

**EMPLOYMENT DEVELOPMENT DEPARTMENT**

**Adoption of Chapter 2.2. Workforce Investment Act Provisions,  
Sections 4508-1, 4508-3, and 4508-5  
of Division 3. Employment Services Programs,  
of Part 1. Employment and Employability Services,  
of Title 22, California Code of Regulations**

**WORKFORCE INVESTMENT ACT - DEFINITIONS, REPORTING  
REQUIREMENTS AND RECORD RETENTION**

**Text of Proposed Regulations**

**NOTE:** Language to be added is shown in underline format.

**ADOPT CHAPTER 2.2 AND SECTION 4508-1 TO READ AS FOLLOWS:**

**Chapter 2.2. Workforce Investment Act Provisions**

**§ 4508-1. Workforce Investment Act Definitions.**

In addition to the definitions set forth in Section 101 of the Workforce Investment Act (WIA) (29 United States Code Section 2801) and the WIA regulations (20 Code of Federal Regulations (CFR) Section 660.300), the terms used in the administration of WIA by the Employment Development Department (EDD) shall have the following meaning:

(a) "Accrual Basis of Accounting" means the accounting method wherein revenues and expenses are recorded in the period in which earned or incurred, regardless of whether cash is received or disbursed in that period.

(b) "Capital Lease" is an arrangement that results in the ownership of property and is treated by Federal cost principles as a purchase.

(c) "Cash Expenditures" means an actual disbursement of funds for goods and services that have been received.

(d) "Cash Match" means a contribution of funds from non-WIA sources made available to the subrecipient specifically for project activities. This is a reportable item when such match is a requirement for receipt of a grant. Cash match may be required in certain Solicitation for Proposals (SFP) and is documented by a project specific letter of commitment from the contributor. The awarded subrecipient has control over and disburses these funds.

(e) "Claim" is defined as specified in 2 CFR Part 225, Appendix A, Section B(5).

(f) "Cognizant Agency" is defined as specified in 2 CFR Part 225, Appendix A, Section B(6) and 2 CFR Part 230, Appendix A, Section E(1)(a).

(g) "Contract" is defined as specified in 2 CFR Part 225, Appendix A, Section B(8).

(h) "Cost Allocation Plan (CAP)" is the document that identifies, accumulates, and distributes allowable direct and indirect costs to cost objectives. The CAP also identifies the allocation methods used for distribution to cost objectives on the basis of relative benefits received. The cost objectives include specific grants, cooperative agreements, and contracts.

(i) "Customized Training" means training:

(1) that is designed to meet the special requirements of an employer (including a group of employers);

(2) that is conducted with a commitment by the employer to employ an individual on successful completion of the training; and

(3) for which the employer shares the cost for the customized training effort based on the following sliding scale:

(i) a minimum of a 10 percent match is required of employers with 50 or fewer employees;

(ii) a minimum of a 25 percent match is required of employers with 51 to 100 employees;

(iii) a minimum of a 50 percent match is required of employers with more than 100 employees.

(j) "Eligible Training Provider List (ETPL)" means the State approved list of training providers that provide customer-focused employment training for adults and dislocated workers.

(k) "Entrepreneurial Training" means training a participant on the skills to organize, manage and assume the responsibility of managing the business of the participant.

(l) "Fair Market Value" means the selling price of an item sold through auction, advertisement, or a dealer. An item that is not sold, but retained by the entity, has a "fair market value" based on similar items that are offered for sale, using the selling price if known. Methods for determining "fair market value" include, but are not limited to: (1) auctions; (2) classified advertisements for similar used items; (3) dealers; and (4) licensed appraisers. For automobiles, trucks, and vans, the standard authority on the value of used vehicles is the Kelley Blue Book. Depreciated value is not "fair market value," nor a determining factor in establishing the "fair market value."

(m) "Federal Awarding Agency" is defined as specified in 29 CFR Section 95.2(r).

(n) "Federal Fiscal Year (FFY)" means the period between October 1 of a calendar year and September 30 of the following calendar year, with the subsequent year as the fiscal year (FY) designator. For example, FFY 2009 or FY 2009 is the period between October 1, 2008 and September 30, 2009.

(o) "Federal Share" is defined as specified in 29 CFR Section 95.2(t).

(p) "Governmental Unit" is defined as specified in 2 CFR Part 225, Appendix A, Section B(13).

(q) "Grant Code" designates the three digit code that identifies a particular allocation.

(r) "Indirect Cost Rate Proposal" is defined as specified in 2 CFR Part 225, Appendix A, Section B(15) and 2 CFR Part 230, Appendix A, Section E(1)(f). This proposal provides the basis for the review and negotiation leading to the establishment of an indirect cost rate.

(s) "Individual Training Account (ITA)" means an account established on behalf of a WIA participant, containing funds with which the participant (adult or dislocated worker) purchases training services from eligible providers. An ITA is considered an obligation at the point the participant actually enrolls in the training program.

(t) "In-Kind Contributions" are contributions of non-monetary resources that are to be used specifically for project activities. These contributions are reportable items when such contribution is a requirement for receipt of a grant. In-kind contributions may be required in certain Solicitation for Proposals (SFP) issued by the EDD.

(u) "Job Readiness Training" means training utilizing a curriculum that emphasizes employability skills.

(v) "Leasehold Improvements" means improvements to leased property made by the lessee that usually revert to the lessor at the end of the life of the lease.

(w) "Leveraged Resources" means resources used by the subrecipient to support subgrant activity and outcomes, regardless of whether those resources meet the standards required for match.

(x) "Literacy Training" means training that enables an individual to read, write and speak in English, and to compute and solve problems at levels of proficiency necessary to function on the job.

(y) "Monthly Reporting" means the reporting on a monthly basis which applies to all Local Workforce Investment Areas/subrecipients in receipt of WIA 15 Percent Governor's Discretionary funds, Dislocated Worker 25 Percent Additional Assistance funds, Youth funds, Rapid Response funds, National Emergency Grant (NEG) funds, or Special Grant funds. Monthly reports are not required for the months of March, June, September, or December since quarterly reports must be filed for these four months.

(z) "Occupational Skill Training" means training to learn a specific job skill.

(aa) "Operating Lease" means a lease that does not meet the definition of "capital lease."

(bb) "Other Training Services" means any training services not identified as a training payment. Examples are in-house staff providing training (where a certificate is not issued), training materials, and supportive services that enable a participant to attend training.

(cc) "Prior Approval" is defined as specified in 2 CFR Section 230.25(b).

(dd) "Private Sector Training" means training provided to participants by a private, for-profit organization, which is not controlled by the local government or the State.

(ee) "Program Year (PY)" means the period between July 1 of a calendar year and June 30 of the following calendar year. The PY designator is the year the period begins. For example, PY 2008 is the period between July 1, 2008 and June 30, 2009.

(ff) "Quarterly Reporting" means the financial reports that all WIA subrecipients are required to submit for the quarters ending with March, June, September and December. Quarterly reports are due by the 20<sup>th</sup> of the month following each of the four quarters.

(gg) "Skills Upgrading and Retraining" means the process of upgrading a skill or trade.

(hh) "Subrecipient" means the recipient of a WIA subgrant awarded directly through the EDD.

(ii) "Training Payments" means the price paid for tuition or instruction. These payments of funds are for participants to attend LWIA approved classroom instruction or other training opportunities. "Training Payments" include the use of ITAs for Eligible Training Provider List approved programs. "Training Payments" can also include payments for contracted services for customized training and on-the-job training.

NOTE: Authority cited: Sections 305, 306 and 9600.7, Unemployment Insurance Code. Reference: Sections 9600.5 and 9600.7, Unemployment Insurance Code.

**ADOPT SECTION 4508-3 TO READ AS FOLLOWS:**

**§ 4508-3. Reporting Requirements.**

All Workforce Investment Act (WIA) subrecipients shall:

(a) Establish a financial data system that is capable of interfacing with the State's approved automation system. All subrecipients shall transmit all financial and closeout reports through the State's designated system. Currently, the State's automated system is the Job Training Automation (JTA) system.

(b) Fully comply with all applicable provisions of the WIA, consisting of applicable federal law and regulations, directives, policies, procedures and amendments.

(c) Develop and distribute procedures to their subgrantees for the reporting of WIA expenditures. All subrecipients shall also develop and distribute procedures to their subgrantees for the submission of all closeout reports for WIA expenditures.

(d) Submit their financial data through the State's automated system using the applicable "WIA Summary of Expenditures" form. All of the fields within the appropriate "WIA Summary of Expenditures" form must be completed as follows:

(1) For subgrants awarded from the WIA formula adult and dislocated worker funding stream, the WIA 15 percent discretionary fund, the WIA 25 percent Additional Assistance grants and any Special Grants awarded to the State, Form FWIAD06-3B (Rev. 6/2009).

(2) For subgrants awarded from the WIA formula youth funding stream, Form FWIAD06-3D (Rev. 6/2009).

(3) For subgrants awarded through the National Emergency Grant program, Form FWIAD06-3B (Rev. 6/2009).

(4) For subgrants awarded from WIA 25 Percent Rapid Response funding, Form FWIAD06-3C (Rev. 6/2009).

(e) Submit monthly financial reports through the State's automated system. Monthly financial reports are due on the 20th of the month following the report period, as indicated in the table below. When the reporting deadline falls on a weekend or holiday, all reports are due by the close of business of the last working day prior to the reporting deadline.

<u>Report Month</u>	<u>Report Month to Use in JTA System</u>	<u>Report Due Date</u>
<u>January</u>	<u>1/XX</u>	<u>2/20/XX</u>
<u>February</u>	<u>2/XX</u>	<u>3/20/XX</u>
<u>April</u>	<u>4/XX</u>	<u>5/20/XX</u>
<u>May</u>	<u>5/XX</u>	<u>6/20/XX</u>
<u>July</u>	<u>7/XX</u>	<u>8/20/XX</u>
<u>August</u>	<u>8/XX</u>	<u>9/20/XX</u>
<u>October</u>	<u>10/XX</u>	<u>11/20/XX</u>
<u>November</u>	<u>11/XX</u>	<u>12/20/XX</u>

(f) Submit quarterly financial reports through the State's automated system. Quarterly financial reports must be filed by the 20th of the month following the report period. Quarterly reports for the quarter ending with March must be filed by April 20 of the same year, quarterly reports for the quarter ending with June must be filed by July 20 of the same year, quarterly reports for the quarter ending with September must be filed by October 20 of the same year, and quarterly reports for the quarter ending with December must be filed by January 20 of the following year. When the reporting deadline falls on a weekend or holiday, all reports are due by the close of business of the last working day prior to the reporting deadline.

(g)(1) Submit closeout documents to the State within 60 calendar days when any of the following events occur:

(i) A subgrant agreement or interagency agreement has reached the term end date of the agreement.

(ii) For Local Workforce Investment Areas only, formula funds are at the end of the two-year term of the funds.

(iii) Any line item within the subgrant agreement or interagency agreement is fully spent, regardless of whether the term has ended.

(iv) Any line item within the subgrant agreement or interagency agreement has reached the term end date and the funds are not fully spent.

(2) Submit the following forms for each closeout package:

(i) Final WIA Summary of Expenditure form as applicable for the specific type of funding, as identified in subdivisions (d)(1) through (4), with Section I, line 6 marked with either a "Y" or "C" to designate the closeout. This form is required for all closeouts.

(ii) WIA Closeout Status of Cash, Form FWIAD06-3A (Rev. 6/2009). This form is required for all closeouts.

(iii) WIA Subrecipient Release, Form FWIAD06-3E (Rev. 6/2009). This form is required when closing the entire subgrant.

(iv) WIA Subrecipients Assignment of Refunds, Rebates and Credits, Form FWIAD06-3F (Rev. 6/2009). This form is required when closing the entire subgrant.

(v) WIA Contract Closeout Tax Certification, Form FWIAD06-3G (Rev. 6/2009). This form is required when closing the entire subgrant.

(vi) Property Closeout Inventory Certification, Form FWIAD06-3H (Rev. 6/2009). This form is required when closing the entire subgrant. Additionally, if at the time of closing the subgrant, the subrecipient has an inventory of equipment or supplies purchased with WIA funds that has a fair market value of \$5,000 or more, a WIA Closeout Inventory, Form FWIAD06-3I (Rev. 6/2009) must also be completed along with the Property Closeout Inventory Certification.

NOTE: Authority cited: Sections 305, 306 and 9600.7, Unemployment Insurance Code. Reference: Sections 9600.5 and 9600.7, Unemployment Insurance Code.

**ADOPT SECTION 4508-5 TO READ AS FOLLOWS:**

**§ 4508-5. Record Retention Requirements.**

(a) All Workforce Investment Act (WIA) subrecipients shall retain financial records for a period of three years following the date on which the expenditure report containing the final expenditures charged to a specific Program Year (PY) allotment or subgrant is submitted to the EDD.

(b) All real property and equipment records shall be retained for three years after final disposition of the property. The terms "Equipment" and "Real Property" are defined in federal regulations at 29 CFR sections 97.3 and 95.2, respectively.

(c) All WIA Title I complaint records and actions related to the resolution of such complaints shall be maintained for a minimum of three years from the date of complaint resolution.

(d) All records that are the subject of litigation or audit shall be retained beyond the above-prescribed period if any litigation or audit has been commenced, or if a claim has been instituted involving the subgrant or agreement covered by the records. In these instances, the records must be retained until the resolution of the litigation, audit, or claim and final action has been taken; or until the end of the regular three-year record retention period, whichever is later. Failure to obtain an audit extends the record retention requirement indefinitely. A delay in obtaining an audit or in resolving audit findings extends the record retention period until all audit requirements have been satisfied and all findings have been resolved to the satisfaction of the awarding agency.

(e) All Indirect Cost Records, such as computations or proposals, cost allocation plans, and supporting documentation and records, shall be retained for three years from the end of the Fiscal/PY that contains the final subgrant costs.

NOTE: Authority cited: Sections 305, 306 and 9600.7, Unemployment Insurance Code. Reference: Sections 9600.5 and 9600.7, Unemployment Insurance Code.

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