

### Introduction

#### Purpose

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The Fiscal Technical Assistance Questions and Answers compile selected questions and corresponding responses addressed by the Texas Workforce Commission (TWC). It provides supplemental administrative and cost guidance for TWC-funded grant awards, and related subgrants.

#### Organization

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This document contains twenty-four sections, as listed in the Main Table of Contents. The Main Table of Contents includes hyperlinks to each section. When a user opens a particular section, a separate table of contents appears at the beginning of that section. Each item in the Section Table of Contents is linked to the respective question and response within that section. Users may return to the Main Table of Contents by clicking the corresponding link in each section. An appendix lists deleted and revised items.

#### Use

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Not all responses may be appropriate in all circumstances. In determining whether a particular cost or policy is allowable, users should consider the specific circumstances surrounding that particular cost or policy in conjunction with this guidance, federal and state statutes, regulations, rules, and other requirements applicable to the cost and entity. Failure to mention a particular item of cost or policy does not imply that it is either allowable or unallowable. If no similar item is discussed in applicable cost principles, program requirements, or related guidance, the general tests of allowability must be applied.

#### Updates

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TWC will periodically update this guidance, and may modify or delete responses that are no longer applicable (i.e., as a result of changes in federal state, or agency requirements). Given the susceptibility to change, users should document any decisions based on this guidance by retaining a hard copy of the particular question and response on which a particular decision was based. In the event of conflict between the Fiscal Technical Assistance Questions and Answers and federal or state law, the provisions of federal or state law apply.

# Texas Workforce Commission

## Fiscal Technical Assistance Questions and Answers

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### Questions

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Local Workforce Development Boards (Boards) and other TWC grantees may direct questions relating to the guidance in this document to TWC's [Fiscal-TA](mailto:Fiscal.TA@twc.state.tx.us) e-mail address (Fiscal.TA@twc.state.tx.us). Entities that receive subgrants from Boards and other TWC grantees should direct questions to the Board or TWC grantee from which it received its subgrant of TWC funds. The Board or TWC grantee will address such questions or forward the questions to TWC, as appropriate.

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**A. Access to Records and Record Retention**

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**A.1 Scanned Invoices**

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Issued: 11/22/2012

Should original documentation for payable invoices be kept or can scanned documentation be retained in its place?

**A.1 Response**

According to 29 CFR §97.42, Retention and Access Requirements for Records, records must be retained for three years unless otherwise specified. This section applies to records of grantees or subgrantees. As stated in 29 CFR §97.42 (d), “Substitution of microfilm. Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.” The Uniform Grant Management Standards, Chapter III, Subpart C, § .42 also uses the same language as stated in 29 CFR §97.42 (d). We interpret scanning to be a “similar method” that may be substituted for the original records.

Although the language above applies to grantees and subgrantees, grantees’ and subgrantees’ contracts must contain a provision requiring the retention of all required records for three years after final payments are made and all legal or other pending matters are closed (29 CFR §97.36). We would conclude that the retention of scanned documents (from the original documents) by the contractor is acceptable.

**A.2 Prior Approval for Document Destruction**

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Issued: 11/25/2003; Updated: 4/13/2012

Is approval required from the Texas Workforce Commission (TWC) for document destruction, provided the conditions in the FMGC are met?

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### A.2 Response

No, prior approval from TWC is not required for the destruction of documents; however, local workforce development boards and subcontractors must retain the documentation for the specified timeframe as discussed in the Financial Manual for Grants and Contracts (FMGC).

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E-mail [Fiscal.TA@twc.state.tx.us](mailto:Fiscal.TA@twc.state.tx.us) for questions  
Last Update: January 18, 2012

## **B. Allocation, Deobligation, and Reobligation**

**Currently no questions or responses.**

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## **C. Budget**

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### **C.1 Budget Shortfalls – Reclassification of Costs**

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Issued: 11/14/2003

When a specific grant contract exceeds budget, is it allowable to either: (1) reclassify specific program costs that are also allowed in another open grant to that grant, or (2) reclassify shared indirect costs to another open grant? Is it allowable when a certain grant reaches its budgeted administrative costs, to no longer charge shared costs to the related fund, even though the grant is still “open”. Instead, other grants would pick up these expenses.

#### **C.1 Response**

Indirect and/or administrative costs benefiting more than one grant contract must be shared relative to the benefit each received from the expenditure [see Uniform Grant Management Standards (UGMS), II Attachment A, Section F (1)]. Such costs may not be reclassified to avoid a budget deficit if doing so would create costs disproportionate to the relative benefits received. Section F(3)(b) states, "Amounts not recoverable as indirect costs or administrative costs under one Federal or state award may not be shifted to another Federal or state award, unless specifically authorized by Federal or state legislation or regulation." However, when federal or state program eligibility requirements allow an individual to participate in more than one program, costs for that participant may be reclassified to another program under certain circumstances.

Specific direct costs related to a program participant that are also allowable in another program grant may be reclassified to that grant contract if the participant was eligible and enrolled in each program at the time the cost was incurred. This may also be true for indirect costs. If an indirect cost allocation is based on participants, and certain eligible participants are reclassified to another grant program, a portion of the costs would shift from one program to the alternate program. This assumes all the indirect costs allocated are allowable under both grant contracts.

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For example, if the allocation of a workforce center's occupancy costs is based on the number of participants in each program administered by the center, and certain eligible participants are reclassified to an alternate program, the percentage allocated to each would change, less costs would be allocated to one grant contract and more of the allocation would be charged to the alternate grant contract. Such a transaction must be well documented to demonstrate that all participants are actually eligible for and enrolled in the alternate program at the time the costs are incurred and that the costs are allowable under both grant contracts.

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### **D.2 Working Capital Payment Method (10/18/2011)**

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Issued: 10/18/2011

What is the working capital method of payment?

#### **D.2 Response**

The working capital method—in which a contractor does not have sufficient working capital to get the program operating—is discussed in 13.01c Working Capital Method (FMGC, 199 9), which Chapter 7 Cash Management (FMGC, 2005) incorporates by reference. The 1999 version of the manual is available on the [Finance page](#) of the Texas Workforce Commission’s intranet ([https://intra.twc.state.tx.us/intranet/fin/html/fin\\_home.html](https://intra.twc.state.tx.us/intranet/fin/html/fin_home.html)). (The intranet is not available to the public.) The excerpt for the working capital method follows:

#### **13.01c Working Capital Method**

The working capital method may be used when the contractor is unable to meet the requirements of the advance method, but lacks sufficient capital to finance the program or project costs on their own. The Commission may advance, to a contractor, a sufficient amount of working capital in order to get the program operating, and then reimburse the contractor for actual costs incurred. The major drawback to this method occurs at the end of the contract, when all working capital funds advanced must be repaid to TWC. Additionally, this method may not be used where the contractor is simply **unwilling** to abide by the standards of the advance method.

These requirements are based on the uniform administrative requirements in Office of Management and Budget Circulars A-102 and A-110, as applicable, as supplemented by the rules promulgated by the Governor in the Uniform Grant Management Standards.

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There is not a fixed cap on the amount that can be provided for a working capital advance. Factors to consider when determining the amount to provide include, but are not necessarily limited to: 1) the contractor's projected initial and subsequent monthly cash needs, 2) frequency of reimbursement, and 3) the amount of the contractor's fidelity bond.

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### **E.4 Use of Collection Agency to Collect Outstanding Client Payments**

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Issued: 11/22/2011

In cases where clients fail to pay for child care costs incurred as the result of receiving child care during the appeal process and losing the appeal, may local workforce development boards (Boards) turn the costs over to a collection agency if the client fails to comply with the repayment plan?

In cases where a Board must recoup funds from clients for reasons other than fraud or costs incurred during an appeal process, and the clients have not paid the funds or tried to come back into care, may Boards turn the costs over to a collection agency or write the outstanding debt off as bad debt? Examples include many families dating back to 2006 that have still not paid and only have a very small amount that are willing to make payments.

What legal recourse do Boards have to try to collect these funds? If no legal recourse is allowed then when can the Board write these outstanding debts off as bad debt which is uncollectable?

#### **E.4 Response**

Boards cannot write off unrecouped child care payments as bad debts. However, Boards may turn the unrecouped funds over to a collection agency that will attempt to collect the account on the Board’s behalf, providing that:

- 1) doing so is the most cost-effective alternative, and
- 2) does not involve either selling the debt for a reduced price, or otherwise writing off the debt as a bad debt.

Depending on the amount owed, a Board may bring a lawsuit to sue the parent in attempt to collect the funds. If the Board intends to use legal action as a means of recouping the funds, the Board should set an amount over which it will bring a suit, for example \$10,000. Again, the cost effectiveness of filing suit should be considered. It is not recommended that the Board sue for all child care debts.

It is recommended that the Board have a written policy for its collections process that includes:

- actions to be taken by Board or contractor staff to attempt to collect payment prior to and in lieu of escalating to a collection agency or legal action;
- identifying the circumstances under and amounts for which collection efforts will be escalated to a collections agency or legal action; and
- actions to be taken by the Board or contractor if use of a collection agency or lawsuit does not result in the successful collection of the amount owed by the parent.

The statement that Boards cannot write off unrecouped child care payments as bad debts is based on cost principles and Texas Workforce Commission (TWC) rules.

Specifically:

- Cost principles classify bad debts, including the cost of related collection and legal costs, as unallowable costs, unless provided for in Federal or state program award regulations. (See Office of Management and Budget (OMB) Circular A-21, (J)(6); OMB Circular A-87, Attachment B, Item 5; OMB Circular A-122, Attachment B, Item 5; 48 CFR §31.205-3; and Uniform Grant Management Standards, Part II, Attachment B, Item 7.)
- TWC rules at 40 TAC §809.117(b)(2) require parents to repay improper payments for child care in the following instances: fraud; parent received child care during an appeal and the decision is affirmed by the hearing officer; and other instances when payment is deemed appropriate corrective action.
- TWC rules at 40 TAC §809.116 require Boards to “attempt to recover all improper payments” and states that the Commission shall not pay for improper payments.

The Board’s attempts to collect outstanding amounts from parents, whether through Board or contractor staff, a collection agency, or legal action demonstrates the due diligence that the Board must exercise in attempting to recoup the funds.

### **E.5 Automated Clearing House Fees for Provider Payments**

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Issued: 12/21/2011

Our local workforce development board’s (Board) child care contractor is charging Automated Clearing House (ACH) fees to the child care grant. This is for ACH transfers to the child care providers. Is this an allowable charge against federal funds? The child care contractor is a non- profit organization.

**E.5 Response**

An ACH fee is essentially a bank fee. The ACH fees that are allocable to the child care grant are a reasonable cost of doing business and are allowable grant charges when the associated transaction is for an allowable cost and the child care provider exercises prudence in managing the fees. For example, if the financial institution applies ACH fees on a batch-by-batch basis, and if after considering its particular circumstances, it is feasible for the child care provider to combine transactions into a fewer number of batches to reduce ACH fees, it would be prudent for the child care provider to do so.

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### **F.2 Equipment at Contract Closeout with a Continuing Program**

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Issued: 8/12/2011

How and when are local workforce development boards (Boards) required to report capitalized equipment at grant contract closeout if the contract was for a program that will continue to be funded under a new grant contract (e.g. Workforce Investment Act, Temporary Assistance for Needy Families, etc.)?

#### **F.2 Response**

The “Certification of Use and Disposition of Non-Expendable Property” and “Property Inventory” components of the Contract Closeout Package for a grant contract pertain to equipment that was purchased under that particular contract. Property that was purchased under a prior grant contract, which the Board continued to use under later grant contracts should not be identified in the Contract Closeout Package of the later grant contracts.

So, when using these forms:

- List the equipment on the “Certification of Use and Disposition of Non-Expendable Property” component of the grant contract under which the property was originally acquired, certifying that the property will continue to be used for the program or project purposes for which it was acquired. Also include the property on the “Property Inventory” component of that contract.
- Do not list the equipment on the “Certification of Use and Disposition of Non-Expendable Property” or “Property Inventory” components of Contract Closeout Packages for subsequent contracts, even if the Board used the property for those contracts.

In the event this clarification differs from the way that your organization has handled property in the Contract Closeout Package for prior years’ grant contracts under which equipment was purchased please notify the TWC Payables Unit by e-mailing the relevant contract identification and property information, as well as related concerns and explanations to TWC’s [Closeouts e-mail address](#)

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(closeouts-CDER@twc.state.tx.us). A representative from the Payables Unit will then contact you to discuss whether revised contract closeout packages will be required.

As used in this response, equipment means “an article of non-expendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals the lesser of (a) the capitalization level established by the organization for financial statement purposes, or (b) \$5,000.”

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### **G.1 Assurances and Certifications**

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Issued: 3/8/2012

Are a local workforce development board’s vendors required to sign the same assurances and certifications that its subrecipients are required to sign? For example, debarment, drug-free workplace, conflict of interest, etc.

#### **G.1 Response**

The applicability of each required assurance, certification, and contract provision must be considered on its own merits. Some assurances, certifications, and provisions are required in both vendor contracts and grant subawards to subgrantees/subrecipients, while some apply to vendor contracts only, and others apply only to grant subawards to subgrantees/subrecipients. The dollar value of a vendor contract or grant subaward to a subgrantee/subrecipient can also impact whether some assurances and certifications apply.

The requirements for certifications and provisions relating to debarment, drug-free workplace, and conflicts of interest follow. In all three cases, the same requirements apply regardless of whether the Board or its subgrantee/subrecipient enters the vendor contract or makes the grant subaward.

#### **Debarment**

Each vendor contract that exceeds the small purchase threshold must require the vendor to certify that it is not debarred or suspended (see Office of Management and Budget (OMB) Circular A-110, Appendix A, 8 and Financial Manual for Grants and Contracts (FMGC) §15.2). Each award to a subgrantee/subrecipient must require the certification pursuant to Uniform Grant Management Standards, Part III, § .14.

Regardless of certification requirements, no vendor contract or grant subaward shall be made to an entity that is debarred or suspended, or otherwise excluded from or ineligible to participate in federal assistance programs under Executive Order 12549 (see FMGC §14.18).

### **Drug-Free Workplace**

Vendor contracts and awards to subgrantees/subrecipients must require certification of compliance with the Drug-Free Workplace Act of 1988 if the contract or subaward exceeds the small purchase threshold (see FMGC §15.2).

### **Conflicts of Interest**

Vendor contracts and subawards to subgrantees/subrecipients must contain a provision that requires the following: 1) no employee, officer or agency of the subcontractor shall participate in the award, or administration of a contract supported by public funds if a conflict of interest or apparent conflict of interest would be involved, and 2) the vendor or subgrantee/subrecipient must notify the awarding party when a potential or actual conflict of interest situation exists (FMGC §15.2).

Note: As used in this response, the terms “vendor” and “subrecipient” have the meanings in OMB Circular A-133 and the FMGC.

## **G.2 Electronic Signatures**

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Issued: 3/16/2012

Can a local workforce development board (Board) permit a service provider to electronically sign a contract by affixing an electronic signature in portable digital format, and then e-mail the entire contract back instead of mailing it?

### **G.2 Response**

If the Board accepts an electronic signature, security procedures must be in place that have the capacity to ensure that the signature was indeed the act of the service provider representative to whom it is attributed. (See the [Uniform Electronic Transactions Act in Chapter 322, Business & Commerce Code.](#))

Several illustrations of what this means can be seen in Texas Workforce Commission (TWC) systems and processes. For example, relating to official certifications and submissions to TWC, TWC accepts a signature or certification submitted within the following as an act of the person to which it is attributed because of the logon credentials and other system controls in place for the system:

- A certification within the TWC Cash Draw and Expenditure Reporting system
  - A e-signature on a Board contract submitted within the Pronto e-signature system
- Additionally, TWC might sometimes accept an official certification or submission by

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e-mail if the e-mail is sent from an individual that is a member of the TWC e-mail network, and the e-mail is sent from that individual's mailbox within the network. Again, this is possible because the logon credentials and other system controls in place for the TWC e-mail network have the capacity to ensure that the record or signature provided by that e-mail was indeed the act of the person to which it was attributed. Such assurance does not exist with an e-mail sent to TWC from outside of the TWC e-mail network, because TWC does not have control over, or a way of verifying the security controls over the other e-mail system.

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### **H.1 Allocation of Equipment Purchases**

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Issued: 3/13/2003

How should the cost of equipment purchases be allocated among multiple programs?

#### **H.1 Response**

The equipment should be accounted for in a manner that is consistent with local accounting practices and applicable cost and accounting requirements for similar costs that are incurred in like circumstances. Specifically, “A cost may not be assigned to a federal or state award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the federal or state award as an indirect cost [Uniform Grant Management Standards (UGMS), Part II, Attachment A, (C)(1)(f)].” Principles for classifying costs as either direct or indirect costs can be found at UGMS, Part II, Attachment A, (D)-(F). In general, however, federal and state cost principles allow that:

- the full cost of the equipment be charged as a direct cost to the final cost objectives with which it can be specifically identified;
- the equipment be depreciated over its useful life and recovered over time as either a direct or an indirect cost; or
- the cost of the equipment may be recovered over time through a use allowance that is charged as either a direct or an indirect cost.

See UGMS, Part II, Attachment B, Item 20(b) for further discussion of these options. Note that the total cost of the equipment may not be charged to the indirect cost pool at the time the equipment is acquired [see UGMS, Part II, Attachment D, (C)(2)(b) and ASMB C-10, Illustrations 6-1 and 6-3]. If the equipment is depreciated, limitations and principles for the use of depreciation and use allowances apply [see UGMS, Part II, Attachment B, Item 16]. If the cost of the equipment is allocated among multiple partners, the partners may fund their

allocable share of the cost through resource sharing as described in the Federal Register, Volume 66, Number 105, Thursday, May 31, 2001, Notices [pp. 29638-29646].

#### **H.4 Allocation of Workforce Center Supervisory Staff Costs to Employment Service and Trade Adjustment Assistance Programs**

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Issued: 9/26/2011

As a part of a cost allocation plan, certain pooled costs including salary and benefits of senior workforce center staff that are overseeing all programs—including Wagner-Peyser Employment Service (ES) and Trade Adjustment Assistance (TAA)—are captured in a pool and allocated on an agreed upon methodology. We (a local workforce development board) request clarification as to whether or not when allocating pooled costs for this category, the pool can in fact be allocated on the appropriate and agreed to methodology across all programs. This would result in certain pooled salaries and benefits hitting the salary and fringe line items in all program funding streams.

##### **H.4 Response**

The portion of the salary and benefits of senior workforce center staff that is allocable to ES and TAA may be charged to those contracts using the workforce center contractor's cost allocation plan, provided the plan results in charges based on the relative benefit received by each program, and otherwise complies with applicable cost principles and requirements.

Note: ES and TAA funds cannot be used to fund costs of direct service activities performed by workforce center staff, even if the workforce center staff perform some of the same functions as the merit staff.

#### **H.5 Cost Allocation Frequency**

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Issued: 10/7/2011

Is there a rule that limits a local workforce development board (Board) to only allocate funds once per month?

##### **H.5 Response**

No. There is not a grant rule, administrative requirement, or cost principle that prohibits the Board from changing its policy to enable it to allocate expenditures more frequently than monthly, providing the data used to perform the allocation is

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an allowable basis for the expenditures being allocated, the data used for the basis is available on the frequency needed, and the base is consistently applied.

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**I.1 Work-Related Damage to Employee’s Personally Owned Vehicle**

Issued: 11/12/2002

Local workforce development board (Board) staff who works in the IT department, used his personally owned vehicle (POV) (a truck) to move some computers under the direction of his supervisor. The computers were not securely tied or padded in the bed of the truck and scratched the pickup bed casing. The cost of the repairs to the truck is \$187.70. The Board’s insurance company would not pay the claim because they felt that the owner of the truck failed to exercise due diligence in preventing the damage. Can the Board pay for the repairs?

**I.1 Response**

Because of the minimal amount of the damage claim, the Board may reimburse the employee for the cost of repair to the personal vehicle.

The State Uniform Grant Management Standards (UGMS), Part II, Attachment B, Section 26(c), and OMB Circular A-87, Attachment B, Section 25(c), both provide

that minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

However, if such losses result in an aggregate loss of \$1,000 or more within a twelve-month period, the grantee or subrecipient may be required to reimburse the grantor agency.

### I.3 Insurance Deductibles

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Issued: 2/2/2003; Updated: 1/18/2012

Our local workforce development board's contractor has director and officer's liability insurance with a \$10,000 deductible. If an employee were to file a lawsuit against our contractor, would the deductible amount be an allowed cost?

#### I.3 Response

The cost of an insurance policy required pursuant to a Federal award or other insurance in connection with the general conduct of activities is allowable per Office of Management and Budget (OMB) Circular A-87, Attachment B, Section 25; OMB Circular A-122, Attachment B, Section 22; and the Financial Manual for Grants and Contracts. However, the deductible is not a cost of obtaining insurance.

The deductible is paid if the insured contractor is found liable. Pursuant to OMB Circular A-122, Attachment B, Section 10(f), "Costs incurred by the organization in connection with the defense of suits brought by its employees or ex-employees under section 2 of the Major Fraud Act of 1988 (Pub. Law 100-700), including the cost of all relief necessary to make such employee whole, where the organization was found liable or settled, are unallowable."

Therefore, if an employee were to file a lawsuit against the contractor and the contractor was found liable, the deductible would not be an allowable cost.

### I.4 Food for Planning Meetings and Seminars

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Issued: 2/13/2003 and 8/27/2003

Is food an allowable cost for planning meetings and seminars?

### **I.4 Response**

Fiscal-TA has received several questions regarding the allowability of food for planning retreats and seminars, specifically those related to technical assistance provided to local workforce development boards in the area of Youth programs, and seminars designed to disseminate information about services available to business. These questions were answered separately on 2/13/2003 and 8/27/2003, respectively. The following response applies to both.

The meeting or seminar, and its associated costs, must meet the criteria as stated in Office of Management and Budget (OMB) Circular A-87, Section 30(c), be necessary and reasonable and not otherwise prohibited in order for such cost to be allowable. The Board must also ensure that such costs are adequately documented.

OMB Circular A-87, Section 30(c) states, "Costs of meetings and conferences where the primary purpose is the dissemination of technical information, including meals are allowable." However, the cost of food provided at meetings in which the primary purpose is to plan future meetings and seminars and not to disseminate technical information would not be allowable. Entertainment costs, including amusement, diversion, and social activities and any associated costs such as meals, lodging, transportation, gratuities, etc. are generally not allowable under OMB Circular A-87, Section 18.

Additionally, as stated in OMB Circular A-87, costs must be allowable and thus meet the criteria of being "necessary and reasonable for proper and efficient performance and administration of Federal awards. A cost is reasonable if, in its nature or 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 costs."

### **I.5 Participant Traffic Fines, Late Fees and Court Costs**

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Issued: 3/4/2003

Under WIA, what is the official position for paying participant expenses such as:

- traffic fines and court costs;
- late drop fees pertaining to training; and
- late fees for utilities, rent, and the like for an emergency support service?

### **I.5 Response**

Cost principles for governments, non-profit and for-profit entities contained in the Office of Management and Budget Circulars A-87 and A-122 and the Code of Federal Regulations, 48 CFR Chapter 1, Part 31, classify fines and penalties as disallowed costs. These citations basically state that fines and penalties resulting from violations of, or failure to comply with Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of an award or written instructions of the awarding agency. Under these rules, a violation of law resulting in traffic fines and court costs would not be allowable.

The Workforce Investment Act (WIA) §101(46) defines supportive services as 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 WIA Title 1. Use of funds for WIA can also, of course, be used for allowable training activities. The comments and responses to the WIA Final Rules found in 20 CFR Part 652 state, "To ensure flexibility, the regulations afford local areas the discretion to provide supportive services as they deem appropriate with limitations only in the areas defined in the Act." The cost principles mentioned above limit expenditures to those that would be reasonably incurred by a prudent person under the circumstances and are necessary.

Therefore, expenditures for late drop fees to enable a participant to enroll in training, as well as housing costs, including late fees for utilities and rent, could be allowable if they are reasonable and necessary for an individual to participant in WIA activities. Each situation should be separately evaluated as to its necessity and reasonableness.

### **I.7 Training Costs Incurred Prior to Eligibility Determination**

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Issued: 6/12/2003

Can Workforce Investment Act (WIA) funds be used to pay for the training costs of a WIA eligible student who was enrolled at a proprietary school prior to being determined eligible for WIA services?

### **I.7 Response**

No. In order to be an allowable cost under a federal or state award, a cost must be

"necessary and reasonable for proper and efficient performance and administration of federal or state awards" [Uniform Grant Management Standards (UGMS), Part II, Attachment A, (C)(1)(a)]. Reasonable costs are those that are incurred in accordance with federal, state, and other laws and regulations; and with the terms and conditions of the award [UGMS, Part II, Attachment A, (C)(2)(b)]. The training costs violate federal regulations and are therefore not a reasonable cost under the award.

Training costs of students that were enrolled in training prior to completing any intensive services are in violation of the WIA Regulations at 20 CFR §663.310, and may be questioned. "Training services may be made available to employed and unemployed adults and dislocated workers who have met the eligibility requirements for intensive services, have received at least one intensive service under §663.240, and have been determined to be unable to obtain or retain employment through such services [20 CFR 663.310]...."

Additionally, a participant cannot receive training until the need for training has been identified and documented. "The case file must contain a determination of need for training services under 20 CFR §663.310, as identified in the individual employment plan, comprehensive assessment, or through any other intensive service received [20 CFR 663.240(b)]."

### **I.11 Chamber of Commerce Dues**

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Issued: 9/23/2003; Updated 1/18/2012

Our local workforce development board (Board) is establishing a business service unit and would like to join the local chamber of commerce. There are annual dues and a one-time membership fee. Are these costs allowable?

#### **I.11 Response**

The costs (annual dues and the one-time membership fee) to join groups, such as a local chamber of commerce, are allowable as long as the Board does not use appropriated funds to pay membership dues to an organization that pays part or all of the salary of a person who is required by the Texas Government Code, Chapter 305, to register as a lobbyist (Texas Government Code, Chapter 556).

### **I.13 Background Checks for Program Participants**

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Issued: 11/17/2003; Updated 1/18/2012

Can a local workforce development board use Supplemental Nutrition Assistance Program Employment and Training (SNAP E&T), Temporary Assistance for Needy Families (TANF), and Workforce Investment Act (WIA) funds to pay for background checks required by employers before hiring a program participant?

### **I.13 Response**

Yes. Although not specifically addressed by statute, regulation, or rule, the use of SNAP E&T, TANF, and WIA funds to pay for background checks required by employers before hiring a program participant is consistent with the intent of the laws, to the extent that:

- it is the employer's normal business practice to require potential employees to pay such costs;
- the costs are necessary and reasonable in accordance with Uniform Grant Management Standards (UGMS), Part II, Attachment A, (C)(1)(a) and (C)(2); and
- the costs are allocable to federal or state awards under UGMS, Part II.

Note: TANF funds may only be used to pay for such costs to the extent that the conditions above are met and no other resources are available.

### **I.14 Profit in Wagner Peyser Contract**

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Issued: 12/5/2003

Is profit allowable under Wagner Peyser? If so, what is the limit?

### **I.14 Response**

Yes, subject to the applicable administrative provisions at 29 CFR Part 97, a fair and reasonable profit is allowable for commercial (for-profit) organizations under Wagner Peyser. In accordance with 29 CFR §97.36(f)(2), profit must be negotiated, "...as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work."

The provisions do not specify a fixed limit or ceiling for the amount of profit that is considered fair and reasonable; however, industry profit rates for similar work, referred to in 29 CFR §97.36(f)(2) above, are generally limited to 10 percent of the

contract's estimated cost, excluding fee. The 10 percent amount is also consistent with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR 15.404-4(c)(4)(i)(C) although the FAR should only be referenced as guidance since the provisions are generally not applicable to Wagner Peyser contracts made by grantees or subgrantees.

## **I.16 Advertising and Public Relations Costs in Indirect Rate**

Issued: 11/14/2011

If a for-profit organization's corporate office incurs advertising and public relations costs intended to increase business (i.e., promotion of company activities), is it allowable for the organization to recover a portion of those costs through the indirect cost rate that it charges to local level contracts that it receives (e.g. contracts for workforce center operations)?

### **I.16 Response**

The federal cost principles that apply to for-profit subrecipients are set forth in 48 CFR Part 31. Cost principles in 48 CFR §31.205-1 address the allowability of public relations and advertising costs. Under 48 CFR §31.205-1(f), the costs of activities for which the "primary purpose" is to "promote the sale of products or services by stimulating interest in a product or product line" or by "disseminating messages calling favorable attention to the contractor for purposes of enhancing the company image to sell the company's products or services," are unallowable except in limited instances permitted by other sections and subsections of 48 CFR Part 31. For example, 48 CFR §31.205-1(d)(2) identifies certain costs of activities to "promote the sale of products normally sold to the

U.S. Government, including trade shows, which contain a significant effort to promote exports from the United States" as allowable costs, and 48 CFR §31.205-38(b)(5), which is incorporated into §31.205-1 by reference, identifies certain direct selling costs as allowable costs.

After considering the allowability of the specific costs in question:

- If—(1) the activities are allowable under 48 CFR Part 31, (2) the organization ordinarily accounts for the costs as indirect costs, and (3) the costs benefit the local level contracts in question, as well as all other activities of the organization from which the costs are recovered—it is allowable for the organization to recover an allocable portion of the costs through the indirect cost rate that it charges to local

level contracts that it receives. (Administrative cost limits and locally imposed indirect cost rate caps could limit the total amount of indirect costs that can be recovered under a local level contract.)

- If the activities are unallowable under 48 CFR Part 31, it is not allowable for the organization to recover any portion of the costs through the indirect cost rate that it charges to local level contracts that it receives, nor would it be allowable for the organization to charge such costs to local level contracts as direct costs.

See 48 CFR §31.201-2 Determining Allowability; 48 CFR §31.201-4 Determining Allocability; 48 CFR §31.202 Direct Costs; 48 CFR §31.203 Indirect Costs; 48 CFR §31.205-1, Public Relations and Advertising Costs; 48 CFR §31.205-38 Selling Costs.

### **I.17 Prepaid Rent**

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Issued: 8/15/2011)

Is it allowable to enter a lease if the leasing company requires advance payment of three months rent? Our organization, a non-profit Wagner-Peyser 7(b) grantee, is actually subleasing the space, but the original lessor is passing through the three-month advance payment requirement. The lease also has a clause that enables us to terminate the lease at any time with 90 days notice; however, the entity that is leasing the space to us has orally agreed to work with us if we must end the lease during a period for which we were required to pre-pay.

#### **I.17 Response**

Though unusual to accept lease terms that require a three-month advance payment for leased space, the three-month advance payments are allowable if: 1) required by the sublease, 2) the TWC grant award contract is not charged for any portion of lease (advanced or otherwise) for periods that the space is not in use by the TWC contract, including periods that occur after the TWC contract ends, and 3) the rent cost charged to the TWC contract is allowable under the contract, and in accordance with applicable cost principles.

With regard to the oral commitment that the lessor made to work with your organization, if your organization must vacate the leased space before a period for which the prepaid rent expires, your organization's ability to enforce such agreement would be better protected if it were reduced to writing through an addendum to the lease agreement (or sublease).

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**I.18 Recovery of Depreciation Expense for a Locally Funded Vehicle**

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Issued: 8/12/2011

The Texas Workforce Commission (TWC) is the state single audit coordinating agency assigned to the review and approval of the indirect cost rate for our council of governments (COG). Is it allowable to allocate depreciation expense of a vehicle to TWC programs if the vehicle was purchased with the COG’s “local” funds for use by the COG’s executive director.

**I.18 Response**

Yes, the depreciation to allocate the vehicle cost to periods benefiting from the asset use is an allowable expense to the indirect pool to the extent that such charges conform to the cost principles and limitations in OMB Circular A-87.

COGs are subject to cost principles in Office of Management and Budget (OMB) Circular A-87, including those in Attachment E, “State and Local Indirect Cost Rate Proposals.” OMB Circular A-87, Attachment E, (A)(4) identifies depreciation as a type of cost that is typically treated as an indirect cost and recovered through an indirect cost pool. Further, OMB Circular A-87, Attachment B, Section 11, “Depreciation and Use Allowances” specifically identifies depreciation as an allowable cost, subject to the limitations in that section.

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**I.19 Accessibility Changes Funded by Disability Program Navigator Contract**

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Issued: 10/12/2011

The Disability Program Navigator contract provides that “The Board may procure assistive technology or equipment, or other accessibility products or services needed to achieve the purposes of the Initiative.” Can funds be used to create a safety rail and steps to make [the exterior stairs at] a workforce center facility more accessible?

**I.19 Response**

The Fiscal Year (FY) 2011 and FY 2012 Disability Program Navigator Initiative contract funds (contract alpha “DNI”) may be used to make the exterior stairs of a workforce center more accessible to individuals with disabilities, because such use is consistent with the contracts’ purpose statement in Attachment A, Section 1, and with the allowable activities described in Attachment A, Section 3.1.

Attachment A, Section 1 of both the FY 2011 and FY 2012 contracts describe the contracts' purpose as follows:

“The purpose of the...Disability Navigator Initiative (Initiative) is to fund one (1) full-time resource staff (Navigator) who will conduct capacity building and systems change activities throughout the Local Workforce Development Area (LWDA) in order to expand universal access of the One-Stop delivery system to job seekers with disabilities and provide enhanced, comprehensive, and seamless employment services to those individuals.”

Attachment A, Section 3.1 of both the FY 2011 and FY 2012 contracts states:

“The Board shall design systems, subcontracts, and structures supporting the provision of services and supporting strategies reasonably calculated to achieve the goals of the Initiative.”

Consistent with Attachment A, Section 1, sufficient funds must remain available to fully fund the full-time resource staff who serves as the Disability Program Navigator.

## **I.20 Event Sponsorship**

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Issued: 2/16/2012

Our organization has been invited to attend a barbecue and educate attendees about one of our Wagner-Peyser 7(b) funded activities. Is it allowable for the program to help sponsor the barbecue by providing brisket and two sides? The barbecue attendees fall into the population served by the activity we were asked to discuss.

### **I.20 Response**

While outreach activities are allowable program services under the contract in question, contributions (in this case, brisket and two sides) are not. Pursuant to the Texas Workforce Commission Financial Manual for Grants and Contracts (FMGC) §8.3.16, “Contributions and donations, including cash, property, and services, made by the Contractor to others are unallowable.” That is, the use of grant funds to purchase food to contribute to the barbecue is unallowable. Furthermore, costs associated with providing a meal at a barbecue to which the Grantee has been invited does not meet general allowability criteria. FMGC §8.1 states costs must “be necessary and reasonable for proper and efficient performance and administration of the award.”

**I.21 Child Care Outreach Activities**

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Issued: 3/8/2012

Our child care contractor will have a booth and provide our consumer guide and applications for our wait list to families at a local event. Can Child Care and Development Fund monies be used to purchase items for a children’s activity? We are considering either handing out books, face painting, or stickers as a method of outreach to families.

**I.21 Response**

Among other things, Workforce Development (WD) Letter 17-10 indicates outreach activities and promotional materials purchased with grant funds must clearly communicate, without ambiguity, services promoted by a particular activity, and requires that outreach and promotional materials be necessary and reasonable for the proper and efficient performance and administration of the program that purchases the materials. To be allowable, costs must conform to WD Letter 17-10 and applicable cost principles. Activities performed (face painting) or items handed out (books, stickers) must clearly communicate specific award activities or accomplishments of the CCDF program. Outreach and promotional activities that do not meet these specifications are unallowable.

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### **J.5 Classification of Workstations for Board Staff Processing Child Care Payments**

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Issued: 8/19/2003; Relocated 4/13/2012

Would expenditures for cubicle workstations that will be used by local workforce development board (Board) staff to process child care provider billings and payments as well as self-arranged child care be considered administrative costs or program costs?

#### **J.5 Response**

The cost of the cubicle workstations would be an administrative cost. In accordance with 45 CFR §98.52(a)(3), administrative activities may include...."administrative services, including such services as accounting services, performed by grantees or subgrantees or under agreements with third parties." Billing and payment activities are accounting services that are administrative in nature. Since the cubicle workstations are being used for administrative activities by the Board, the cost of the cubicle workstations is administrative.

### **J.6 Classification of Workforce Center Rent When Paid By a Board**

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Issued: 9/20/2011

Our local workforce development board (Board) is taking over the monthly lease payments on facilities that house our workforce centers. In the past, the leases were held by our contractor. It is assumed that the rental costs will still be considered program costs, even though the Board will be making the payments. Is this correct?

#### **J.6 Response**

Yes, the cost would be considered a program expense, assuming all activity conducted in the workforce centers is programmatic in nature.

### **J.8 Classification of Board-Paid Workforce Center Rent and Facilities**

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Issued: 4/27/2012

We have a question related to the cost category classification to use for our local workforce development board's (Board) infrastructure costs. These substantial costs are for rents and utility expenses our Board incurs. All of the leases for our workforce area's nine one-stop locations are in the Board's name. The leases are all paid by the Board. The Board also pays the corresponding utilities, janitorial, security, and other such occupancy related expenses. These "center costs" are then allocated to the various grant funding streams using the Board's cost allocation plan.

Which cost categories should we use to report these costs in the Cash Draw and Expenditure Reporting system?

#### **J.8 Response**

Cost categories 612 Direct Program–Core/Intensive Services and 709 Subrecipient Operating Costs (Non-One-Stop Operator) should be used for lease, utility, janitorial, security, and similar occupancy related costs of the workforce area's workforce centers, regardless of whether the workforce center operator or Board pays the costs. Limit use of 709 Subrecipient Operating Costs (Non-One-Stop Operator) for this purpose to only the portion of the lease, utility, janitorial, security, etc. costs that are associated with administrative-type functions of the workforce center.

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### **K.1 Fiscal Agent Responsibility for Audit Costs**

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Issued: 11/15/2011

Our local workforce development board’s (Board) fiscal agent is allowed one percent of our funding as the fiscal agent fee. The fiscal agent charges the Board an additional fee for the external, independent audit. Is this appropriate or should the fiscal agent fee cover the audit cost? Most of the money handled by the fiscal agent is pass-through funds from our grants.

#### **K.1 Response**

The terms and conditions of the Board’s contract with its fiscal agent dictate whether the cost of the audit is included in the fiscal agent fee or is in addition to the fiscal agent fee. Disputes over the amount of the fiscal agent fee must be resolved locally between the Board and its fiscal agent, or if necessary, between each parties’ respective legal counsel.

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**L.2 Provisional/Final Indirect Cost Rates**

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Issued: 6/24/2011

Our workforce center operator had a provisional indirect cost rate. When the rate was adjusted to the final rate, the final rate was lower, resulting in a credit to and fund balance in a closed grant contract that the local workforce development board (Board) received from the Texas Workforce Commission (TWC). Is the Board required to reopen the closed grant contract to revise the contract closeout package and refund the money to TWC, or should the adjustment be applied to a corresponding funding stream that is not closed?

For example:

A Temporary Assistance for Needy Families (TANF) grant contract began 10/01/09 and ended 10/30/2010. The workforce center operator charged \$1,000,000 in operations during this time period and billed a 10 percent provisional indirect rate which resulted in \$100,000 of indirect costs being charged to the contract. Six months after the grant contract closed the workforce center operator receives their audit report which shows the actual (final) indirect rate was 9 percent for this period. This results in there being a \$10,000 balance to the closed grant contract. Should the workforce center operator make this adjustment to the previous year’s grant contract that has been closed or deduct it from the new TANF contract that is current and open? If the adjustment is made to the closed grant contract should this money be sent back to TWC or be handled at the Board level?

**L.2 Response**

A provisional rate is a temporary rate that can be used on an interim basis until a final rate has been established, so the closed grant contract will need to be adjusted to reflect the final rate. The Board should use the resulting balance for other allowable expenditures of the adjusted contract, as described below. If after doing this a balance remains in that contract, the Board must refund the balance to TWC. The changes might require the Board to submit a revised final expenditure report and revised financial contract closeout package to TWC.

“Other allowable expenditures of the adjusted grant contract” means expenditures that:

- 1) were incurred during the same contract period as the adjusted contract, and
- 2) are allowable under the adjusted contract.

These two conditions most commonly occur when the end of one grant contract is overlapped by the beginning of a subsequent grant contract for the same program, and expenditures can be moved from the newer contract to the older contract on a first in first out basis, as described in the following example.

The Fiscal Year (FY) 2010 TANF formula grant contract began 10/01/09 and ended 10/31/2010. The FY 2011 TANF formula contract began 10/01/10 and will end 10/31/2011. Therefore, the FY 2010 and FY 2011 contracts overlapped from October 1, 2010, through October 31, 2010. The TANF formula contract expenditures that were incurred during the overlapping period can be funded under either the FY 2010 or the FY 2011 TANF formula contract, to the extent that: 1) the specific costs are allowable under the provisions of both contracts, and 2) funds are available under the contract that will be used to pay for the costs. Because of this, TANF formula expenditures that were incurred during October 2010, and funded under the FY 2011 TANF contract can be moved to the FY 2010 contract to the extent that funds are available, and the specific costs to be moved are also allowable under the FY 2010 contract.

If the movement of expenditures to the adjusted contract changes the final expenditure report for that contract, the Board must submit a revised final expenditure report and a revised financial contract closeout package for the adjusted contract. No revised final expenditure report or revised financial contract closeout package is required if expenditures equal to the indirect cost adjustment can be moved to the closed grant without any change to final reported cost category and total expenditures of the adjusted contract.

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E-mail [Fiscal.TA@twc.state.tx.us](mailto:Fiscal.TA@twc.state.tx.us) for questions  
Last Update: March 2004

## **M. Individual Training Accounts**

**Currently no questions or responses.**

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### **N.1 Errors and Omissions Insurance**

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Issued: 2/11/2003; Updated: 1/18/2012

Is errors and omissions insurance an allowable cost for local workforce development boards (Boards) that are local governments? If it is not allowable is there comparable insurance that would be allowable?

#### **N.1 Response**

The cost of errors and omissions insurance, also known as professional liability insurance, is allowable for state and local governments in accordance with Office of Management (OMB) Circular A-87, Attachment B, Paragraph 25 and the Uniform Grant Management Standards, Attachment B, Paragraph 26. It is also a requirement under the Agency-Board Agreement (ABA) between the Texas Workforce Commission and Boards. The ABA requires Boards to assure that all “workforce center subrecipient subcontractors” carry errors and omissions insurance, or the equivalent, and other insurance required by state or federal law or regulation.

### **N.2 Insurance for Boards’ Contractors and Participant Coverage**

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Issued: 8/12/2003; Updated: 1/18/2012

What insurance is a local workforce development board (Board) required to have for participants? Additionally, what insurance are Board contractors required to have?

### **N.2 Response**

Boards must ensure that Workforce Investment Act (WIA) Title I participants have insurance coverage for work related injuries sustained while in a work experience activity. According to WIA Regulations in 20 CFR §667.274, if the employer's current employees are provided workers' compensation coverage, then the WIA participant involved in work experience must also be covered by workers' compensation. If the employer's current employees are not provided workers' compensation coverage, then the WIA participant is not required to be covered by workers' compensation. However, insurance coverage for injuries suffered on the job would have to be provided. The employer, the service provider, or the Board could provide this insurance.

Board contractors are contractually required to have the following insurance coverage:

- Fidelity bond coverage
- Errors and omissions insurance or the equivalent
- Property insurance for non-governmental subcontractors
- Commercially available insurance to cover any property or casualty claims, damages, or losses (including reasonable attorney fees) resulting from the activities of the Board, its employees, contractors, agents or clients in any Agency facility in which the Board is co-located

### **N.3 Insurance for the General Conduct of Activities**

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Issued: 9/12/2003; Updated: 1/18/2012

What insurance may a local workforce development board's (Board) contractor pay for with Texas Workforce Commission funds?

### **N.3 Response**

Board contractors are contractually required to have the following insurance coverage:

- Fidelity bond coverage
- Errors and omissions insurance or the equivalent
- Property insurance for non-governmental subcontractors

- Commercially available insurance to cover any property or casualty claims, damages, or losses (including reasonable attorney fees) resulting from the activities of the Board, its employees, contractors, agents or clients in any Agency facility in which the Board is co-located

The above bulleted types of insurance are required, but that in accordance with Uniform Grant Management Standards, Part II, Attachment B, Paragraph 26, "costs of other insurance in connection with the general conduct of activities are allowable subject to the following limitations:

- 1) types and extent and cost of coverage are in accordance with the governmental unit's policy and sound business practice; and
- 2) costs of insurance or contributions to any reserve covering the risk of loss of, or damage to, Federal Government or state property are unallowable except to the extent that the awarding agency has specifically required or approved such costs."

#### **N.4 Workers' Compensation for Participants**

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Issued: 11/9/2011

Is it acceptable to provide on-site medical/accidental insurance in lieu of workers' compensation for participants enrolled in occupational skills training, work experience, subsidized employment, etc.?

#### **N.4 Response**

On-site medical/accidental insurance cannot be substituted for workers' compensation insurance when state workers' compensation law, or program statutes and regulations require that workers compensation insurance be maintained.

Of the Texas Workforce Commission (TWC)-funded programs that local workforce development boards (Boards) administer, only the Workforce Investment Act and Supplemental Nutrition Assistance Program Employment and Training programs have specific program requirements for the provision of workers' compensation or other insurance for injuries suffered by a participant. [See 20 CFR §§667.272(b) and 667.274; TWC SNAP E&T Guide §B-108.e]

For other TWC-funded programs that Boards administer, program requirements do not address workers' compensation insurance. For these programs, workers' compensation is required only to the extent that state workers' compensation law

applies, or such coverage is required by Board policy. (Note: If provided in connection with a Temporary Assistance for Needy Families (TANF)/Choices on-the-job training (OJT) activity, the cost of workers' compensation or alternative coverage is not reimbursable under the TANF/Choices OJT contract with an employer, because TANF/Choices OJT activities provide "reimbursement to the employer of a percentage of the wage rate of the Choices participant for the **extraordinary cost of providing the training and additional supervision related to the training**" [emphasis added].)

Workers' compensation law typically applies on an employer-by-employer basis, and does not expressly address occupational skills training, work experience, or subsidized employment. Questions about the applicability of state workers' compensation insurance law fall under Texas Department of Insurance's (TDI) jurisdiction. TDI regulates the Texas workers' compensation system.

### **N.5 Fidelity Bond Amount for Self Sufficiency Fund Grant Contract**

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Issued: 7/11/2011

What amount of bonding must a Self-Sufficiency Fund Grantee that is a non-profit organization maintain?

#### **N.5 Response**

The bond amount must be sufficient to cover the greater of the following:

- The cumulative amounts of all cash requests submitted during a moving three-day period (wherein days is known to be TWC business days), or
- The cumulative amount of funds on hand at any given point.

Grantees draw cash against a grant award contract by submitting a cash draw request in the Texas Workforce Commission (TWC) online Cash Draw and Expenditure Reporting (CDER) system. The Agency records the bond amount in the CDER system. When the Grantee submits a cash draw request in CDER, the system controls first check to ensure the request is less than or equal to 20% of the total contract amount by individual contract, then compares the cumulative amounts the Grantee has drawn from all TWC grant award contracts during the three consecutive business days (current and prior two days) to the fidelity bond amount that the Grantee has on file with the Agency. If the sum of such requests exceeds the fidelity bond amount the system reprocesses the request each day until the cumulative three-day cash draw amount falls within the bond amount. If the amount

of the request passes this and other CDER system tests, the cash draw request automatically processes and the Grantee receives payment of the requested amount in four to five business days if being direct deposited and five to seven business days if a payment warrant (check) is issued. (A business day is a day that both TWC and the federal funding agency's accounting offices are open for business.)

### **N.6 Fidelity Bond Amount for Boards' Subrecipients and Vendors**

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Issued: 7/11/2011

Could you provide guidance on when a fidelity bond is required of an entity that does business with a local workforce board (Board)?

#### **N.6 Response**

Under Section 3.1 of the Financial Manual for Grants and Contracts (FMGC), a Board must require a subrecipient to maintain a fidelity bond in an amount that is sufficient to cover the largest cumulative amount of all cash requests submitted on a given day or the cumulative amount of funds on hand at any given point, based on cumulative amounts drawn during any consecutive three-day period (FMGC §3.1). The provision does not oblige a Board to require a vendor to obtain a fidelity bond. Additionally, a Board is not obliged to require a fidelity bond for a federal agency, state agency, public college, public university, consolidated school district, or independent school district, regardless of whether such entity is a subrecipient or vendor. If a subrecipient does not obtain a fidelity bond because it is a federal or state agency, public college or university, consolidated school district, or independent school district, it would be prudent for the Board to include contract provisions similar to the surety requirements of the general terms and conditions in grant award contracts made by the Texas Workforce Commission.

In addition to ensuring that certain subrecipients obtain a fidelity bond, a Board must ensure that at least 10 percent of the funds subject to the control of a workforce service provider are secured by bonds, insurance, escrow accounts, cash on deposit, or other methods, consistent with the contracting guidelines in 40 TAC §802.21(b). The requirements in 40 TAC §802.21(b) pertain to a Board contract with any entity that meets the definition of a workforce service provider, as the term is defined in 40 TAC §802.2(15); i.e., "an entity or individual under contract with a Board to operate: (A) one or more Workforce Solutions Offices; or (B) one or more programs (e.g., child care) or components of one or more programs (e.g., issuing checks for youth

# Texas Workforce Commission

## Fiscal Technical Assistance Questions and Answers

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participating in summer employment or performing child care billing).” Refer to FMGC §3.1 for additional discussion of this coverage.

The terms “subrecipient” and “vendor” have the meanings in OMB Circular A-133 and the FMGC.

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### **O.1 Financial Requirements of ETPS Training Providers**

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Issued: 11/19/2002

Do Eligible Training Provider System (ETPS) training providers have to abide by the guidelines in the Financial Manual for Grants and Contracts (FMGC)? What are ETPS providers answerable for in the financial arena?

#### **O.1 Response**

The FMGC would only be applicable when contracts exist between a local workforce development board and one or more ETPS training providers. In such cases, the contract should state whether the FMGC is to be followed. If a contract exists and requires compliance with the FMGC, then you have the right to verify compliance based on the contract. We are not aware of any other requirements of a fiscal nature applicable to ETPS training providers since they are vendors and not subrecipients in most cases.

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**P.2 Boards as Governmental Entities**

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Issued: 7/8/2003

Under Texas law, are all local workforce development boards (Boards) considered to be governmental entities?

**P.2 Response**

It depends on who is defining the entity. The most accurate statement is that a Board is not a governmental entity, but, by definition, some statutes and regulations apply to a Board as if it were a governmental entity.

**P.3 Subrecipient/Vendor Determination for Training Project**

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Issued: 11/3/2011; Updated: 4/13/2012

A Texas Workforce Commission (TWC) grant award contract requires a local workforce development board (Board) to partner with two colleges. Are the colleges vendors or subrecipients under the grant contract?

**P.3 Response**

Subrecipient/vendor determinations require examining facts against established criteria in Chapter 20 and Appendix J of the Financial Manual for Grants and Contracts, and their cited authorities.

The Texas Workforce Commission’s Request for Proposals, the local workforce development board’s (Board) written proposal, the contract, and grant related information on the colleges’ Web sites support classification as vendors. As the grant recipient of the TWC contract, the Board must have a system in place to track and assess the success of the project, and to ensure that each partner fulfills their respective responsibilities toward the success of the program. However, a vendor is

not ordinarily subject to the subcontractor monitoring required by Attachment A, Section 5.2 of the TWC contract in question (i.e., review and testing of financial systems, internal controls, and programmatic activity, like eligibility determinations). A key fact supporting classification as vendors is that the TWC contract funds a Workforce Investment Act (WIA)-funded entrepreneurship training project that provides the financial means to expand existing entrepreneurship training programs offered through the colleges to better meet the training needs of the targeted population.

Additionally, the work to be performed by the colleges under the TWC contract—aside from initial eligibility determinations—appears consistent with the work that the colleges already perform in conjunction with their existing training programs, which are available to the general public at the locations and times specified by the colleges. In addition to training, this work includes outreach, assessments, counseling, follow-up, and other activities. While such work requires direct, on-going, hands-on involvement with the eligible population, it is secondary to the colleges' primary project role as training providers.

Finally, while both colleges are responsible for initial eligibility determinations, the proposal and contract expressly make the Board responsible for approving or denying, and documenting each individual's eligibility. Thus, the responsibility for determining who is eligible to participate in the project—which is a key consideration when making subrecipient/vendor determinations—lies with the Board, not the colleges.

Based on this information, the colleges' project role is that of training providers that are vendors under the TWC contract, and though significantly involved in the project, the colleges are not responsible for carrying out the WIA program as a subrecipient would be. In essence, the contract funds an allowable WIA program activity (i.e., entrepreneurship training) that enables the Board and TWC to carry out the WIA program by expanding the entrepreneurship training services available to the eligible population.

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## **Q. Personnel**

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### **Q.1 Performance Incentives**

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Issued: 12/19/2002,10/1/2003 and 11/6/2003; Updated: 1/18/2012

Is it allowable to provide local workforce development board (Board) and workforce center contractor staff with a performance incentive using Temporary Assistance for Needy Families (TANF) and/or Supplemental Nutrition Assistance Program Employment and Training (SNAP E&T) funds?

#### **Q.1 Response**

Fiscal-TA has received several questions regarding the allowability of incentive payments to Board and workforce center contract staff. These questions were answered separately, but the responses are combined below for clarity.

In general, performance incentives, including incentives provided in the form of bonuses or cash equivalents, are allowable costs to TANF and SNAP E&T provided that the compensation is allowable in accordance with applicable cost principles and other requirements (i.e. are not specifically prohibited, such as entertainment), and that:

- overall compensation, including the incentive, is reasonable for the services rendered;
- compensation is paid or accrued pursuant to an agreement entered into in good faith between the Board and its employees before the services are performed, or pursuant to an established plan followed by the Board so consistently as to imply, in effect, an agreement to make such payment;
- overall compensation is consistent with that paid for similar work in other activities of the organization or comparable to that paid for similar work in the area's labor market; and
- the compensation is adequately documented.

Specific guidance can be found in Office of Management and Budget (OMB) Circular A- 122, Attachment B, Item 7(c) and 7(i); OMB Circular A-87, Attachment

B, Item 11; and Uniform Grant Management Standards, Part II, Attachment B, Item 11, as applicable.

In addition, the Board should have written policies and procedures for determining the reasonableness of overall and individual compensation amounts, allocation (including criteria), and payment. The policies and procedures must be approved by the Board in an open meeting (in accordance with local procedures for approving personnel policies and/or procedures), and in place to making any incentive awards to employees.

### **Q.3 Location of State Salary Schedules**

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Issued: 10/17/2003; Updated: 5/28/2019

Where can I find the state salary schedules?

#### **Q.3 Response**

The state salary scheduled can be found on the [Texas State Auditor's Office Web site](http://www.sao.texas.gov/) (<http://www.sao.texas.gov/>).

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**R. Procurement Standards**

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**R.1 Determining Amount of Questioned Costs**

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Issued: 4/8/2003; Updated: 9/27/2019

If an organization appropriately applies the small purchase procurement procedures for goods/services, but the final amount paid exceeds the small purchase procurement threshold what is the amount that is generally questioned?

**R.1 Response**

Understanding that each procurement of goods and services is unique; procurements that do not fully meet requirements do not necessarily result in questioned or disallowed costs. Findings on non-compliant procurements can result in a non-monetary or administrative finding that requires corrective action and follow-up. The decision as to whether or not to question costs (and how much cost to question) must be determined using professional judgment by the entity that is performing the monitoring or auditing function.

### **R.3 Services Extended for Personal Use in Scope of Services**

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Issued: 7/3/2003

Can the scope of services in a Request for Proposals (RFP) for depository services include a requirement that proposers include both the courtesy services available to a local workforce development board (Board) and to the Board's employees (as if the employees were acting independently on their own behalf) in their proposals? The information regarding courtesy services to employees will not be used in the evaluation process, and is only intended to promote competition.

#### **R.3 Response**

The RFP's scope of services may include the requirement for depository institutions to provide a listing of the courtesy services that it would offer to the Board, but should exclude the requirement to provide those courtesy services that individual employees acting on their own behalf could receive.

In accordance, with Office of Management and Budget (OMB) Circular A-87, Attachment A, (C)(2)(a), "In determining reasonableness of a given cost, consideration shall be given to: whether the cost is of a type generally recognized as ordinary and necessary for the operation of the governmental unit or the performance of the federal award." Although the cost of including the phrase is minimal, and the stated intent of the phrase is to increase competition, it creates an appearance of personal benefit to the Board's employees, and would therefore represent a cost that is neither ordinary nor necessary for the operation of the organization or for the performance of an award.

Additionally, OMB Circular A-122, Attachment B, Item 18 states that, "costs of goods or services for personal use of the organization's employees are unallowable regardless of whether the cost is reported as taxable income to the employees." The portion of the RFP that would appear to benefit the Board's employees for their personal benefit is considered to be a cost of goods or services for personal use and would not be allowable.

### **R.7 Use of Training Providers Procured by Another Entity**

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Issued: 1/10/2012

Our local workforce development board (Board) conducted a procurement for occupational training leading to a marketable skills award. Two training providers were selected and

awarded contracts. Could a neighboring Board use these two training providers for training of individuals enrolled in their programs? The procurement conducted by our Board did not specify that the services procured would cover other Board areas.

### **R.7 Response**

A Board that was not specified in the solicitation cannot use the contract(s) that result from the solicitation, because the service area specified in the solicitation can affect the number of potential respondents, the number of offers received, pricing, and other specifics. If one Board intends to procure a service on behalf of itself and one or more other particular Boards, all of the Boards that will be served by the resulting contract need to be specified in the solicitation and resulting contract(s). Additionally, efforts should be made to solicit offers from the entire area to be served by the resulting contract(s).

### **R.8 Fiscal Integrity Review When Board is Fiscal Agent**

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Issued: 11/29/2011

If a local workforce development board (Board) is the fiscal agent for its workforce service provider, is the workforce service provider required to have a fiscal integrity review performed by the Board before signing a new contract for the next year? An external auditor already performs an annual audit.

### **R.8 Response**

The Texas Workforce Commission (TWC) rules that require performance of a fiscal integrity evaluation (40 TAC §802.21) do not exempt Boards from performing the evaluation when the Board is the fiscal agent for its workforce service providers, so the requirements for a fiscal integrity evaluation continue to apply. However, the fiscal integrity evaluation required by 40 TAC §802.21 can be accomplished by relying on the work of other reviews, audits, or examinations, to the extent that such work meets the stated objectives and requirements in 40 TAC §802.21. Where the previous work only partially meets the objectives and requirements of 40 TAC §802.21, additional work is required prior to making the award, but may build upon work performed under other reviews, audits, or examinations.

For example, if the workforce service provider has contracts with other parties, and the Board is considering renewing its existing contract with the workforce service provider, the Board would be expected to consider, by reviewing monitoring reports,

audits, evaluations, and through interview with the workforce service provider, whether exceptions arose under the other contracts since the Board performed its last fiscal integrity evaluation, which indicate weaknesses that impact the contract or renewal that is pending with the Board.

To meet the intent for the purpose of the fiscal integrity evaluation required by 40 TAC §802.21, the work of a review, audit, or examination that will be relied on to satisfy performance of the fiscal integrity review will need to have been performed within the last few months of the contract that is being considered for renewal, or for a new contract, within a few months prior to the contract's start date (i.e., 40 TAC §802.21 requires that the evaluation be performed prior to award and at each renewal).

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## **R.9 Eligibility of Prior Auditor to Compete for Current Audit Services**

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Issued: 7/20/2011

Our local workforce development board (Board) released a Request for Qualifications for audit services. The Board's previous audit firm was awarded the contract through the previous Request for Qualifications and served as the independent audit firm for five audit cycles. Is the previous audit firm eligible to submit qualifications for the current Request for Qualifications?

### **R.9 Response**

Yes, the previous audit firm is eligible to submit qualifications for the current request for qualifications.

The selection process must conform to the procedures described in Financial Manual for Grants and Contracts §14.15. Specifically, "In procuring an auditor, positive efforts must be made to use small businesses, minority-owned firms, and women's business enterprises. In requesting proposals for audit services, the objectives and scope of the audit should be made clear. Factors to be considered in evaluating each proposal for audit services include the responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of external quality control reviews, and price."

Additionally, "As provided by single audit requirements, an auditor who prepares the indirect cost proposal or cost allocation plan must not also be selected to perform the audit required by Office of Management and Budget Circular A-133 and/or the State of Texas Single Audit Circular (in Part IV of the Uniform Grant Management Standards) when the indirect costs recovered by the auditee during the prior year exceeded \$1 million."

### R.10 Pre-Award Reviews

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Issued: 2/9/2012

The Financial Manual for Grants and Contracts (FMGC) provides guidance on conducting pre- award reviews before awarding a contract for workforce services. Does this apply to contracts resulting from a Request for Proposals or Request for Quotations for services such as specialized training/special workshops, or other workforce related services that may not necessarily be training? In some cases, these contracts may be considerably under the small purchase threshold.

#### R.10 Response

The pre-award review requirements in FMGC §14.21 apply for subawards that local workforce development boards (Boards) and other Texas Workforce Commission Grantees make to subrecipients/subgrantees, with the exception that the entity specific consideration relating to Boards' performances of fiscal integrity evaluations pertains to any entity that is a workforce service provider, as defined in Commission rule

§802.2(15)—i.e., “An entity or individual under contract with a Board to operate: (A) one or more Workforce Solutions Offices; or (B) one or more programs (e.g., child care) or components of one or more programs (e.g., issuing checks for youth participating in summer employment or performing child care billing).”

### R.11 Ties

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Issued: 5/24/2011

We, a local workforce development board (Board) are issuing a request for proposals for workforce center operations. If a tie occurs between a proposer that is a historically underutilized business (HUB) and a proposer that is not a HUB, are we required to make award to the HUB?

#### R.11 Response

Under the competitive proposal method of procurement discussed in Section 14.12 of the Financial Manual for Grants and Contracts (FMGC), if the Board will make a single award, and two or more proposals receive tie scores, the Board is encouraged to take the following steps to resolve the tie (even if one of the tie proposers is a HUB):

- request and evaluate a best and final offer (BAFO) from each tie proposer, and
- if necessary, further negotiate with the tie proposers.

In the very unlikely event that the Board cannot resolve the tie after considering the BAFO and further negotiation, and only one of the tie proposers is a HUB, award should be made to the HUB, consistent with the standard in FMGC §14.5 and its cited authorities that “all necessary and affirmative steps should be taken to contract with small and minority business firms and other historically underutilized businesses, when possible.”

Note: Use of the BAFO process and negotiation are less common under the small purchase and sealed bid methods of procurement. Tie offers resulting from the evaluation of offers under these two methods are commonly resolved as follows without requesting BAFOs or attempting to negotiate with the tie respondents:

- by making award to the tie respondent that is a HUB, or
- if neither tie respondent is a HUB (or both tie bidders are HUBs), by drawing of lots.

### **R.12 Requests for Evaluation Information**

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Issued: 6/27/2011

As part of the procurement of workforce development services, our local workforce development board (Board) included a pre-proposal conference and a technical assistance period. During the technical assistance period, we received several requests for information related to the proposal evaluation, evaluator qualifications, names of selected evaluators, and selection of evaluators and evaluation instrument. What is the Texas Workforce Commission’s position regarding exchanges of this type of information during the procurement process?

#### **R.12 Response**

The Texas Public Information Act (Act), Chapter 552, Texas Government Code, governs the public’s right to access information that the Board collects, assembles, or maintains “under a law or ordinance or in connection with the transaction of official business.” The requested information is public information; however, pursuant to §552.104(a), the Board is not required to release information related to competition or bidding available if the information would give advantage to a competitor or bidder.

The Board should not provide potential respondents or the public with information

that would give advantage to a competitor. For example, the Board should not provide evaluator names, contact information, or qualifications that might identify the evaluators, because such information has the potential to be used by competitors to attempt to influence the selection process. However, information that a competitor requests during the technical assistance period about the proposal evaluation process, evaluator selection criteria, and the evaluation instrument should be released to all potential respondents if it does not give advantage to a competitor, because it can improve potential respondents' understanding of the procurement process. Again, this applies only to the extent the information does not give advantage to a competitor; information that will give (or that has the potential to give) advantage to a competitor should not be released. Similarly, information should not be released to only one potential respondent; all potential respondents should receive the same information.

Note: All responses to Public Information Act requests must follow the requirements of Texas Government Code, Chapter 552, and a request for an Attorney General ruling may be necessary if the requester does not otherwise agree to withdraw their request in order to assert the exceptions available to foster fair competition.

### **R.13 Documentation Requirements for Build-Outs**

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Issued: 5/1/2012

I am looking for a form that needs to be provided to TWC when a Board is going to contract with an architect for construction services to a satellite office (and service fees are going to be reimbursed). I have found Form 7100 as well as Forms GR-10 and Y-9. I am just wondering if there is one more specific?

#### **R.13 Response**

Boards should submit TWC Form 7100 to obtain prior approval for construction projects, when the changes constitute capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life (see §8.3.22 in the Financial Manual for Grants and Contracts (FMGC)). Form 7100 is also required if the changes constitute reconversion costs (FMGC §8.3.53).

Maintenance, repairs, and “ordinary or normal rearrangement and alternation of facilities” do not require prior approval from TWC (FMGC §§8.3.36 and 8.3.50).

Submit TWC Form GR-10 “Legislative Notification of Field Office Closure,” only if the Board is closing, moving, or opening a workforce center or satellite within the workforce development area. (The form must be received by the designated TWC contract manager in advance of the closure, move, or opening.) (As specified by Form GR-10, Board administrative offices that do not provide services and Texas Workforce Commission Offices (e.g., tax or UI call centers) are not subject to this requirement.)

Submit Form Y-9 “Request for Change in Directory of Offices” to revise directory information for a workforce center or satellite two weeks in advance of the effective date of the change. The current versions of the GR-10 (with instructions), Y-9, and Y-9 Instructions are available on the TWC intranet.

### **R.15 “Aggregate” Explained**

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Issued: 5/31/2012

Section 14.10 of the Financial Manual for Grants and Contracts states, “Small purchase procedures shall be used for relatively simple purchases that do not exceed the simplified acquisition threshold (currently \$100,000) in the aggregate.” Does “in the aggregate” mean: 1) our yearly aggregates, 2) the total of that particular purchase order, or 3) total unit cost?

#### **R.15 Response**

“In the aggregate” refers to the sum total to be paid to a vendor for goods and services for a particular purchase. For example, the aggregate cost of a contract is the contract amount, inclusive of amendments, while the aggregate cost of a purchase for a one-time need for which no contract is executed is the value of that purchase.

### **R.16 Use of TXMAS Contracts**

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Issued: 5/23/2012

The Financial Manual for Grants and Contracts states, “contractors must obtain price or rate quotations from an adequate number of qualified sources.” Does a Texas Multiple Award Schedule (TXMAS) contract meet the “adequate number of qualified sources?”

### **R.16 Response**

Yes. TXMAS purchases meet the “adequate number of qualified sources” requirement for entities that are eligible to use such contracts and as such do not require additional price or rate quotations. This is because TXMAS contracts have already been competitively procured.

### **R.17 Sole Source Letters from Vendors**

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Issued: 5/23/2012

In the Financial Manual for Grants and Contracts there is discussion about soliciting from a single source “if the contracting officer determines that only one source is reasonably available,” and also refers one to 48 CFR 13.106-1(b), where it is stated that “...if the contracting officer determines that the circumstances of the contract action deem only one source reasonably available (e.g., urgency, exclusive licensing agreements, or industrial mobilization...” If a manufacturer has only one representative and provides a sole source letter that only one vendor can sell their equipment, is that allowed as an exclusive licensing agreement?

### **R.17 Response**

An exclusive licensing agreement does not justify sole source. Consideration is given to the type of good or service needed for a particular use, not simply a brand name, for example. If there are multiple providers/vendors of the type of goods or services needed, a procurement is generally needed to document the comparison and evaluation.

### **R.19 Contracts/Agreements under the Texas Interagency and Interlocal Cooperation Acts (Chapters 771 and 791 Texas Government Code)**

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Issued: 10/14/2019

When purchasing property and services under a TWC grant award (or subgrant under that award), is it allowable for the recipient/subrecipient of that award to enter into a contract or agreement under the Texas Interagency Cooperation Act (Chapter 771, Texas Government Code) or Texas Interlocal Cooperation Act (Chapter 791, Texas Government Code), to purchase the needed property or services (including the rental or lease of space) directly from another entity in lieu of conducting a procurement and competition?

### R.19 Response

No. Intergovernmental and inter-entity contracts are not permitted to substitute for procurement under grant awards that TWC makes (or subgrants made under those awards). Contracts and agreements to purchase property or services (including the rental or lease of space) under those awards require competition. Selections of subrecipients are held to the same standards—i.e., inability to enter into an intergovernmental or inter-entity agreement in lieu of procurement and competition.

Federal grant awards that TWC makes are subject to the procurement standards in the federal Office of Management and Budget’s “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (Uniform Guidance (UG)) (2 C.F.R. Part 200), as supplemented by the state’s Uniform Grant Management Standards (UGMS). Similarly, most state awards that TWC makes follow UGMS. The UG and UGMS require that procurements be conducted in a manner that provides for full and open competition consistent with the standards therein. The UG and UGMS procurement standards also include provisions that encourage entering into intergovernmental and inter-entity agreements; however, in September 2019, TWC received federal technical assistance which described the purpose of that provision as being to gain economy and efficiency by sharing procurement services—such as through purchasing cooperatives or by jointly conducting a specific procurement—rather than by foregoing competition.

When sharing procurement services, the procurement must be conducted in a manner that conforms to the procurement standards in the UG and UGMS. If considering use of a contract that was procured by another entity, the recipient/subrecipient of the TWC grant award (or a subgrant made under that award) has the responsibility to first determine whether the procurement adhered to UG and UGMS, and whether the recipient/subrecipient is eligible to use the contract. Eligibility to use a contract is most commonly demonstrated by showing eligibility to participate in the purchasing cooperative under which the contract is available, or by showing that the solicitation that resulted in the procurement identified the recipient/subrecipient as a user or potential user of the resulting contract. The determination should be documented in sufficient detail to demonstrate such facts to third parties, such as compliance monitors.

Note: From the perspective of the UG and UGMS, the inability to contract directly with an entity under the Texas Interagency and Interlocal Cooperation Acts does not prohibit entities that are covered by those Acts from competing for a competitive award.

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**R.20 Establishing Local Access Points with Community Partners When Space Cost Falls Below the Simplified Acquisition Threshold**

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Issued: 10/14/2019

Local Workforce Development Boards are sometimes presented with opportunities or necessity to expand access to workforce services by establishing access points at community partner locations. These might be, for example, libraries, school districts, non-profits, colleges, chambers of commerce, economic development, city or county government, or other entities. These are often low-cost options that fall within the simplified acquisition threshold. Circumstances may vary. For example, a community partner might reach out to a Board about creating an access point at a specific location, or a Board might identify a need to explore additional access points to better respond to customer needs and proximity. Arrangements might also vary. For example, establishing an access point at one location might involve placement of a grant-funded computer and/or printer to accommodate the provision of Workforce Solutions services at the site, while another might compensate an entity for use of that entity's personnel who have been cross-trained to provide specific program services, while another might compensate an entity for a mix of personnel time and space, or involve the placement of Workforce Solutions staff at a location on a full- or part-time basis. If interagency and interlocal contracts and agreements under the Texas Interagency Cooperation Act and Texas Interlocal Cooperation Act (Chapters 771 and 791, Texas Government Code, respectively) won't be permitted, what type of procurement documentation is required?

**R.20 Response**

Based on the information above and the assumption that the space cost in question would fall below the simplified acquisition threshold, Board staff should document the process used to identify the selected property. The process should focus on achieving the most economical or best value (based on price and other factors) solution.

For example:

- 1) Identify the cities or counties where service delivery access points are needed and describe why those locales were selected.
- 2) Describe the amount of staff presence and amount of space needed in each of the selected locales and the rationale for that determination, considering such factors as anticipated customer traffic, service needs, whether the needed services lend to cross-training of other entities.

- 3) Describe other occupancy needs, such as access to public transportation, accessibility for individuals with disabilities, parking, etc.
- 4) Based on the amount of staff presence needed, amount of space needed, and other occupancy needs, describe the type of spaces/properties or arrangements that will meet the need defined for each selected locale, and document the rationale for the determination. The determination should not arbitrarily limit potential solutions to partnership with specific entities; however, Board staff is not required to consider a space or property that would not meet its needs. For example, if a need will be best met by training another entity's personnel how to provide certain services or information in existing locations already accessed by customers, or if the need would involve locating a single provider staff at a location one day per week, commercial properties that would not facilitate that need would not need to be considered for that locale. If commercial properties do offer a viable service delivery option, they should be considered. If a specific entity is uniquely positioned to meet the need in a particular locale, describe those characteristics.
- 5) Communicate with the entity or entities at each locale that offer viable spaces options for that locale. Discuss delivery options and estimate the cost involved.
- 6) Compare the identified spaces/properties to determine the most economical or best value solution(s) (considering price and other factors). If multiple entities would be equally able to meet the need, but one offers to voluntarily absorb part of the cost, that may be factored in to the decision. Describe the selection rationale.

The preceding example assumes that the Board would fund the costs involved with federal grant funds, which must adhere to the procurement standards in the federal Office of Management and Budget's "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (Uniform Guidance (UG)) (2 C.F.R. Part 200). While the UG standards do acknowledge intergovernmental agreements, the UG does not explicitly authorize a subrecipient's use of intergovernmental agreements to substitute for the UG requirement for full and open competition. As such, interlocal/intergovernmental agreements are not the focus of the above response.

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## **S. Program Income**

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### **S.1 Use Fees for Equipment Used by Other Programs**

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Issued: 2/4/2003; Updated: 1/18/2012

A training vendor used Wagner-Peyser funds to purchase equipment that is used to provide general education development (GED) training services. Fees for GED training to Workforce Investment Act (WIA) participants are paid by WIA grant funds. How should the tuition fee income be recorded on the books of the training vendor?

#### **S.1 Response**

In cases where federal revenue enables the generation of additional revenue, the additional revenue is considered program income. In the situation described above, the tuition income is program income to the Wagner-Peyser grant.

Regarding the actual accounting entries to record these transactions, there are two methods: the net income method and the gross income method. The U.S. Department of Labor’s (DOL) One-Stop Comprehensive Financial Management Technical Assistance Guide, Chapter II-7 describes these methods. The guide is located on the [DOL web site](http://www.doleta.gov/grants/pdf/FinalTAG_August_02.pdf) ([http://www.doleta.gov/grants/pdf/FinalTAG\\_August\\_02.pdf](http://www.doleta.gov/grants/pdf/FinalTAG_August_02.pdf)).

### **S.2 Profit Earned from Entrepreneurial Youth Activity**

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Issued: 5/13/2003; Updated: 1/18/2012

Under a Workforce Investment Act (WIA) Youth activity, youth participate in an entrepreneurial activity in which WIA funds the initial start-up costs of the project (e.g., materials). The youth then operate the business and sell the products they make in local consignment shops.

1. Does the project have to reimburse WIA?
2. If the income must be reimbursed, can the project reimburse WIA for initial start-up costs only and the students keep any subsequent profits?
3. Does the project have to give all profit to WIA, from start-up through the life of the business?

### S.2 Response

Assuming the costs are allowable under the WIA Youth program, the income generated through this type of activity is considered program income and must be used to support the program that generated it. Both 29 CFR §95.2(bb) and 29 CFR §97.25 specifically include income from the sale of commodities or items fabricated under an award as program income.

Program income in excess of incidental costs used to generate it must be used to defray all program costs, not just the start-up costs. This includes, not only material used to manufacture products, but also all administrative and program costs such as salaries, supplies, and indirect costs associated with and allocated to the award.

Income may be retained by the administrative entity, not the participants, and used to continue to carry out the program [see WIA §195(7)].

There is no federal requirement governing program income earned after the end of the award period (29 CFR §95.24b and 29 CFR §97.25(h)). It would be up to the local workforce development board (Board) (or, if the Board so delegates, the service provider) to determine the disposition of additional income.

Note: Program income generated by this activity should be incidental to training goals. The goal should not be product development, economic development, or speculative profit on the open market.

### S.3 Reporting Program Income

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Issued: 10/14/2003

A local workforce development board's (Board) contractor earned program income in excess of total program costs through activities funded by a Wagner Peyser 7(b) grant. An amendment was executed to add this income to the budget and the contract period was extended. During the amendment period, the contractor earned additional income over program costs. How should these funds be classified and reported?

### **S.3 Response**

Program income earned by activities funded with program income is still program income and should be reported as additional funds to the program. 29 CFR §95.2(bb) states, "Program income means gross income received by the recipient that is directly generated by a supported activity or earned as a result of the award." Furthermore, 29 CFR §95.24 states, "(a) . . . program income earned during the project period shall be retained by the recipient and added to funds committed to the project by DOL and recipient, and used to further eligible project or program objectives." Program funds and program income in excess of program costs and costs incidental to the generation of program income must be disbursed to the grantor at the end of the award period.

In contrast, income earned as a result of a federally funded activity after the award period is not considered program income of the award, does not have to be reported to the grantor and may be retained and used by the recipient. 29 CFR §95.24(b) states,

"Recipients shall have no obligation to the Federal Government regarding program income earned after the end of the project period."

### **S.4 Post Grant Income from Grant Developed Software**

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Issued: 11/14/2011

If software is developed under a grant contract, is income that is generated from the software after the grant contract ends unrestricted income if the income is comprised of installation fees and an annual license fee? The contract under which the software was developed did not contain specific requirements or deliverables relating to the software. The customers that purchase the software licenses are local workforce development boards (Boards) and contractors that use TWC funds.

### **S.4 Response**

The uniform administrative requirements in Office of Management and Budget (OMB) Circulars A-102 and A-110, as supplemented by the Rules promulgated by the Office of the Governor in the Uniform Grant Management Standards (UGMS) do not include installation and license fees earned after the grant contract ends in the definition of program income, unless the awarding agency regulations, or terms and conditions of the grant contract specify otherwise. When regulations, or terms and conditions of the grant contract do not specify otherwise, the installation and license fees are unrestricted income.

# Texas Workforce Commission

## Fiscal Technical Assistance Questions and Answers

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Note: If the software was developed with federal or state funds, Boards and other contractors shall not use federal or state funds to pay a license fee for the use of the software; however, use of federal or state funds to pay the installation fee, shipping, and maintenance fees associated with acquisition of the software is permissible.

See Program Income in OMB Circular A-110 § \_\_.24(h), 29 CFR §97.25(e), 45 CFR §92.25(e), 7 CFR §3016.25(e), and UGMS, Part III, § .25(e). See Intangible Property in OMB Circular A-110 § .36. See Copyrights in 29 CFR §97.34, 45 CFR §92.34, 7 CFR §3016.34, and UGMS, Part III, § .34. See Workforce Development Letter 36-05, issued June 13, 2005, and entitled “Payment of Royalties on Intellectual Property Created with Federal Grant Funds.” See Training and Employment Guidance Letter No. 31-04, issued April 29, 2005, and entitled “Payment of Royalties on Intellectual Property Created with Federal Grant Funds.”

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### **T.1 Use of Federal Funds for Leasehold Improvements**

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Issued: 7/8/2003; Updated: 1/18/2012

Can Temporary Assistance for Needy Families (TANF)/Choices dollars be used to expand the physical size of a classroom used for classroom training (i.e. a leasehold improvement to an existing building)?

#### **T.1 Response**

Federal funds (specifically TANF/Choices dollars) can be used for leasehold improvements as an allowable item of cost, provided such cost is a necessary, reasonable, and allocable cost of the TANF/Choices program. Principles to be applied in establishing the allowability or unallowability of certain items of cost are found under the Office of Management and Budget Circular A-87, Attachment B; Uniform Grant Management Standards, Attachment B; and the Financial Manual for Grants and Contracts, Chapter 8.

### **T.6 Submission Requirements for Form 7300**

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Issued: 10/3/2003; Updated: 1/18/2012

What are the applicable use requirements and thresholds for Form 7300?

#### **T.6 Response**

The applicable use requirements are provided in Financial Manual for Grants and Contracts §§13.4 (real property) and 13.12 (equipment). The requirements apply to local workforce development boards (Boards), Texas Workforce Commission (TWC) grantees, and entities that receive subawards from either of these entities. Forms associated with property acquired under a subaward must be submitted to TWC through the Board or TWC grantee from which the subaward was received; subcontractors may not submit the form directly to TWC. Form 7300 does not apply to property that was purchased by TWC and that has been loaned or surplused to a Board.

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## **U. Single Audit and Audit Resolution**

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U.2 Notifying TWC of Change to Fiscal Year .....67

### **U.1 Audit of Board Property Used by Board Contractor**

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Issued: 12/17/2002

How should property be reflected on audit reports when a local workforce development board (Board) purchases the property but it is used, tracked and insured by a Board's subrecipient?

#### **U. 1 Response**

The entity making the purchase should record the transaction in its books of account, and the asset should be reflected on that entity's balance sheet as an asset on audit reports.

### **U.2 Notifying TWC of Change to Fiscal Year**

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Issued: 5/13/2003; Updated: 1/18/2012

Our local workforce development board (Board) would like to change its fiscal year from a July/June fiscal year to a September/August fiscal year to simplify business and reporting. What paperwork is necessary with the Texas Workforce Commission (TWC) to make this change?

#### **U.2 Response**

The Board can decide its own fiscal year with board approval. TWC would recommend coordinating with its outside auditor who performs the A-133 audit to obtain the necessary guidance on any impact it may have. Also, if the Board files a non-profit tax return each year, it will want to make sure any issues that affect the tax return and how it is filed after a 14-month transition are addressed.

Upon approval by the Board, notification of the fiscal year change should be sent to TWC's Single Audit Department. The notification should include a request for an extension of the OMB Circular A-133 audit to include the additional 2-month period that the fiscal year change would generate.

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## **V. Supportive Services and Participant Payments**

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### **V.1 Immunizations for WIA Youth**

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Issued: 4/8/2003

Can Workforce Investment Act (WIA) Youth participant immunizations be paid as a supportive service?

#### **V.1 Response**

Yes, the cost of immunizations for a WIA Youth participant is an allowable expenditure provided it is necessary to enable the individual to participate in an allowable activity.

The rules for WIA Youth support services include the following:

- WIA §101 defines supportive services as "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 this title, consistent with the provisions of this title."
- 20 CFR §664.440 includes referrals to medical services as an allowable support service.

As an example of this rule, if the employment strategy for a WIA Youth participant called for enrollment in a special school that required tetanus vaccinations, the cost for such an immunization would qualify as an allowable support service cost.

However, the cost of certain immunizations to enable a youth to visit relatives in a foreign country would not be allowable.

### V.2 Timesheet for Deceased Participant

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Issued: 7/9/2003

A Workforce Investment Act Youth participant died in a car accident after only working one day. He hasn't signed his timesheet, but he did work eight hours. Please advise as to how to handle his check and timesheet concerning signatures that would be in compliance with monitoring rules.

#### V.2 Response

The participant's supervisor may verify and approve the participant's timesheet and attach a statement describing the reason the time sheet was not signed. Release of the participant's check would depend on local policy and various legal status factors, including age, marital status, etc. Consultation with the local workforce development board's legal counsel is advised.

### V.4 Gift Cards for SNAP E&T Incentives to Customers Who Enter Employment

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Issued: 11/6/2003; Updated: 1/18/2012

Can incentives in the form of gift cards be provided to Supplemental Nutrition Assistance Program Employment and Training (SNAP E&T) customers who enter employment?

#### V.4 Response

Incentives provided to SNAP E&T customers out of SNAP E&T funds are only allowable for items that are necessary to participate in the program. Therefore, if the local workforce development board (Board) or workforce center operator cannot ensure incentive gift cards are used for purchases meeting this requirement it is not allowable. 40 TAC 813.41(a) states, "Boards shall ensure that SNAP E&T support services are provided to mandatory work registrants and exempt recipients who voluntarily participate in SNAP E&T services, if the support services are reasonable, necessary, and directly related to participation in SNAP E&T activities" as set forth in the rules.

### V.6 Refer a Friend Incentive Program

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Issued: 1/30/2012

A recruitment method that has proven successful for some areas in other states is a “refer a friend” incentive payment. Youth refer a friend and if that friend proves to be Workforce Investment Act (WIA) eligible and actually enrolls, the referring youth receives an incentive. The idea is based on the suppositions that youth have contact with other youth and that youth have significant influence on one another. Would it be allowable to offer a “refer a friend” incentive payment of some sort for youth in our local workforce development area?

### V.6 Response

The practice of awarding a monetary or nonmonetary incentive to participants that refer friends, family, peers, acquaintances, or other individuals to a program is not appropriate and must not be implemented in Texas workforce centers. It would not be prudent considering that participants are not required to refer other individuals to the program, as described below; as such it would not be a necessary or reasonable use of funds. Furthermore, it is inconsistent with Texas Workforce Commission policy guidance on the use of incentives.

Participants should not feel pressured to say positive things about a program so that they might ultimately receive a reward. Participants that have an unpleasant experience in the program, that do not feel comfortable discussing their involvement in the program with others, or that have a smaller network of contacts than other participants would be inadvertently penalized for their unwillingness or limited ability to promote the program. Additionally, the referring participant has no control over whether the referral is WIA eligible or actually enrolls.

The underlying goal of the incentive is to enable the workforce center contractor to identify and reach other individuals in the community so that they can benefit from the program by being enrolled; i.e., outreach. Outreach is a function of carrying out a program, and as such, it is a responsibility of the workforce center operator, and to some degree, the Board. While participants certainly might refer individuals to a program, participants are not required by the program to promote the program or outreach individuals for the program.

Lastly, TWC defines the aim of incentives as “moving a participant toward self-sufficiency,” and recognizes that “incentives are a way to encourage workforce participants’ participation or to reward participants for achieving specific elements in a family employment plan.” (See Workforce Development (WD) Letter 27-08, Change 1, issued June 18, 2010, and entitled, “Guidelines for the Provision of

Incentives for Workforce Investment Act and Choices Participants,” available in [Word](#) and [PDF](#) (<http://www.twc.state.tx.us/boards/wdletters/wdletters.html>.) Use of TWC funds to incent a participant’s recruitment and referral of other individuals to a program is inconsistent with the policy guidance in WD Letter 27-08, Change 1. The guidance intends incentives as a means to promote and reward a participant’s successful achievement of specific goals that are aimed at the long-term objective of self-sufficiency for that participant. Referrals do not directly impact the referring participant’s success in a program, and as such are not eligible for reward under the policy guidance in WD Letter 27-08, Change 1.

### **V.7 Participant Eligibility and Job Access and Reverse Commute Federal Match**

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Issued: 9/9/2011

If our local workforce development board (Board) uses Supplemental Nutrition Assistance Program Employment and Training (SNAP E&T), Temporary Assistance for Needy Families (TANF)/Choices, or Workforce Investment Act (WIA) formula funds as cash match for a Job Access and Reverse Commute (JARC) project, is it accurate that the funds we provide can only be used to serve persons that are certified as eligible and which are in effect participants of those programs?

#### **V.7 Response**

When using SNAP E&T, TANF/Choices, or WIA funds as match for a JARC project, the program requirements for those programs continue to apply. So, in general, yes, the funds can be used only for project costs that are associated with eligible, enrolled program participants.

However, under TANF/Choices, it is not necessary that the Board be able to directly trace each program’s fair share of direct and indirect costs to individual customers or families if the Board can demonstrate a reasonable basis for estimating the TANF/Choices program participants benefiting from the transportation project so as to derive a percentage share of total project costs. One example of a reasonable basis for estimating TANF/Choices participants benefiting from the project is “ridership.” For funds used after the project’s start-up period (if any), the estimate may be based on sampling. The estimate would have to be re-evaluated annually (or more frequently if needed) to reflect changes. [See joint guidance from the U.S. Departments of Health and Human Services, Labor, and Transportation, entitled

[“Use of TANF, WtW, and Job Access Funds for Transportation”](#)

([http://www.fta.dot.gov/documents/Use\\_Of\\_TANF.doc](http://www.fta.dot.gov/documents/Use_Of_TANF.doc)).] A voucher system that involves the Board assigning vouchers to program participants may be a feasible, more easily documentable basis for supporting the program’s fair share.

A similar approach should be acceptable under WIA, but is not acceptable for SNAP E&T. The Texas Workforce Commission’s understanding is that under SNAP E&T, match expenditures must be identifiable with specific customers.

Note: When determining whether to use TANF/Choices funds to participate in a JARC project, keep in mind the Board’s responsibilities to meet Choices performance requirements, and ensure that sufficient TANF/Choices funds will be available for that purpose. Currently the TANF State Plan does not specify that TANF funds are used for transportation for eligible families not participating in the Choices program. The Board would need to provide information to TWC that includes the amount of funds and total number of eligible families anticipated to be served so that the TANF State Plan can be amended to reflect this use of funds.

### V.10 Participant Wages and State Unemployment Tax

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Issued: 4/18/2012

Are work experience wages paid to Workforce Investment Act (WIA) youth exempt from the State Unemployment Tax Act (SUTA) tax?

#### V.10 Response

Yes. Youth work experience wages are exempt from the SUTA calculation pursuant to §201.067(a)(3), Texas Labor Code, which excludes such activities from employment that is subject to tax computation, as follows:

“In this subtitle, "employment" does not include service performed by an individual who...receives work relief or work training as a part of an unemployment work-relief or work-training program assisted or financed in whole or in part by a federal agency, an agency of a state, a political subdivision of a state, or an Indian tribe.”

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**W. Travel**

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**W.1 Prior Approval for Travel to Mexico by For-Profit Workforce Center Operator**

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Issued: 5/2/2003; Updated: 1/18/2012

Does the Texas Workforce Commission (TWC) have to give prior approval for a local workforce development board’s (Board) for-profit workforce center operator to travel to Mexico?

**W.1 Response**

No, TWC would not have to give approval for the Board’s subcontractor travel to Mexico. Note, however, that Workforce Investment Act (WIA) Title IB funds cannot be used for foreign travel [WIA sec. 181(e); 20 CFR 667.264(b)]. Therefore, WIA Adult, WIA Dislocated Worker or WIA Youth funds cannot be used for this type of expenditure.

**W.2 Non-Mandatory Board Use of State Contracted Airlines and Rates**

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Issued: 6/13/2003; Updated: 1/18/2012

Are local workforce development boards (Boards) required to use the state-contracted rates for airlines instead of lower airfare rates.

### W.2 Response

Boards are not required to use the state-contracted airfare rates if there is a lower rate available that meets the traveler's needs. TWC does point out that there are costs that might be added to the lower fare if changes in travel require the cancellation and/or rebooking of the lower airline fare. These added costs could potentially exceed the costs for a state-contracted rate. All factors need to be considered as airline reservations are made.

### W.3 Identification Cards for Board Staff and Board Members

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Issued: 6/17/2003; Updated: 1/18/2012

Local workforce development board (Board) employees and Board members can develop identification cards to avail themselves of state rates while traveling on official business. Any idea of the requirements for this card?

### W.3 Response

The Texas Workforce Commission (TWC) is recommending that Boards laminate their business card with the definition of a state agency (as stated in Article IX, Section 5.01) printed on the back of the business card. One Board has developed a laminated card for their employees as described above and is willing to share their idea with other Boards. The Board also attached a photograph of the individual to the front of the business card.

### W.4 Airline Tickets Purchased by Board on Behalf of its Contractors

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Issued: 6/30/2003; Updated: 1/18/2012

If a local workforce development board (Board) makes travel arrangements and reimbursements for its child care contractor or workforce center operator, can the Board buy airline tickets on behalf of its contractors? If the Board does this, can it continue to provide travel advances to its contractors as well?

### W.4 Response

The state-contracted rates that are available to the Board members and Board staff are **not** available to the staff of the Board's childcare contractor or workforce center operators. If the Board has a travel advance policy, it is up to the Board to determine if they want to continue to provide that service and to set policy on how that process will work.

## **W.7 Higher Reimbursement Rates for Boards' Executive Directors**

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Issued: 8/27/2003; Updated: 1/18/2012

Can the executive director of a local workforce development board (Board) be reimbursed up to twice the amount of regular state rates?

### **W.7 Response**

Yes. The executive director of the Board is classified as "a chief administrative officer of a state agency," and Board staff is classified as "state employees" for the purposes of complying with state travel regulations. These regulations authorize the following individuals to receive a maximum reimbursement for meals and lodging up to twice the amount that could normally be reimbursed:

- the chief administrative officer of a state agency,
- a state employee who travels with the chief administrative officer of a state agency, or
- a state employee that is designated by the chief administrative officer of a state agency to represent the chief administrative officer of a state agency at a particular meeting or conference.

Board members are excluded from this authorization.

Documentation should be maintained to demonstrate that: a) the travel of a state employee other than, or in addition to, the chief administrative officer of a state agency; and b) the meals and lodging actually incurred by the chief administrative officer and/or state employee are necessary and reasonable.

## **W.9 Travel Costs of Prospective Board Members**

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Issued: 10/24/2003; Updated: 1/18/2012

Can a local workforce development board (Board) pay for the lodging, meals and travel (mileage) costs associated with a Board retreat for prospective board members that are awaiting appointment to its board?

### **W.9 Response**

Prospective employees (board members) may be reimbursed for travel related to the employment interview or evaluation only. If the purpose of travel is to attend a retreat, then the travel is not allowable.

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**W.10 Distinction between Non-Overnight Meal Expenses and Meeting Meals for State Merit Staff**

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Issued: 8/12/2011

Does the prohibition against reimbursing non-overnight meal expenses to Texas Workforce Commission employees that are assigned to local workforce development boards (Boards) also apply to a business lunch with a professional organization at a restaurant or a professional business group meeting at a restaurant?

**W.10 Response**

The prohibition applies to travel expenses for non-overnight meals of TWC employees.

Registration or meeting fees that are due regardless of whether an individual partakes of a meal that is provided during the meeting are not travel expenses, and as such are not subject to the prohibition. But, if the professional organization or meeting organizer would adjust the fee accordingly if the individual did not partake of the meal, the portion of the fee that is attributable to the meal expense could not be reimbursed to the state employee. Similarly, a meal that the state employee purchased in anticipation of the meeting could not be reimbursed to the state employee.

In another scenario, if the employee is participating in a business group meeting with external parties that is hosted by the Board (or Council of Governments, in this case), or contractor, and the circumstances are such that the organization purchases food that is necessary to host the meeting, the organization would not be prohibited from including the state employee in the food count.\* Again, however, if the organization were to require the meeting attendees to share in the food cost, the state employee could not subsequently be reimbursed for the charge.

\*Note: The purchase of food for attendees of a meeting or conference may be an allowable meeting or conference cost of a grant contract in limited circumstances where the provision of a meal is necessary and reasonable under the circumstances existing at the time the meeting or conference was held.

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**W.11 Board Member Reimbursement of Certain Travel Costs with Use of Frequent Flyer Miles**

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Issued: 10/7/2011

If a board member books their travel with frequent flyer miles, and the only expenses incurred were \$10.00 for taxes and \$37.50 processing fee for a total of \$47.50, is this the only amount that can be reimbursed to the board member? The board member voluntarily used their personal frequent flyer miles. In doing so, they did use a state-contracted airline, but chose not to fly coach. If the local workforce development board (Board) had booked the flight, the cost would have been \$427.80.

### **W.11 Response**

Assuming the travel occurred to perform state business, the Board may use Texas Workforce Commission (TWC) grant funds to reimburse the taxes and processing fees if the amounts were required for the commercial air transportation. The Board must not use TWC grant funds (or other state appropriated funds) to pay the traveler for costs that the traveler did not actually incur, including amounts that might have been incurred if the traveler had booked airfare through the Board rather than use frequent flyer miles.

### **W.12 Hotel Tax Exemptions**

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Issued: 3/1/2012

Are there special state travel provisions for a local workforce development board's (Board) exemption from or refund of hotel taxes other than hotel occupancy taxes, e.g. resort taxes?

### **W.12 Response**

No, state travel provisions recognize certain exemptions and refunds of only state, local, and municipal hotel occupancy taxes paid to commercial lodging establishments in Texas. Additional details are provided in [Texttravel](https://fmx.cpa.state.tx.us/fmx/travel/texttravel/index.php) (<https://fmx.cpa.state.tx.us/fmx/travel/texttravel/index.php>).

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## **X. TWC Responsibilities**

**Currently no questions or responses.**

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### Appendix: Deletions, Revisions, and Additions

**Table 1: DELETIONS**

Section	Topic	Date	Explanation
B.1	FY 2004 Alternative Funding for WIA Statewide Activities	1/18/2012	Expired. Question specific to expired fund source.
B.2	Fiscal Year 2004 Employment Services	1/18/2012	Expired. Question specific to expired fund source.
D.1	In Kind Employer Contributions for WIA Customized Training	6/18/2019	Expired.
E.1	Child Care Administrative Costs	1/18/2012	Current guidance provided by WD Letter.
E.2	Calculation of 5% Carryover	1/18/2012	Expired. Rule rescinded on 8/23/2004.
E.3	Payments to Child Care Vendors	1/18/2012	Expired. TWIST Child Care replaced BAPA in CY 2011.
F.1*	Refunds Received After Contract Closeout	1/18/2012	Expired. Question specific to expired fund source.
H.2	Funding Services to the Universal Customer	6/18/2019	Expired.
H.3	Allocation of Workforce Center Rent When Paid by a Board	6/18/2019	Expired.
I.2	Interest on Financed “Build Out” Costs	6/18/2019	Expired.
I.9	Payment of Outstanding Invoices	1/18/2012	Expired. Question specific to expired fund source.
I.10	WIA Administrative Costs in the Workforce Centers	1/18/2012	Current guidance provided by WD Letter.
I.12	Classification of Child Care Monitoring Costs	1/18/2012	Current guidance provided by WD Letter.
I.15	Job Fair Food Costs	6/18/2019	Expired.
J.1*	Obligation for Multi-Year Contracts	1/18/2012	Expired. Question specific to expired definition.
J.2*	Clarification of “Assistance” for TANF	1/18/2012	Expired. Question specific to expired WD Letters.
J.3	Definition of Obligation	1/18/2012	Expired. Question specific to expired definition.
J.4	Allocation of Administrative Dollars – Adult Literacy	6/18/2019	Expired.
J.7	Central Contractor Registration of Boards for FFATA	6/18/2019	Expired.
J.9	Use of “SNE” and “SNA” Funds for ABAWDs	6/18/2019	Expired.
J.10	Classification of Computer Consulting Costs	6/18/2019	Expired.

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Section	Topic	Date	Explanation
L.1	Acceptance of Contractor's Approved Indirect Cost Rates	6/18/2019	Expired.
L.2*	Indirect Costs WIA Title V	1/18/2012	Expired. Question specific to expired agreement.
P.1	Difference Between Fiscal-TA and Fiscal Policy	1/18/2012	Expired. Not applicable to current Fiscal-TA structure.
Q.2*	Applicability of Salary Classifications to Board Contractors	1/18/2012	Expired. Replacing expired cites in response with alternative text requires substantial edits.
R.2*	Formal Procurement When Only One Vendor Is Available	1/18/2012	Expired. Unique question specific to expired threshold.
R.4*	Texas Job Hunter's Guide Booklet	1/18/2012	Removed. Pending further review.
R.5*	Procurement for Vehicle Lease	1/18/2012	Expired. Replacing expired cites requires substantial edits.
R.6	TBPC and DIR Purchasing Programs	1/18/2012	Current guidance provided by FMGC.
R.14	Increase to Small Purchase Threshold	6/18/2019	Expired.
R.18	CCDF Not Subject to Buy American Act	6/18/2019	Expired.
T.2	Capitalization of Fixed Assets	1/18/2012	Expired. Question specific to expired threshold.
T.3	Certification of Use and Disposition of Non-Expendable Personal Property	1/18/2012	Expired. Question specific to expired threshold.
T.4	Difference Between GASB and FMGC Capitalization Threshold	1/18/2012	Expired. Question specific to expired threshold.
T.5*	Donation of Property in Lieu of Award	1/18/2012	Question specific to unique event. Response contains expired cites that require substantial edits to update.
T.7	Business Access Laptop Donation to Program Participants	6/18/2019	Expired.
U.3	OMB Circular A-133 Increase to Threshold for Cognizant Agency	1/18/2012	Expired. Question specific to past event.
V.3	Providing Transportation with TxDOT Funds	1/18/2012	Expired. Question specific to expired fund source.
V.5	Payment of Support Services to Project RIO Clients	1/18/2012	Expired. Question specific to expired fund source.
V.8	Youth Incentive for Achievement	6/18/2019	Expired.
V.9	Youth Incentive for Attendance	6/18/2019	Expired.
W.5*	Reimbursement to Board Employee for Mileage Between Home and Work	1/18/2012	Expired. Response contains expired cite with no known replacement; requires substantial edits to update.

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Section	Topic	Date	Explanation
W.6	Lodging that Exceeds Comptroller's Maximum Out-of-State Reimbursement Rates	1/18/2012	Current guidance provided by WD Letter.
W.8	Applicability of WD Letter 35-03 to Board Contractors	1/18/2012	Expired. Question specific to expired WD Letter.

**Table 2: REVISIONS**

Section	Topic	Date	Explanation
Intro	Introduction	1/18/2012	Editorial changes.
A.2	Prior Approval for Document Destruction	4/13/2012	Removed outdated cites.
I.2	Interest on Financed "Build Out" Costs	1/18/2012	Updated cites.
I.3	Insurance Deductibles	1/18/2012	Updated cites.
I.6	Allocation of Administrative Dollars—Adult Literacy	1/18/2012	Updated link to DOL One-Stop Financial Management TAG.
I.6	Allocation of Administrative Dollars—Adult Literacy	4/13/2012	Relocated from I.6 to J.4.
I.8	Classification of Workstations for Board Staff Processing Child Care Payments	4/13/2012	Relocated from I.8 to J.5.
I.11	Chamber of Commerce Dues	1/18/2012	Removed unnecessary content.
I.13	Background Checks for Program Participants	1/18/2012	Changed FSE&T to SNAP E&T.
J.4	Allocation of Administrative Dollars—Adult Literacy	4/13/2012	Relocated from I.6 to J.4.
J.5	Classification of Workstations for Board Staff Processing Child Care Payments	4/13/2012	Relocated from I.8 to J.5.
L.1	Acceptance of Contractor's Approved Indirect Cost Rates	1/18/2012	Removed outdated cites.
N.1	Errors and Omissions Insurance	1/18/2012	Removed outdated cites.
N.2	Insurance for Boards' Contractors and Participant Coverage	1/18/2012	Removed outdated cites.
N.3	Insurance for the General Conduct of Activities	1/18/2012	Removed outdated cites.
P.3	Subrecipient/Vendor Determination for Training Project	4/13/2012	Relocated from U.4 to P.3.

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Section	Topic	Date	Explanation
Q.1	Performance Incentives	1/18/2012	Changed FSE&T to SNAP E&T. Changed “one-stop operator” to “workforce center operator.”
Q.3	Location of State Salary Schedules	1/18/2012; 6/18/2019	Updated link to state salary schedules.
R.1	Determining Amount of Questioned Costs	1/18/2012	Removed expired content.
S.1	Use Fees for Equipment Used by Other Programs	1/18/2012	Updated link to DOL One-Stop Financial Management TAG.
S.2	Profit Earned from Entrepreneurial Youth Activity	1/18/2012	Removed outdated cites.
T.1	Use of Federal Funds for Leasehold Improvements	1/18/2012	Removed outdated cite. Removed expired content.
T.6	Submission Requirements for Form 7300	1/18/2012	Updated content.
U.2	Notifying TWC of Change to Fiscal Year	1/18/2012	Updated point of contact.
U.4	Subrecipient/Vendor Determination for Training Project	4/13/2012	Relocated from U.4 to P.3.
V.4	Gift Cards for FSE&T Incentives to Customers Who Enter Employment	1/18/2012	Changed FSE&T to SNAP E&T. Updated cite.
W.1	Prior Approval for Travel to Mexico by For-Profit One-Stop Operator	1/18/2012	Removed outdated cites. Changed “one-stop operator” to “workforce center operator.”
W.2	Non-Mandatory Board Use of State Contracted Airlines and Rates	1/18/2012	Removed expired content.
W.3	Identification Cards for Board Staff and Board Members	1/18/2012	Removed expired content. Updated content.
W.4	Airline Tickets Purchased by Board on Behalf of Its Contractors	1/18/2012	Changed “one-stop operator” to “workforce center operator.”
W.7	Higher Reimbursement Rates for Boards’ Executive Directors	1/18/2012	Removed outdated cites. Replaced “OMB Cir. A-87” with “applicable cost principles.”

**Table 3: ADDITIONS**

Section	Topic	Date	Explanation
D.2	Working Capital Payment Method	4/13/2012	Special update; response issued 10/18/2011.

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Section	Topic	Date	Explanation
E.4	Use of Collection Agency for Outstanding Client Payments	2/27/2012	Special update; response issued 11/22/2011.
E.5	Automated Clearing House Fees for Provider Payments	2/27/2012	Special update; response issued 12/21/2011.
F.2	Equipment at Contract Closeout with a Continuing Program	4/13/2012	Special update; response issued 8/12/2011.
G.1	Assurances and Certifications	4/13/2012	Regular update; response issued 3/8/2012.
G.2	Electronic Signatures	6/21/2012	Regular update; response issued 3/16/2012.
H.2	Funding Services to Universal Customers	2/27/2012	Regular update; response issued 1/26/2012.
H.3	Allocation of Workforce Center Rent When Paid By a Board	4/13/2012	Special update; response issued 9/20/2011.
H.4	Allocation of Workforce Center Supervisory Staff Costs to Employment Service and Trade Adjustment Assistance Programs	4/13/2012	Special update; response issued 9/26/2011.
H.5	Cost Allocation Frequency	4/13/2012	Special update; response issued 10/7/2011.
I.15	Job Fair Food Costs	2/27/2012	Special update; response issued 11/3/2011.
I.16	Advertising and Public Relations Costs in Indirect Rate	2/27/2012	Special update; response issued 11/14/2011.
I.17	Prepaid Rent	4/13/2012	Special update; response issued 8/15/2011.
I.18	Recovery of Depreciation Expense for a Locally Funded Vehicle	4/13/2012	Special update; response issued 8/12/2011.
I.19	Accessibility Changes Funded by Disability Program Navigator Contract	4/13/2012	Special update; response issued 10/12/2011.
I.20	Event Sponsorship	4/13/2012	Regular update; response issued 2/16/2012.
I.21	Child Care Outreach Activities	4/13/2012	Regular update; response issued 3/8/2012.
J.6	Classification of Workforce Center Rent When Paid By a Board	4/13/2012	Special update; response issued 9/20/2011.
J.7	Central Contractor Registration of Boards for FFATA	6/21/2012	Special update; response issued 7/14/2011.
J.8	Classification of Board-Paid Workforce Center Rent and Utilities	6/21/2012	Regular update; response issued 4/27/2012.
J.9	Use of "SNE" and "SNA" Funds for ABAWDs	6/21/2012	Regular update; response issued 5/9/2012.
J.10	Classification of Computer Consulting Costs	6/21/2012	Regular update; response issued 6/11/2012.

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Section	Topic	Date	Explanation
K.1	Fiscal Agent Responsibility for Audit Costs	2/27/2012	Special update; response issued 11/15/2011.
L.2	Provisional/Final Indirect Cost Rates	6/21/2012	Special update; response issued 6/24/2011.
N.4	Workers' Compensation for Participants	2/27/2012	Special update; response issued 11/9/2011.
N.5	Fidelity Bond Amount for Self Sufficiency Fund Grant Contract	4/13/2012	Special update; response issued 7/11/2011.
N.6	Fidelity Bond Amount for Boards' Subrecipients and Vendors	6/21/2012	Regular update; response issued 4/5/2012.
R.7	Use of Training Providers Procured by Another Entity	1/18/2012	Special update; response issued 1/10/2012.
R.8	Fiscal Integrity Review When Board is Fiscal Agent	2/27/2012	Special update; response issued 11/29/2011.
R.9	Eligibility of Prior Auditor to Compete for Current Audit Services	4/13/2012	Special update; response issued 7/20/2011.
R.10	Pre-Award Reviews	4/13/2012	Regular update; response issued 2/9/2012.
R.11	Ties	6/21/2012	Special update; response issued 5/24/2011.
R.12	Requests for Evaluation Information	6/21/2012	Special update; response issued 6/27/2011.
R.13	Documentation Requirements for Build-Outs	6/21/2012	Regular update; response issued 5/1/2012.
R.14	Increase to Small Purchase Threshold	6/21/2012	Regular update; response issued 5/3/2012.
R.15	"Aggregate" Explained	6/21/2012	Regular update; response issued 5/23/2012.
R.16	Use of TXMAS Contracts	6/21/2012	Regular update; response issued 5/23/2012.
R.17	Sole Source Letters from Vendors	6/21/2012	Regular update; response issued 5/23/2012.
R.18	CCDF Not Subject to Buy American Act	6/21/2012	Regular update; response issued 5/29/2012.
R.19	Contracts/Agreements under the Texas Interagency and Interlocal Cooperation Acts (Chapters 771 and 791 Texas Government Code)	10/14/2019	Special update; response published 10/14/2019.
R.20	Establishing Local Access Points with Community Partners When Space Cost Falls Below the Simplified Acquisition Threshold	10/14/2019	Special update; response published 10/14/2019.
S.4	Post Grant Income from Grant Developed Software	2/27/2012	Special update; response issued 11/14/2011.
T.7	Business Access Laptop Donation to Program Participants	2/27/2012	Special update; response issued 12/21/2011.

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Section	Topic	Date	Explanation
U.4	Subrecipient/Vendor Determination for Training Project	2/27/2012	Special update; response issued 11/3/2011.
V.6	Refer a Friend Incentive Program	2/27/2012	Regular update; response issued 1/30/2012.
V.7	Participant Eligibility and Job Access and Reverse Commute Federal Match	4/13/2012	Special update; response issued 9/9/2011.
V.8	Youth Incentive for Achievement	4/13/2012	Regular update; response issued 3/20/2012.
V.9	Youth Incentive for Attendance	6/21/2012	Regular update; response issued 4/18/2012.
V.10	Participant Wages and State Unemployment Tax	6/21/2012	Regular update; response issued 4/18/2012.
W.10	Distinction between Non-Overnight Meal Expenses and Meeting Meals for State Merit Staff	4/13/2012	Special update; response issued 8/12/2011.
W.11	Board Member Reimbursement of Certain Travel Costs with Use of Frequent Flyer Miles	4/13/2012	Special update; response issued 10/7/2011.
W.12	Hotel Tax Exemptions	6/21/2012	Regular update; response issued 3/1/2012.

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