



Workforce Development System Guidance Document



November 19, 2004

- TO:** Chairpersons of Local Workforce Investment Boards
Chief Elected Officials
WIA Grant Recipients
WIA Fiscal Agents
WIA Local Area Contact Persons
- SUBJECT:** Technical Assistance and Clarifying Guidance regarding Oversight and Monitoring Responsibilities for Chief Local Elected Officials and Local Workforce Investment Boards
- Please Note:** **This Guidance Document supercedes TA 04-2, issued on March 15, 2004.**
- PURPOSE:** To provide clarifying guidance on the roles and responsibilities of the Chief Local Elected Official (CLEO) and the Local Workforce Investment Board (LWIB) in conducting financial, program and performance oversight and monitoring in local workforce areas; to explain an important change in the scope of oversight and monitoring activities to be conducted by staff of the Division of Workforce Development and Training (WDT) of the New York State Department of Labor (NYSDOL); to emphasize that performance and accountability are key elements of an LWIA's effective oversight and monitoring plan; and to proscribe the scope and minimum frequency of reviews of an acceptable oversight and monitoring plan.
- Background:** Section 117(d)(4) of the Workforce Investment Act (WIA) requires the Local Board, in partnership with the CLEO (or the CLEO's designated fiscal agent) to conduct oversight of the WIA programs and the One-Stop delivery system in the local area. Title 20 CFR Section 667.4(c)(1) requires that recipients and subrecipients must continuously monitor grant-supported activities in accordance with the uniform administrative requirements at Title 29 CFR Parts 95 and 97, as applicable. Title 20 CFR Section 667.410(a) requires that each recipient and subrecipient must conduct regular oversight

and monitoring of its WIA activities and those of its subrecipients. The purpose of this requirement is to ensure that expenditures meet the programmatic, performance, cost category and cost limitation requirements of WIA and the regulations; to determine that there is compliance with other provisions of the WIA regulations and other applicable laws and regulations; and to ensure that technical assistance is provided as needed.

The requirements of the LWIB and CLEO (or its designated fiscal agent) to conduct oversight and monitoring as outlined above were established by the WIA legislation and became effective with the implementation of the Act. This Technical Advisory serves to re-emphasize and clarify those responsibilities. In addition, the release of this Technical Advisory signals an important and significant shift in the scope of the oversight and monitoring activities of the WDT staff. Technical Advisory 00-22, issued May 22, 2000, established that financial oversight reviews by WDT staff would extend to the subrecipient counties in multi-county LWIAs in order to assist LWIAs as they transitioned from JTPA to WIA. Program staff mirrored this schematic for purposes of oversight and monitoring.

As previously noted, however, beginning July 1, 2004, WDT is only conducting direct oversight and monitoring of the LWIB and CLEO (or its designated fiscal agent) in each LWIA. As of July 1, 2004, the LWIAs must have systems and procedures in place to ensure that the WIB and the CLEO (or its designated fiscal agent) will conduct oversight and monitoring of all their subrecipients including the subrecipient counties in a multi-county LWIA in accordance with the WIA rules and regulations. It will be the role of WDT to ensure that the LWIAs are properly meeting those oversight and monitoring responsibilities. WDT will directly monitor and conduct oversight of the LWIB and CLEO (or its designated fiscal agent) in each LWIA, as well as review the LWIA's procedures for conducting oversight and monitoring of its subrecipients.

Performance and accountability for the appropriate expenditure of public funds for successful programmatic outcomes remains New York State's primary mission. A significant number of local areas struggle with meeting the mandated WIA Title I program performance measures and this Technical Advisory seeks to formalize and assist local areas in better managing their program performance and program expenditures through an increased focus on monitoring as a performance enhancement tool and through the development and dissemination of Management Reports and Quarterly Performance information. To ensure compliance with federal regulations and to ensure quality outcomes for customers, the LWIB and CLEO (or its designated fiscal agent) need to

oversee and monitor the delivery of WIA Title I services in a systemic and systematic manner to enable program operators to take corrective action in real time.

The scope and the frequency of the oversight and monitoring will include fiscal, programmatic and performance and accountability. The fiscal areas will include subrecipient monitoring (annual), financial management/cost allocation (annual), procurement (every two years), property management (every two years), desk reviews of monthly expenditure reports (monthly) and subrecipient contract reviews (annual). The program areas will include governance (annual), WIA IB adult (annual), WIA IB dislocated worker (annual), WIA IB youth (annual), data validation (annual), subrecipient contract reviews (quarterly). The performance and accountability areas will include the WIA IB performance measures (quarterly), service progression (quarterly), service levels (quarterly), activity levels (quarterly), exit strategy (quarterly) and the analysis of the relationship between expenditures and program activities (quarterly), trend analysis (quarterly), transferable skills (quarterly), skill training related to entered employment (quarterly).

NOTE: The frequencies stated above are minimum levels.

In response to requests from WDT, LWIAs have submitted documents that detailed their policies and plans for ensuring compliance with WIA oversight and monitoring responsibilities. The oversight and monitoring policy was to establish the framework for ensuring compliance with the established requirements, and the oversight and monitoring plan was to operationalize that framework by providing specifics as to how the oversight and monitoring will be carried out. WDT staff has reviewed the policies and plans that have been submitted and will work with the LWIAs on any revisions or refinements that may be necessary to bring the LWIAs into compliance with the provisions of this Technical Advisory.

Technical Assistance and Action:

MONITORING GUIDES AND INSTRUMENTS

Attached to this document are monitoring guides and instruments that have been developed by WDT staff for the LWIAs to use as they carry out their monitoring responsibilities. The LWIAs will be required to use these guides and instruments or, alternatively, incorporate the elements of these guides and instruments into their own work products. As WDT carries out its role of providing direct oversight and monitoring of the LWIB and CLEO (or its designated fiscal agent) in each LWIA, WDT will seek to ensure that the LWIAs have met the scope and frequency standards established in this Technical Advisory and that they have performed that monitoring

using all the elements contained in these guides and instruments, as applicable.

In the near future, WDT will be providing regional training to explain the guides and instruments and how they should be used. Additionally, technical assistance will be provided to individual LWIAs as needed or requested.

MONITORING POLICY AND PLAN DEVELOPMENT GUIDANCE

The following guidance has been developed by WDT to assist LWIAs as they further develop and refine their subrecipient oversight and monitoring policies and plans.

STANDARDS

The LWIAs must develop a written oversight and monitoring policy which covers all fiscal, program, and performance and accountability compliance requirements that shall include, but not be limited to, the following:

- A process for consistent and comprehensive review of subrecipient operations.
- The assurance that oversight and monitoring activities will meet the minimum frequency standards established in this Technical Advisory.
- The assurance that appropriate fiscal, program, performance and accountability topics as identified in this Technical Advisory are included in the scope of the LWIAs oversight and monitoring policy and plan so as to ensure compliance with applicable laws, regulations, and contract agreements and provisions.
- A process whereby written notification to the subrecipients of any findings resulting from the reviews is provided within (at least) 30 days of the completion of a review.
- An administrative process for the resolution of findings resulting from the reviews.
- A timely process for notifying NYSDOL of any significant findings resulting from the reviews. For this purpose, significant findings are defined as those findings that: may have a material impact on the financial reports which the LWIA submits to NYSDOL; may materially impact the ability of the LWIA to meet established program performance measures; or represent a substantial violation of WIA statutory and regulatory requirements.

Identifying Subrecipients – Distinguishing Between Subrecipients and Vendors

In order to make determinations of subrecipients and vendors, all of the characteristics related to the type of provider should be taken into account. When deciding whether a vendor or subrecipient relationship exists, it is the relationship that matters, not the label on the award document. No one factor should be taken in isolation; all the applicable criteria for each decision should be reviewed. However, under no circumstances should a designation of vendor be made for providers that have a financial or performance requirement related to eligibility or selection of participants.

Subrecipient means a nonfederal entity that expends federal funds received from a pass-through entity to carry out a federal program, but does not include an individual that is a beneficiary of such a program. Under a subrecipient agreement, a subrecipient is generally responsible for one or more of the following:

- Determines who is eligible to receive program services
- Has its performance measured against whether the objectives of the federal programs are met
- Has responsibility for programmatic decision-making
- Has responsibility for adherence to applicable federal program compliance requirements
- Uses federal funds to carry out a program of the organization as compared to providing goods and services for a program of the pass-through entity

Subrecipients for which the LWIB and Grant Recipient (or its designated fiscal agent) will have monitoring responsibility include:

- Counties in a multi-jurisdictional LWIA other than the Grant Recipient
- Other subrecipient entities (such as Youth Service providers) that meet the criteria established above

A grantee that passes through funds to subrecipients is responsible for monitoring their activities to ensure that federal awards are used for authorized purposes in compliance with the federal program laws, regulations and grant agreements and that performance goals are achieved. As part of their monitoring responsibilities, pass-through entities must ensure that any subrecipients meeting the current expenditure threshold requirements have an audit performed in accordance with Circular A-133.

Vendor means a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of the federal program. These goods or services may be for an organization's own use or for the use of the beneficiaries of the federal program. The following activities are indicative of a vendor relationship:

- Provides the goods or services within normal business operations
- Provides similar goods or services to many different purchasers
- Operates in a competitive environment
- Provides goods or services that are ancillary to the operation of the Federal program
- Is not subject to the Federal compliance requirements of the program

In contrast with awards of federal funds to subrecipients, payments for goods and services to vendors using federal program money are not subject to Circular A-133 audit or other monitoring requirements. However, if a vendor is subject to Circular A-133 audit requirements as a result of other Federal funds that it receives, it may be advantageous and prudent from a management perspective to receive a copy of the audit to ensure there are no findings that impact the WIA funds. In most cases, the pass-through entity's compliance responsibility for vendors is only to ensure that the procurement, receipt and payment for goods and services comply with laws, regulations and the provisions of contracts and grant agreements. Program compliance requirements normally do not flow down to vendors.

Who will be monitored?

Action Items for Policy Development:

- ✓ Identify the categories of subrecipients that will be subject to oversight and monitoring (e.g. subrecipient counties, youth service providers, etc.).
- ✓ For multi-jurisdictional LWIAs, identify what action has been or will be taken to modify the CLEO agreement to reflect the monitoring responsibilities of the Grant Recipient and LWIB with respect to the other counties that are party to the agreement.

Action Items for Plan Development:

- ✓ Identify the specific entities that are direct subrecipients of the Grant Recipient and/or the LWIB. The entities identified will represent the population of entities for which the Grant Recipient and LWIB have responsibility for providing oversight and monitoring. Any of these subrecipients who then pass money through to a lower level subrecipient will be responsible for monitoring those funds.

What will be monitored?

Action Items for Policy Development:

- ✓ Identify which topics will be included in the LWIA's oversight and monitoring plan.

Things to Consider:

Fiscal Topics:

- Internal Controls
- Procurement
- Financial Transactions
- Cash Management
- Cost Allocation
- Cost Limitations & Categories
- Cost Allowability
- Property Management
- Financial Reporting
- Expenditure Rates
- Subrecipient Monitoring
- Subrecipient A-133 Audit Requirements

Programmatic Topics:

- Eligibility and Records Review
- Delivery of Services
- Quality of Services
- Customer Satisfaction
- EEO Requirements/Grievance Procedures
- MIS Reporting & Services Tracking
- Data Validation
- Performance Requirements
- Subrecipient Monitoring

Performance Topics:

- WIA IB performance measures
- Service Progression
- Service Levels

Activity Levels
 Exit Strategy
 Analysis of the relationship between expenditures and
 program activity
 Trend Analysis
 Transferable Skills
 Skill training related to entered employment

Action Items for Plan Development:

- ✓ WDT will provide oversight and monitoring guides.

When will monitoring take place?

Action Items for Policy Development:

- ✓ Assure that the oversight and monitoring activities will meet the minimum frequency standards established in this Technical Advisory.

Action Items for Plan Development:

- ✓ Provide a schedule detailing the timeframes for the monitoring of subrecipients. Keep in mind that while there is a mandate to perform annual on-site monitoring, there will often be circumstances that will dictate much more frequent review intervals.

Things to Consider:

Reasons to Conduct On-Site Monitoring:

Fulfill compliance requirements with applicable regulations
 Interview staff to ensure they are informed of and carry out
 program policy and regulations
 Review documentation and records
 View delivery of services
 Become familiar with subrecipient operations and staff
 Learn about the subrecipient's progress and problems

Elements that influence the frequency and timing of on-site monitoring reviews:

The dollar amount of the sub-award
 Subrecipients with prior audit or monitoring findings or
 history of poor performance
 High profile programs or activities

Programs administered by inexperienced subrecipients
 Subrecipients that have inexperienced staff or have
 experienced a change in key staff
 Programs where the subrecipient has requested an on-site
 visit
 Subrecipients that have not been visited recently
 Type of sub-award (multi-year vs. single year)
 Subrecipients that are not financially stable
 Subrecipients that have not conformed to terms and
 conditions of previous awards

Who will do the monitoring?

Action items for the Policy Development:

- ✓ Identify the positions that will be responsible for the LWIA's monitoring efforts. For those persons who will be providing the monitoring, provide assurances that there will be adequate separation of duties and responsibilities between their monitoring tasks and any other duties they may perform on behalf of the LWIA.

Action Items for the Plan Development:

- ✓ Identify the specific people who will be responsible for the monitoring identified above in monitoring plan.

MONITORING REPORTS

Action items for Policy Development:

- ✓ Identify the process whereby it is assured that monitoring of subrecipients follows a standardized review methodology that will result in written reports which record findings, any needed corrective actions, and due dates for the accomplishment of corrective actions.
- ✓ Describe the distribution list for the monitoring reports.
- ✓ Describe the process for ensuring the timely notification of subrecipients of any findings resulting from the monitoring review.
- ✓ Describe the process for notifying NYSDOL of any significant findings resulting from the monitoring review.
- ✓ Describe the process by which all written reports and workpaper documentation pertaining to the monitoring is retained and made available for review by Federal and State officials.

- ✓ Describe the process that ensures systematic follow up to ensure that necessary corrective action has been taken.
- ✓ Describe the circumstances under which a written report would not be generated as a result of a monitoring review. If a written report is not generated as a result of a review, describe what records would be developed to document results of the monitoring.

TECHNICAL ASSISTANCE

Action item for Policy Development:

- ✓ Describe the process for providing technical assistance regarding issues that arise as a result of the monitoring or in response to requests from the subrecipient.
- ✓ Identify which staff positions will be responsible for providing the technical assistance.

Inquiries regarding this Technical Advisory should be directed to your State Representative.

Attachment:

[Local Workforce Investment Area's Program, Financial, & Performance Monitoring Guide for Subrecipients](#)