
Standards For Oversight and Instruction for Substate Monitoring

General Instructions

The attached Directive is being issued in draft to give the Workforce Development Community the opportunity to review and comment prior to final issuance.

Submit any comments by email no later than **December 7, 2024**.

All comments received within the comment period will be considered before issuing the final Directive. Commenters will not be responded to individually. Rather, a summary of comments will be released with the final Directive.

Comments received after the specified due date will not be considered.

Email PACBCROComplianceMonitors@edd.ca.gov
Include "Draft Directive Comments" in the email subject line.

If you have any questions, contact PACBCROComplianceMonitors@edd.ca.gov.

Standards for Oversight and Instruction for Substate Monitoring

Executive Summary

This policy provides the guidance and establishes the procedures regarding monitoring responsibilities and the development of substate oversight and monitoring plans for the Local Workforce Development Areas (Local Area) and the Workforce Innovation and Opportunity Act (WIOA) 15 Percent Governor’s Discretionary funded projects. This policy applies to all subrecipients who receive federal funding. This directive is effective on the date of issuance.

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

This policy supersedes Workforce Services Directive *Standards for Oversight and Instructions for Substate Monitoring* (WSD 22-02), dated July 27, 2022. Retain this directive until further notice.

References

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- WIOA (Public Law 113-128) Sections 107, 108, 129, and 184.
 - 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)
 - Title 20 CFR Part 600: The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Sections 679.430, 683.200, 683.400, 683.410, and 683.430
 - Training and Employment Guidance Letter (TEGL) 39–11, *Guidance on the Handling and Protection of Personally Identifiable Information (PII)* (June 28, 2012)
 - California Department of General Services [State Contracting Manual \(SCM\), Volume 1](#) (August 2024)
 - [Workforce Services Directive](#) WSD23-04, *WIOA 15 Percent Governors Discretionary Funds* (January 25, 2024)
 - WSD21-03, *Eligible Training Provider List (ETPL) Policy and Procedures* (November 10, 2021)
 - WSD18-16, *Guidance on Regional Awards* (June 21, 2019)
 - WSD18-06, *Subrecipient and Contractor Distinctions* (September 5, 2018)

- WSD17-08, *Procurement of Equipment and Related Services* (March 14, 2018)
- WSD17-05, *Oversight and Monitoring of Nondiscrimination and EO Procedures* (August 29, 2017)
- WSD17-01, *Nondiscrimination and Equal Opportunity (EO) Procedures* (August 1, 2017)
- [Workforce Services Information Notice WSIN20-27, CA ETPL Subsequent Eligibility Review 2020](#) (November 20, 2020)

Background

Uniform Guidance Section 200.332 requires Employment Development Department (EDD) subrecipients to monitor the activities of their subrecipients as necessary to ensure that the subaward is used for authorized purposes. This monitoring must confirm that subrecipients comply with all applicable federal statutes, regulations, and the terms and conditions of the subaward, as well as ensure that the subaward performance goals are achieved. The monitoring process should include regular reviews of both performance and financial reports, followed by timely follow-up to address any deficiencies related to the federal award. Deficiencies may be identified through audits, on-site reviews, and written confirmation from the subrecipient. Additionally, there should be a clear focus on the actions planned or taken by subrecipients to address findings from the Single Audit, especially when those findings pertain to the particular subaward.

Subrecipients must ensure that the procurement, receipt, and payment for goods and services received comply with federal and state laws, regulations, subrecipient policies, and the provisions of contractors' contracts and agreements (Uniform Guidance Section 200.501[g]). Refer to the following Directives for more guidance:

- *Procurement of Equipment and Related Services* (WSD17-08) for procurement of goods and services with WIOA funds.
- *Nondiscrimination and Equal Opportunity Procedures* (WSD17-01) for nondiscrimination and equal opportunity in contracts, job training plans, and policies and procedures.

The Governor may issue additional requirements and instructions to subrecipients regarding monitoring activities (20 CFR Section 683.410[6]).

Policy and Procedures

Definitions

For the purpose of this directive, the following definitions apply:

America's Job Center of CaliforniaSM (AJCC) – The common identifier used within California for One-Stop centers, the One-Stop system, and access points to WIOA affiliated programs and services.

Area of Concern or Observation – If an effectiveness indicator is not met and the reviewer believes that it may possibly result in a finding at some later point if not addressed, an area of concern or observation is identified. Areas of concern or observation are not specific compliance violations but may negatively impact the program or could lead to a finding in the future. A corrective action may not be specified or required for an area of concern or observation but may include suggestions for improvement.

Contract – A legal instrument by which a non-federal entity purchases property, or services needed to carry out the project or program under a federal award. The term, as used in this part, does not include a legal instrument, even if the non-federal entity considers it a contract, when the substance of the transaction meets the definition of a federal award or subaward (Uniform Guidance Section 200.22).

Contractor – An entity that receives a contract (Uniform Guidance Section 200.1).

Corrective Action Plan (CAP) – A list of specific steps that subrecipients must take within a stated period to achieve compliance.

Finding – A violation of a specific compliance requirement contained in laws, regulations, federal or state policies, DOL Exceptions, grant terms and conditions, Employment and Training Administration (ETA) policy guidance, including TEGE, and/or the grant agreements that requires specific corrective action. Findings are also known as, but not limited to, non-compliance issues, questioned costs, and/or disallowed costs.

Monitoring Review – The monitoring review is an oversight activity that may lead to opportunities for technical assistance and/or corrective action. For ETA's purpose, a monitoring review is a process used to measure progress, identify areas of compliance, offer opportunities for technical assistance to help resolve non-compliance issues, and ensure that federal funds are used responsibly.

Non-Federal Entity – A state, local government, Indian tribe, institution of higher education, for-profit entity, foreign public entity, foreign organization or nonprofit organization that carries out a federal award as a recipient or subrecipient (DOL Exceptions Section 2900.2).

Oversight – Performed by subrecipients in various ways such as on-site monitoring, risk assessment, desk reviews, and analysis of performance and financial reports.

Recipient – A non-federal entity that receives a federal award directly from a federal awarding agency to carry out an activity under a federal program. The term recipient does not include subrecipients (Uniform Guidance Section 200.86).

Regional Fiscal Agent (RFA) – a non-federal entity designated by the State of California to carry out a federal award as a subrecipient. The Regional Fiscal Agent receives funding on behalf of a Regional Planning Unit and then allocates funds to partner Local Workforce Development Boards (Local Board). This applies to any agency that is awarded funds on behalf of a group of agencies.

Regional Planning Unit (RPU) – Regions of the state determined by the Governor, with input from local CEOs and Local Boards, which represent the regional labor market and are responsible for developing and implementing Regional Plans.

Segregation of Duties – No one person should have sole control over the lifespan of a transaction. All organizations should separate functional responsibilities to ensure that errors or irregularities, whether intentional or unintentional, are detectable through oversight by others.

Subaward – An award provided by a pass-through entity to a subrecipient for the 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 (Uniform Guidance Section 200.1).

Subrecipient – A non-federal entity that expends federal awards received from a pass-through entity to carry out a federal program but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency (Uniform Guidance Section 200.1).

WIOA 15 Percent Governor’s Discretionary Funded Projects – The WIOA Sections 129 and 134 allows the Governor to reserve up to 15 percent of the state’s WIOA Title I formula funds for statewide employment and training activities for adults, dislocated workers, and youth. These funds must be used for specific required activities and may also be used for other allowable activities as outlined in the application process.

WIOA Administrative Entity – A unit of local government, corporation, or agency designated by a Chief Elected Official (CEO) to oversee and administer WIOA programs and activities in the Local Area (Uniform Guidance Section 678.400).

Subrecipient and Contractor Determinations

A 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, it is crucial that a pass-through entity makes case-by-case determinations to establish whether each agreement it makes for disbursing federal program funds designates 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 Uniform Guidance Section 200.331.

Subrecipient Characteristics

Characteristics that support the classifying a non-federal entity as a subrecipient include the following criteria:

- Determining who is eligible to receive federal assistance.
- Having performance measured by whether the objectives of federal program are met.
- Holding responsibility for programmatic decision-making.
- Responsible for adhering to applicable federal program requirements.
- Using federal funds to carry out a program for a public purpose.
- Being funded by a subaward.

Contractor Characteristics

Characteristics that support the classifying a non-federal entity as a contractor include the following criteria:

- Providing goods and services within normal business operations.
- Offering similar goods or services to many different purchasers.
- Provides goods or services that are supplementary to the operation of the federal program.
- Not subject to compliance requirements of the federal program.
- Provides goods and services for the grant recipient's own use, creating a procurement relationship.
- Funded by a procurement contract.

For additional information on subrecipient and contractor determinations, refer to *Subrecipient and Contractor Distinctions* (WSD18-06).

Standards for Local Board Oversight

The Local Board, in partnership with the CEO, must oversee activities funded under WIOA Title I which are part of the local plan created under WIOA Section 108. The monitoring and oversight must follow the requirements in WIOA, along with federal and state regulations, and state policies. The Local Board and the CEO must decide whether to conduct the monitoring independently, jointly, or by delegating to an appropriate entity.

On-site fiscal and programmatic monitoring of all subrecipients must occur annually and at least once per program year. Uniform Guidance Section 200.332 (b) requires pass-through entities to evaluate each subrecipient's risk of noncompliance with federal statutes, regulations,

and the terms and conditions of the subaward for the purpose of determining the appropriate level of subrecipient monitoring. ***Since Local Boards are required to conduct an annual monitoring review of subrecipients, the risk assessment can help identify any additional topics to include in the review or highlight areas that need additional focus.***

Documentation of Risk Assessment

The evaluation of each subrecipient's risk of noncompliance should be fully documented and readily available upon request. **The risk factors may include consideration of such factors:**

- Changes in the subrecipient's personnel or business operations.
- Prior experience or lack of, with the same or similar subawards.
- Results from audits such as single audit reports.
- History of disallowed costs or concerns with current spending.
- Previous monitoring findings.
- Allocation amounts.

If applicable, results of monitoring conducted by the federal awarding agency.

Responsibility for Monitoring in RPU

In instances where RPU receive regional awards, and one Local Board is designated as the RFA and enters into a subgrant with the EDD, that RFA is responsible for monitoring their subrecipients.

Monitoring Log Requirements

A complete monitoring log must be maintained for all monitored entities. The log must contain the following details:

- Date of Review – The specific date review was conducted.
- Type of Review – The type of review being performed (e.g., fiscal, programmatic).
- Period Reviewed – The period covered by the review.
- Monitor – The name of the individual or team conducting the review.
- Report Information – Include the following details in the monitoring log:
 - Draft/Final Report Date – The date when the draft/final report was issued.
 - Findings – Any issues or discrepancies identified during the review.
 - Corrective Actions – The actions required to address the findings.
 - Initial Determination – The preliminary conclusions based on the review.
 - Final Determinations – The final conclusions after.
 - Recovery of Disallowed Costs – Any amounts that must be recovered due to the disallowed costs identified during the review.

- Documentation – The location of working papers, and dates and number of attempts made to contact subrecipient for responses to draft and/or final report.

Requirements for Developing Substate Oversight and Monitoring Plans

The Local Board, in partnership with the local CEO, must develop comprehensive substate oversight and monitoring plans and procedures for subrecipients and the AJCC system. These substate oversight and monitoring plans and procedures must adhere to the Local Board’s policies, which are based on the Governor’s standards for Local Board oversight. The Local Board may assign the task of developing these substate oversight and monitoring plans to the WIOA administrative entity.

Procedures for Oversight and Annual On-Site Fiscal and Programmatic Monitoring

The Local Board’s substate oversight and monitoring plan must include specific procedures for conducting oversight and annual on-site review of all subrecipients. These procedures should cover both fiscal and programmatic aspects of the subrecipients’ operations. These procedures must incorporate the Local Board’s existing policies and align with the requirements outlined in WIOA Section 107(d)(8). ***Procedures should include but are not limited to the following:***

- ***Documentation for Reimbursements – Require subrecipients to periodically provide documentation to support claim reimbursements prior to payment. The frequency of these submissions must be identified within the procedures.***
- ***Expanded Sample Testing – Require expanded sample testing during monitoring reviews for areas of concern (e.g., participant data/files, procurement, expenditures, etc.).***
- ***Disallowed Costs – Outline procedures for disallowing costs due to non-compliance.***
- ***On-site Visits – Describe procedures for conducting announced and unannounced visits of subrecipients to observe service delivery, interview staff, and review source documents for program and fiscal data.***
- Risk Assessment Analysis – Conducting risk assessments to determine the potential for non-compliances.
- Performance and Financial Analysis – Analyze performance metrics and financial reports to identify trends and issues.
- On-Site Reviews – Ensure that the on-site review of each subrecipient is comprehensive, covering both fiscal and programmatic aspects, consistent with the requirements stated in Uniform Guidance Section 683.410(a). ***If a subrecipient’s fiscal records are located separately from the programmatic site, the WIOA administrative entity must require that sufficient copies of fiscal records be sent to the subrecipient’s local office or directly to the WIOA administrative entity for review upon request.*** Subrecipient must take reasonable measures to safeguard protected personally identifiable information (PII) and other information that is deemed sensitive or confidential according to applicable privacy laws and obligations of confidentiality (Uniform Guidance Section 200.303[e] and TEGL 39–11).

- **Standardized Review Methodology – Require the use of a standardized review methodology with tools to test subrecipient fiscal and programmatic systems.**
- **Report Process – The reviews must result in written reports that include the following:**
 - **A record of findings.**
 - **Areas of concerns or observations.**
 - **Questioned costs (if applicable).**
 - **Any needed corrective actions and due dates for compliance.**
- **Corrective Action Follow-Up – Implement systematic follow-up to ensure that necessary corrective actions are taken (WIOA Section 184 [a][5][A]). *Subrecipients must submit specific and timely documentation of progress until deficiencies are corrected and not repeated. The audit resolution process detailed in Audit Resolution (WSD 22-06) must be used to resolve complex deficiencies and findings that include questioned costs.***
- **Internal Controls and Firewalls – Implement internal controls and firewalls that conform to Uniform Guidance Section 679.430 to prevent conflicts of interests, particularly when an organization performs multiple functions (e.g., local fiscal agent, Local Board staff, one-stop operator or direct provider of services). There must be appropriate firewalls in place describing how the organization will carry out the responsibilities while demonstrating compliance with WIOA and corresponding regulations.**
- **Single Audit Compliance – Ensure that single audit reports do not take the place of oversight or a monitoring review for any subrecipient, AJCC, contractor, and/or training provider. Subrecipients must verify whether their subrecipients are required to have a single audit, and if they are required to, ensure it is completed on time. If it is not completed on time, a process to address and remedy must be outlined.**
- **Oversight of Youth Workforce Development Activities – Conduct oversight and monitoring of all local youth workforce development activities, *including those carried out by youth providers*. Even if a Standing Youth Committee is not established, the Local Board remains responsible for overseeing youth activities under WIOA Section 129(c) (WIOA Section 107[d][8]).**
- **Training Provider Examination – Identify procedures to periodically examine training providers to verify that participants received WIOA services as claimed by the subrecipient (e.g., validating participant data, conducting participant interviews, conducting third-party verification, etc.). Procedures must specify the frequency of these examinations and that any training providers found to not be providing sufficient training shall be reported to the ETPL administrator.**
- **Compliance with Procurement and Contractor Monitoring – Describe procedures to ensure that the procurement, receipt, and payment for goods and services received complies with federal and state laws, regulations, and subrecipient polices, and the provisions of contractors’ contracts and agreements (Uniform Guidance Section 200.501[g]). Although contractors are not held to the same monitoring requirements as subrecipients, Local Areas must ensure that contractor transactions meet compliance requirements as outlined in *Procurement of Equipment and Related Services* (WSD17-08).**

- ***Nondiscrimination and Equal Opportunity Procedures – Ensure that a system is in place to verify compliance with Oversight and Monitoring of Nondiscrimination and EO Procedures by Local Areas and their subrecipients (WSD17-05).***
- ***Record Retention and Accessibility*** – Require that all 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 three years from the date of submission of the financial reports and other documentation pertaining to oversight and monitoring activities must be made available for review by federal and state officials (Uniform Guidance Section 200.333). ***Records involved in litigation, claims, audit, or other action that started before the expiration of the three-year period, must be retained until completion and resolution of all such actions or until the end of the three-year period, whichever is later.***
- Compliance Monitoring Records – Ensure Local Areas keep copies of their efforts to monitor compliance and reports on file. The Local Area’s compliance monitoring reports should be used as an assessment reference when developing CAPs and for scheduled onsite monitoring reviews that may be required by the authorized federal and state reviewers.

WIOA 15 Percent Governor’s Discretionary Funded Projects – Subrecipient Monitoring Requirements

The WIOA 15 Percent Governor’s Discretionary Funds are released through a competitive grant process to EDD subrecipients to support statewide initiatives. In this section, EDD subrecipients are referred to as project operators. Project operators are responsible to ensure their subrecipients meet performance goals and properly manage funds. For further details on these funds refer to *WIOA 15 Percent Governors Discretionary Funds (WSD23-04)*.

The EDD may award other federal funds to subrecipients that must comply with the CFR and the applicable monitoring requirements. In those instances, the same approach must be followed as outlined in the *WIOA 15 Percent Governor’s Discretionary Funded Projects– Subrecipient Monitoring Requirements* section of this Directive.

Determining Relationships with Funded Partners

Project operators must determine whether their funded partners and entities are a contractor, subrecipient or both, as outlined in *Subrecipient and Contractor Distinctions (WSD18-06)*. If a project operator’s subrecipient carries out a portion of the federal award, the subrecipient is responsible for meeting both programmatic and fiscal compliance requirements. The project operator is responsible for monitoring all subrecipients.

Compliance as a Pass-Through Entity

When acting as a pass-through entity, the project operator must ensure subrecipient's compliance with all elements of Uniform Guidance Section 200.332. This includes assessing each subrecipient's risk of non-compliance with federal and state laws and regulations to determine the appropriate level of monitoring needed.

Required Policies and Procedures

The project operator must establish a written policy that includes the following processes and procedures:

- ***Oversight Process – A process to complete grant oversight that includes the following elements:***
 - ***Verify that expenditures align with proper cost categories and within the cost limitations specified in WIOA and the regulations in Uniform Guidance and DOL Exceptions.***
 - ***Ensure compliance with WIOA provisions, WIOA regulations, and other applicable laws and regulations.***
 - ***Confirm compliance with non-discrimination, disability, and equal opportunity requirements of Section 188 of WIOA.***
- ***Risk Assessment – Implement process for conducting risk assessments of each subrecipient that includes:***
 - ***The tools used to conduct risk assessment.***
 - ***The factors that are considered and what documents are reviewed to make a determination. The risk factors to be evaluated at minimum should include:***
 - ***Any changes in the subrecipient's personnel or practices since the beginning of the grant.***
 - ***Scope of work and if deliverables are on track.***
 - ***Any history of disallowed costs.***
 - ***Concerns with spending.***
 - ***Recent single audit report and relevant findings.***
 - ***Previous monitoring findings.***
 - ***The amount allocated to an agency.***
 - ***If serving participants, correct and timely data entry into CalJOBS.***
- ***Fiscal and Programmatic Monitoring – Establish tools and methods to ensure that subawards are used for authorized purposes, comply with federal and state***

regulations, and meet performance goals. Subrecipients may request tool examples from EDD Compliance Review Office at PACBCROComplianceMonitors@edd.ca.gov

- ***Review of Financial and Performance Reports – Ensure that required financial and performance reports are reviewed by the project operator.***
- ***Monitoring Methodology – Determine the level of monitoring that is necessary. This may include, but is not limited to:***
 - ***Training and technical assistance.***
 - ***Conducting an on-site review or desk review.***
- ***Desk and On-Site Monitoring: Outline a process for conducting desk and on-site monitoring reviews.***
- ***Communication of Findings – Describe how findings, concerns and observations will be communicated to the subrecipients, including issuing monitoring reports.***
- ***Resolutions and Compliance Findings – Establish a process for resolving compliance findings in a timely and effective manner. This should include:***
 - ***Corrective action.***
 - ***Initial determination.***
 - ***Informal resolution.***
 - ***Final determination.***
 - ***Recovery of any disallowed costs.***
- ***Provision of Technical Assistance – Outline how technical assistance will be provided to subrecipients in a timely manner.***
- ***Grievance and Complaint Procedures – Ensure grievance and complaint requirements are met. Refer to WIOA Grievance and Complaint Resolution Procedures (WSD18-05), for further details.***
- ***Single Audit Compliance – Verify whether subrecipients comply with the single audit requirements as outlined in Uniform Guidance Section 200.501. If audit findings specifically related to the awarded funds are present, the project operator must issue a management decision as required by Uniform Guidance Section 200.521.***
- ***Record Retention – Retain all oversight and monitoring records for three (3) years.***
 - ***Litigation and Other Actions – Records involved in litigation, claim, audit, or other action must be retained until resolution or until the end of the three-year period whichever is later.***

Documentation and Audit Preparedness

The project operator must have sufficient documentation on file to support the oversight of each subrecipient. This documentation should be organized and readily available for submission during an audit or monitoring review.

DOL Core Monitoring Guide

Project operators should review the DOL [Core Monitoring Guide](#), which offers a wealth of resources to support effective monitoring. Below is a sample of key insights included in the guide:

- The fundamental objectives and purpose of monitoring.
- Effective preparation strategies for on-site monitoring.
- Risk assessments methods to identify potential areas of concern.
- A range of monitoring activities and practical tools to ensure compliance.
- Key focus areas for conducting effective oversight including financial management, service delivery and performance outcomes and monitoring of subrecipients.
- Document collection, evidence-based reporting, and resolution procedures.

Action

Establish or revise oversight and monitoring plans, policies, and procedures in accordance with the requirements of this directive.

Bring this directive to the attention of all appropriate staff.

Inquiries

If you have any questions, contact your assigned [Regional Advisor](#) or program manager.

/s/ JAVIER ROMERO, Deputy Director
Workforce Services Branch

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