

**NORTEC
POLICY STATEMENT
ALLOWABLE COSTS AND PRIOR WRITTEN APPROVAL**

*Approval: August 25, 2016
Effective: January 22, 2016
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PURPOSE

This policy provides guidance on general cost principles and allowable costs under the Workforce Innovation and Opportunity Act (WIOA) and the Office of Management and Budget's (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule (Uniform Guidance).

REFERENCES

- A. WIOA (Public Law 113-128) Sections 184(a)(3), 134(c)-(d), and 129
- B. Title 2 Code of Federal Regulations (CFR) Part 200 and 2900
- C. Training and Employment Guidance Letter (TEGL) 15-14, Subject: Implementation of the New Uniform Guidance Regulations (December 19, 2014)
- D. Workforce Services Directive (WSD) 14-13 Subject: Property—Prior Approval, Purchasing, Inventory, and Disposal (April 29, 2015)
- E. Workforce Investment Act Directive (WIAD) 03-10 Subject: Allowable Costs (April 09, 2004)

POLICY AND PROCEDURES

Local Workforce Development Areas and providers that receives funds under WIOA Title I are required to comply with Uniform Guidance [WIOA Section 184(a)(3)]. This includes general principles and guidance on selected items of cost. However, if more restrictive city, state, or federal guidelines exist, they must take precedence.

The State has compiled a high level matrix listing the various cost items referenced in Title 2 CFR Sections 200.420 through 200.475 (Attachment 1). The columns in the matrix contain the various entity types, the specific CFR Sections, and DOL Exceptions Sections (if applicable). The matrix also provides a quick reference guide to help indicate whether a cost item is allowable or not. WIOA funding recipients and subrecipients can use the matrix as an initial tool, rather than a final authority for making a determination of whether or not a cost would be considered allowable.

In general, to be an allowable charge to the WIOA, a cost must meet the following criteria:

- A. Be necessary and reasonable for the performance of the award.
- B. Be allocable to the award.
- C. Conform to any limitations or exclusions set forth in the award.
- D. Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-federal entity.
- E. Be accorded consistent treatment.
- F. Be determined in accordance with generally accepted accounting principles.
- G. Not be used to meet cost sharing or matching requirements of any other federally-financed program (without prior approval from the state).

H. Be adequately documented.

Expenditures of WIOA funds are allowable only for those activities permitted by the WIOA statute or federal regulations. Required and permissible program activities for adult and dislocated workers can be found in the WIOA Section 134(c) and (d) respectively. Similarly, allowable program activities for the youth program can be found in WIOA Section 129.

Funds Awarded Prior to December 26, 2014 (PY 14-15 funds and prior) must continue to follow the terms and conditions of those awards, including the cost principles required under the former OMB circulars. For information on allowable costs under the former OMB circulars, please refer to Workforce Investment Act Directive [WIAD03-10](#).

Prohibited Use of Funds

Lobbying

Subrecipients that receive WIOA Title I funds must comply with the restrictions on political activities as specified in WIOA Section 195. This provision prohibits the use of WIOA Title I funds for publicity or propaganda purposes, or for materials designed to support or defeat the enactment of federal, state, or local legislation; proposed or pending regulations; administrative actions; or order issued by the executive branch of any state or local government. This also includes prohibition of the use of Title I funds for activities designed to influence the enactment or issuance of legislation; appropriations, regulations; administrative action; or an Executive Order proposed or pending before Congress, any state government, state or local legislature, or legislative body.

Marijuana Industry

Uniform Guidance Section 200.331 requires the state, as the pass-through entity, to advise subrecipients of imposed requirements by federal laws, regulations, and the provisions of contracts or grant agreements, as well as additional requirements imposed by the state. Although California passed Proposition 64, in accordance with federal law (21 U.S.C 812), marijuana is classified as a Schedule 1 narcotic, and is therefore illegal from the federal standpoint.

All grant agreements between the DOL, state, and subrecipients must follow all applicable federal statute, regulations, and policies. Therefore, in accordance with federal law, WIOA funds cannot be used to directly or indirectly support the marijuana industry including, but not limited to, use, possession, growth, or distribution of marijuana. This applies to WIOA; Wagner-Peyser; Trade Adjustment Assistance; Veterans' Employment and Training Services the National Dislocated Worker Grant programs and services including, but not limited to, training, employer outreach, hiring events, career counseling, job orders and referrals.

Prior Written Approval

The Uniform Guidance includes administrative requirements and cost items that are allowable only with prior written approval from the federal awarding agency or pass through entity. Subrecipients should review the terms and conditions of their grant or contract agreements to determine the appropriate authority to grant prior approval. As the pass-through entity of WIOA Title I funds, the EDD is responsible for granting prior approval in most cases.

Under any given federal award, the reasonableness and allocability of certain cost items may be difficult to determine. In order to avoid subsequent disallowance or dispute, subrecipients should obtain prior written approval for the incurrence of special or unusual costs. The following matrix lists key sections of the Uniform Guidance that address when prior written approval is required.

Circumstance	Section
Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts	§200.201, paragraph (b)(5)
Cost sharing or matching	§200.306
Program income	§200.307
Revision of budget and program plans	§200.308
Real property	§200.311
Equipment	§200.313
Fixed amount sub awards	§200.332
Direct costs	§200.413, paragraph (c)
Compensation—personal services	§200.430, paragraph (h)
Compensation—fringe benefits	§200.431
Entertainment costs	§200.438
Equipment and other capital expenditures	§200.439
Exchange rates	§200.440
Fines, penalties, damages and other settlements	§200.441
Fund raising and investment management costs	§200.442
Goods or services for personal use	§200.445
Insurance and indemnification	§200.447
Memberships, subscriptions, and professional activity costs	§200.454, paragraph (c)
Organization costs	§200.455
Participant support costs	§200.456
Pre-award costs	§200.458
Rearrangement and reconversion costs	§200.462
Selling and marketing costs	§200.467
Taxes (including Value Added Tax)	§200.470
Travel costs	§200.474

Subrecipients should thoroughly review the Uniform Guidance sections referenced above to determine when prior written approval must be obtained, and assess if their specific

circumstance(s) require prior approval. As indicated in DOL Exception Section 2900.407, inclusion of item(s) in the statement of work or budget when awarded does not constitute prior approval; subrecipients must still follow all applicable policies and procedures as outlined in this policy.

Property procurements with a unit acquisition cost of \$5,000 or more must have prior written approval. A non-property related purchase or circumstance that fits into one of the above referenced categories may still require prior written approval, regardless of the dollar amount.

Prior Written Approval Procedures

The following outlines the steps required for requesting prior approval from the EDD. These procedures apply to NoRTEC as well as NoRTEC subrecipients.

- A. Subrecipients must complete and submit a Prior Written Approval Request (Attachment 1), along with all supporting documentation to NoRTEC no less than 40 days before the requested action/purchase is to occur.
- B. Documentation should include a description of the item to be purchased and an explanation of functionality. NoRTEC staff will review the request and documentation for completeness and allowability.
- C. Approval is based on the supplied justification and supporting documentation for the proposed expenditure. If the actual expenditure is not in accordance with the justification or Uniform Guidance requirements, the expenditure can still be questioned or disallowed. Factors affecting this include, but are not limited to the following:
 - a. Inadequate justification
 - b. Failure to follow internal state or federal policies
 - c. Expenditure is not necessary or reasonable
 - d. Failure to comply with applicable federal law or regulation
- D. Additionally, NoRTEC will consider the following factors in its review of the request:
 - a. Have the best products been selected?
 - b. What other costs are associated with the purchase?
 - c. If applicable, what procurement method was used?
 - d. If applicable, was a lease option considered in lieu of the purchase?
- E. Once NoRTEC staff have determined that the request is complete and appropriate, the request and documentation will be forwarded to the assigned EDD Regional Advisor.
- F. Purchase of the requested item(s) will not occur until notification of approval has been received from the EDD.
- G. No-adherence to the procedures as outlined may result in disallowed costs.

Documentation

Supporting documentation must be retained for all costs associated with the prior approval request. The documentation must establish that the expenditure meets the following criteria:

- A. Meets the cost principles (is necessary and reasonable for proper and efficient performance and administration of the grant).
- B. Is allocable to the grant based upon the benefits received.
- C. Is authorized or not prohibited under state or local laws and regulations.
- D. Conforms to any limitations or exclusions of cost item types or amounts, as set forth in the Uniform Guidance, federal law, federal award, or other governing regulations.
- E. Is consistent with the applicable policies, regulations, and procedures.

Cost Item Matrix

THIS COST ITEMS MATRIX SHOULD ONLY BE USED AS A QUICK REFERENCE GUIDE. The *Workforce Innovation and Opportunity Act (WIOA)* and *Uniform Administrative Requirements, Cost Principles, and Audit Requirements Final Rule (Uniform Guidance)* contain definitive guidance and final authority for determining whether or not a cost is allowable.

The matrix on the following page identifies the cost items and different types of entities. When determining whether the cost of an item is allowable, users must also refer to the applicable sections of the Uniform Guidance and the WIOA.

Failure to address a particular cost item is not intended to imply that it is allowable or unallowable. Rather, the determination of allowability in each case should be based on the treatment or principles provided for similar or related costs. In the case of a discrepancy between the Uniform Guidance and the provisions of a specific federal award administered by the pass-through entity, the federal award provisions govern. Note also that, in some instances, different cost items may be similarly named, and there may be some overlap between the various cost items.

When reviewing the matrix please use the following legend:

Legend Key	Legend Key Definition
A	Allowable
AP	Allowable with Prior Approval
AC	Allowable with Conditions
U	Unallowable
NS	Not Specified in the Uniform Guidance

If a cost item is denoted with two or more legend keys, users should delve further into the various information sources as they may provide the additional clarity that is needed. If this effort does not provide the necessary information, then subrecipients should contact NoRTEC.

The “NS” legend key means that information may not be readily available. In this event, the subrecipient should contact NoRTEC for guidance.

The “AP” legend key means that, in some instances, prior written approval will be required from the Cognizant Agency or Governor. In this event, the user should adhere to the Uniform Guidance Section 200.407, DOL Exceptions Section 2900.16.

	Cost Item	Educational Institutions	Non-Profit Organizations	State, Local and Indian Tribal Governments	Uniform Guidance Section	DOL Exception Section
	Advertising and public relations	A/U	A/U	A/U	200.421	
	Advisory councils	AC/U	AC/U	AC/U	200.422	
	Alcoholic beverages	U	U	U	200.423	
	Alumni/ae activities	U	NS	NS	200.424	
	Audit services	AC/U	AC/U	AC/U	200.425	
	Bad debts	U	U	U	200.426	
	Bonding costs	A	A	A	200.427	
	Collection of improper payments	A	A	A	200.428	
	Commencement and convocation costs	AC/U	NS	NS	200.429	
	Compensation – personal services	A/U	A/U	A/U	200.430	
	Compensation – fringe benefits	A /U	A /U	A /U	200.431	
	Conferences	A	A	A	200.432	
	Contingency provisions	AC/U	AC/U	AC/U	200.433	2900.18
	Contributions and donations	U	U	U	200.434	
	Defense and prosecution of criminal and civil proceedings, claims, appeals, and patent infringement	AC/U	AC/U	AC/U	200.435	
	Depreciation	AC	AC	AC	200.436	
	Employee health and welfare costs	A	A	A	200.437	
	Entertainment costs	U/AP	U/AP	U/AP	200.438	
	Equipment and other capital expenditures	AP/U	AP/U	AP/U	200.439	
	Exchange rates	AP	AP	AP	200.440	

	Cost Item	Educational Institutions	Non-Profit Organizations	State, Local and Indian Tribal Governments	Uniform Guidance Section	DOL Exception Section
	Fines, penalties, damages and other settlements	U/AP	U/AP	U/AP	200.441	
	Fund raising and investment management costs	U/AP/A	U/AP/A	U/AP/A	200.442	
	Gains and losses on disposition of depreciable assets	AC	AC	AC	200.443	
	General cost of government	NS	NS	U/A	200.444	
	Goods or services for personal use	U/AP	U/AP	U/AP	200.445	
	Idle facilities and idle capacity	AC/U	AC/U	AC/U	200.446	
	Insurance and indemnification	AC/U	AC/U	AC/U	200.447	
	Intellectual property	A/U	A/U	A/U	200.448	
	Interest	AC/U	AC/U	AC/U	200.449	
	Lobbying	U	U	U	200.450	
	Losses on other awards or contracts	U	U	U	200.451	
	Maintenance and repair costs	A	A	A	200.452	
	Material and supplies costs, including costs of computing devices	A	A	A	200.453	
	Memberships, subscriptions, and professional activity costs	A/U	A/U	A/U	200.454	
	Organization costs	U/AP	U/AP	U/AP	200.455	
	Participant support costs	AP	AP	AP	200.456	
	Plant and security costs	A	A	A	200.457	
	Pre-award costs	AP	AP	AP	200.458	
	Professional services costs	A	A	A	200.459	

	Cost Item	Educational Institutions	Non-Profit Organizations	State, Local and Indian Tribal Governments	Uniform Guidance Section	DOL Exception Section
	Proposal costs	A	A	A	200.460	
	Publication and printing costs	A	A	A	200.461	
	Rearrangement and reconversion costs	A/AP	A/AP	A/AP	200.462	
	Recruiting costs	A/U	A/U	A/U	200.463	
	Relocations costs of employees	AC/U	AC/U	AC/U	200.464	
	Rental costs of real property and equipment	AC/U	AC/U	AC/U	200.465	
	Scholarships and student aid costs	AC	NS	NS	200.466	
	Selling and marketing	U/AP	U/AP	U/AP	200.467	
	Specialized service facilities	AC	AC	AC	200.468	
	Student activity costs	U/AP	U/AP	U/AP	200.469	2900.19
	Taxes	AC	AC	AC	200.470	
	Termination costs	AC/U	AC/U	AC/U	200.471	
	Training and education costs	A	A	A	200.472	
	Transportation costs	A	A	A	200.473	
	Travel costs	AC	AC	AP	200.474	
	Trustees	A	A	NS	200.475	

Prior Written Approval Request

Subrecipient Name _____

Subrecipient Number _____ Request Date _____

Instructions – For Prior Written Approval Requests that include costs, complete Sections A, C and D. For requests that do not include costs, complete Sections B, C and D.

Section A – Requests that include costs

Item of cost being requested _____

Estimated total cost _____

Is this purchase necessary and reasonable? Describe the item of cost and its functionality.

Is the purchase needed? Describe the reason for the purchase/rent/subscription including functionality not provided by state or local partners.

What other costs are associated with the purchase? Describe additional costs (maintenance, set up, taxes, fees, etc.) associated with the purchase.

Have the best products been selected? Describe how the product will be selected.

If applicable, what procurement method will be used? Describe the procurement method selected.

If applicable, was a lease option considered in lieu of the purchase? Describe leasing options as part of the consideration.

If applicable, name and address of the entity where the property will be located.

Section B – Requests that do not include costs but still require prior written approval

Describe the circumstance that requires prior written approval.

Section C – 30 day requirement

Is this request being made more than 30 days before the requested action is to occur?

Yes No

If approved, date that the requested action is to occur.

Section D – Signature – NoRTEC

By signing below, the authorized representative requests a prior written approval for the item of cost listed above.

Name _____ Signature _____

Title _____ Date _____
