Pacific Gateway

Policy Number: P-WIOA-PIDP-1.A
Effective Date: April 11, 2017
Approved By: Nick Schultz, Executive Director

Purchasing, Inventory and Disposal of Property

PURPOSE

This policy provides guidance and establishes the procedures for the purchasing, inventory, and disposal of property when utilizing Pacific Gateway Workforce Innovation Network (Pacific Gateway) funds. This policy applies to Pacific Gateway staff and subrecipients.

BACKGROUND

On December 26, 2013, the U.S. Office of Management and Budget (OMB) issued the Uniform Guidance under Title 2 Code of Federal Regulations (CFR) Part 200, in order to streamline the guidance and administrative requirements, cost principles, and audit requirements for federal rewards. The Uniform Guidance consolidated multiple, previously separate, sets of OMB guidance into one combined set of rules. On December 19, 2014, the Department of Labor (DOL) adopted the Uniform Guidance and issued DOL Exception under Title 2 CFR Part 2900.

The Uniform Guidance provides fiscal and administrative guidance for the administration of the Workforce Innovation Opportunity Act (WIOA) program, including specific requirements for purchasing property. The intent is to ensure that purchases of property are approved, performed through fair and open competition, and managed according to proper inventory, maintenance, and disposition procedures.

POLICY

A. <u>Definitions</u>

For the purpose of this policy, the following are definitions of terms related to property.

Equipment – tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-federal entity for financial statement purposes, or $5,000 (Uniform Guidance Section 200.33).

Uniform Guidance specifies that equipment includes information technology systems, computing devices, software and services (including supportive services). This includes fees for licensing or subscriptions to software and software support services. Even if a monthly subscription fee is under $5,000, if the total annual cost for the subscription exceeds $5,000, the prior approval must be obtained.

General Purpose Equipment - equipment which is not limited to research, medical, scientific or other technical activities. Examples include office equipment and furnishings modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles (Uniform Guidance Section 200.48).

Information technology systems **–** computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), licensing or subscriptions to software and software support services, and related services (Uniform Guidance Section 200.58).

Intangible Property – property having no physical existence, such as trademarks, copyrights, patents and patent applications and property such as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership (whether the property is tangible or intangible) (Uniform Guidance Section 200.59).

Personal Property – property other than real property. It may be tangible, having physical existence or intangible (Uniform Guidance section 200.78).

Property – real property or personal property (Uniform Guidance Section 200.81).

Real Property – land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment (Uniform Guidance Section 200.85).

Supplies – all tangible personal property other than equipment. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-federal entity for financial statement purposes or $5,000, regardless of the length of its useful life (Uniform Guidance Section 200.94).

B. <u>Prior Approval</u>

For prior approval, follow the procedures established in Pacific Gateway's policy P-WIOA-ACPWA-1.A, "Allowable Costs and Prior Written Approval" (April 11, 2017).

C. <u>Purchase Considerations</u>

To ensure funds are being spent in a fiscally prudent and efficient manner and to avoid audit findings and potential liability, the following questions should be taken into consideration prior to purchasing property:

- Is the purchase reasonable?
- Why is this purchase needed?
- Have the best products been selected?
- What procurement method will be used?
- Has a lease option been considered verses purchasing?
- Does the State already provide the item, service, or software being considered for rent, purchase, or subscription?

D. <u>Budget Plans</u>

An approval of a budget plan that includes a request to purchase property DOES NOT constitute approval of the purchase request. A separate request to purchase property must still be submitted and approved by Pacific Gateway's Workforce Development Board Director and the State prior to purchase.

E. Cost Sharing Information

When entering into a "cost sharing" agreement for the purchase of property with a per unit purchase price of $5,000 or more, prior approval must be obtained no matter the size of the portion contributed. During the time that the property is used on the project or program for which it was acquired, the property must be made available for use on other projects or programs either currently or previously supported by the federal government, provided that the property's use will not interfere with the work on the projects or program for which it was originally acquired.

Subrecipients must give the first preference for other use to programs or projects supported by the federal awarding agency that financed the property and must give the second preference to programs or projects under federal awards from other federal awarding agencies. Use of the property for non-federally-funded programs or projects is also permissible (Uniform Guidance 200.313[c][2]).

A user fee option may also be considered, if appropriate. For example, if a subrecipient is going to replace an IT system but the other partners are unable or unwilling to cover a portion of the cost up front, the subrecipient may instead consider charging the partner a user fee anytime they use the new IT system. If they choose this option, the subrecipient should include in its prior approval request how it plans to recoup costs from its partner's use of the system in order to ensure everyone is contributing their fair share.

F. Leasing Conditions

The decision to lease or buy property should be governed by considerations of economy. Consideration for leasing 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, administrative requirements make leasing the only option, as the construction or purchase of real property is not allowed under the WIOA program except in certain limited circumstances, which are outlined in the following section.

G. Capital Assets and Construction Costs

The WIOA Title I funds may not be spent on the construction of purchase or facilities or buildings, or other capital expenditures for improvement to land or buildings, except with the prior written approval of the DOL Secretary. However, exceptions to that rule in which WIOA Title I funds can be used for construction include the following:

- Meeting obligations to provide physical and programmatic accessibility and reasonable accommodations
- Certain repairs, renovations, alterations, and capital improvements of property.
- For disaster relief projects under WIOA Section 170(d)
- For YouthBuild programs under WIOA Section 171(c)(2)(A)(i)
- For any other projects the DOL Secretary determines are necessary to carry out WIOA Section 189(c)

(Title 20 CFR Section 683.235)

H. Intangible and Intellectual Property

Subrecipients of a federal award obtain the title to tangible property once it has been acquired. The subrecipient must use the property for the originally-authorized purpose and must not encumber the property without approval from DOL. Further, DOL has the right to obtain, reproduce, publish, or otherwise use the data produced under a federal award, and authorize others to receive, reproduce, publish, or otherwise use such data for federal purposes (Uniform Guidance Section 200.315 [a],[d]).

In addition, DOL requires intellectual property developed under a competitive federal award process to be licensed under a Creative Commons Attribution license. This license allows subsequent users to copy, distribute, transmit and adapt the copyrighted work and requires such users to attribute the work in a manner specified by the recipient (DOL Exceptions Section 2900.13).

I. Inventory Records

Accurate inventory records of all property purchased with federal funds must be maintained. All property should have a unique identification mark to be used for inventory purposes. The inventory records must include the following information:

- A description of the property
- Manufacturer's serial number, model number, or other identification number
- Source of funding for the property (including the Federal Award Identification Number)
- Title holder
- Acquisition date (or date received, if the property was furnished by the federal government)
- Cost of the property
- Percentage of federal participation in the project costs for the federal award under which the property was acquired
- Location, use and condition of the property
- Ultimate disposition data including the date of disposal and the sale price

(Uniform Guidance Section 200.313[d])

In addition to the requirements above, the following must occur:

- A physical property inventory must be conducted and the results reconciled with the property records at least once every two years.
- A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property; any loss, damage or theft of property must be investigated.
- Adequate maintenance procedures must be established to keep the property in good operating order.
- Proper sales procedures must be established to ensure the highest possible return (Uniform Guidance Section 200.313[d]).

Property records must be retained for three years after the date of acquisition, through final disposition and then maintained for three years beyond that. Records must also be retained for a period of three years from the date of their last expenditure report submitted to the Central Office Workforce Services Division. If any litigation, claim, or audit is started before the expiration of the three-year period, ALL records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. Refer to Uniform Guidance Section 200.333 for more information regarding retention requirements.

J. Disposition of Property

When reporting any property on the Property Closeout Inventory Certification Form included in Workforce Services Directive WSD16-05 "WIOA Closeout Requirements" (July 29, 2016), all similar items should be grouped together by category for inventory and fair market value purposes (e.g., computers, furniture, etc.).

If equipment with a per unit fair market value of $5,000 or more, or an inventory of unused supplies with a total aggregate fair market value of $5,000 or more, is no longer needed for the original project or program, the property may be used for other activities currently or previously supported by DOL. If the property is not needed for the original program/project or other DOL supported activities, the property may either be retained or sold and the State reimbursed for the WIOA federal funds' share (Uniform Guidance Section 200.313-200.314).

The amount of reimbursement is computed by applying the percentage of WIOA federal funds used to purchase these items to the current "fair market" value of the property. If only WIOA federal funds were used, then use 100 percent of the calculation. Subrecipients may deduct and retain from the WIOA share $500 or 10 percent of the proceeds of the sale, whichever is less, for the subrecipient's selling and handling expenses. The balance of funds must be submitted within 30 days to the address provided below. The name of the entity, subgrant number, year of appropriation, and the funding stream must be provided when submitting the funds. Funds received from the sale of property must be sent to the following address:

Attn: Cash Control Unit
Fiscal Programs Division, MIC 70
Employment Development Department
P.O. Box 826217
Sacramento, CA 94230-6217

If the subrecipient has no further use for the property and wishes to dispose of it (in a manner other than selling) they must request disposition instructions from the State. If the per unit cost of equipment or total aggregate inventory of unused supplies is less than $5,000, the subrecipient may retain the property with no further obligation. Disposition records must still be kept in accordance with WIOA record retention requirements.

K. Calculation of "Fair Market" Value

The selling price of an item that is sold through auction, advertisement, or a dealer is the fair market value of the item regardless of any prior estimates. An item that is not sold but retained by the entity has a fair market value based on similar items that are offered for sale, using the selling price if known. Methods for determining fair market value include, but are not limited to, the following:

- Auctions
- Classified advertisement for similar used items
- Dealers
- Licensed appraisers

For automobiles, trucks and vans, the standard authority on the value of used vehicles is the Kelly Blue Book. Depreciated value is not "fair market" value, nor a determining factor in establishing the "fair market" value.

REFERENCES

- WIOA (Public Law 113-128)
- Title 2 CFR Part 200: “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (Uniform Guidance)
- Title 2 CFR Part 2900: “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (DOL Exceptions)
- Title 20 CFR: “WIOA Final Rule” Section 683.300
- Training and Employment Guidance Letter (TEGL) 15-14 “Implementation of the New Uniform Guidance Regulations” (December 19, 2014)
- Workforce Services Directive WSD16-05, “WIOA Closeout Requirements” (July 29, 2016)
- Workforce Services Directive WSD14-13, “Property-Prior Approval, Purchasing, Inventory, and Disposal (April 29, 2015)
- Workforce Services Directive WSD16-10, “Property-Purchasing, Inventory, and Disposal (November l0, 2016)
- Workforce Services Directive WSD16-16, “Allowable Costs and Prior Written Approval” (February 21, 2017)

INQUIRIES

For questions or assistance related to this policy, please contact Pacific Gateway Workforce Innovation Network staff at (562) 570-3748.

NS:am