

WIOA Guidance Provided to Local Areas during COVID-19 emergency

The Department of Labor has put out guidance for the COVID-19 crisis on WorkforceGPS. The EDD has shared these resources with Local Areas. This guidance includes such allowances as increasing the administrative costs to 20% and allowing OJT contracts to be paid after the closure of worksites. Compliance monitors should read the DOL Guidance at <https://www.workforcegps.org/resources/2020/03/18/23/35/Coronavirus-COVID-19-Resources> and the recent EDD Information Notices.

HIGHLIGHTS

1. What documents are still required to have wet signatures at this time?

Local Areas may use self-attestation and temporarily waive the requirement for a wet or electronic signature on all enrollment forms for WIOA Title I programs.

In order to use self-attestation, Local Areas must establish a policy that outlines which method of self-attestation (verbal or email verification) is acceptable, how self-attestation and the date of enrollment is documented in case management, and the process by which an individual's signature will be obtained once in-person services resume ([WSIN19-40](#)).

2. How can eligibility, enrollment, and assessments be conducted during this time?

The EDD strongly encourages Local Areas to remain flexible while exploring temporary methods to perform eligibility enrollments and assessments. Temporary options may include scheduling in-person appointments, scheduling telephone or video call appointments, or using email or text messaging. The security of customer data and its transmission, as well as ease of customer access, must be considered.

3. Can Local Area purchase food for WIOA participants?

Generally, WIOA funds cannot be used to provide food assistance to WIOA participants. Per the Department of Labor's (DOL) [COVID-19 FAQs](#), DOL Employment and Training Administration funds cannot be used to provide general food assistance to individuals in the community, regardless of the age of the individual. Employment and training programs are not intended as and cannot be converted to income or food support programs. At times, certain supportive services and needs-related payments may be issued to a participant, in general, to allow them to participate in training and employment services that will allow more of their personal funds to be used to cover food purchases. Written policies and procedures must be in place that outline the factors or criteria that will be considered by the case manager or staff person to ensure fair

and equitable distribution of such expenses to participants is also reasonable, necessary, allowable, and allocable to the grant award.

In programs specifically serving youth, on a limited basis and in certain situations grant funds may be used on food for youth program participants as a supportive service. Food may be provided to eligible youth when it will assist or enable the participant to participate in allowable youth program activities and to reach his/her employment and training goals. The focus of the program is to train youth, and the use of grant funds for food should be limited to reasonable and necessary purchases that are coordinated with other community, state, or federal services that provide food for low-income individuals.

Food costs are allowable when WIOA funds are used to purchase food for a culinary or hospitality work experience/training. In this case WIOA funds are supporting the materials necessary for the work experience/training.

4. Can Local Areas use a self-attestation under penalty of perjury document to substantiate the receipts requirement for supportive services for the Underserved Supportive Services Additional Assistance grant?

Federal and state regulations require adequate documentation. In addition, DOL has provided guidance through their COVID-19 FAQs that self-attestation should not be used as a first resort. During this time where COVID-19 is impacting programs' ability to physically collect documentation, documentation may be accepted verbally or virtually through the CalJOBS Message Center and a case note entered in the participant's file. Local Areas may use self-attestation to initially substantiate receipts requirements, but must establish a policy to collect receipts at a later date.

5. Can Local Areas continue to pay wages or stipends to Work Experience, Transitional Jobs, or Work-Based Learning participants if their work experience stopped or ended due to COVID-19?

Per the Department of Labor's [COVID-19 FAQs](#), if the participant's Work Experience, Transitional Job, or Work-Based Learning terms including the duration, wage or stipend, and other training or work requirements, were established prior to President Donald J. Trump's [National Emergency Declaration](#) on March 13, 2020, then the Local Area can continue to pay the participant for the remainder of the term of the activity. Modifications or adjustments to the terms of Work Experience, Transitional Job, or Work-Based Learning activities for the purpose of continuing to provide a wage or stipend are not allowable. Local Areas should establish a policy and procedure to document and track these payments in the participant's case file as COVID-19 related.

6. Are the costs of a Local Area leave policy that provides paid leave to employees (including part-time employees and employees of subrecipients) when their work hours have been reduced due to COVID-19 closures or disruptions allowable?

Yes, paid leave is an allowable cost. Title 2 CFR Section 200.431(b) states that a leave policy is allowable if there is an established, written policy that applies equitably and consistently to all staff regardless of employee class, and if it is reasonable. If a Local Area amends its existing leave policy or develops a new emergency leave policy applicable to all employees affected by the COVID-19 pandemic, costs incurred under that policy would be allowable provided they meet the requirements in 2 CFR 200.431(b). Local Areas must maintain appropriate records and cost documentation as required by 2 CFR 200.302 and 2 CFR 200.333 to substantiate the charging of any salaries and other project activities costs related to interruption of operations or services.

7. Can Local Areas purchase laptops and tablets to enable participants to continue their training services from home? Is prior approval required for these purchases?

Yes, WIOA funds can be used to purchase supplies or equipment to provide participants with the tools to participate in remote program services and training. Local Workforce Development Areas should continue to follow the procurement and prior approval guidance outlined in [WSD16-10](#) and [WSD17-08](#).

8. Can Local Areas conduct sole-source procurement during this time?

Local Areas may conduct procurements under the public emergency provision (2 CFR 200.320[f][2]). Grantees can waive the procurement requirements contained in 2 CFR 200.319(b) regarding geographical preferences and 2 CFR 200.321 regarding contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. Local Areas are expected to use sound fiscal prudence to maximize value for each taxpayer dollar spent. The DOL and EDD will reassess the need for procurement because of public emergency in mid-June.

9. Can the definition of dislocated worker be broadened?

Per recent DOL guidance on COVID-19, "Eligibility for the Dislocated Worker program is based on the definition in the WIOA statute at WIOA Section 3(15), and eligibility is not waivable under WIOA. However, there is some flexibility in how this definition is applied and ETA encourages states and Local Areas to review their dislocated worker policies to ensure impacted individuals who may be eligible to receive the services they need."

In accordance with the above DOL guidance, the EDD has given Local Areas the discretion to define terms such as substantial layoff and unlikely to return.

Depending on Local Area definitions, some furloughed employees may be considered laid off. Furloughs normally have an end date, however, during the COVID crisis many businesses are relying on state, county, and local government to allow businesses to reopen. It is reasonable that at this time there isn't a definitive return to work date. In addition, many businesses may ultimately close during this crisis. Local Areas are in the best position to determine the circumstance of the applicant, local economic conditions, and if these individuals meet the definition of dislocated worker.

CalJOBS

1. Are case notes required in CalJOBSSM during COVID-19?

The Employment Development Department does not mandate that case notes be entered into CalJOBS. Local Workforce Development Areas (Local Areas) and service providers should have policies and procedures in place for case management, including case notes. These policies should be reviewed and amended, as necessary, if America's Job Center of CaliforniaSM (AJCC) staff are working remotely to ensure that WIOA activities are documented in a participant's case management file. Entering case notes into CalJOBS may be beneficial for Local Areas during this time, as it enables AJCC staff to remotely document and review case notes.

WIOA - Work-Based Learning

1. How can Local Areas continue to provide Work Experience, Transitional Jobs, or Work-Based learning during the pandemic?

Title 20 CFR Sections 680.180 through 680.195 provides flexibility to Local Areas to develop Work Experience and Transitional Jobs that are a structured limited-time learning experience with a public, private, non-profit sector. Additionally, 20 CFR 680.700 provides similar flexibility to develop On-the-Job Training (OJT) contracts.

Due to COVID-19 impacts on employers, Local Areas can use maximum flexibility to provide individuals with Work Experience, Transitional Jobs, or Work-Based learning activities that are either performed remotely or established essential service employers. Any modification to a local policy to add program flexibilities must meet all applicable federal laws and regulations.

2. Can WIOA Adult and Dislocated Worker funds be used for temporary part-time employment?

Local Area may use WIOA Adult and Dislocated Worker funds for work experience, which per 20 CFR Section 680.180 allows for wages. Work

experience is considered a career service and not a training service, and cannot count towards the training expenditure minimum. In addition, Local Areas can enter into on-the-job agreements with employers to provide a similar opportunity, which, per [WSD 18-10 \(PDF\)](#), does count towards the training expenditure requirement. Local Areas should follow their local policies when establishing agreements for work experience and on-the-job training, etc. Any modification to a local policy to add program flexibilities due to COVID-19 must meet all applicable federal laws and regulations.

3. Can Local Areas enter into an OJT contract if they are unsure that the employer will stay open and be able to support the duration of the OJT?

Local Areas may enter into contract with employers provided the employer meets the following criteria:

- An OJT contract must be limited to the period of time required for a participant to become proficient in the occupation for which the training is being provided (Title 20 CFR Section 680.700[c]). The Local Area must make this decision with information available at the time of OJT contract. Due to the economic uncertainty some employers may close, but Local Areas should continue to offer OJT if the employer has shown a good faith willingness to fulfill the duration of time need for a participant to become proficient in the occupation. Additionally, the State encourages Local Areas to establish OJT with employers developing new technologies being implemented during the COVID-19 crisis.
- OJT contracts cannot be entered into with employers who have exhibited a pattern of failing to provide OJT participants with continued long-term employment as regular employees with wages and employment benefits and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work (Title 20 CFR Section 680.700(b)). The key word here is “pattern”. If an employer showed a pattern to not meeting these conditions prior to the COVID-19 crisis then the Local Area may not provide OJT with the employer. However, if an employer has laid off workers (including OJT participants) because of COVID-19 this does not establish a pattern of failing to provide long-term employment with the same level of conditions. In this case the layoffs were due to COVID-19 and beyond the control of the employer.
- If an OJT worksite closes under a contract signed after the declaration of national health emergency, the Local Areas cannot continue to pay participant wages. Per DOL FAQs on COVID-19 “If the program participant’s time commitment, stipend structure, and/or other academic or work terms were established prior to the national health emergency declaration, grantees

should continue to pay the participant for the remainder of the established term”

WIOA – Funding

1. If an event paid for by WIOA funds is cancelled for a COVID-19 related reason, are the cancellation fees an allowable cost?

The Department of Labor provided guidance to Employment Development Department stating that if an event paid with WIOA funds was cancelled due to a COVID-19 related reason, then any event cancellation fees and penalties imposed under the contract or agreement are an allowable cost under the WIOA. The cancellation must also be reasonable, such as canceling due to public safety.

2. Will Local Areas still be required to meet the 80 percent obligation of formula funds due to this crisis?

The Employment Development Department has issued guidance in [WSIN19-38 \(PDF\)](#), which provides a waiver of the Local Areas requirement to obligate at least 80 percent of their Workforce Innovation and Opportunity Act (WIOA) formula funds by the end of the first program year for which they were allocated. This waiver is being granted in an effort to reduce the negative impacts of the COVID-19 outbreak to Local Areas’ program planning efforts. This waiver applies to Program Year (PY) 19-20 Youth, Adult, and Dislocated Worker funds only. All PY 19-20 formula funds must be fully expended by June 30, 2021.

For additional information and guidance regarding this state imposed requirement, refer to the [WSD15-08 \[PDF\]](#).

3. May WIOA funds be used to purchase cleaning supplies for COVID-19 related reasons?

Local Areas can use WIOA to purchase cleaning supplies to the extent that the supplies are used for the benefit of the WIOA program (such as America’s Job Center of CaliforniaSM locations). Local Areas should ensure that the charges are reasonable, allocable, and follow the direction of the Center of Disease Control, state, and local government COVID-19 guidelines.

4. Can grantees repurpose grant funds to offset additional expenses related to COVID-19 such as increased paid time off or overtime for staff?

At this time, grantees cannot pay overtime in addition to paid time off to the same individual. For grantees considering paying overtime, agencies must have a written approved policy on overtime that outlines the conditions and criteria to

authorize, approve, and earn overtime during this time. All salaries and fringe benefits must be within the Salary and Bonus limitations.

WIOA – Performance

1. Local Areas use benchmark timeframes, and contract payments are tied to benchmark attainment. Can the Employment Development Department extend these timeframes?

Local Areas that established performance-based contracts with a subrecipient can renegotiate benchmarks, following existing state and local policies.

WIOA – Rapid Response and Layoff Aversion

1. Can Local Areas use additional assistance and layoff aversion funds to help businesses purchase sanitization supplies and computers to prevent layoff due to shelter-in-place orders and social distancing?

Rapid Response is a flexible activity designed to respond to the needs of businesses and affected workers. It includes the delivery of layoff aversion strategies intended to prevent or minimize the duration of unemployment. Local Areas may assist businesses experiencing economic stresses in order to mitigate potential layoffs or facility closures due to COVID-19 and promote “social distancing.” Permissible activities include, but are not limited to:

- Purchasing remote access equipment to allow employees to work from home versus being laid off (computers, printers, telephones, headsets, etc.);
- Purchasing software programs or applications required for working remotely;
- Purchasing cleaning/sanitization supplies and/or services that will allow a small business to maintain an onsite workforce as a result of exposure reduction through frequent deep cleaning;
- Supporting businesses that take advantage of the Unemployment Insurance Work Sharing Program by supplementing the employee’s income and benefits;
- Other creative approaches and strategies to reduce or eliminate the need for layoffs.

Funds may not be used for the following:

- Employee wages/benefits other than those utilizing the Workshare Unemployment Insurance Program
- Hazard pay

WIOA – Additional Assistance Underserved Supportive Services Grant Guidance

1. What are the eligibility criteria for this grant?

There are three COVID-19 related eligibility criteria for this grant. Due to the COVID-19 public health emergency, individuals may self-attest to the income and COVID-19 related eligibility criteria listed below.

- The individual must be enrolled in WIOA Title I Dislocated Worker services. If an individual is not eligible for the Dislocated Worker program, they can be enrolled into the Title I Adult program and provided the tiered supportive services described below, as long as they meet the other two criteria.
- Individuals have not received wages above 400% of the federal poverty level (FPL) for the last six months of income. For additional FPL information, please visit the [U.S. Department of Health & Human Services Poverty Guidelines](#)
- Individuals meet one of the following:
 - Laid off due to COVID-19;
 - Experienced a reduction in hours and/or pay due to COVID-19;
 - Unable to work for any of the following COVID-19 related reasons:
 - Subject to quarantine;
 - Caregiver for someone who is subject to quarantine;
 - Need to care for children because of school closure or closure of other child care provider;
 - At higher risk of getting seriously ill from COVID-19, or lives with someone at higher risk as outlined on the [California Department of Public Health COVID-19](#) website;
 - Required to telework, but does not have the necessary equipment.

2. What costs can be charged to this grant?

This grant is only for supportive services. Administrative and other program costs (including staff time) should be charged to the grant with which the Local Area chooses to provide the staff-assisted career service.

3. What supportive services are allowable?

Supportive services can only be provided to an individual who has already received a staff-assisted career service. Local Boards should have a supportive service policy in place, which dictates the allowable supportive services. Examples of what can be provided include assistance with utilities (internet, electricity, etc.), rent, gas, transportation, etc.

4. Can supportive services provided in March and April, 2020 in a different grant be changed to this one?

The effective date of the grant is March 1, 2020. If the supportive service was charged to another grant in March or April, the Local Area would need to confirm that it is allowable to move the funds (it depends on where it was initially charged). Typically, it is allowable for formula funds, however, some special projects (such as National Dislocated Worker Grants) may not be allowed to change. It is allowable to change the grant code assigned to a specific supportive service in CalJOBS, but a Data Change Request may be needed for those services/activities that exceed the 30 days.

5. Is this grant available to other populations or just English Language Learners (ELL)?

Yes, Local Workforce Development Boards (Local Boards) can serve populations other than those in the ELL and ELL Navigator programs. As long as the individual meets the COVID-19 related eligibility, then they can be served with this grant. WSIN19-39 requests (but does not require) that Local Boards prioritize those in ELL programs.

6. Can self-attestation be used first and not just as a last resort?

DOL has provided guidance through their COVID-19 FAQs that self-attestation should not be used as a first resort. However, during this time where COVID-19 is impacting programs' ability to physically collect documentation, Local Areas may use self-attestation for COVID-19 related eligibility (including income) and documentation. Local Areas may temporarily waive the requirement for supportive service documentation for the purposes of this grant only. However, Local Areas must establish a policy that outlines which method of self-attestation (verbal or virtual) is acceptable for documentation, how self-attestation and the date of enrollment is documented in case management, and the process by which an individual's signature will be obtained once in-person services resume.

7. Will individuals be included in performance measures?

Per [WSD19-03: Performance Guidance](#), a reportable individual is not included in the calculations for performance. A reportable individual is someone who demonstrates an intent to use program services and meets one or more of the following criteria: (1) Provides identifying information, (2) Accesses the self-service system only, or (3) Only received information-only services or activities.

Once an individual is enrolled as a program participant in formula funds (Title I Dislocated Worker or Adult), they will be in performance. An individual becomes a participant in the program when they do all of the following: (1) Meet the definition of a reportable individual, (2) Satisfy all applicable program

requirements for the provision of services, including an eligibility determination, and (3) Receive any training service, individualized career service, or basic career service that is not self-service or an information-only service.

To receive a supportive service, the individual must be enrolled in the program, which means they must receive a career service other than self-service or workforce information-only services. If the individual is provided a staff-assisted career service funded by formula funds, they will appear in Local Area performance calculations; however, if the staff-assisted career service is not funded with WIOA formula funds (e.g., Additional Assistance, WIOA Title I Governor's Discretionary funds, or a National Dislocated Worker Grant) they will not appear in Local Area performance calculations.

8. Is the additional Unemployment Insurance (UI) weekly benefit available through the CARES Act counted as income?

In general, UI benefits are counted as taxable income, and also counted as income for purposes of calculations, so the same should be true of the additional \$600 UI weekly benefit payment.

9. Is the stimulus money counted as income?

According to the Internal Revenue Service, the stimulus check doesn't count as taxable income, so it shouldn't be counted as income for purposes of calculating household income for the Federal Poverty Level cap of 400 percent for this grant.

10. Can laptops or tablets be purchased as a supportive service? Do participants need to return them when no longer needed?

Yes, laptops and tablets can be purchased as a supportive service. Local Boards must follow the direction of WSD17-08 of when prior approval is needed as well as any local procurement policies that may have additional requirements.

In general, a good or service obtained for a participant as a supportive service is kept by the participant. It is not required to be returned, unless local policy dictates that it is required.

11. Can bills from previous months be paid or reimbursed?

Bills for previous months can be paid as long as the payment is issued on or after the grant start date (March 1). However, any late payment penalties and fees cannot be paid with WIOA funds per 2 CFR 200.441.

12. Do the supportive services provided with this grant count towards a cap established by a local policy?

No, the supportive services provided in this grant do not count towards the local policy caps.

13. How can Local Areas provide supportive services payments to the participant?

Refer to your local policy on how supportive service payments are made. In general, payments are not to be made directly to participants. In some Local Areas, bills are paid on behalf of the participant rather than providing the funds to the participant to make the payment, and the Local Area purchases laptops and other supportive service needs directly and then provides it to the participant.

14. Can these funds be used to support Undocumented Workers?

Per the Pathway to Services Directive [WSD18-03](#), authorization to work documents are not required to provide supportive services and certain career services. Local Areas should defer to their local pathways or authorization to work policy.

15. We are looking into using prepaid debit cards to disburse the funds, but the cards cost between \$1.50-2.50 each. Would purchasing the cards be an allowable expense for the funds?

The initial fee is allowable as part of the cost of purchasing the card. However, WIOA funds could not pay for reactivation fees. Documentation should be based on current local policy.