

(c) The operating entity must ensure that there is an individualized strategy for transition to unsubsidized employment in place for each participant which takes into account participant assessments, including the TANF assessment and any JTPA assessment. Where appropriate, the TANF individual responsibility plan (IRP), a WIA individual employment plan, or a JTPA individual service strategy should be used for this purpose.

(d) Coordination of resources should include not only those available through WtW and TANF grant funds, and the Child Care and Development Block Grant, but also those available through other related activities and programs such as the WIA or JTPA programs (One-Stop systems), the State employment service, private sector employers, labor organizations, business and trade associations, education agencies, housing agencies, community development corporations, transportation agencies, community-based and faith-based organizations, disability community organizations, community action agencies, and colleges and universities which provide some of the assistance needed by the targeted population (section 402(a)(5)(A)).

**§ 645.230 What general fiscal and administrative rules apply to the use of Federal funds?**

(a) Uniform fiscal and administrative requirements.

(1) State, local, and Indian tribal government organizations are required to follow the common rule “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments” which is codified in the DOL regulations at 29 CFR part 97.

(2) Institutions of higher education, hospitals, and other non-profit organizations and other commercial organizations are required to follow OMB Circular A-110 which is codified in the DOL regulations at 29 CFR part 95.

(3) In addition to the requirements at 29 CFR 95.48 and 29 CFR 97.36(i), contracts or vouchers for job placement services supported by funds provided for this program must include a provision to require that at least one-half

(½) of the payment occur after an eligible individual placed into the workforce has been in the workforce for six (6) months. This provision applies only to placement in unsubsidized jobs (section 403(a)(5)(C)(i)).

(4) In addition to the requirements at 29 CFR 95.42 and 29 CFR 97.36(b)(3) which address codes of conduct and conflict of interest issues related to employees, it is also required that:

(i) A local board or alternate administering agency member shall neither cast a vote on, nor participate in, any decision making capacity on the provision of services by such member (or any organization which that member directly represents), nor on any matter which would provide any direct financial benefit to that member or a member of his immediate family; and

(ii) Neither membership on the local board or alternate administering agency nor the receipt of WtW funds to provide training and related services shall be construed, by itself, to violate these conflict of interest provisions.

(5) The addition method, described at 29 CFR 97.25(g)(2), is required for the use of all program income earned under WtW grants. When the cost of generating program income has been charged to the program, the gross amount earned must be added to the WtW program. However, the cost of generating program income must be subtracted from the amount earned to establish the net amount of program income available for use under the grants when these costs have not been charged to the WtW program.

(6) Any excess revenue over costs incurred for services provided by a governmental or non-profit entity must be included in program income earned.

(b) *Audit requirements.* All recipients and subrecipients of Department of Labor WtW awards must comply with the audit requirements codified at 29 CFR part 96.

(1) All governmental and non-profit organizations must follow the audit requirements of OMB Circular A-133 which is codified at 29 CFR part 99. This requirement is imposed at 29 CFR 97.26 for governmental organizations and at 29 CFR 95.26 for institutions of higher education, hospitals, and other non-profit organizations.

(2) The Department is responsible for audits of commercial organizations which are direct recipients of WtW grants.

(3) Commercial organizations which are WtW subrecipients and which expend more than the minimum level specified in OMB Circular A-133 (\$300,000 as of April 15, 1999) must have either an organization-wide audit conducted in accordance with 29 CFR part 99 or a program specific financial and compliance audit.

(c) *Allowable costs/cost principles.* The DOL regulations at 29 CFR 95.27 and 29 CFR 97.22 identify the Federal principles for determining allowable costs which each kind of recipient and subrecipient must follow. For those selected items of cost requiring prior approval, the authority to grant or deny approval is delegated to the Governor.

(1) State, local, and Indian tribal government organizations must determine allowability of costs in accordance with the provisions of OMB Circular A-87, "Cost Principles for State and Local Governments."

(2) Non-profit organizations must determine allowability of costs in accordance with OMB Circular A-122, "Cost Principles for Non-Profit Organizations."

(3) Institutions of higher education must determine allowability of costs in accordance with OMB Circular A-21, "Cost Principles for Education Institutions."

(4) Hospitals must determine allowability of costs in accordance with the provisions of Appendix E of 45 CFR Part 74, "Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals."

(5) Commercial organizations and those non-profit organizations listed in Attachment C to OMB Circular A-122 must determine allowability of costs in accordance with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR Part 31.

(d) *Information technology costs.* In addition to the allowable cost provisions identified in § 645.235 of this subpart, the costs of information technology—computer hardware and software—will only be allowable under WtW grants when such computer technology is

"Year 2000 compliant." To meet this requirement, information technology must be able to accurately process date/time data (including, but not limited to, calculating, comparing and sequencing) from, into and between the twentieth and twenty-first centuries, and the years 1999 and 2000. The information technology must also be able to make leap year calculations. Furthermore, "Year 2000 compliant" information technology when used in combination with other technology shall accurately process date/time data if the other information technology properly exchanges date/time data with it.

(e) *Prohibition on Construction or Purchase of Facilities.* WtW federal funds may not be used to pay for the construction or purchase of facilities or buildings.

(f) *Prohibition on Business Start-up Costs.* WtW federal funds may not be used to cover the costs of business start-up and/or capital ventures.

(g) *Government-wide debarment and suspension, and government-wide drug-free workplace requirements.* All WtW grant recipients and subrecipients are required to comply with:

(1) Government-wide requirements for debarment and suspension which are codified at 29 CFR part 98, subparts A through E; and

(2) The government-wide requirements for a drug-free workplace. Recipients and subrecipients are required to comply with 29 CFR part 98, subpart F, except that the definition of "grantee" shall be read to include recipients and subrecipients.

(h) *Restrictions on Lobbying.* All WtW grant recipients and subrecipients are required to comply with the restrictions on lobbying which are codified in the DOL regulations at 29 CFR Part 93.

(i) *Nondiscrimination.* All WtW grant recipients and subrecipients are required to comply with the nondiscrimination provisions codified in the DOL regulations at 29 CFR parts 31 and 32. In addition, 29 CFR part 37 applies to recipients of WtW financial assistance who are also WIA recipients and applies to recipients of WtW financial assistance who operate programs that are part of the One-Stop system established under the Workforce Investment Act, to the extent that the

WtW programs and activities are being conducted as part of the One-Stop delivery system. Furthermore, WtW programs that are part of larger State agencies that are recipients of WIA title I financial assistance must also comply with the provisions of 29 CFR part 37. For purposes of this paragraph, the term “recipient” has the same meaning as the term is defined in 29 CFR part 37. That part also contains participant rights related to non-discrimination.

(j) *Nepotism.* (1) No individual may be placed in a WtW employment activity if a member of that person’s immediate family is engaged in an administrative capacity for the employing agency.

(2) To the extent that an applicable State or local legal requirement regarding nepotism is more restrictive than this provision, such State or local requirement shall be followed.

**§ 645.233 What are the time limitations on the expenditure of Welfare-to-Work grant funds?**

(a) *Formula grant funds:* The maximum time limit for the expenditure of a given fiscal year allotment is three years from the effective date of the Federal grant award to the State. The maximum time limit will be allowed and will be specified in the Department’s formula grant document for each fiscal year of funds provided to the State. Any remaining funds that have not been expended at the end of the expenditure period must be returned to the Department in accordance with the applicable closeout procedures for formula grants.

(b) *Competitive grant funds:* The maximum time limit for the expenditure of these funds is three years from the effective date of award, but will, in all cases, be determined by the grant period and the terms and conditions specified in the Federal grant award agreement (including any applicable grant modification documents). Any remaining funds that have not been expended at the end of the approved grant period must be returned to the Department in accordance with the applicable closeout procedures for competitive grants (section 503(a)(5)(C)(vii)).

**§ 645.235 What types of activities are subject to the administrative cost limit on Welfare-to-Work grants?**

(a) *Administrative cost limitation (section 404(b)(1)).—*(1) *Formula grants to states.* Expenditures for administrative purposes under WtW formula grants to States are limited to fifteen percent (15%) of the grant award.

(2) *Competitive grants.* The limitation on expenditures for administrative purposes under WtW competitive grants will be specified in the grant agreement but in no case shall the limitation be more than fifteen percent (15%) of the grant award.

(3) Although administrative in nature, costs of information technology—computer hardware and software—needed for tracking and monitoring of WtW program, participant, or performance requirements, are excluded from the administrative cost limit calculation.

(b) The costs of administration are that allocable portion of necessary and allowable costs associated with those specific functions identified in paragraph (c) of this section for the administration of the WtW program and which are not related to the direct provision of services to participants. These costs can be both personnel and non-personnel and both direct and indirect.

(c) The costs of administration are the costs associated with performing the following functions:

(1) Performing overall general administrative functions and coordination of those functions under WtW including:

(i) Accounting, budgeting, financial and cash management functions;

(ii) Procurement and purchasing functions;

(iii) Property management functions;

(iv) Personnel management functions;

(v) Payroll functions;

(vi) Coordinating the resolution of findings arising from audits, reviews, investigations and incident reports;

(vii) Audit functions;

(viii) General legal services functions; and

(ix) Developing systems and procedures, including information systems, required for these administrative functions;