

Workforce Services Policy – Allowable and Unallowable Costs

Executive Summary:

1. What is general the purpose of this policy?

This policy explains the criteria to consider an expense allowable or disallowed, in addition to establishing criteria to determine if an expense is necessary and reasonable. The policy also addresses the purchase of food and beverages using public funds.

2. What are the notable guidelines conveyed within this policy?

This policy:

- Explains the criteria to consider an expense allowable or disallowed
- Establishes criteria to determine if an expense is necessary and reasonable
- Addresses the purchase of food and beverages using public funds.

3. Have there been any changes since the last policy? If so, describe the modification(s).

No changes have been made since the last policy. This policy will expire and needs to be renewed.

4. What must the Local Workforce Development Board do to meet the requirements of this policy?

Each Local Workforce Development Board must adhere to the following guidelines:

- Must comply with the federal allowable cost principles that apply to their organization
- Must only expend Title I-B funds on American-made equipment and programs
- Must not spend WIOA Title I funds on employment generating activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, economic development activities, or similar activities, unless they are directly related to training for eligible individuals
- Must ensure funds spent on employer outreach activities meet allowable costs standards

5. How does this policy affect the workforce system?

This policy communicates applicable cost principles, established regulations, and the terms of the sub-award agreement must be followed in determining the reasonableness, allowability, and allocability of costs.



STATE OF TENNESSEE
State Workforce Development Board
220 French Landing Drive, 4A
Nashville, TN 37243-1002
(615) 741-0409

Workforce Services Policy - Allowable and Disallowed Costs

Effective Date: March 26, 2021

Duration: Automatic Annual Renewal

Purpose:

This policy provides guidance on allowable and disallowed WIOA program costs (including food and beverage expenses in the context of a "working lunch", at conferences, and during travel). This policy will also define, and differentiate between, external and internal customers and provide instances where state employees, sub-grantee employees, and service providers fall into both categories. The policy also outlines guidance for employment generating activities under WIOA.

Scope:

Office of the Governor, Tennessee Department of Labor and Workforce Development (TDLWD); Division of Workforce Services (WFS); Tennessee Department of Economic and Community Development (ECD); Tennessee Department of Education (TDOE); Tennessee Department of Human Services (DHS); State Workforce Development Board (SWDB); Title I – Adult, Dislocated Worker, and Youth Programs, Title II – Adult Education and Family Literacy Act Program(AE); Title III – Wagner-Peyser Act Program (WP); Title IV – Vocational Rehabilitation Program (VR); Regional Planning Council (RPC); Local Workforce Development Boards (LWDB); Local Workforce Development Areas (LWDA); American Job Center (AJC); One-Stop Operator (OSO); Workforce System Sub-Recipients (Sub-Recipients); Workforce System Partners (Partners)

I. Definitions¹:

- **Allocable Cost:**

A cost to a particular award or other cost objective if the goods or services involved are chargeable or assignable to the award or cost objective in accordance with relative benefits received.

- **Award:**

Any money, loans, non-cash assistance, granted to the State (from the federal government)—or granted by the State to a person or legal entity for furnishing by the State of assistance—whether financial or otherwise, to any person or entity to support a program authorized by law.

- **Contractor:**

An entity that receives a contract as defined in the US OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards as "a legal instrument by which a non-federal entity purchases property or services needed to carry out the project or program under a federal award. The term as used in this part does not include a legal instrument, even if the non-federal entity considers it a contract, when the substance of the transaction meets the definition of a federal award or sub-award."

- **Sub-recipient:**

A non-federal entity that receives an award from a pass-through entity to carry out part of a federal or state program; this does not include an individual that is a beneficiary of such a program. A sub-recipient may also be a recipient of other federal awards directly from a federal awarding agency.

II. General Guidelines:

Expenditures of WIOA Title 1-B funds are allowable only for those activities permitted by the WIOA regulations. For the Adult and Dislocated Worker programs, allowable activities include basic career, individualized career, and training services. Basic career and individualized career services are described in the WIOA Title 1-B Workforce Investment Activities and Providers. Training services are described in WIOA Title 1-B Use of Funds for Employment and Training Activities Section 134. In addition, allowable activities include youth services that are provided as a requirement of the WIOA Title 1-8 Section 129 Use of Funds for Youth Workforce Investment Activities.

III. Allowable Costs²:

Local Workforce Development Boards (LWDBs) and sub-recipients must comply with the federal allowable cost principles that apply to their organization. The reasonability of costs shall be determined in accordance with the following cost principles:

- The allowable costs of the grantees, sub-grantees and cost-type contractors, including allowable costs in the form of payments to fixed-price contractors; and
- Reasonable fees or profit to cost-type contractors but not any fee or profit (or other increment above allowable costs) to the grantee or sub-grantee.

A. Applicable Cost Principles:

For each kind of organization, there is a set of Federal principles for determining allowable costs. Allowable costs will be determined in accordance with the cost principles applicable to the

¹ Tennessee Central Procurement Policy Number 2013-007

² 29 CFR 97.22

organization incurring the costs. The following chart lists the kinds of organizations and the applicable cost principles.

For the cost Incurred by:	Use the principles in:
State, local or Indian tribal government	OMB Circular A-87 (as codified at 2 CFR Part 225).
Private nonprofit organization other than an: (1) institution of higher education, (2) hospital, or (3) organization named in OMB Circular A-122 (as codified at 2 CFR part 230) as not subject to that circular	OMB Circular A-122 (as codified at 2 CFR Part 230).
Educational institutions	OMB Circular A-21 (as codified at 2 CFR Part 220).
For-profit organization other than a hospital and an organization named in OMB Circular A-122 (as codified at 2 CFR part 230) as not subject to that circular	48 CFR Part 31. Contract Cost Principles and Procedures, or uniform cost accounting standards that comply with cost principles acceptable to the Federal agency.

B. Factors Affecting Whether a Cost is Allowable:

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under federal awards:

- Be necessary and reasonable for the performance of the federal award and be allocable thereto under these principles.
- Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- 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. A cost may not be assigned to a federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the federal award as an indirect cost.
- Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also 2 CFR 200.306(b).
- Be adequately documented. See also 2 CFR 200.300 through 2 CFR 200.309.

IV. Reasonability of the Cost:

- Do I have the capacity to use what I am purchasing? The sub-recipient must provide a narrative on efficient and effective use when requesting WIOA funds and draw-downs from TDLWD.
- Did I pay a fair rate?
- Do I have documentation to support a fair rate was paid? Documentation must be submitted.
- If I were asked to defend this purchase, would I be comfortable doing so?

V. Necessary:

- Is this item or service needed to meet grant goals?
- Is this the minimum amount I need to spend to meet my need?
- Repetition and frequency.

- Costs are similar to that which would be incurred by a reasonable and prudent person.

VI. Technical Assistance Meetings and Conferences:

- The cost of meetings and conferences (examples could include: lodging, facilities, food, beverages, materials, and supplies) where the primary purpose is to provide technical assistance and is necessary and reasonable for successful performance under the federal award is allowable.
- Outreach costs (examples could include: flyers, brochures, banners, and other promotional material) associated with promoting WIOA program services, including American Job Center (AJC) location information and participant recruitment at job fairs in the local area are considered allowable costs.

VII. Procurement Restrictions:

- WIOA Title 1-B funds must be expended on only American-made equipment and programs as required by the Buy American Act.
- Sub-awards or contracts with parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal programs or activities are prohibited.

VIII. Disallowed Costs:

All costs associated with an unallowable activity are considered disallowed costs, regardless of their permissibility under other circumstances. Examples of unallowable activities include, but are not limited to:

- Any legal expenses incurred for the prosecution of claims against the government are unallowable. This includes appeals to the Administrative Law Judge of disallowed costs or other claims and civil actions where the Federal government is a defendant³.
- The costs of construction or purchase of facilities or buildings or other capital expenditures for improvements to land or buildings, are unallowable for all WIOA Title 1-B programs, except with prior written approval from the U.S. Department of Labor⁴. (See Workforce Services Property Management Policy).
- Public service employment, except when authorized under Title I of WIOA.
- Employment-generating activities, investment in revolving loan funds, capitalization of businesses, investment in contact bidding resource centers, economic development activities or similar activities. An exception is made only for those employer outreach and job development activities directly related to participants.
- The wages of incumbent workers during participation in economic development activities provided through the state workforce system.
- Foreign travel and first-class airline tickets.
- Employment or training programs for sectarian activities. This section does not prohibit the provision of services by faith-based organizations, unless those services are sectarian in nature.
- Expenses prohibited under any other federal, state, or local law or regulation.
- Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable⁵.

³ 2 CFR 200.435(g)

⁴ 20 CFR 683.235

⁵ 2 CFR 200.438

- Costs of promotional items and memorabilia, including models, gifts, and souvenirs are unallowable ⁶.

IX. Salary and Bonus Restrictions Using WIOA Funds:

In instances where funds awarded under WIOA Title I or the Wagner-Peyser Act pay only a portion of the salary or bonus, the WIOA Title I or Wagner-Peyser Act funds may only be charged for the share of the employee's salary or bonus attributable to the work performed on the WIOA Title I or Wagner-Peyser Act grant. The restriction applies to the sum of salaries and bonuses charged as either direct costs or indirect costs under WIOA Title I and the Wagner-Peyser Act⁷.

X. Internal and External Customer Definitions:

Food and beverages are an allowable expense using WIOA funds when technical assistance is provided between two parties, namely State administrative staff members in a meeting with sub-grantees, and/or service delivery staff, or during conferences where the majority of intended invitees are external but share common goals in program delivery. The spirit or purpose of the event must be in accordance with activities that incorporate progressive development of the WIOA program.

XI. External Customers:

Participants, employers and/or LWDB members are considered external customers. Professional colleagues would normally be considered individuals outside of the organizations influence but sharing common interests and goals of the organization.

XII. Internal Customers:

Employees and sub-recipients are considered internal customers.

XIII. State Administrative Staff/Local Sub-Grantee Staff as Internal vs. External Customers:

Below are four (4) examples to help differentiate state employees, sub-grantee employees, and service providers as either external or internal customers:

- **Example One:**

There is a meeting where thirty (30) employers are invited and ten (10) state and/or local administrative staff members, and/or local sub-grantee staff, are in attendance to offer technical information to the proceedings. In this case the employer attendees are considered to be external customers. This is an example of an allowable cost.

In this example, food costs are allowable because employers are considered to be the attendees.

- **Example Two:**

There is a meeting during regular business hours (not lunch hours) where five (5) WIOA partner staff is discussing, debating, and planning activities with ten (10) state administrative staff members in attendance. In this case the state or local sub-grantee staff attendees are the majority of the attendees and considered internal customers. Purchase of food with WIOA funds is not allowable in this scenario.

⁶ 2 CFR 200.421(e)

⁷ 20 CFR 683.290(b)

In this example, food costs are unallowable because state administrative staff is considered to be the attendees.

- **Example Three:**

State administrative staff and/or local sub-grantee staff are giving technical assistance to service delivery staff and providing lunch is reasonable and necessary due to heavy traffic that would hinder productivity. This is an example of an allowable cost.

In this example, food costs are allowable so long as they are reasonable and necessary, which is true due to the burden of time that traffic and logistics would impose productivity (e.g. during a conference).

- **Example Four:**

WIOA funds may not be utilized on expenses associated with staff holiday gatherings or social gatherings. Gatherings of this nature that may include a "technical assistance" component are not permitted in regards to utilization of WIOA funds, as the main purpose of the event is not technical assistance. While a technical assistance component may be present, the atmosphere of a gathering (renting a facility, buffets, etc.) is not within the confines of necessary and reasonable, if the technical assistance time is much less than the social or networking time.

Reasonable costs per person must be in accordance with the per diem rate allowed by the State (see Tennessee Department of Finance and Administration Policy 8 - Comprehensive Travel Regulations).

XIV. Contributions and Donations:

Public funds cannot be used to sponsor third-party events (such as a Chamber of Commerce event). Sponsorship costs of contributions and donations (including, but not limited to: cash, property, and services) from the non-federal entity to other entities, are unallowable⁸. Furthermore, sponsoring events such as purchasing/sponsoring tables, paying to have entity's name placed on event material, or purchasing tickets to an event (considered entertainment) would be considered a donation. When making determinations on the number of staff to send to events/functions, as well as determining if the fees/costs associated with attendance are appropriate or allowable, management should abide by the necessary and reasonable standards as outlined in the 'Necessary' section of this policy.

XV. Employment-Generating Activities⁹:

WIOA Title I funds must not be spent on employment-generating activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, economic development activities, or similar activities, unless they are directly related to training for eligible individuals. For purposes of this prohibition, employer outreach and job development activities are directly related to training for eligible individuals.

Employer outreach and job development activities may include, but are not limited to:

- Contacts with potential employers for the purpose of placement of WIOA participants;
- Participation in business associations (such as Chambers of Commerce), joint labor management committees, labor associations, and resource centers; or
- WIOA staff participation on economic development boards and commissions, and work with economic development agencies to provide information about WIOA programs.

⁸ 2 CFR 200.434(a)

⁹ 20 CFR 683. 245

When participating in employer outreach activities, management must ensure that the participation is:

- Necessary and reasonable;
- Directly related to placing eligible individuals in training;
- Directly related to placing WIOA participants into employment; and
- Furthering the delivery of WIOA services.

In addition, management must ensure that any funds spent on employer outreach activities meet allowable costs standards.

XVI. Food and Beverages:

The cost of food and beverages will not be considered an allowable cost unless the cost serves a public purpose. Alcoholic beverages are disallowed under any circumstances¹⁰.

A. Food and Beverages Provided During Conferences¹¹:

Costs of meetings and conferences, the primary purpose of which is the dissemination of technical information, are allowable. This includes costs of meals if the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award¹².

Agencies sponsoring a conference may provide light refreshments to agency employees attending an official conference. Light refreshments for morning, afternoon, or evening breaks are defined to include, but are not limited to: coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips or muffins.

B. Expenses During Travel¹³:

Furthermore, costs incurred by employees and officers for travel—to include subsistence and incidental expenses—must be considered reasonable and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the non-federal entity. Costs for meals during travel must justify that:

- Participation of the individual is necessary to the federal award; and
- The costs are reasonable and consistent with the non-federal entity's established travel policy.

C. Working Lunches:

The cost of a "working lunch", with external customers and other colleagues, is only considered reasonable and necessary when there is adequate documentation for the necessity of having a meeting during a meal time instead of during normal business hours. This validating documentation should specify:

- Which employment, training, and administration-related subjects (e.g. technical assistance components) were discussed;
- Include a list of participants; and
- Dated, itemized meal cost receipts.

¹⁰ 2 CFR 200.423

¹¹ 41 CFR 301-74.7

¹² 2 CFR 200.404

¹³ 2 CFR 200.474(b)

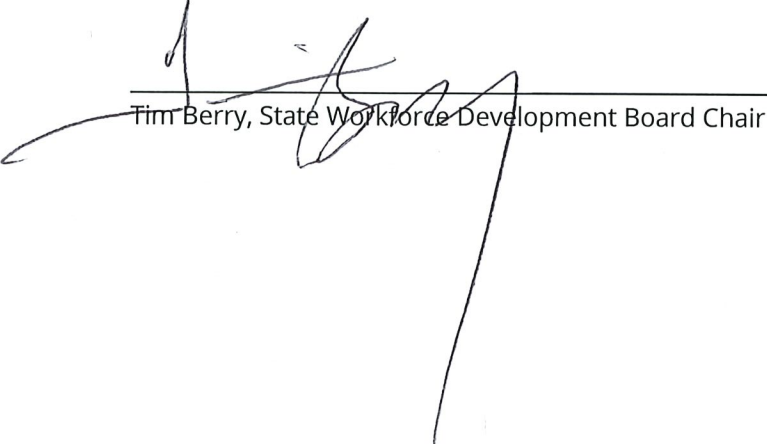
Each LWDB and each grant recipient shall make readily accessible reports concerning its operations and expenditures¹⁴.

References:

2 CFR 200.404(a); 2 CFR 200.434(a); 2 CFR 200.435(g); 2 CFR 200.438; 2 CFR 200.474(b); 20 CFR 683.235; 20 CFR 683.710; 41 CFR 301-74.11; 2 CFR 200.403; 29 CFR 97.22; Buy American Act of 1933; 20 CFR 683.290(b); 20 CFR 683.425; 20 CFR 683.290(b); State of Tennessee Code of Conduct; Tennessee Central Procurement Policy Number 2013-007; Tennessee Policy Number 2016-007(7.1.1); Tennessee Department of Finance and Administration Policy 8 - Comprehensive Travel Regulations; WIOA Section 107; WIOA Section 129(c)(2); WIOA Section 134(c)(3)

Contact:

For any questions related to this policy, please contact the Program Integrity Unit at Workforce.Board@tn.gov.



Tim Berry, State Workforce Development Board Chair

¹⁴ WIOA Section 185(c)(1)