

To: work2future Staff & Subrecipients  
From: work2future, Director  
Effective Date: May 2020  
SUBJECT: Property – Prior Approval  
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## OPERATIONAL DIRECTIVE

work2future Workforce Development Board  
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### **Purpose:**

This policy provides guidelines to subrecipients of Workforce Innovation and Opportunity Act (WIOA) grant funds obtain from the Silicon Valley Workforce Investment Network's (SVWIN) also known as work2future. All subrecipients shall obtain prior approval for the following:

- The purchase of property (equipment) with a cost totaling \$5,000 or more.
- The purchase, rent, licensing, maintenance fee, or subscription of information-technology applications/software/services (measured by a per-unit single or cumulative cost) totaling \$5,000 or more over a twelve-month period.

### **Scope:**

The requirements in this policy apply to all subrecipients and their lower-tier subrecipients.

### **Effective Date:**

This directive is effective upon date of issue.

### **REFERENCES:**

- WIOA (Public Law 113-128)
- Title 2 Code of Federal Regulations (CFR) Part 200: "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (Uniform Guidance) and specifically section 200.313 Equipment and section 200.58 Information Technology Systems and 200.20 Computing Devices
- Title 2 CFR Part 2900: "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (Department of Labor [DOL] Exceptions)
- Title 20 CFR WIOA, "DOL; Final Rule"
- Title 34 CFR WIOA, "Joint Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions; Final Rule"
- Workforce Services Directive WSD16-10, Subject: Property - Purchasing, Inventory, and Disposal (November 10, 2016)
- One-Stop Comprehensive Financial Management Technical Assistance Guide (Department of Labor – July 2002)
- WSD17-08, Subject Procurement of Equipment and Related Services, dated March 14, 2018
- work2future Subrecipient Closeout Responsibilities Policy

### **BACKGROUND:**

The WIOA Final Rule, Title 20 CFR, provides fiscal and administrative guidance for the administration of the WIOA program, including specific requirements for purchasing property.

The regulations clearly intend to ensure that purchases of property and/or information-technology and computing devices have received prior approval. And that the acquisitions are performed through fair and open competition, and the assets are managed according to proper inventory, maintenance, and disposition procedures.

#### **DEFINITIONS:**

*Equipment*—nonexpendable personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit, including all costs related to the property's final intended use.

*Hardware*—physical components of computer systems.

*Information Technology*—computer hardware and software, including licensing or subscriptions to software and software support services.

- OMB defines Information Technology in section 200.58 as computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources.
- OMB defines Computing Devices in section 200.20 as machines used to acquire, store, analyze, process and publish data and other information electronically, including accessories (or "peripherals) for printing, transmitting and receiving, or storing electronic information.

*Intellectual Property*—recognized protectable rights and interest such as: patents, copyrights, trademarks, service marks, etc. (also referred to as intangible property)

*License Fee*—payment for authorization allowing use of property, equipment or proprietary software.

*Property*—durable goods, equipment, buildings, installations, and land.

*Software*—programs, procedures, data, and routines used, accessed, and/or stored by computers.

*Subrecipient*—refers to all Local Workforce Development Board (LWDB) and other subrecipients of WIOA federal funds.

*Subscription*—refers to the regular remittance for the licensed use of services, application/software, equipment, or property. As used in the prior approval policy, these are directly included when their cost is \$5,000 or more per unit, as measured by the cumulative cost over a twelve-month period.

#### **PURCHASE CONSIDERATIONS:**

In order to satisfy federal and State procurement requirements, subrecipients must consider the following prior to requesting approval:

- a.) Should they purchase the equipment item, or
- b.) Should they entering agreements for licensing and or subscription cost of \$5,000 or more (calculated as the cumulative cost for a twelve-month period)

All acquisitions must be:

- Necessary and reasonable for the performance of the contract
- Justified as needed
- Be the best product(s) for the program's need
- Be acquired by a competitive procurement process
- Subject to a lease option(s) in lieu of the purchase
- Grossed up PRICE includes other costs associated with the purchase
- If appropriate, is part of a cost sharing agreement (when multiple partners will share benefit and the cost of the purchase)
- Is not otherwise available or already provide.

### **PROCEDURES – Prior Approval Process:**

To use WIOA funds for the acquisition of any property with a per-unit single cost totaling \$5,000 or more, including the purchase, rent, licensing, maintenance fee, or subscription of information-technology application/software/services, the following steps must occur:

1. Subrecipients must complete a “Request for Approval to Charge WIOA Funds for the Cost of Property” form (attached to this directive).
2. Subrecipients must collect documentation describing item(s) to be purchased, rented, or subscribed together with an explanation of functionality, must be submitted with the request.
3. When purchasing or subscribing software, subrecipients must submit documentation, the subrecipient must clarify how the new software will deliver functionality not already provided by state or local partners.
4. Complete form must be submitted to the SVWIN Director or his/her designee.

The SVWIN Director or his/her designee will review the form and either approve or disapprove the request. Approved requests will be forwarded to the State for their review and action.

Once the approval from the State is obtained, work2future will provide a prompt written response to the requesting subrecipient. As a matter of policy, there will be no “default approval” if a response is not provided promptly. The responsibility lies with the subrecipient to work with work2future and obtain a response from the state.

If an approval letter is issued, the WIOA funds account may be charged for the purchase. A letter not approving a request for purchase will specify the reason for the disapproval. If the request is not approved and property is charged, the subrecipient will be exposed to a disallowed cost. Unfavorable decisions may be forwarded to the state through the work2future Director for review and reconsideration.

Subrecipients shall not purchase equipment including technology services described above without written prior approval.

### **BUDGET PLANS:**

An entity may occasionally submit budget plans that include an equipment request. The approval of the budget plan DOES NOT constitute approval of the purchase. A separate request to purchase equipment and/or qualifying information technology must be submitted for approval to work2future and then to the State prior to purchase.

## **COST SHARING INFORMATION:**

When an entity plans to enter into a “cost sharing” agreement for the purchase of equipment or qualifying information technology, it must obtain prior approval no matter the portion it plans to contribute. This is based upon direct guidance from the Department of Labor (DOL).

## **LEASING CONSIDERATIONS:**

The decision to lease or buy personal property must be governed by considerations of economy. Consideration for lease may differ by property type and according to market conditions. The length of the contract period of the lease should also be considered. Leasing with an option to purchase is generally preferable to straight leasing.

However, for real property (land and buildings), administrative requirements make rentals or leasing the only option, as the construction or purchase of real property is not allowed under the WIOA program except in certain limited circumstances. These limited circumstances are described in the “Capital Assets and Construction Costs” section below.

## **CAPITAL ASSETS AND CONSTRUCTION COSTS:**

The WIOA Title I funds must not be spent on construction or purchase of facilities or buildings except under the following conditions (after obtaining prior approval regardless of the dollar amount):

- To provide physical and programmatic accessibility and reasonable accommodation as required by the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.
- To fund repairs, renovations, alterations and capital improvements of property including:
  1. State Employment Security Agency real property, identified at WIOA Section 193, using a formula that assesses costs proportionate to space utilized.
  2. Job Training Partnership Act owned property, which is, transferred to WIOA Title I programs.
- Job Corps facilities, as authorized by WIOA Section 160(3)(B).
- To fund disaster relief employment on projects for demolition, cleaning, repair, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within a disaster area.

The policy regarding the disposition of equipment, the calculation of Fair Market Value for equipment, equipment records, and records retention for equipment are contained in the Subrecipient Closeout Responsibilities Policy. By reference, those responsibilities and requirements are applicable to this policy.

## **ACTION:**

Bring this policy to the attention of all affected staff and subrecipients.

## **INQUIRIES:**

If you require further information regarding this policy, please contact the work2future Finance Manager at 408-794-1146.