Requirements of the CFR when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 CFR Part 200.501 Audit requirements.
- g. Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.
- h. Consider taking enforcement action against noncompliant subrecipients as described in 2 CFR Part 200.338 - Remedies, for noncompliance of this part and in program regulations.

#### **4. Definitions:**

Subrecipient – an entity that receives federal assistance passed through from a prime recipient or another recipient to carry out or administer a WIOA program. Distinguishing characteristics of a subrecipient include:

- Determining eligibility for assistance;
- Performance measured against meeting the objectives of the program;
- Responsibility for programmatic decision making;
- Responsibility for applicable program compliance requirements;
- Use of the funds passed through to carry out a program of the sub-entity as compared to providing goods or services for a program of the prime recipient.

Pass-through entity - a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

#### 5. **References:**

All fiscal policies and guidance letters published for WIOA are governed, as appropriate, under:

- [Public Law 113-128](#)
- [2 CFR Part 200 Subpart D-Post Federal Award Requirements-Standards for Financial and Program Management 200.302 Financial Management](#)
- [Federal Register Vol.65, No.124: Resource Sharing for Workforce Investment Act One-Stop Centers](#)
- [Generally Accepted Accounting Principles \(GAAP\)](#)

#### 6. **Supersedes:**

NA

#### 7. **Website:**

[http://www.wa.gov/esd/1stop/policies/wioa\\_title1.htm](http://www.wa.gov/esd/1stop/policies/wioa_title1.htm)

#### 8. **Action:**

Local Workforce Development Boards and their contractors, as well as Employment Security Regional Directors, should distribute this policy broadly throughout the system to ensure that WorkSource System staff are familiar with its content and requirements.

#### 9. **Attachments:**

None.

**Direct Inquiries To:**

*Darrell Stoa, Funds Manager  
Financial and Administrative Services Division  
Employment Security Department  
PO Box 9046  
Olympia, WA 98507  
360-902-9327  
[dstoa@esd.wa.gov](mailto:dstoa@esd.wa.gov)*

**Direct Other Inquiries To:**

*Employment System Administration and Policy Unit  
Employment System Policy and Integrity Operations Division  
Employment Security Department  
P.O. Box 9046  
Olympia WA 98506-9046  
(360) 902-9666  
[SystemPolicy@esd.wa.gov](mailto:SystemPolicy@esd.wa.gov)*