



POLICY: SUBRECIPIENT MONITORING POLICY

EFFECTIVE DATE: **POLICY NUMBER: 2017-17**

PURPOSE

This Technical Assistance Guide has been developed to assist managers in making informed decisions about Subrecipient Monitoring to ensure the proper use of federal funds authorized under the Workforce Innovation and Opportunity Act.

The purpose of oversight and monitoring is to ensure that workforce development programs within WorkSource Montgomery are operating in accordance with all applicable federal, state, local regulations and policies associated with all WIOA funded sub-recipient agreements, and all appropriate administrative directives. Monitoring will be scheduled twice a year, or anytime at the discretion of WorkSource Montgomery, Inc. to ensure that all services and programs are designed and operating to achieve expected results, to ensure funds are being spent for authorized purposes, to ensure reliable and timely information is captured, reported, and utilized to improve decision-making, and to aid in corrective action prior to oversight by grantors.

BACKGROUND

All subrecipients will be monitored both financially and programmatically for compliance and will be evaluated on a regular basis. The Uniform Guidance requires that all subrecipients address risk of the award lifecycle: pre-award, award, and post-award. Staff of WorkSource Montgomery will report outcomes of the monitoring reports to the Board. The Board will use the results of monitoring to evaluate the consistency of program results against expected goals. Results from monitoring reviews may also be used to analyze program performance and current and future program funding objectives.

CANCELLATIONS

This policy supersedes all pre-existing policies for subrecipient monitoring.

ACTION REQUIRED

Within 15 days of the receipt of this policy it is the recipient's responsibility to ensure all staff are informed of the policy and to create an internal process to ensure accountability.

QUESTIONS

Questions relating to this policy should be directed to the Director, Talent Development / WIOA at policy@worksourcemontgomery.com, or 240-641-6736.

SUBRECIPIENT MONITORING POLICY

Written reports will be provided to the Board summarizing performance, operation, and monitoring of all workforce-related programs. The report will identify areas of concern and noncompliance as well outstanding practices and performance. The Board shall utilize this information in the decision-making process regarding current and program future procurement(s) changing program direction, and requires corrective action to resolve concerns.

In compliance with Uniform Guidance monitoring of post-award phase, the Board is required to identify and remedy any failures with the terms of award of the sub-recipient.

Intended Audience: Local Workforce Development Board (LWDB) members, Local Workforce Development Area (LWDA) Executive Directors and Finance Directors.

Introduction: Federal guidelines require that all recipients of federal funds authorized under the Workforce Innovation and Opportunity Act be subject to monitoring to ensure that adequate controls are in place.

2 CFR §200.328

"Monitoring and reporting program performance.

(a) Monitoring by the non-Federal entity. The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-

Federal entity must cover each program, function or activity. See also §200.331 Requirements for pass-through entities.”

2 CFR §200.331 (d)

“Requirements for pass-through entities.

(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:

(1) Reviewing financial and performance reports required by the pass-through entity.

(2) 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.

(3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by §200.521 Management decision.”

Subrecipient vs. Vendor Determination

Guidance on identifying a subrecipient and a contractor can be found by reviewing 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 §200.92 Subaward. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

(1) Determines who is eligible to receive what Federal assistance;

(2) Has its performance measured in relation to whether objectives of a Federal program were met;

(3) Has responsibility for programmatic decision making;

(4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and

(5) 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 §200.22 Contract. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the contractor:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Normally operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the Federal program; and
- (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

Use of judgment 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 a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics **Guiding Principles:**

(c) listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract."

- All incurred expenses must be supported by adequate documentation. (Conference or meeting agendas, invoices, hotel bills, receipts, etc.) See 2 CFR §200.302.
- The Maryland Department of Labor, License, and Regulation (DLLR) and the WSM fiscal recipient are custodians of federal funds, which must be safeguarded and used only for legitimate business purposes.

Monitoring tools and guides:

- Risk assessment. Assessing risk prior to engaging in monitoring is helpful to determine the sample size, areas of concern and focus. Past performance, including previous monitoring results, size of the federal award, management turnover, audit findings and other criteria are utilized. A clean audit statement is required within the contract process.
- Report review and analysis. How will audits and other reports inform your decisions? What could findings—even those not related to WIOA—tell you about how conditions will be onsite?
- Desk monitoring guides. Onsite visits may be unnecessary or impractical. What documents can be provided electronically or through other means that will enable you to review your subrecipient's performance?
- Onsite monitoring guides. Having clear and concise tools to work from while onsite will help keep you and your team focused. If it becomes

necessary to revise your tools, be sure to make revisions after the monitoring visit is completed.

- Report formats and templates. Having clear templates to work from will make it easier to issue decisions and govern the monitoring process post-visit. Be clear, and be specific when issuing reports.
- Become familiar with the Uniform Administrative Guidance, your own policies and procedures, and those of your subrecipient.
- Look for opportunities to provide technical assistance before, during, and after visits. Assistance is also available through WFD.

Risk Management

Risk assessments will be conducted twice a year for subrecipients that fall under the oversight of the Board. Subrecipient monitoring will be identified by risk: low, medium, and high. Appropriate monitoring procedures accompanying each risk level. Risk assessments look at the following areas:

- Management stability
- Efficiency of internal controls
- Gap between actual and expected results
- Commitment of State and Federal resources
- Complexity of information systems

A subrecipient may be considered high risk under the following conditions:

1. Demonstrated ability to administer the program – In general, the subrecipient should have experience with similar programs and demonstrate sufficient knowledge of the laws and regulations of the program to successfully operate it.
2. Recent change in contract or scope of services and responsibilities – new responsibilities increase the possibility that the subrecipient might generate a finding.
3. Turnover of key personnel – staff turnover can negatively impact program effectiveness.
4. Possibility of non-compliance – previous issues of non-compliance, questioned costs, or fiscal sanctions are indicative of a high-risk program.
5. Past reporting – reporting should be timely and accurate.
6. Condition of the independent audit – subrecipients are expected to submit a copy of their most recent single audit.

7. Past monitoring findings – while monitoring findings are not uncommon, a number of serious and severe findings or an inability to resolve said findings in a timely manner are indicative of a high-risk program.
8. Resources committed to the program – a program that represents a significant percentage of the organization's budget (75%) or an organization which lacks non-federal funds equivalent to 25% of the program budget increases the inherent risk to the fiscal stability of the organization.
9. Internal Monitoring – the ability of the subrecipient to effectively monitor their own internal processes can be key factor establishing risk.
10. Complaints – complaints, like findings, are a common occurrence, especially in more complex programs. The ability of the subrecipient to effectively and efficiently resolve complaints is a key factor in risk assessment. Adverse resolution may have a monetarily adverse effect on the organization, effecting its ability to continue providing quality programs and services.
11. Demonstrated ability to meet performance measures – the Board expects subrecipients to meet 100 % of their goal in the following areas: employment, enrollments, and expenditures.
12. Other factors, as deemed appropriate by the Board

Internal Controls

WSM should become familiar with the subrecipient's internal control environment. Are controls in place to prevent fraud and waste? Are there weaknesses that could be exploited?

All Subrecipients will provide a copy of their financial audit, to include independent report on internal controls, management letters and any state/Federal and related findings, corrections, etc.

Cash Management and Revenue Recognition

WSM should gain an understanding regarding how the subrecipients handle their cash flow. Are bank statements reconciled and reviewed by management?

Prepaid Program Items

Prepaid program items (bus passes, gift/gas cards, etc.) should be recognized as assets that have a monetary value and should be safeguarded. WSM will gain an understanding regarding how they are distributed. Who has custody of them? Is a proper inventory kept, and are the items used promptly?

Salary and Cost Allocation

The subrecipients should have a cost allocation plan that establishes a methodology to distribute costs fairly across funding streams. Costs that cannot be allocated directly should be placed in an indirect cost pool. Cost allocation statistics should also be maintained to demonstrate how costs were computed month-to-month. Timesheets should also be maintained and prepared after the fact to demonstrate how time is charged to each grant. The amount of time charged to each grant cannot be based on the subrecipient's budget but must be a record of actual time charged. Salaries and bonuses paid for with WIOA funds must not exceed the USDOL ETA salary and bonus cap (\$183,300).

Disbursements

Disbursements of WIOA funds should be necessary, reasonable, directly or indirectly allocable to one or more grants and adequately documented. Disbursements should not exceed the period of availability for the grant, should be allocated correctly and documentation should support the cost. When determining the reasonability of a disbursement, take into account this guidance from the Code of Federal Regulations:

2 CFR §200.404:

"A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost."

Purchasing

If the subrecipient engages in procurement-level purchasing, they must follow their own policies and procedures, promote open and free competition when going through the bidding process, and must be adequately documented and demonstrate they are in compliance with Federal, State and/or local rules and regulations.

Contracting

All contracts paid for in full or in part with WIOA funds must have all required provisions and must be properly managed.

Subrecipient Monitoring

If WSM's subrecipient has a subrecipient, monitoring activities must be completed and documented for all subsequent subrecipients.

Findings and Observations

A finding is any specific violation of:

- Law
- Regulations
- OMB guidance
- Award agreement
- Formal policy
- Training and Employment Guidance Letter (TEGL)

For a finding to exist, there must be criteria. In addressing the violation in your report, always require an action to correct the finding. It is essential to be clear and specific when detailing the finding.

An observation is an area of concern where no compliance violation has occurred, but could result in a finding if not addressed. Observations may be corrected through adopting best business practices. No corrective action is specified, but suggestions can be made to make improvements.

Monitoring Process:

WSM acknowledges that the U.S. Department of Labor and the State of Maryland has the authority to monitor and assess WIOA Title I programs. To ensure that policies are being followed and expectations are being met, WSM staff or a designee will periodically monitor services to ensure compliance. It will be the responsibility of the program operator to make any corrections and to conduct an internal review if areas of concern are found.

The Board will follow the below in the performance of a monitoring review.

1. **Desk Review** – Monitoring staff seek to gain an understanding of the program or subgrantee prior to a site visit. In a desk review, the subrecipient agreement or program goals are reviewed with key program staff and management, as appropriate. Desk reviews include contracts, agreements, and program metrics, as well as participant and program records, financial data, and policies and procedures of the subrecipient.
2. **Site Review** – Monitoring staff will conduct site reviews, as needed and appropriate, in a professional manner and will accommodate the needs and schedules of personnel and participants. If a subrecipient is not

cooperating in the review process, monitoring staff will notify the Board or appropriate management staff immediately.

3. **Entrance Conference** – All site visits begin with an entrance conference. At such a conference, the monitor will meet with key program staff. The entrance conference will cover the review process, expected timetable, and the expected requirement for information and access to individuals and records. Logistics about appropriate workspace, working hours, and access to office equipment and phones will also be included in the discussion.
4. **Monitoring Reviews** – All monitoring reviews may include desk reviews, site reviews, field reviews of all categorical program and fiscal activities. Specifics may include, but are not limited to, the following:
 - Basic contract and grant requirements
 - Property
 - Intake and assessment procedures
 - Participant eligibility
 - Case management practices
 - MIS – reporting and records for both participant and fiscal information
 - Budgets, allowable costs, cost allocation, and cost limitations
 - Complaints, grievances, investigations, and hearings (if applicable)
 - Data entry accuracy and timeliness
 - Personnel records and practices (if applicable)
 - Fraud and abuse
 - Classroom-based training programs
 - Financial systems and administrative records
 - Worksite compliance
 - Compliance with local policies and procedures
 - Subcontractors
 - EEO, physical, and programmatic accessibility
 - Internal monitoring
 - Customer satisfaction
 - Procedures regarding the handling of Personally Identifiable Information (PII)
5. **Exit Conference** – All site visits end with an exit conference. At such a conference, the monitor will meet with key program staff. The monitor will identify issue of non-compliance found as a result of the review and may offer comments and suggestions on program operation. Further technical assistance may also be discussed. Monitors cannot require action by any subrecipient and will not represent themselves as having this authority.

Monitoring Reports

Monitors will prepare a written report at the conclusion of each review. The report will, at a minimum, include:

- Subrecipient reviewed
- Date(s) of Review
- Report Date
- Scope of Review, including sites and activities reviewed
- Method of review
- Findings from the review, including any non-compliance with Federal/State laws, regulations, and other authoritative pronouncements
- Recommendations for corrective action
- Observations that can assist in program enhancement
- Recommendations for corrective action on these observations
- Any other areas of program performance or financial systems that may deserve special attention

Monitors may also make suggestions for improvements in program operation that are not related to compliance issues and should highlight subrecipient.

In general, a draft monitoring report will be sent to the sub-recipient, who will then have a chance to respond to any deficiencies and submit a corrective action plan. A final report will then be issued for any remaining deficiencies and will highlight all responses and replies.

Reporting Timeframes

Draft monitoring reports are due 30 calendar days following the date of the exit conference or the agreed upon due date of any subsequent information provided after monitoring review. The subrecipient will have 10 calendar days to provide a response, unless otherwise agreed upon by the monitoring staff.

A final report will be provided to the Board and issued to the subrecipient. The report must be made within 40 days following the receipt of additional information, unless otherwise agreed upon by the monitoring staff. No additional documentation can be requested once a final report has been issued to the subrecipient. The program or subrecipient will have 10 days to provide a remedy to the issues identified.

All monitoring reports will be delivered electronically and must be acknowledged by the program or subgrantee as received.

Response to Monitoring

All subrecipients have 10 calendar days to respond to a draft monitoring report. The response to report should include any plans for corrective action on the part of the subrecipient with a timetable for completion and the staff person responsible for carrying out the action.

The Office of Research, Performance, and Compliance will review the responses to determine their adequacy and will follow-up with the subrecipient to ensure that corrective action has been completed and the issues resolved. Monitors may conduct follow-up visits to all subrecipients that had compliance issues in their draft monitoring reports. Follow-up visits should be conducted after a sufficient period of time has passed to allow the suprecipient to take appropriate corrective action.

Remedies

The Board reserves the right to impose certain restrictions on subrecipient for various reasons, including but not limited to:

- Failure to comply contract or award provisions
- Failure to comply with applicable laws and regulations
- Failure to take appropriate corrective action to resolve a monitoring finding within the time frame specified
- Failure to respond to all audit resolution issues with the time specified
- Failure to meet performance standards or take required corrective action pursuant to a technical assistance plan developed in coordination with the Office of Research, Performance, and Compliance.

These remedies include:

- Withholding of funds or reimbursements
- Recapture of payment
- Reduction in budget or award amounts
- Termination of the contract or award
- Other changes, as deemed appropriate by the Board.

Technical Assistance

Staff is available to provide technical assistance to subrecipients in interpreting and applying various parts of local, State, and Federal legislations, regulations, and procedures to ensure compliance. Technical assistance may be provided in the form of on-site staff trainings, phone contact, consultation(s), and through written documentation, as needed.

MONITORING

WSM acknowledges that the U.S. Department of Labor and the State of Maryland has the authority to monitor and assess compliance with accessibility and reasonable accommodation procedures for WIOA Title I programs. To ensure that policies are being followed and expectations are being met, WSM staff or a designee will review accessibility of facilities and services periodically to ensure compliance. It will be the responsibility of the program operator to

make any corrections and to conduct an internal review if areas of concern are found.

DISCLAIMER

This policy is based on WSM's interpretation of the statute, along with the Workforce Investment 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)
- Public Law 113-128, Section 185(a)
- 2 CFR 200,251-331; 29 CFR 37.37 and 29 CFR 97.42; and
- Maryland Code Annotated, State Government Article 10, Sections 608-611, Criminal Law Article 8, Section 606 and Code of Maryland Regulations ("COMAR") 14.18.02.

Approved by:

CEO of WorkSource Montgomery, Inc.

Montgomery County Workforce Development Board