

**871—53.17(84A,PL105-220) Financial management.** Allowable costs shall be determined in accordance with the Office of Management and Budget (OMB) circulars applicable to the various entities receiving grant funds from the department. Nothing in this rule shall supersede the requirements placed on each entity as promulgated by the applicable OMB circular including factors which affect allowability of costs, reasonable costs, allocable costs, applicable credits, direct costs, indirect or facility and administrative costs, allowable costs as defined in “selected items of costs,” in accordance with the appropriate OMB circular.

Additional regulations applicable to contractors are found in 29 CFR Part 97 for State and Local Governments and Part 95 for Institutions of Higher Education, Hospitals and other Non-Profit Organizations. Exceptions to those regulations are that:

1. Procurement contracts and other transactions between local boards and units of state and local governments must be conducted only on a cost reimbursement basis.
2. Program income shall be calculated based on the methods outlined in 53.17(2).
3. Any excess revenue over expenditures incurred for services provided by a governmental unit or nonprofit must be considered program income.

**53.17(1)** General requirements of a financial management system. Financial management systems should provide fiscal controls and accounting procedures that conform to generally accepted accounting principles (GAAP) as they relate to programs administered. A financial management system must also have certain procedures in place to ensure that the system meets the requirements of state and federal laws and regulations.

**53.17(2)** Program income means income generated by a program-supported activity or earned only as a result of the contract.

*a.* Program income includes:

- (1) Income from fees for services performed and from conferences;
- (2) Income from the use or rental of property acquired with contract funds;
- (3) Income from the sale of commodities or items fabricated under a contract;
- (4) Income generated due to revenue in excess of expenditures for services rendered, when provided by a governmental unit or nonprofit entity.

*b.* Program income does not include:

- (1) Interest earned on grant funds, rebates, credits, discounts, refunds, or any interest earned on any of them. (Such funds shall be credited as a reduction of costs if received during the same funding period. Any credits received after the funding period must be returned to the department.);
- (2) Taxes, special assessments, levies, fines, and other governmental revenues raised by a contractor;
- (3) Income from royalties and license fees, copyrighted material, patents, patent applications, trademarks, and inventions developed by a contractor;
- (4) Any other refunds or reimbursements, such as Pell Grant reimbursement. (Such funds shall be credited back to the program that incurred the original costs.);
- (5) Any other funds received as the result of the sale of equipment. (Such funds shall be credited back to the program that incurred the original costs.)

*c.* Costs incidental to the generation of program income must be deducted, if not already charged to the grant, from gross program income to determine net program income. Net program income earned may be retained and not sent back to the department, if such income is added to the funds committed to the particular program under which it was earned. Net program income must be used for allowable program purposes, and under the terms and conditions applicable to the use of that program’s funds. Program income generated may be used for any allowable activity under the program that generated that income.

*d.* All net program income generated and expended must be reported to the department each month on the financial status report. Documentation of the use of net program income must be maintained on file. Any net program income not used in accordance with the requirements of this rule must be returned to the department.

(1) The classification of costs, including cost limitations, apply to net program income. Net program income must be disbursed prior to requesting additional cash payments. Net program income not disbursed prior to the submittal of the annual closeout reports must be returned to the department.

(2) If the net program income cannot be used by the region that generated such income for allowable purposes, the funds must be returned to the department. The department may permit another region to use the net program income for allowable purposes.

**53.17(3)** Working capital advance payments of federal funds.

*a.* Reimbursement is the preferred method for payment. However, the subrecipient may provide working capital advance payments of federal funds only to contractors, not vendors or training providers, after determining that:

- (1) Reimbursement is not feasible because the contractor lacks sufficient working capital;
- (2) The contractor meets the standards of this rule governing advances to contractor;
- (3) Advance payment is in the best interest of the grantee or subrecipient; and
- (4) The reason for needing an advance is not the unwillingness or inability of the grantee or subrecipient to provide timely reimbursements to meet the contractor's actual cash disbursements.

*b.* If the conditions in 53.17(3)“*a*” are met, working capital advance payments may be made to contractors by use of one of the two procedures outlined below:

(1) Cash is only advanced (through check or warrant) to the contractor to cover its estimated disbursement needs for an initial period, generally geared to the contractor's disbursement cycle, but in no event may the advance exceed 20 percent of the contract amount. After the initial advance, the contractor is only reimbursed for its actual cash disbursements; or

(2) Cash is advanced electronically on a weekly basis similar to the system maintained between the department and its contractors. Drawdowns and expenditures must be timed in a way that minimizes the delay between the receipt and actual disbursement of those funds.

**53.17(4)** Cost allocation. The methods of cost allocation identified in this subrule are not all inclusive. Any method chosen must be consistent with cost allocation principles as defined in the OMB circular applicable to the contractor.

*a.* Any single cost which is properly chargeable to more than one program or cost category is allocated among the appropriate programs and cost categories based on the benefits derived. Contractors that receive WIA funds are required to maintain a written cost allocation for WIA expenditures. A cost allocation plan is the means by which costs related to more than one program or cost category are distributed appropriately. All costs included in a cost allocation plan must be supported by formal accounting records that substantiate the propriety of eventual charges. Each subrecipient must develop a written plan that addresses how joint costs will be allocated during the fiscal year. The plan must include:

- (1) The time period involved;
- (2) Programs that must be allocated;
- (3) Basis to be used for allocation; and
- (4) Exceptions to the general rules.

Any cost that cannot be identified as a direct cost of a particular program or a cost category is allocated based on one of the acceptable methods discussed above and must be included in the cost allocation plan.

*b.* Cost allocation plans are based on a documented basis. The basis upon which a given cost is allocated is relevant to the nature of the cost being allocated, and whether the cost is a legitimate charge to the program(s) and cost category to which it is being allocated. The basis upon which costs are allocated is consistent throughout the fiscal year.

*c.* Possible acceptable actual bases for allocating costs include:

- (1) Staff timesheet allocation basis (fixed or variable).
- (2) Service level allocation basis (fixed or variable).
- (3) Usage rate allocation basis (fixed or variable).
- (4) Full-time employees basis (fixed only).

*d.* Funds received under various programs may be allocated using the cost pooling method. Under a cost pooling method, expenditures that cannot be identified to a particular cost category or program may be pooled and allocated in total on a monthly basis. If this method is established, the expenditures must be allocated to each program based upon the benefit derived by each program. Cost pools may be established for a cost category, a line item in an agency's budget or to include multiple programs. The process used to

allocate pool costs must ensure that no program or cost category is charged an amount in excess of what is allowed by law or regulation. Examples include:

(1) Administrative, program services or combined cost category pool. (An administrative pool may be used if an entity also has administrative costs associated with programs other than WIA Title I programs.)

(2) Facility or supplies line item cost pool.

(3) Workforce (multiple) programs.

*e.* Cost allocation plans must be submitted by August 31 of each year to Bureau of Administrative Support, Budgeting and Reporting, Department of Workforce Development, 1000 E. Grand Avenue, Des Moines, Iowa 50319.

**53.17(5)** Indirect costs may be charged to programs, if the contractor has an approved indirect cost agreement with a federal cognizant agency or another state agency and the agreement covers the term of the grant. The plan must be in compliance with the applicable OMB circular for the entity charging indirect costs.

**53.17(6)** Time and attendance documentation must be maintained for any individual who receives any part of the individual's wage from programs funded by WIA and for all participants receiving payments based in whole or in part on attendance in programs funded by WIA.

**53.17(7)** A contractor receiving federal or state funds from the department and conducting its own procurement must have written procurement procedures. The procedures must be consistent with applicable state and local laws and regulations; the procurement standards set forth in this subrule; and the regulations as described in 29 CFR Part 95 for institutions of higher education and nonprofit organizations; or 29 CFR Part 97 for state and local government organizations.

*a.* State and federal procurement laws and regulations, including the procurement standards set forth in this subrule, take precedence over any contractor procurement policies and procedures.

*b.* The written procurement policies and procedures of each contractor must include, at a minimum, the following elements:

(1) Authority to take procurement actions;

(2) Standards of conduct;

(3) Methods of procurement;

(4) Solicitation procedures; and

(5) Documentation requirements.

*c.* There are three types of allowable procurement procedures: request for quotations (RFQ), request for proposals (RFP), and sole source. Contractors must conduct competitive procurement except as outlined in "d" below.

*d.* The circumstances or situations under which sole source procurement is allowable are limited to the following:

(1) Any single purchase of supplies, equipment, or services totaling less than \$2,000 in the aggregate;

(2) Single participant work experience, vocational exploration, limited internship and on-the-job training contracts;

(3) Enrollment of individual participants in institutional skills training;

(4) All other individual training or services contracts involving only one participant, except where such contracts include the purchase of property. Such property must be purchased through competitive procedures;

(5) Activities and services that are provided by the fiscal agent, designated service provider, or subrecipient when a determination of demonstrated performance clearly documents the staff's ability to provide the training or services;

(6) A modification to a contract that does not substantially change the statement of work of that contract;

(7) After solicitation of an adequate number of sources, only one acceptable response was received;

(8) Any single service or workshop costing less than \$5,000 identified in the regional customer service plan;

(9) Supplies, property and services which have been determined to be available from a single source; and

(10) An emergency situation for which the department or applicable governing boards provide written approval.

**53.17(8)** Property purchased with funds received through the department must be acquired in accordance with the department standards.

*a.* Prior approval must be obtained from the department before purchasing any property with a unit acquisition value of \$5,000 or more.

*b.* Real property (real estate and land) shall not be purchased with funds received through the department.

*c.* Title to all property purchased with the department funds, including participant property, is vested with the state if the state is the majority owner. (If more than one agency contributed funds for the purchase of property, the majority owner is the entity that provided the largest portion of funds. In instances in which entities contributed the same amount of funding, the state is considered the majority owner.)

*d.* Prenumbered department property tags shall be affixed to all property with a unit acquisition value of \$2,000 or more, and to all personal computer logic units and monitors. Unnumbered department property tags shall be affixed to all property with an aggregate value of \$2,000 or more at time of purchase. Prenumbered and unnumbered tags will be provided to each region.

*e.* At a minimum, an inventory of all property must include the following:

1. Property tag number, if applicable;
2. Description of the property;
3. Stock or identification number, including model and manufacturer's serial number, when applicable;

4. Manufacturer;

5. Purchase date;

6. Purchase order number, when applicable;

7. Unit cost;

8. Location of property;

9. Condition of property;

10. Disposition of property as applicable; and

11. Grant agreement number.

*f.* A physical observation of all property must be conducted by the program operator prior to the end of each fiscal year (June 30). A complete inventory list must be provided to the department in each fiscal year's close-out package.

*g.* All property purchased with the department funds or transferred from programs under the authority of the department must be used to meet program objectives and the needs and priorities identified in the regional customer service plan. Property purchased with the department funds must be used by the coordinating service provider or program operator in the program or project for which it was acquired, as long as it is needed for that project or program. When no longer needed for the original program or project, the property may be used in other activities supported by the department.

*h.* The department-purchased property may be made available for use on other projects or programs providing such use does not interfere with the work on the project or program for which it was originally acquired. Priority should be given to other programs or projects supported by the department.

*i.* Disposition of any property, including participant property, is allowable only with the written concurrence of the department. The request to dispose of property must be in writing and include:

1. A description of the property;

2. Its purchase price;

3. Property tag number;

4. Current condition; and

5. Preference for the method of disposal.

*j.* The method of disposal may be the outright disposal by local waste agencies of items that are either unusable or unsafe or are currently of immaterial value. Those items that do not fit this definition may be sold locally, using a public process, to generate program income.

*k.* Requests to dispose of property are to be sent to Business Management, Department of Workforce Development, 1000 E. Grand Avenue, Des Moines, Iowa 50319.

*l.* Any funds generated from sale of property are to be considered program income and must be used to further the objectives of the program(s) that paid for that property originally. If that funding source no longer exists, then the program income generated must be used for other allowable employment or training activities. In cases where the property was purchased from multiple funding sources, the program income generated may be attributed to the funding source that paid the greatest share of the cost of the property. Otherwise, the program income must be allocated by the same percentages as were used to purchase the property originally.

**53.17(9)** Certifications. All contractors must certify, as a condition to receive funding, compliance with the following laws and implementing regulations:

- a.* Workforce Investment Act of 1998 (P. L. 105-220) and all subsequent amendments.
- b.* U.S. Department of Labor implementing regulations.
- c.* Iowa Code chapters 84, 84A, and 96.
- d.* Iowa Administrative Code 871—Chapter 57.
- e.* Iowa Civil Rights Act of 1965.
- f.* OMB Circular A-87 for State and Local Governments.
- g.* OMB Circular A-122 for Non-Profit Entities.
- h.* OMB Circular A-21 for Institutions of Higher Education.
- i.* Appendix E of 45 CFR Part 74 for hospitals receiving research and development grants.
- j.* 29 CFR Part 97 for State and Local Governments.
- k.* 29 CFR Part 95 for Institutions of Higher Education, Hospitals and other Non-Profit Organizations.

- l.* Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).
- m.* Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).
- n.* Americans with Disabilities Act of 1990.
- o.* Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.).
- p.* Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).
- q.* Debarment and suspension; restrictions on lobbying (29 CFR Part 93).
- r.* Drug-Free Workplace (29 CFR Part 98).
- s.* Other relevant regulations as noted in the department's handbook for grantees and contracts for services with the department.

**53.17(10)** Unallowable costs. WIA funds shall not be spent on the following:

- a.* Wages of incumbent employees during their participation in economic development activities provided through a statewide workforce investment system.
- b.* Expenses prohibited under any other federal, state or local law or regulation.
- c.* Foreign travel, if the source of funds is formula funds under Subtitle B, Title I of WIA.
- d.* Financial assistance for any program involving political activities.
- e.* The encouragement of a business to relocate from any location in the United States if the relocation results in any employees losing their jobs at the original location.
- f.* Customized, skill, or on-the-job training or company-specific assessments of job applicants or employees of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation has resulted in any employees losing their jobs at the original location.
- g.* Any region may enter into an agreement with another region within the same labor market to pay or share costs of program services, including supportive services. The agreement must be approved by each regional board providing guidance to the area and shall be described in the regional customer service plan.
- h.* WIA funds cannot be used for public service employment except for disaster relief employment.
- i.* Fees may not be charged for placement or referral to a WIA activity. However, services, facilities, or equipment funded under the WIA may be used on a fee-for-service basis by employers in a region in order to provide employment and training activities to incumbent workers when such services, facilities, or equipment is not in use to provide services for WIA participants; if such use for incumbent workers would

not have an adverse affect on providing services to WIA participants; and if the income derived from such fees is used to carry out WIA programs.

*j.* WIA funds may not be spent on employment generating activities, economic development, and other similar activities, unless they are directly related to training for eligible individuals. Employer outreach and job development activities are directly related to training for eligible individuals. Allowable employer outreach and job development activities include:

- (1) Contacts with potential employers for the purpose of placement of WIA participants;
- (2) Participation in business associations (such as chambers of commerce);
- (3) Staff participation on economic development boards and commissions, and work with economic development agencies to provide information about WIA programs, to assist in making informed decisions about community job training needs, and to promote the use of first source hiring agreements and enterprise zone vouchering services;
- (4) Active participation in local business resource centers (incubators) to provide technical assistance to small and new business to reduce the rate of business failure;
- (5) Subscriptions to relevant publications;
- (6) General dissemination of information of WIA programs and activities;
- (7) The conduct of labor market surveys;
- (8) The development of on-the-job training opportunities; and
- (9) Other allowable WIA activities in the private sector.

*k.* The employment or training of participants in sectarian activities is prohibited, as is the construction, operation or maintenance of any part of any facility that is used for sectarian instruction or religious worship. However, WIA funds may be used for the maintenance of a facility that is not primarily devoted to sectarian instruction or religious worship if the organization operating the facility is part of a program or activity providing services to WIA participants.

*l.* WIA Title I funds may not be used for the encouragement of a business to relocate from any location in the United States if the relocation results in any employee's losing a job at the original location. Also, WIA Title I funds may not be used for customized, skill, or on-the-job training or company-specific assessments of job applicants or employees of a business that has relocated from any location in the United States, until the company has operated at that location for 120 days, if the relocation has resulted in any employee's losing a job at the original location. Pre-award reviews must be conducted to verify that employers are new or expanding and are not relocating from another area.

*m.* A participant in a program or activity authorized under Title I of WIA shall not displace (including a partial displacement) any current employee as of the date of the participation. In addition, a program or activity authorized under Title I of WIA must not impair existing contracts for services or collective bargaining agreements. If so, the appropriate labor organization and employer must provide written concurrence before the program or activity begins. Regular employees and program participants alleging displacement may file a complaint under WIA grievance procedures.

**53.17(11)** Record retention. Contractors must maintain all records pertinent to funds received from IWD, including financial, statistical, property, and participant records and supporting documentation.

*a.* Contractors shall maintain books, records, and documents that sufficiently and properly document and calculate all charges billed for a period of at least five years after the end of each contractor's fiscal year.

*b.* All records must be retained for a longer period of time if any litigation, audit, or claim is started and not resolved during that period. In these instances, the records must be retained either for five years after the end of the entity's fiscal year or for three years after the litigation, audit, or claim is resolved, whichever is longer.

*c.* Records for property must be retained for a period of three years after the final disposition of the property.

**53.17(12)** Disaster recovery system. The contractor must ensure that a satisfactory plan is in place for record recovery in the event that critical records are lost due to fire, vandalism, or natural disaster. All computerized or microfilmed MIS and accounting records must be safeguarded by off-site or multiple-site storage of such records.

**53.17(13)** Access to records. The state, U.S. Department of Labor, Director—Office of Civil Rights, the Comptroller General of the United States, and any of their authorized representatives must have timely and reasonable right of access to any pertinent books, documents, papers, or other records of the contractor to make audits, examinations, excerpts or transcripts. These rights are not limited to the record retention policies, but may last as long as the records are actually retained by the contractor. If the contractor has established a retention period longer than that required by the regulations, access to those records, by any of the above organizations, does not cease until the records are actually destroyed or discarded.

**53.17(14)** Records substitution. Substitution of original records can be made by microfilming, photocopying, film imaging or other similar methods.

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