

**Workforce Development System
Technical Advisory #21-05
June 25, 2021**

To: Workforce Development Community

SUBJECT: Monitoring – Remote and/or Onsite Subrecipient Oversight and Monitoring Responsibilities for Chief Elected Officials (CEOs) and Local Workforce Development Boards (LWDBs)

PURPOSE

Communicate the responsibilities of CEOs and LWDBs to perform remote and/or onsite Financial, Program, and Performance oversight and monitoring of subrecipients in Local Workforce Development Areas (LWDAs).

This Workforce Development System Technical Advisory (WDS TA) rescinds and replaces WDS TA #19-4, “Monitoring – Subrecipient Oversight and Monitoring Responsibilities for Chief Elected Officials (CEOs) and Local Workforce Development Boards (LWDBs)” (October 21, 2019).

For information regarding LWDB responsibilities related to the New York State Department of Labor’s (NYSDOL) remote and/or onsite monitoring of LWDBs, please see WDS TA #21-04, “Monitoring – New York State Department of Labor (NYSDOL) Workforce Innovation and Opportunity Act (WIOA) Monitoring/Oversight of and Provision of Technical Assistance to Local Workforce Development Boards (LWDBs) and LWDB Responsibilities Relating to NYSDOL’s Monitoring Process.”

POLICY

LWDBs, in partnership with the CEO, or the CEO's designated fiscal agent, must conduct remote and/or onsite subrecipient monitoring of WIOA programs and the One-Stop Career Center System in their LWDAs. LWDBs will work with the CEO, or the CEO’s designated fiscal agent, to ensure quality program activities are provided, verify fiscal integrity and compliance, and help the subrecipient meet performance targets.

ACTION

Periodic CEO and LWDB monitoring of LWDA subrecipients is not only a regulatory requirement ensuring the staff of subrecipients are informed about program policy and regulations, but is also a tool that can be used to support the subrecipients with technical assistance as necessary. Information on the specific monitoring topics and

the frequency with which monitoring must be completed is detailed in **Attachment A: LWDB Remote and/or Onsite Monitoring Topics and Frequency Guide**.

Each LWDB, in partnership with the CEO or designated fiscal agent, must develop a WIOA-compliant Oversight and Monitoring Plan for the LWDA. The Monitoring Plan may include the use of remote and/or onsite reviews to satisfy the regulatory requirements. To ensure compliance with WIOA and other applicable laws, NYSDOL will provide technical assistance to LWDBs to revise their remote/onsite Monitoring Plans, if needed. Additional information on the development of the required Oversight and Monitoring Plan can be found in **Attachment B: LWDB Remote and/or Onsite Monitoring and Oversight Plan Development**.

REFERENCES

WIOA Section 107(d)(8)

WIOA Regulations at 20 CFR §679.370(i) and §683.410(a)

Federal Uniform Guidance, including United States Department of Labor (USDOL) Exceptions:

- [2 CFR Part 200](#) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;
- [2 CFR §200.331](#) Subrecipient and contractor determinations; and
- [2 CFR Part 2900](#) USDOL Exceptions.

[WDS TA #21-04: Monitoring](#) – New York State Department of Labor (NYSDOL) Workforce Innovation and Opportunity Act (WIOA) Monitoring/Oversight of and Provision of Technical Assistance to Local Workforce Development Boards (LWDBs) and LWDB Responsibilities Relating to NYSDOL’s Monitoring Process

[WDS TA #18-5](#): Securing and protecting Personally Identifiable Information (PII) and Personal, Private and Sensitive Information (PPSI) within the New York State Workforce Development System

[NYSDOL Monitoring Guides and Work Papers](#)

INQUIRIES

Inquiries regarding this Technical Advisory should be directed to your State Program and/or Financial Oversight and Technical Assistance (FOTA) Representative.

ATTACHMENTS

Attachment A: LWDB Remote and/or Onsite Monitoring Topics and Frequency Guide

Attachment B: LWDB Remote and/or Onsite Monitoring and Oversight Plan Development

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LOCAL WORKFORCE DEVELOPMENT BOARD (LWDB) REMOTE AND/OR ONSITE MONITORING TOPICS AND FREQUENCY GUIDE

LWDB staff conduct remote and/or onsite Fiscal, Program, and Performance oversight and monitoring of Workforce Innovation and Opportunity Act (WIOA) subrecipient programs and the One-Stop Career Center System in their Local Workforce Development Area (LWDA). The following details the topics and frequency for monitoring.

1. Fiscal Monitoring

Fiscal monitoring of LWDB subrecipients must, at a minimum, include the following topics and monitoring intervals:

- Subrecipient Monitoring – Annually;
- Financial Management/Cost Allocation – Annually;
- Procurement – Every two years;
- Property Management – Every two years; and
- Desk Reviews of Expenditure Reports – Monthly.

2. Program Monitoring

Program and Performance monitoring of LWDB subrecipients must, at a minimum, include the following topics and monitoring intervals:

- WIOA Title I Adult – Annually;
- WIOA Title I Dislocated Worker – Annually;
- WIOA Title I Youth – Annually;
- Trade Act – Annually;
- Subrecipient Contract Reviews – Quarterly; and
- Desk Reviews of Performance monitoring of LWDB subrecipients – Quarterly.

LOCAL WORKFORCE DEVELOPMENT BOARD (LWDB) REMOTE AND/OR ONSITE MONITORING AND OVERSIGHT PLAN DEVELOPMENT

LWDB Remote and/or Onsite Monitoring and Oversight Plans must include the following:

1. Identification of subrecipients;
2. Process for development and implementation of monitoring guides;
3. Description of topics and frequency of monitoring reviews;
4. Identification of staff to conduct monitoring reviews;
5. Process for development and issuance of monitoring reports; and
6. Process for providing Technical Assistance.

1. Identification of Subrecipients

When a LWDB awards federal funds to subrecipients to administer parts of a federal program, the LWDB functions as a non-federal pass-through entity and a relationship between the LWDB and the subrecipient entity is created. Pass-through entities are responsible for monitoring their subrecipients. Monitoring ensures that federal awards are administered in compliance with relevant federal program laws, regulations, and grant agreements, and ensures that the subrecipient meets performance goals. Therefore, LWDBs must identify the subrecipients in their Local Workforce Development Area (LWDA) that will be monitored by the LWDB, such as county agencies and programmatic contracts with Youth Program service providers.

To ensure all appropriate monitoring of subrecipients, LWDBs must identify all subrecipients. To do this, the LWDB must distinguish between programmatic sub-awards/subrecipients and routine goods and services contracts/contractors. The following definitions will assist LWDBs in making this distinction:

- Subrecipient: A non-federal organization that receives funds indirectly via a “pass-through” entity to carry out part of a federal program, not including an individual that is a beneficiary of such program.

A subrecipient may also be a direct recipient of other federal awards. This does not exempt it from Workforce Innovation and Opportunity Act (WIOA) subrecipient monitoring.

LWDBs and CEOs have monitoring responsibility over the following subrecipients:

- Counties in a multi-jurisdictional LWDA, other than the CEO Grant Recipient county; and
- Other subrecipient entities, such as contracted WIOA Youth Program service providers, that meet the criteria established above.

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- **Contractor:** An entity that utilizes a legal agreement for the purchase of goods or services. This may include a dealer, distributor, merchant or other seller of routine goods or services that are required to carry out a federal program. Examples of routine goods and services are office supplies and security services. These payments are generally not subject to audit or monitoring activities.

Indications of a contractor relationship include:

- Provision of routine goods or services required for normal business operations;
- Provision of similar goods or services to many different purchasers;
- A competitive environment;
- Provision of goods or services that are ancillary to the operation of the federal program; and
- A relationship which is not subject to the federal program compliance requirements such as accrued expenditure and participant reporting.

Note that there are circumstances where monitoring of an entity determined to be a contractor is required. If the services provided by the contractor are programmatic in nature, Fiscal and Program monitoring of such programmatic services is still required. Common examples include contracts with local businesses for incumbent worker training or for On-the-Job Training (OJT), and Individual Training Account (ITA) agreements with training providers. This monitoring must be tailored to the programmatic service to ensure the services are provided in compliance with all relevant federal fiscal, program, and grant agreement requirements.

Once all subrecipients have been identified, LWDBs must develop a list of subrecipients. The list must be kept up to date and is subject to record retention requirements.

2. Process for Development and Implementation of Monitoring Guides

LWDBs and CEOs are strongly encouraged to use the New York State Department of Labor's (NYSDOL) monitoring guides, available on the [NYSDOL website](#), to conduct their local subrecipient monitoring. These resources provide information about issuing monitoring reports, providing technical assistance, and corrective action follow-up.

Note that these monitoring guides are updated periodically, and therefore LWDB Directors are encouraged to visit the NYSDOL website regularly.

If the LWDB and CEO(s) decide to create their own monitoring guides, the elements of NYSDOL's monitoring guides must be incorporated so that local monitoring of subrecipients mirrors NYSDOL monitoring.

Monitoring guides and resources are to be updated as required in accordance with changes in federal law, State law, and monitoring requirements.

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3. Description of Topics and Frequency of Monitoring Reviews

The Remote and/or Onsite Monitoring and Oversight Plan shall include a description of the monitoring and oversight activities to be performed with required minimum frequency. LWDBs must keep a written schedule detailing the timeframes for the monitoring of subrecipients.

Monitoring may be performed through remote and/or onsite reviews. Remote monitoring may require the entity subject to review (subrecipient) to share customer, financial, and program data with the LWDB through electronic means. If a LWDB conducts remote monitoring, it must follow all NYSDOL and federal regulations to safeguard customer Personally Identifiable Information (PII). This includes encrypting documents or removal of PII before submitting. Please refer to Workforce Development System Technical Advisory (WDS TA) [#18-5](#) – “Securing and protecting Personally Identifiable Information (PII) and Personal, Private and Sensitive Information (PPSI) within the New York State Workforce Development System,” on proper handling of PII.

In addition to ongoing monthly desk reviews of payment vouchers, program reports, and One-Stop Operating System (OSOS) participant data entered, LWDBs are required to perform annual remote and/or onsite Fiscal and Program monitoring.

It is important to note that there may be circumstances that require the LWDB to review or consult with a subrecipient more often than once per year, particularly if there are specific issues or unresolved monitoring findings. Examples of this additional monitoring include providing technical assistance and follow-up reviews to address corrective actions taken by the subrecipient and/or unresolved findings. The term “finding” is used to identify areas where compliance requirements must be addressed.

Please note that significant findings include those that:

- Have a material impact on the financial reports submitted to NYSDOL; or
- Have a material impact on the ability of the LWDB to meet established program performance measures; or
- Represent substantial violations of statutory and regulatory requirements.

Fiscal, Program, and Performance monitoring of subrecipients must, at a minimum, include topics and monitoring intervals shown in **Attachment A: Local Workforce Development Board (LWDB) Remote and/or Onsite Monitoring Topics and Frequency Guide**.

4. Identification of Staff to Conduct Monitoring Reviews

The Remote and/or Onsite Monitoring Plan shall identify:

- Organization(s) responsible for the Fiscal, Program, and Performance monitoring on behalf of the LWDB and CEO(s); and

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- Position(s) within the identified organization(s) responsible for the monitoring efforts.

5. Process for Development and Issuance of Monitoring Reports

The Remote and/or Onsite Monitoring and Oversight Plan shall include:

- The process for development of a written report by the LWDB to document findings, corrective action plans, and due dates for the completion of corrective actions. All reports must be issued by the LWDB forty-five (45) calendar days from the date the Monitoring Review was completed. If for some reason the release of the report is delayed, LWDB staff will notify the subrecipient with an updated timeline;
- A distribution list for the written report including:
 - The agency being reviewed (subrecipient);
 - LWDB Chair (or designated LWDB member(s) to receive the report);
 - LWDB Executive Director (if this person is not the individual that performed the monitoring and is signing the written report);
 - The appropriate NYSDOL Financial Oversight and Technical Assistance (FOTA) and Program representatives; and
 - Grant Recipient CEO (and subrecipient CEO if the report is for the subrecipient CEO's county).
- The process for systematic follow-up, communication, and resolution of any findings which result from oversight activities, including the timeframe for the subrecipient agency to provide its response; and
- The process to retain all written reports and documentation pertaining to monitoring activities and make them available for review by federal and State officials.

6. Process for Providing Technical Assistance

In addition to formal remote and/or onsite monitoring reviews and written reports, LWDBs must provide ongoing technical assistance to subrecipients, especially if/when a subrecipient requests assistance. Technical assistance includes actions that help subrecipients achieve positive performance outcomes, maintain data integrity, and help identify potential fiscal and programmatic system vulnerabilities. Technical assistance is ongoing and can be provided remotely and/or onsite. More in-depth technical assistance is available upon request and can include video conferences, WebEx training, and onsite visits. Therefore, the Oversight and Monitoring Plan must:

- Describe the process for providing technical assistance to subrecipients; and
- Identify which staff positions will be responsible for providing the ongoing technical assistance.

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