

South Central Workforce Development Board (SCWDB)



POLICY: SUBRECIPIENT MONITORING POLICY

EFFECTIVE DATE: JULY 1, 2018

POLICY NUMBER:2018-21

SUBJECT: SUBRECIPIENT MONITORING POLICY

PURPOSE:

To assist managers in making informed decisions about Subrecipient Monitoring to ensure the proper use of federal funds authorized under the Workforce Innovation and Opportunity Act (WIOA). The purpose of oversight and monitoring is to ensure that workforce development programs within the South Central 10-county region are operating in accordance with all applicable federal, state, local regulations and policies associated with all WIOA funded sub-recipient agreements, and all appropriate administrative directives. Monitoring will be scheduled at least once a year, or anytime at the discretion of the SCWDB to ensure that all services and programs are designed and operating to achieve expected results, to ensure funds are being spent for authorized purposes, to ensure reliable and timely information is captured, reported, and utilized to improve decision-making, and to aid in corrective action prior to oversight by grantors.

EFFECTIVE DATE: July 1, 2018

ACTION REQUIRED:

Within 15 days of the receipt of this policy it is the recipient's (e.g., vendors, partners) responsibility to ensure all staff are informed of the policy and to create an internal process to ensure accountability.

BACKGROUND:

All subrecipients will be monitored both financially and programmatically for compliance and will be evaluated on a regular basis. The Uniform Guidance requires that all subrecipients address risk of the award lifecycle: pre-award, award, and post-award. Staff of the SCWDB will report outcomes of the monitoring reports to the Board. The Board will use the results of monitoring to evaluate the consistency of program results against expected goals. Results from monitoring reviews may also be used to analyze program performance and current and future program funding objectives.

POLICY:

Written reports will be provided to the Board summarizing performance, operation, and monitoring of all workforce-related programs. The report will identify areas of concern and noncompliance as well outstanding practices and performance. The Board shall utilize this

information in the decision-making process regarding current and program future procurement(s) changing program direction, and requires corrective action to resolve concerns. In compliance with Uniform Guidance monitoring of post-award phase, the local Board is required to identify and remedy any failures with the terms of award of the sub-recipient.

Intended Audience: Local Workforce Development Board (LWDB) members and the local elected officials who are members of the LEO Consortium.

Introduction: Federal guidelines require that all recipients of federal funds authorized under the Workforce Innovation and Opportunity Act be subject to monitoring to ensure that adequate controls are in place.

2 CFR §200.328

"Monitoring and reporting program performance.

(a) Monitoring by the non-Federal entity. The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-

Federal entity must cover each program, function or activity. See also §200.331 Requirements for pass-through entities."

2 CFR §200.331(d)

"Requirements for pass-through entities.

(d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include: (1) Reviewing financial and performance reports required by the pass-through entity.

(2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

(3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by

§200.521 Management decision."

Subrecipient vs. Vendor Determination

Guidance on identifying a subrecipient and a contractor can be found by reviewing 2 CFR §200.330:

"Subrecipient and contractor determinations.

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The

Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

(a) *Subrecipients*. A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. See (1) Determines who is eligible to receive what Federal assistance;

(2) Has its performance measured in relation to whether objectives of a Federal program were met;

§200.92 Subaward. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

(3) Has responsibility for programmatic decision making;

(4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and

(5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

(b) *Contractors*. A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. See §200.22 Contract. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the contractor: (1) Provides the goods and services within normal business operations;

(2) Provides similar goods or services to many different purchasers;

(3) Normally operates in a competitive environment;

(4) Provides goods or services that are ancillary to the operation of the Federal program; and

(5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

Use of judgment in making determination. In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics **Guiding Principles**:

(c) listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.”

- All incurred expenses must be supported by adequate documentation. (Conference or meeting agendas, invoices, hotel bills, receipts, etc.) See 2 CFR §200.302.
- SCWDB and its fiscal agent are custodians of federal funds, which must be safeguarded and used only for legitimate business purposes.

Monitoring Tools and Guides:

SCWDB has a monitoring tool that includes a desk guide, check list for the subrecipient to use prior to the onsite monitoring visit, on site visit protocol, interview format for customers and staff, and reporting format. These will be distributed as appropriate to the entity being monitored.

Monitoring Process:

SCWDB acknowledges that the U.S. Department of Labor and the Commonwealth of Kentucky has the authority to monitor and assess WIOA Title I programs. To ensure that policies are being followed and expectations are being met, SCWDB staff or a designee will periodically monitor services to ensure compliance. It will be the responsibility of the program operator to make any corrections and to conduct an internal review if areas of concern are found.

The Board will follow the below in the performance of a monitoring review.

1. Desk Review – Monitoring staff seek to gain an understanding of the program or subgrantee prior to a site visit. In a desk review, the subrecipient agreement or program goals are reviewed with key program staff and management, as appropriate. Desk reviews include contracts, agreements, and program metrics, as well as participant and program records, financial data, and policies and procedures of the subrecipient.

2. Site Review – Monitoring staff will conduct site reviews, as needed and appropriate, in a professional manner and will accommodate the needs and schedules of personnel and participants. If a subrecipient is not cooperating in the review process, monitoring staff will notify the Board or appropriate management staff immediately.

3. Entrance Conference – All site visits begin with an entrance conference. At such a conference, the monitor will meet with key program staff. The entrance conference will cover the review process, expected timetable, and the expected requirement for information and access to individuals and records. Logistics about appropriate workspace, working hours, and access to office equipment and phones will also be included in the discussion.

4. Monitoring Reviews – All monitoring reviews may include desk reviews, site reviews, field reviews of all categorical program and fiscal activities. Specifics may include, but are not limited to, the following:

- Basic contract and grant requirements
- Property
- Intake and assessment procedures
- Participant eligibility
- Case management practices
- MIS – reporting and records for both participant and fiscal information
- Budgets, allowable costs, cost allocation, and cost limitations
- Complaints, grievances, investigations, and hearings (if applicable)
- Data entry accuracy and timeliness
- Personnel records and practices (if applicable)
- Fraud and abuse
- Classroom-based training programs
- Financial systems and administrative records
- Worksite compliance
- Compliance with local policies and procedures
- Subcontractors
- EEO, physical, and programmatic accessibility
- Internal monitoring
- Customer satisfaction
- Procedures regarding the handling of Personally Identifiable Information (PII)

5. Exit Conference – All site visits end with an exit conference. At such a conference, the monitor will meet with key program staff. The monitor will identify issue of non-compliance found as a result of the review and may offer comments and suggestions on program operation. Further technical assistance may also be discussed. Monitors cannot require action by any subrecipient and will not represent themselves as having this authority.

Monitoring Reports

Monitors will prepare a written report at the conclusion of each review. The report will, at a minimum, include:

- Subrecipient reviewed
- Date(s) of Review
- Report Date
- Scope of Review, including sites and activities reviewed
- Method of review
- Findings from the review, including any non-compliance with Federal/State laws, regulations, and other authoritative pronouncements
- Recommendations for corrective action
- Observations that can assist in program enhancement
- Recommendations for corrective action on these observations
- Any other areas of program performance or financial systems that may deserve special attention

Monitors may also make suggestions for improvements in program operation that are not related to compliance issues and should highlight subrecipient. In general, a draft monitoring report will be sent to the sub-recipient, who will then have a chance to respond to any deficiencies and submit a corrective action plan. A final report will then be issued for any remaining deficiencies and will highlight all responses and replies.

Reporting Timeframes

Draft monitoring reports are due 30 calendar days following the date of the exit conference or the agreed upon due date of any subsequent information provided after monitoring review. The subrecipient will have 10 calendar days to provide a response, unless otherwise agreed upon by the monitoring staff.

A final report will be provided to the Board and issued to the subrecipient. The report must be made within 45 days following the receipt of additional information, unless otherwise agreed upon by the monitoring staff. No additional documentation can be requested once a final report has been issued to the subrecipient. The program or subrecipient will have 10 days to provide a remedy to the issues identified.

All monitoring reports will be delivered electronically and must be acknowledged by the program or subgrantee as received.

Response to Monitoring

All subrecipients have 10 calendar days to respond to a draft monitoring report. The response to report should include any plans for corrective action on the part of the subrecipient with a timetable for completion and the staff person responsible for carrying out the action.

Monitors may conduct follow-up visits to all subrecipients that had compliance issues in their draft monitoring reports. Follow-up visits should be conducted after a sufficient period of time has passed to allow the subrecipient to take appropriate corrective action.

Remedies

The Board reserves the right to impose certain restrictions on subrecipient for various reasons, including but not limited to:

- Failure to comply contract or award provisions
- Failure to comply with applicable laws and regulations
- Failure to take appropriate corrective action to resolve a monitoring finding within the time frame specified
- Failure to respond to all audit resolution issues with the time specified
- Failure to meet performance standards or take required corrective action pursuant to a technical assistance plan developed in coordination with the Office of Research, Performance, and Compliance.

These remedies include:

- Withholding of funds or reimbursements
- Recapture of payment
- Reduction in budget or award amounts
- Termination of the contract or award
- Other changes, as deemed appropriate by the Board.

Technical Assistance

Staff is available to provide technical assistance to subrecipients in interpreting and applying various parts of local, State, and Federal legislations, regulations, and procedures to ensure compliance. Technical assistance may be provided in the form of on-site staff trainings, phone contact, consultation(s), and through written documentation, as needed.

REFERENCES

- Workforce Innovation and Opportunity Act of 2014 (WIOA)
- Public Law 113-128, Section 185(a)
- 2 CFR 200,251-331; 29 CFR 37.37 and 29 CFR 97.42; and
- SCWDB Policies related to program eligibility, procurement, distribution of training funds. Found at www.southcentralworkforce.com

Approved:

7-9-2018

Date of WDB Approval

6-5-2018

Date of Governance
Committee Approval

Signed by:



Robert Boone, WDB Director



Chair, Governance Committee