

DISASTER NATIONAL DISLOCATED WORKER GRANT GUIDANCE

EXECUTIVE SUMMARY

This policy provides the guidance and establishes the procedures regarding the purchasing of equipment during participation in a disaster National Dislocated Worker Grant (NDWG). This policy applies to Project Operators of disaster NDWGs, and is effective immediately.

This policy contains some state-imposed requirements. All state-imposed requirements are indicated by ***bold, italic*** type.

This Directive finalizes Workforce Services Draft Directive *Disaster National Dislocated Worker Grant Guidance* (WSDD-186), issued for comment on July 3, 2018. The Workforce Development Community submitted seven comments during the draft comment period. A summary of comments, including all changes, is provided as Attachment 2.

Retain this Directive until further notice.

REFERENCES

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- *Workforce Innovation and Opportunity Act (WIOA)* (Public Law 113-128) Sections 3(59), 183
 - Title 2 *Code of Federal Regulations* (CFR) Part 200: “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (Uniform Guidance)
 - Title 2 CFR Part 2900: “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (Department of Labor [DOL] Exceptions)
 - Training and Employment Guidance Letter (TEGL) 2-15, *Operational Guidance for National Dislocated Worker Grants* (July 1, 2015)
 - U.S. Department of Labor Employment and Training Administration. *Grantee Handbook- Effectively Managing Your ETA Competitive Grant* (June 2017)
 - U.S. Department of Labor Employment and Training Administration. *NEG eSystem User Guide SP NEG Application* (May 29, 2015)

The EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.

- Workforce Services Directive (WSD) WSD 17-08, Subject: *Procurement of Equipment and Related Services* (March 14, 2018)
- WSD 16-16, Subject: *Allowable Costs and Prior Written Approval* (February 21, 2017)
- WSD 16-10, Subject: *Property – Purchasing, Inventory, and Disposal* (November 10, 2016)
- Memorandum dated June 20, 2018: Executive Office of the President, Office of Management and Budget, *“Implementing Statutory Changes to the Micro-Purchase and the Simplified Acquisition Thresholds for Financial Assistance”*

BACKGROUND

On March 14, 2018, the Employment Development Department (EDD) issued procurement guidance under Workforce Services Directive WSD17-08. The intent of WSD17-08 is to ensure fiscal and administrative guidance for the administration of the WIOA program, including specific requirements for purchasing goods or services.

Disaster NDWGs have several requirements that are similar to other WIOA grants, but there are additional requirements and restrictions unique to these grants. Specific “Terms and Conditions” are issued with each Notice of Award to the EDD (the Grantee) that each Project Operator also must adhere to regarding equipment leasing and purchasing, supportive services, and needs-related payments requirements during a disaster NDWG project.

In addition to existing WIOA WSDs, this directive provides prior approval requirements, timelines, restrictions, and guidelines for the procurement, purchase and lease of equipment with disaster NDWG funds.

POLICY AND PROCEDURES

Definitions

Conflict of Interest – An employee, officer, agent, or any member of the organization that has interest in a financial gain or tangible benefit and who participates in the selection, award, or administration of a contract supported by a federal award.

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.

Grantee – The pass-through entity that provides program management and oversight activities. The EDD is the Grantee for the disaster NDWGs.

Micro-Purchase Threshold – Fiscal threshold set by Federal Acquisition Regulation (currently \$10,000 per Federal Acquisition Regulation [FAR] 48 CFR Subpart 2.1). The threshold is periodically updated based on inflation, and the dollar value in effect at the time of purchase is the proper threshold value.

Procurement – 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.

Project Operator – The entity responsible for overall management of project implementation in the project service area or a portion of the total service area. The local area Workforce Boards or WIOA administrative entities are the Project Operators.

Property – Real property or personal property.

Questioned Costs – 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 costs.

Subaward – An award provided by a pass-through entity to a subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient – A non-federal entity that receives a subaward from a pass-through entity to carry out part of the federal program, but does not include an individual that is a beneficiary of such program. For the disaster NDWGs the subrecipient is the Project Operator. A subrecipient may also be a recipient of other federal awards directly from the federal awarding agency.

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.

Supportive Services – Services such as transportation, child care, dependent care, housing, and needs-related payments that are necessary to enable an individual to participate in activities authorized under the WIOA.

Obtaining Equipment

Prior to using disaster NDWG funds to lease or purchase equipment, Project Operators must utilize the resources provided by the Federal Emergency Management Agency (FEMA). The FEMA has extensive experience in obtaining and/or leasing heavy equipment in the aftermath of disasters, and provides such equipment for a limited period of time to permit clean-up and other allowable activities following a disaster. For additional resources, refer to the [Disaster Assistance](#) website.

Project Operators must receive prior approval from the DOL through the EDD for the purchase of any equipment. Requests with all necessary supporting documentation must be received by the EDD at least 90 days prior to the effective date of the requested action. Equipment purchases must be made in accordance with 2 CFR 200.313 or 2 CFR 200.439.

A disaster NDWG award does not constitute approval for the purchase of equipment specified in a Project Operator's budget or statement of work. ***The Project Operator must submit a detailed description list of equipment to be purchased to the EDD Project Management Group for review. The EDD will submit the equipment request to the DOL for approval.*** It is encouraged that all equipment purchase and lease requests are supplied to the EDD as early as possible to avoid unnecessary delays in the project.

Project Operators may not purchase equipment during the last twelve months of the grant period. Prior approval is automatically rescinded if an approved acquisition does not occur prior to the last 12 months of the grant's term.

Project Operators must maintain accurate inventory records of all property purchased with federal funds. All property should have a unique identification mark to be used for inventory purposes.

Project Operators must retain all property records for a period of three years from the date of their last expenditure report submitted to the EDD.

Leasing Considerations

The decision to lease or purchase equipment should be determined by considering the most economic option. 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 taken into account. Leasing with an option to purchase is generally preferable to straight leasing. However, for real property, administrative requirements make leasing the only option, as the construction or purchase of real property is not allowed under the WIOA program except in certain limited circumstances (as outlined in Workforce Services Directive *Property – Purchasing, Inventory, and Disposal* [WSD16-10]).

Supportive Services

Prior approval from the DOL is not required for basic supportive service payments, but costs must meet the basic considerations at 2 CFR 200.402 – 200.411.

Costs such as needs-related payments, stipends, subsistence allowances, or any monetary payment provided directly to participants for any service, must receive written prior approval from the DOL. ***Project Operators must submit a detailed description list to the assigned EDD Project Manager who will review prior to final submission to the DOL for approval.***

ACTION

Bring this directive to the attention of the appropriate staff.

INQUIRIES

If you have any questions, contact the Project Management Group at WSBProjectManagement@edd.ca.gov.

/S/ JAIME L. GUTIERREZ, Chief
Central Office Workforce Services Division

Attachments are available on the internet:

1. [Procurement – Request for Approval to Charge NDWG Funds \(DOCX\)](#)
2. [Summary of Comments \(DOCX\)](#)
3. [Errata Chronology \(PDF\)](#)