

Governor’s Workforce Investment Division Policy No. 25-03, Change 1

To: All WORKFORCE West Virginia Workforce Investment Board Chairs
All WORKFORCE West Virginia Workforce Investment Board Directors
All WORKFORCE West Virginia One-Stop Liaisons
All State Agencies Involved in WORKFORCE West Virginia
West Virginia Service Provider Association President
West Virginia Workforce Investment Council Board Chair

From: David Lieving
Director
Governor’s Workforce Investment Division

Subject: MONITORING AND OVERSIGHT ISSUES

Effective: Pending

Purpose: To provide Local Workforce Investment Boards (LWIBs) and other appropriate parties with information and instructions regarding oversight and monitoring requirements under the Workforce Investment Act (WIA) (the Act).

Reference: WIA §§ 183, 184; 20 CFR §§ 667.400, 667.410, 667.500; 29 CFR parts 95 and 97; 29 CFR §99.105

Background: The WIA authorizes the Secretary of the U.S. Department of Labor (Secretary) to monitor recipients and subrecipients of WIA Title I funds to assure compliance with the Act and its regulations. The Secretary must conduct on-site reviews (including performance and fiscal audits) in several states each year. Priority for on-site reviews will be given to states not meeting annual adjusted levels of performance.

Monitoring is not solely a federal function. All recipients and subrecipients (including the State and LWIBs) are required to conduct regular monitoring and oversight of their own activities and those of their subrecipients in order to:

- A. Determine that expenditures are made against the cost categories and within the cost limitations specified in the Act and its regulations;
- B. Determine whether there is compliance with other provisions of the Act, its regulations, and other applicable laws and regulations; and
- C. Provide technical assistance as needed and appropriate.

It should be noted that the word ‘subrecipient’ is defined by the uniform administrative requirements promulgated by the federal government that are applicable to those receiving WIA or other federal funds. Thus, a ‘subrecipient’ shall be defined as follows:

A non-Federal entity that expends Federal awards received from a pass-through entity to carry out a federal program but does not include an individual who is a beneficiary of such a program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. [29 CFR 99.105].

The obligation to conduct monitoring and oversight activities requires recipients and subrecipients to perform certain actions, including but not limited to:

- A. Developing monitoring tools and a schedule for on-site visits;
- B. Developing monitoring reports, requesting corrective action, conducting follow-up, and imposing sanctions (where permissible and appropriate); and
- C. Reviewing previous monitoring reports and other documentation as appropriate as part of monitoring and oversight responsibilities.

The Governor is responsible for developing a state monitoring system that satisfies the requirements of the Act and its regulations. The state monitoring system must:

- A. Provide for annual on-site reviews of LWIBs’ compliance with uniform administrative requirements, including appropriate administrative requirements for subrecipients and applicable cost principles for all entities;
- B. Ensure that established policies to achieve program quality and outcomes meet the obligations of the Act and its regulations;
- C. Enable the Governor to determine if subrecipients and contractors have demonstrated substantial compliance with WIA requirements;
- D. Enable the Governor to determine whether a local plan will be disallowed for failure to make acceptable progress in addressing deficiencies; and
- E. Enable the Governor to ensure compliance with the non-discrimination and equal opportunity requirements of the WIA.

Should application of the state monitoring plan reveal issues requiring resolution, the Governor must require prompt corrective action to remedy any substantial violations of the standards set forth in the Act and its regulations. If corrective action is requested and not implemented, the Governor will impose sanctions as prescribed in the Act and its regulations. The Governor may also issue additional instructions to subrecipients on monitoring activities.

In order to comply with the requirements of the WIA and its regulations, the State has developed a monitoring protocol and tools to be used in reviewing subrecipients, including LWIBs. These instruments may also be of use to LWIBs in fulfilling their own monitoring and oversight duties.

Policy: The Governor’s Workforce Investment Division (GWID), as the appropriate administrative entity for the Governor and the West Virginia Workforce Investment Council, will conduct comprehensive on-site reviews of all LWIBs and their areas at least once annually

during the program year. Other GWID subrecipients will be monitored on an as needed basis. Visits to local areas may include, but are not limited to, on-site reviews of LWIBs, comprehensive One-Stop centers, satellite centers, subrecipients of LWIB funds, and other locations or entities as deemed necessary and appropriate by the GWID.

Additional reviews will be conducted by the GWID as deemed necessary and appropriate. These additional reviews may include, but are not limited to, additional comprehensive on-site reviews, special on-site reviews to address specific issues or concerns, and paperwork reviews (“desk audits”) of appropriate reports, documents, or other written or recorded materials.

All LWIBS will conduct on-site visits and other oversight activities of its subrecipients to assure compliance with the Act, its regulations, and other applicable laws and regulations. Such oversight will include at least one on-site review of each subrecipient every program year. Resolution of issues resulting from local reviews shall rest with the LWIB, with technical assistance to be available from the GWID as needed. Resolution of such issues shall be in accordance with the provision of the Act, its regulations, and other applicable laws and regulations.

For purposes of conducting its comprehensive on-site reviews, the GWID will utilize the attached monitoring tools. The attached instruments may be modified as needed by the GWID at any time, and may be used in whole or in part for the purpose of monitoring any GWID subrecipient (including LWIBs). LWIBs may modify or supplement these tools, or substitute equivalents, to satisfy local monitoring requirements; Provided, that the local monitoring tool captures all information necessary to satisfy the provision of the Act, its regulations, other applicable laws and regulations, and State policy. LWIBs have the discretion to design their own protocol for conducting on-site visits and performing oversight activities so long as such protocol satisfies all applicable laws, regulations, and State policy.

For purposes of conducting its comprehensive on-site reviews of LWIBs and their areas, the GWID will utilize the protocol outlined herein below.

Scheduling: The GWID liaison for a LWIB (or other appropriate GWID staff) will contact the LWIB director to schedule the comprehensive on-site review. At this time, the Director may request a review of any issue(s) not addressed in the attached monitoring instruments during the on-site visit.

Confirmation: The LWIB director, LWIB chair, and Chief Local Elected Official (chief LEO) will receive written or electronic confirmation of the selected date, time and location for commencement of the review. The same communication will include a request for documents to be provided to the GWID prior to the review (if any) and timelines for submission of such information. If applicable, the communication will confirm the LWIB director’s request for review of any issue(s) outside the scope of the monitoring tools.

Review Team Composition: Where practicable, the GWID liaison shall serve as lead reviewer in their region. The monitoring team will consist of approximately four (4) individuals representing

the general areas of administration, fiscal, programs, and One-Stops. The GWID will alter the configuration of the review team as deemed necessary and appropriate by the GWID.

Entrance Interview: On-site reviews will commence with an entrance interview between the review team, the LWIB director or designee, and any other local representatives deemed appropriate by the LWIB. The interview will include:

1. The lead reviewer's introduction of the review team, the scope of the review, and the estimated timeframe for completion;
2. Designation by the LWIB director or designee of local staff or representatives to serve as points of contact for the issues to be reviewed;
3. Arrangements for review of LWIB subrecipients (if applicable); and
4. Questions, comments, or clarifications regarding the review.

The Review: On-site reviews will utilize, in whole or in part, the attached monitoring tools. Other issues of note regarding the review are as follows:

1. The review team will make every effort to review previous reports, audits, workforce investment plans, etc. prior to commencement of the on-site review, including a review of previous findings and corrective actions (where applicable).
2. During the review, issues that could be cited in a report will be noted to appropriate local representatives and every possible opportunity given for correction prior to the conclusion of the review. If corrections are made and deemed acceptable, the GWID (in its discretion) may elect to omit the issue from the formal report of the on-site visit or report the issue with a notation that corrective action has already occurred and no further action is needed.
3. The review team will have access to and the right to copy any and all documents or records pertinent to awards of funds made by the GWID to the LWIB or other WIA-related issues. No original documents will be removed from the review site unless approved by the appropriate local representative or permitted by legal authorization.

Exit Conference: On-site visits will conclude with an exit conference between the review team, the LWIB director or designee, and any other local representative deemed appropriate by the LWIB. The conference will include:

1. A review of findings;
2. A review of the timeframe for issuing a formal report on the review; and
3. Questions, comments, or clarifications of the review and its findings.

It should be noted that during the review, at the exit conference, and prior to the issuance of the formal report on the visit, the LWIB will have the opportunity to offer responses to all findings, including provision of documents as necessary or requested by the GWID. The GWID may conduct additional follow-up visits or utilize other means of review in response to information provided by the LWIB prior to the issuance of a formal report.

Prior to issuing a formal report, the GWID will not make public any findings without first notifying the LWIB director. Information regarding reviews and findings will be made public in accord with applicable federal, state, and local privacy laws.

Formal Report: The GWID will issue a formal report regarding comprehensive on-site reviews within 30 calendar days of the date of the exit conference. The report will be addressed to the LWIB director, chair, and chief LEO. A copy of the report will also be provided to members of the West Virginia Workforce Investment Council. The report will clearly distinguish between *findings* (issues of compliance with the Act, its regulations, or other applicable laws or regulations) and *observations* (suggestions or recommendations for process improvement). Those items considered findings may or may not involve issues of costs that are questioned or recommended for disallowance. Findings are also subject to corrective action if so requested by the state. Where applicable, the report will provide references to the appropriate statute, regulation, policy, etc. that forms the basis for each finding or observation.

Issue Resolution / Corrective Action: Where costs are questioned or recommended for disallowance, the LWIB will be notified of the process for addressing resolution of such issues. Where corrective action is deemed necessary, the LWIB will be notified of the need to provide a Corrective Action Plan (CAP). The LWIB will have 30 calendar days from receipt of the CAP notification to submit such a plan. The CAP shall be signed by the LWIB chair, addressed to the GWID director, and contain at least the following:

1. An assessment of the current situation, including any actions already taken to address the problem;
2. A plan describing, in detail, the actions to be taken to correct the problem at issue; and
3. A timetable for actions to be taken, including dates by which certain levels of progress will be achieved.

GWID staff will review the CAP, with recommendations regarding acceptance or rejection to be made to the GWID director or other entity charged with acceptance/rejection of such plans. GWID staff will work with the LWIB and its staff to rectify issues preventing acceptance of the CAP. Upon acceptance of the plan, follow-up will occur as needed to review progress and provide technical assistance toward fulfillment of the CAP. Follow-up may be on-site or by other means as deemed necessary and appropriate by the GWID.

GWID staff will make every effort to work with the LWIBs and LWIB staff during each step of the monitoring process, from scheduling on-site visits to addressing any and all corrective action / issue resolution situations. GWID staff is available to provide technical assistance whenever possible, whether related to monitoring issues or on other WIA topics. The assistance of GWID staff will therefore be available during the development of CAPs by LWIBs prior to their submission to the State for approval as previously outlined in this policy.

Sanctions: In the event of the failure or non-implementation of CAPs during a negotiated timeframe, the GWID will make recommendations to the Governor and the West Virginia Workforce Investment Council regarding the use of sanctions as required under the WIA. Such sanctions include, but are not limited to, the revocation of all or part of the approved local

workforce investment plan and/or decertification of the LWIB. In the event sanctions are issued, the LWIB receiving such sanctions will be given an opportunity to appeal the sanctions based on a formal complaint / appeal policy to be adopted by the West Virginia Workforce Investment Council and the GWID.

Action: LWIBs should take whatever action is necessary to comply with this policy, including but not limited to designing and/or implementing appropriate local monitoring programs and protocols.

This policy should be placed with other policies promulgated by the GWID and /or its predecessors in the binder or other filing mechanism used to maintain an updated collection of state policy issuances.

Questions: Contact the Governor's Workforce Investment Division, 1900 Kanawha Blvd. East, Building 6, Room B-617, Charleston, WV 25305. Toll free telephone number is 877-WORK4WV.

Expiration: Effective until rescinded by the Governor's Workforce Investment Division.