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March 23, 2017

**To:** WIOA Subrecipients of the Orange County  
Development Area

**From:** Andrew Munoz   
Community Investment Division Administrator/  
OC Development Board Executive Director

**Subject:** Allowable Costs and Prior Written Approval  
Information Notice No. 16-OCDB-06

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### PURPOSE

This policy provides federal and state guidance regarding general cost principles, allowable costs and prior written approval related to Workforce Innovation and Opportunity Act (WIOA) funds. This policy applies to subrecipients of WIOA funds.

This policy supersedes Information Notice No. 15-OCWDB-08 dated February 25, 2016.

### EFFECTIVE DATE

This policy is effective on the date of issuance.

### REFERENCES

- WIOA (Public Law 113-128) Sections 184(a)(3), 134(c)-(d), and 129
- Title 2 Code of Federal Regulations (CFR) Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (Uniform Guidance)
- Title 2 Code of Federal Regulations (CFR) Part 2900, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" [Department of Labor (DOL) Exceptions]
- Title 21 United States Code (USC) Section 812
- Training and Employment Guidance Letter (TEGL) 15-14, *Implementation of the New Uniform Guidance Regulations* (December 19, 2014)
- Workforce Services Directive WSD16-16, *Allowable Costs and Prior Written Approval* (February 21, 2017)
- Workforce Services Directive WSD15-15, *Allowable Costs* (January 22, 2016)
- Workforce Services Directive WSD16-10, *Property-Purchasing*,



**ORANGE COUNTY  
DEVELOPMENT BOARD**

1300 SOUTH GRAND  
BLDG. B, THIRD FLOOR  
SANTA ANA, CA 92705  
PHONE: 714.480.6500  
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- Inventory, and Disposal* (November 10, 2016)
- Workforce Services Directive WSD14-13, *Property-Prior Approval, Purchasing, Inventory, and Disposal* (April 29, 2015)
  - OCWIB Information Notice 16-OCDB-04, *Property-Prior Approval, Purchasing, Inventory, and Disposal* (March 23, 2017)
  - OCDB Information Notice 15-OCWDB-08, *Allowable Costs-Workforce Innovation and Opportunity Act* (February 25, 2016)
  - OCWIB Information Notice 14-OCWDA-10, *Property—Prior Approval, Purchasing, Inventory, and Disposal* (July 1, 2015)
  - For information on allowable costs under the former OMB guidance, refer to [WIAD03-10](#) and Information Notice OCWDA-18, *Allowable Costs – Workforce Investment Act*, (June 16, 2004).

## **BACKGROUND**

On December 26, 2013, the OMB issued the [Uniform Guidance](#) under Title 2 CFR Part 200, which established uniform administrative requirements, cost principles, and audit requirements for federal awards. The Uniform Guidance consolidated multiple, previously separate, sets of OMB guidance into one combined set of rules. The following year, the Department of Labor (DOL) adopted the OMB Uniform Guidance and issued [DOL Exceptions](#) under Title 2 CFR Part 2900. For more information on Title 2 CFR Part 2900, please see [Title 2 CFR Part 2900](#).

The Uniform Guidance applies to all Federal awards made on or after December 26, 2014. Therefore, beginning with WIOA Program Year 2015-16 funds, all subrecipients of this funding must adhere to the Uniform Guidance, DOL Exceptions, and corresponding WIOA administrative requirements, cost principles, and audit requirements. For more information on Uniform Guidance Implementation, please see [TEGL 15-14](#).

## **POLICY AND PROCEDURES**

Each OCDB WIOA subrecipient that receives funds under WIOA Title I is required to comply with Uniform Guidance [WIOA Section 184(a)(3)]. This includes general principles and guidance on selected items of cost. However, if more restrictive city local, state, or federal guidelines exist, they must take precedence. OCDB WIOA subrecipients should review and update their internal policies and procedures to ensure compliance with the new guidance.

This policy transmits a high level matrix, issued by EDD, listing the various cost items referenced in Uniform Guidance, 2 CFR parts 200.420 through 200.475 (Attachment 1). The columns in the matrix contain the various entity types, the specific CFR sections, and DOL Exceptions sections (if applicable). The matrix also provides a quick reference guide indicating whether a cost item is allowable or not. OCDB WIOA subrecipients can use the matrix as an initial tool, rather than a final authority, in determining whether or not a cost is allowable.

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

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

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

#### Funds awarded prior to December 26, 2014

Funding received prior to December 26, 2014 (i.e., PY 2014-15 funds and before) must continue to follow the terms and conditions of those awards, including the cost principles required under the former OMB circulars. For information on allowable costs under the former OMB circulars, please refer to Workforce Investment Act [WIAD03-10](#). *[On allowable costs under the former OMB circulars, see also local policy, Information Notice OCWDA-18, Allowable Costs – Workforce Investment Act, June 16, 2004.]*

#### Prohibited Use of Funds

##### *Lobbying*

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

### *Marijuana Industry*

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

All grant agreements between the DOL and the state, and between the state and OCDB must follow all applicable federal statute, regulations, policies, and state requirements. Therefore, in accordance with federal law, WIOA funds cannot be used to directly or indirectly support the marijuana industry including, but not limited to, use, possession, growth or distribution of marijuana. WSD16-16 specifies that this applies to WIOA; Wagner-Peyser; Trade Adjustment Assistance; Veterans' Employment and Training Service; and National Dislocated Worker Grant programs and services including, but not limited to, training, employer outreach, hiring events, career counseling, job orders and referrals.

### Prior Written Approval

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

Under any given federal award, the reasonableness and allocability of certain cost items may be difficult to determine. In order to avoid subsequent disallowance or dispute, subrecipients should obtain prior written approval for the incurrence of special or unusual costs.

The following matrix lists key sections of the Uniform Guidance that address when prior written approval is required.

<b>Circumstance</b>	<b>Section</b>
Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts	<a href="#">§200.201</a> , paragraph (b)(5)
Cost sharing or matching	<a href="#">§200.306</a>
Program income	<a href="#">§200.307</a>

Revision of budget and program plans	<a href="#">§200.308</a>
Real property	<a href="#">§200.311</a>
Equipment	<a href="#">§200.313</a>
Fixed amount sub awards	<a href="#">§200.332</a>
Direct costs	<a href="#">§200.413</a> , paragraph (c)
Compensation—personal services	<a href="#">§200.430</a> , paragraph (h)
Compensation—fringe benefits	<a href="#">§200.431</a>
Entertainment costs	<a href="#">§200.438</a>
Equipment and other capital expenditures	<a href="#">§200.439</a>
Exchange rates	<a href="#">§200.440</a>
Fines, penalties, damages and other settlements	<a href="#">§200.441</a>
Fund raising and investment management costs	<a href="#">§200.442</a>
Goods or services for personal use	<a href="#">§200.445</a>
Insurance and indemnification	<a href="#">§200.447</a>
Memberships, subscriptions, and professional activity costs	<a href="#">§200.454</a> , paragraph (c)
Organization costs	<a href="#">§200.455</a>
Participant support costs	<a href="#">§200.456</a>
Pre-award costs	<a href="#">§200.458</a>
Rearrangement and reconversion costs	<a href="#">§200.462</a>
Selling and marketing costs	<a href="#">§200.467</a>
Taxes (including Value Added Tax)	<a href="#">§200.470</a>
Travel costs	<a href="#">§200.474</a>

Subrecipients should thoroughly review the Uniform Guidance sections referenced above to determine when prior written approval must be obtained, and assess if their specific circumstance(s) require prior approval. As indicated in DOL Exception Section 2900.407, inclusion of item(s) in the statement of work or budget when awarded **does not** constitute prior approval; subrecipients must still follow all applicable policies and procedures outlined in the State directive WSD16-16 and this policy.

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

*Prior Written Approval Procedures*

OCDB subrecipients must complete and submit the OCDB Subrecipient Prior Written Approval Request (Attachment II), along with all necessary supporting documentation, to the OCDB Executive Director less than 45 days before the requested action is to occur.

Consistent with the requirements in WSD16-16, OCDB will consider the following factors in its review of the requests:

- Is this purchase necessary and reasonable?
- Have the best products been selected?
- What other costs are associated with the purchase?
- If applicable, what procurement method will be used?
- If applicable, was a lease option considered in lieu of the purchase?

The OCDB Subrecipient Prior Written Approval Request and supporting documentation can be submitted to the assigned Contract Administrator electronically or mail to the following address:

ATTN: (Name of Contract Administrator)  
Orange County Development Board  
1300 South Grand Avenue, 3<sup>rd</sup> floor Bldg. B  
Santa Ana, CA 92705

OCDB shall review the subrecipient's written request for prior approval and, following the state requirements in WSD16-16, shall submit the corresponding OCDB request for approval to the assigned Regional Advisor.

Subrecipients will receive a formal notification from their assigned Contract Administrator providing approval or denial of their request. Written approval must be received prior to the cost being incurred. Approval is based on the supplied justification and supporting documentation for the proposed expenditure. If the actual expenditure is not in accordance with the justification or Uniform Guidance requirements, the expenditure can still be questioned or disallowed. Factors affecting this include, but are not limited to, the following:

- Inadequate justification
- Failure to follow internal, state, or federal policies
- Expenditure is not necessary or reasonable
- Failure to comply with applicable federal law or regulations

#### *Documentation*

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

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

### **ACTION**

Please bring this directive to the attention of all appropriate staff.

### **INQUIRIES**

If you have any questions regarding this policy, please contact your Contract Administrator by calling 714-480-6500.

### **ATTACHMENTS**

1. [Cost Items Matrix](#)
2. [OCDB Subrecipient Prior Written Approval Request](#)

## COST ITEMS MATRIX

THIS COST ITEMS MATRIX SHOULD ONLY BE USED AS A QUICK REFERENCE GUIDE.

**The *Workforce Innovation and Opportunity Act (WIOA)*, Title 2 *Code of Federal Regulations (CFR) Part 200 (Uniform Guidance)*, and Title 2 CFR Part 2900 (Department of Labor [DOL] Exceptions), contain definitive guidance and final authority for determining whether or not a cost is allowable.**

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

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

When reviewing the matrix please use the following legend:

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

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

The “NS” legend key denotes that information may not be readily available. In this event, the subrecipient should seek other sources before contacting their Regional Advisor/Project Manager.

The “AP” legend key denotes that, in some instances, prior written approval will be required from the Cognizant Agency or Governor. In this event, one should adhere to the Uniform Guidance Section 200.407, DOL Exceptions Section 2900.16, and review the existing policies and procedures established in Workforce Services Directive [WSD14-13](#), until further guidance is provided by the state.



	Cost Item	Educational Institutions	Non-Profit Organizations	State, Local and Indian Tribal Governments	Uniform Guidance Section	DOL Exception Section
1	Advertising and public relations	A/U	A/U	A/U	<a href="#">200.421</a>	
2	Advisory councils	AC/U	AC/U	AC/U	<a href="#">200.422</a>	
3	Alcoholic beverages	U	U	U	<a href="#">200.423</a>	
4	Alumni/ae activities	U	NS	NS	<a href="#">200.424</a>	
5	Audit services	AC/U	AC/U	AC/U	<a href="#">200.425</a>	
6	Bad debts	U	U	U	<a href="#">200.426</a>	
7	Bonding costs	A	A	A	<a href="#">200.427</a>	
8	Collection of improper payments	A	A	A	<a href="#">200.428</a>	
9	Commencement and convocation costs	AC/U	NS	NS	<a href="#">200.429</a>	
10	Compensation – personal services	A/U	A/U	A/U	<a href="#">200.430</a>	
11	Compensation – fringe benefits	A /U	A /U	A /U	<a href="#">200.431</a>	
12	Conferences	A	A	A	<a href="#">200.432</a>	
13	Contingency provisions	AC/U	AC/U	AC/U	<a href="#">200.433</a>	<a href="#">2900.18</a>
14	Contributions and donations	U	U	U	<a href="#">200.434</a>	
15	Defense and prosecution of criminal and civil proceedings, claims, appeals, and patent infringement	AC/U	AC/U	AC/U	<a href="#">200.435</a>	
16	Depreciation	AC	AC	AC	<a href="#">200.436</a>	
17	Employee health and welfare costs	A	A	A	<a href="#">200.437</a>	
18	Entertainment costs	U/AP	U/AP	U/AP	<a href="#">200.438</a>	
19	Equipment and other capital expenditures	AP/U	AP/U	AP/U	<a href="#">200.439</a>	
20	Exchange rates	AP	AP	AP	<a href="#">200.440</a>	
21	Fines, penalties, damages and other settlements	U/AP	U/AP	U/AP	<a href="#">200.441</a>	
22	Fund raising and investment management costs	U/AP/A	U/AP/A	U/AP/A	<a href="#">200.442</a>	
23	Gains and losses on disposition of depreciable assets	AC	AC	AC	<a href="#">200.443</a>	
24	General cost of government	NS	NS	U/A	<a href="#">200.444</a>	
25	Goods or services for personal use	U/AP	U/AP	U/AP	<a href="#">200.445</a>	
26	Idle facilities and idle capacity	AC/U	AC/U	AC/U	<a href="#">200.446</a>	
27	Insurance and indemnification	AC/U	AC/U	AC/U	<a href="#">200.447</a>	
28	Intellectual property	A/U	A/U	A/U	<a href="#">200.448</a>	
29	Interest	AC/U	AC/U	AC/U	<a href="#">200.449</a>	
30	Lobbying	U	U	U	<a href="#">200.450</a>	
31	Losses on other awards or contracts	U	U	U	<a href="#">200.451</a>	
32	Maintenance and repair costs	A	A	A	<a href="#">200.452</a>	
33	Material and supplies costs, including costs of computing devices	A	A	A	<a href="#">200.453</a>	
34	Memberships, subscriptions, and professional activity costs	A/U	A/U	A/U	<a href="#">200.454</a>	
35	Organization costs	U/AP	U/AP	U/AP	<a href="#">200.455</a>	
36	Participant support costs	AP	AP	AP	<a href="#">200.456</a>	

	Cost Item	Educational Institutions	Non-Profit Organizations	State, Local and Indian Tribal Governments	Uniform Guidance Section	DOL Exception Section
37	Plant and security costs	A	A	A	<a href="#">200.457</a>	
38	Pre-award costs	AP	AP	AP	<a href="#">200.458</a>	
39	Professional services costs	A	A	A	<a href="#">200.459</a>	
40	Proposal costs	A	A	A	<a href="#">200.460</a>	
41	Publication and printing costs	A	A	A	<a href="#">200.461</a>	
42	Rearrangement and reconversion costs	A/AP	A/AP	A/AP	<a href="#">200.462</a>	
43	Recruiting costs	A/U	A/U	A/U	<a href="#">200.463</a>	
44	Relocations costs of employees	AC/U	AC/U	AC/U	<a href="#">200.464</a>	
45	Rental costs of real property and equipment	AC/U	AC/U	AC/U	<a href="#">200.465</a>	
46	Scholarships and student aid costs	AC	NS	NS	<a href="#">200.466</a>	
47	Selling and marketing	U/AP	U/AP	U/AP	<a href="#">200.467</a>	
48	Specialized service facilities	AC	AC	AC	<a href="#">200.468</a>	
49	Student activity costs	U/AP	U/AP	U/AP	<a href="#">200.469</a>	<a href="#">2900.19</a>
50	Taxes	AC	AC	AC	<a href="#">200.470</a>	
51	Termination costs	AC/U	AC/U	AC/U	<a href="#">200.471</a>	
52	Training and education costs	A	A	A	<a href="#">200.472</a>	
53	Transportation costs	A	A	A	<a href="#">200.473</a>	
54	Travel costs	AC	AC	AP	<a href="#">200.474</a>	
55	Trustees	A	A	NS	<a href="#">200.475</a>	

**Orange County Development Board ((OCDB)  
Subrecipient Prior Written Approval Request**

Subrecipient Name \_\_\_\_\_

Subrecipient Program \_\_\_\_\_ Request Date \_\_\_\_\_

**Instructions:**

- For Prior Written Approval Requests that include costs, complete Sections A, C and D. For requests that do not include costs, complete Sections B, C and D.
- Refer to State Directive WSD16-16 dated February 21, 2017 for guidance on Prior Written Approval before completing this request form.

**Section A – Requests that include costs**

Item of cost being requested \_\_\_\_\_

Estimated total cost \_\_\_\_\_

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

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

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

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

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

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

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

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

**Describe the circumstance that requires prior written approval.**

**Section C – 45-day requirement**

Is this request being made more than 45 days before the requested action is to occur?

Yes       No

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

**Section D – Signature**

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

Name \_\_\_\_\_ Signature \_\_\_\_\_

Title \_\_\_\_\_ Date \_\_\_\_\_

**For OCDB Use**

Contract Administrator \_\_\_\_\_ Date \_\_\_\_\_

Executive Director \_\_\_\_\_ Date \_\_\_\_\_

(If computer-related equipment, software or subscription is being purchased, the OCCR IT Unit's recommendation is required.)