# Grantee-Subgrantee Agreement

# Questions, Comments, and Answers

## General

DEO received nearly 400 comments and questions overall. DEO acknowledges receipt of all comments and questions, and thanks the respondents for their efforts. DEO has attempted to address every comment and question. Where the comment or question was posed more than once, DEO will address the substance of those comments or questions with one general response. Where a question or comment was posed only once, that question will generally answered in in the Q&A document. With respect to comments or questions that made no clear request, DEO assures the respondents that DEO will provide ongoing technical advice and assistance regarding programmatic and fiscal performance and compliance under the agreement, as appropriate. DEO also wishes to assure commenters that DEO is committed to continued, diligent oversight over the use of federal pass-through funds, and believes that the Grantee-Subgrantee Agreement accurately reflects that commitment.

Of the nearly 400 comments and questions received, three areas of the agreement appeared to generate the most concern: fiscal and administrative controls; performance, reporting, monitoring and auditing; and board governance, responsibilities, and transparency. As a general matter, the nature of Grantee-Subgrantee Agreement is that of a document intended to ensure fiscal and administrative transparency and accountability. The agreement is the foundation upon which each local board's ability to continuously receive funding rests. Finally, the agreement is consistent with DEO's authority under federal and state law and does not interfere with the distribution of formula-allocated funds to the local areas. The agreement recognizes DEO's duties to ensure accountability and to authorize expenditures only for allowable and legally-compliant purposes. To that end, DEO received comments indicating that the Grantee-Subgrantee Agreement was duplicative of language already found in applicable state and federal laws and regulations. DEO appreciates these comments, but the language in the Grantee-Subgrantee Agreement regarding regulatory compliance will remain in place.

DEO received several comments regarding home rule authority, and how that authority is implicated by the Grantee-Subgrantee Agreement. DEO respectfully disagrees that the home rule authority of any local government is affected by a grant agreement concerning the use and expenditure of federal and state grant funds. DEO also received some comments regarding rules and rulemaking under Chapter 120 of the Florida Statutes. DEO does not agree that any portion of the Grantee-Subgrantee Agreement amounts to rulemaking.

| Question / Comment | Document Page # | Response |
|---|---|---|
| 1. Can the department provide a strike through version of the new draft agreement? That will enable our elected officials and our legal counsel to easily see all the changes from the previous agreement. | N/A | The Grantee-Subgrantee Agreement is a completely new agreement. Please review the document in its entirety. |
| 2. Can local areas have more time to analyze the grantee-subgrantee document? | N/A | Yes. On April 20, 2020, the department sent out the Grantee-Subgrantee Agreement - Key Activities and Due Dates – Extension email. Local areas have until **May 8, 2020** to review the draft agreement and submit questions and comments. |



This document includes questions and comments received as of ***May 8, 2020***.

| | | |
|---|---|---|
| 3. Under WIOA, the federal, state and local government entities each have a role. We are certainly aware, that the state has had its challenges in some of the local areas that have come to the attention of the public and US DOL. We know that the reaction is often to adopt stringent policies and rules in reaction to the circumstances. However, we would ask the state to consider that some of the rules and policies imbedded in this new Master Agreement are being imposed against local areas that are doing the right thing and are being punished for their efforts. The "bad apples" have been identified and vanquished.<br><br>• Our LWDB respectfully posits that several clauses in the proposed Master Agreement rise to the level of "rule making."<br><br>FS 120.52 (16) tells us that a "rule" means:<br>"Each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the procedure or practice requirements of an agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule."<br><br>• Our LWDB respectfully asserts that several of clauses which should be promulgated as rules are an invalid exercise of the powers and functions of DEO because pursuant to FS 120.52 (8):<br><br>a. The DEO has not followed the rulemaking procedures provided for in FS 120; In particular among other things the comment period does not meet the statutory requirements for public hearings and comments.<br>b. The contractual clauses falling in this category exceed DEO's rule making authority<br>c. The contractual clauses falling in this category enlarges and/or modifies, or contravenes the specific provisions of WIOA and or 2 CFR 200 et seq. in violation of FS 120. | N/A | Please review the general responses concerning this section of the agreement. |



This document includes questions and comments received as of ***May 8, 2020***.

| | | |
|---|---|---|
| d. The contractual clauses falling in this category impose costs on the regulated person, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.<br><br>• Florida is a Home Rule state and a number of the local area administrative entities are embedded in local government which has absolute power to establish its form of government without state prior approval and several of the clauses in the Master Agreement are contrary to ordinances, codes and resolutions adopted by those local governmental units. Further there are other local areas that follow local government policies as they relate to clauses which are not aligned with those local government policies enacted through codes, plans, ordinances and resolutions.<br><br>• 20 of Florida Counties have adopted Charters and are governed in accordance with those charters. It could be argued that this gives the elected officials who are the oversight entity over the local boards, powers which do not belong to the state and that interference with local governance with state rules or policies is inappropriate.<br><br>• The agreement reiterates quite a bit of regulatory required compliance. Consideration should be given to deleting those requirements as compliance is already covered by those regulations. | | |
| **4. Rulemaking:**<br>We asked our attorney to review the Agreement and he believes several clauses in the Proposed Agreement rise to the level of rulemaking. After reviewing his analysis, we concur in that conclusion FS §120.52 (16) defines a "rule" for the purposes of Florida Law. It states a rule is:<br><br>"Each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the procedure or practice requirements of | N/A | |



This document includes questions and comments received as of ***May 8, 2020***.

| | | |
|---|---|---|
| an agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule."<br>Pursuant to FS §120.52 (8) the comment period DEO has allowed does not meet the statutory 90-day requirement for public hearings and comments. DEO has not followed the rulemaking procedures provided for in FS Ch. 120;<br><br>Additionally, some contractual clauses, as noted below in our specific comments, enlarge, modify, or contravene the specific provisions of WIOA and or 2 CFR §200 et seq. in violation of FS Ch. 120. The contractual clauses falling in this category impose costs on the regulated person, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives. | | |
| **5. Redundancy:**<br>The agreement reiterates quite a few required regulatory compliance provisions. Consideration should be given to deleting those paragraphs as compliance is already covered by regulation. | N/A | Please review the general responses concerning this section of the agreement. |
| 6. As this is an agreement now being signed by the Chief Local Elected Officials, and therefore go through their legal departments, will this agreement be negotiated with the counties? What will be the process for contract modifications for the counties? | N/A | The Grantee-Subgrantee Agreement template has been presented for comment and discussion, and all interested parties were provided the opportunity to give feedback. Any modifications to the template will occur prior to release of the final version. |
| 7. What is the reason for the CLEOs to sign this agreement (as it had not been signed in previous years). | N/A | The U.S. Department of Labor has provided clear expectations and guidance regarding the oversight role of CLEOs in the local workforce delivery system. Additionally, Section 107(d)(12)(B) of WIOA identifies chief elected officials as the local grant recipient and liable for misuse of grant funds allocated to the local area. |
| 8. Question: Is the Chief Local Elected Official (CLEO) a necessary party to the Agreement? If so, what is the authority to require that the CLEO be a party to the Agreement? Or, is it where the local workforce development area (LWDA) and DEO will negotiate and reach agreement on the terms and conditions of the Grantee-Subgrantee Agreement with the agreement of the CLEO? | N/A | |
| 9. Throughout the agreement the word Board is used meaning Local Workforce Development Board. Please define if this is intended to mean the Board of Directors, Corporate Staff or the Entity that incorporates both? | N/A | The Department is evaluating the agreement in light of this comment. |

| | | |
|---|---|---|
| 10. Typically, the definition of a contract between two parties is an agreement where each party promises to do something for the other in exchange for a benefit. I don't see DEO promising to do anything in this document. How is DEO promising to be a good and trusted partner in this contract? | N/A | Please review the general responses concerning this section of the agreement. |
| 11. Comparing this agreement to the 2012 agreement, the tenor and approach have changed from one of partnership to one of punitive and negative language. Is this the intent of DEO? | N/A | The Grantee-Subgrantee Agreement governs the use and expenditure of funds and sets forth certain administrative expectations and requirements. |
| 12. The agreement does not mention serving employers (that may be standard, but it just stood out to me). Does DEO not recognize that under WIOA, we are serving employers first? How is that woven into this contract? | N/A | DEO has reviewed the agreement in light of this comment and has made a change. |
| 13. While I am all too aware this is a legal document, the language and tone does not convey a partnership or willingness to work together. "Sole discretion," "sole authority," etc. seems to be a muscle flex without consideration for the LWDB and CLEO, not to mention staff who work within the parameters set in the document. I understand the attempt to correct past sins through a broad-stroked agreement, however no agreement will keep bad actors from acting--only knowledgeable and justified oversight, coupled with collaboratively-crafted guidance will. It is also apparent there is little awareness of what takes place in the regions or the struggles we have voiced (and even asked the department for assistance with) in the past. That is disheartening and concerning as an implementation "partner." | N/A | Please review the general responses concerning this section of the agreement. |
| 14. With all due respect, it is our understanding that this document is to serve as the MOU/IFA between DEO and workforce boards. MOUs generally indicate a partnership between or among the entities. This document appears to be primarily one-sided, and in some ways, comes across as threatening and punitive to workforce entities. Also, in some instances, the document lacks specificity regarding implied regulatory references related to both the state and federal laws. There appears to be a clear attempt to document how oversight will occur. However, much of this oversight information is already outlined in federal law, codes of federal regulations, state statute, Uniform Guidance, and CSF/DEO policies and procedures. Perhaps deleting the statements that reiterate | N/A | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| regulatory requirements and instead adding one statement that says something like "both parties agree to follow federal and state laws, Codes of Federal Regulations, and Uniform Guidance in all fiscal and programmatic operations relative to the programs covered under this agreement" would suffice? | | |
| 15. Throughout the document, references to the "Board" are difficult to interpret whether the intended party is the LWDB's administrative entity or its full Board of Directors. Can this please be clarified throughout? | N/A | The Department is evaluating the agreement in light of this comment. |
| 16. Except in section 3 Fiscal and Administrative Controls, letter d., although the document outlines definitions and acronyms, we did not see a clear statement outlining which programs are actually covered under this MOU. Perhaps a "Programs and Funding Sources Covered" section could be added? | N/A | DEO received this comment and in consideration thereof, elected to make no change. |
| 17. **WHEREAS**, pursuant to section 121(h) of the Workforce Innovation and Opportunity Act (Pub. L. 113-128) and section 445.009(c), Florida Statutes, DEO and the Board intend for this Agreement to satisfy the requirements that the Board enter into a memorandum of understanding and infrastructure funding agreement with each mandatory or optional partner participating in the one-stop delivery system.<br><br>**Comment:** Statutory reference should be 445.009(2)(c). | 1 | DEO has noted this correction and made this change. |
| 18. **WHEREAS**, pursuant to section 121(h) of the Workforce Innovation and Opportunity Act (Pub. L. 113-128) and section 445.009(c), Florida Statutes, DEO and the Board intend for this Agreement to satisfy the requirements that the Board enter into a memorandum of understanding and infrastructure funding agreement with each mandatory or optional partner participating in the one-stop delivery system.<br><br>**Comment:** Statutory reference should be 445.009(2)(c). | 1 | |
| 19. **WHEREAS**, pursuant to section 121(h) of the Workforce Innovation and Opportunity Act (Pub. L. 113-128) and section 445.009(2)(c), Florida Statutes, DEO and the Board intend for this Agreement to satisfy the requirements | 1 | |

| | | |
|---|---|---|
| that the Board enter into a memorandum of understanding and infrastructure funding agreement with each mandatory or optional partner participating in the one-stop delivery system. | | |
| 20. WHEREAS, pursuant to Section 121(h) of the Workforce Innovation and Opportunity Act (Pub. L. 113-128) and Section 445.009(c), Florida Statutes, DEO and the Board intend for this Agreement to satisfy the requirements that the Board enter into a memorandum of understanding and infrastructure funding agreement with each mandatory or optional partner participating in the one-stop delivery system.<br><br>**Comments:** Statutory reference is incorrect. Should be 445.009(2)(c). Purpose of the entire whereas clause is moot since the requirements contemplated in Section 121(h) WIOA and 445.009(2) (c) are contained in DEO Policy Number 106 Memorandums of Understanding and Infrastructure Funding Agreements. There is a policy already in place that addresses this so what is the purpose of this clause?<br><br>Section 445.002(2)(c) of the Florida Statutes requires that the Board and the one-stop partner must come to an agreement regarding infrastructure costs by July 1, 2017, or the costs shall be allocated pursuant to a policy established by the Governor. What is the authority for DEO to address and satisfy such requirements on infrastructure | 1 | DEO has noted this correction and made this change. |
| 21. The revised document is now scheduled to be released in May with a requirement of a signed agreement returned to DEO by June 30. Depending on the actual release time of the final agreement local Boards and County Commissions may not have enough time for the agreement to go through any required process or meetings that would allow the assigned individual to sign. Some local Boards meet bi-monthly or quarterly. In addition, if a local Board or County Commission objects to anything in the document there will be no time for any negotiations. Given there are terms in this agreement that go beyond the requirements of law or the regulations of WIOA, local Boards and local governmental entities should be given time to review the final document and where necessary negotiate with all parties. If this is not an agreement but a mandate no signatures are necessary. | N/A | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| 22. DEO has failed to update the website information on the agreement template after sending an email to the local boards extending the public comment period until May 8, 2020. Members of the public, including elected officials at the local level, that went to the website and to the document providing the timeline continue to see an end date for comments of April 24, 2020 and a release date of April 27, 2020.<br><br>Members of the public, including local elected officials, that did not receive the email directly from DEO would be under the impression the original timeline was still in place and may fail to comment since they would have no reason to think additional comments and questions could be provided to DEO for consideration after the posted closure date. | N/A | Please review the general responses concerning this section of the agreement. |
| 23. All items with a hard deadline date for any party should have a provision for extension of the date due to circumstances that may arise. | N/A | Please review the general responses concerning this section of the agreement. |
| 24. Is there a reason DEO decided to write the entire agreement without input from CareerSource Florida, the local boards, the Chief Elected Officials, or the Florida Association of Counties of which most county commissioners serving as the CLEO would be a member? Normally an agreement is "a negotiated and typically legally binding arrangement between parties as to a course of action." (Oxford dictionary) In this case the agreement was not negotiated and two of the parties had no part in the development of the agreement until it had already reached a stage of public comment. Public comments are not negotiations and even if they were it is almost impossible to negotiate when the party that wrote the agreement without input from the other parties fails to answer questions or respond to comments in a timely fashion.<br><br>The answers to questions submitted in a timely fashion could cause additional question or comments that could not be developed until such time as DEO answered the original question or responded to the original comment. The failure to provide timely answers or responses prevents local Boards, local elected officials, and the public at large from asking these follow up questions. | N/A | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| As it stands DEO could simply ignore the comments and questions making little or no change to the agreement and require the local boards and officials to sign. The ability of public comments to change the agreement are already in question due to the original published deadlines that allowed very little time for public comments and had the deadline for comments ending on Friday and the final document released the following Monday. | | |

## 1. Definitions and Acronyms

| Question / Comment | Document Page # | Response |
|---|---|---|
| 1. In various documents, the reference to Boards of County Commissioners have been called CLEO, LEO, and CEO. In Florida, the CLEO is the Board of County Commissioners making up the designated region or the consortium of Board of County Commissioners making up a region. The following is recommended:<br><br>• Define and refer to one consistent term. | 1 | The term “chief local elected official” and the acronym “CLEO” have the same meaning as found in Section 3(9) of WIOA for the term “chief elected official”. The Grantee-Subgrantee Agreement is consistent in the use of the acronym CLEO. |

## 2. Term and Expiration

General response - Section 2

DEO received a number of comments related to the timing of release of the new Grantee-Subgrantee Agreement, and the apparent sudden urgency surrounding its execution, especially given current circumstances. DEO is committed to an open, transparent, and accountable workforce system under WIOA. DEO recognizes that the current situation has introduced new challenges at all levels of the workforce system; however, those challenges should not stand in the way of ensuring an open, transparent, and accountable workforce system under WIOA.

Several commenters noted the duration of the agreement, with some commenters suggesting durations of between three and five years. The agreement term aligns with the recertification of boards, which will occur in 2021.

Some commenters raised concerns regarding DEO's ability to terminate the agreement. DEO urges those commenters to review the terms of the agreement, as the agreement is clear on its face with respect to termination.

Some commenters also expressed concern regarding renewal or extension of the agreement by DEO in its sole discretion. DEO reminds these commenters that this document is the vehicle through which the local boards receive funding. In order to prevent a disruption of funding due to protracted discussions at the local level, DEO has elected to provide this mechanism through which no further local action is required to continue to receive funds. DEO assures the local boards that it will continue to provide open lines of communication for the local boards regarding any renewal or extension of the agreement.

| Question / Comment | Document Page # | Response |
|---|---|---|
| 1. This has not been put out since 2012 and now looks urgent and like it will be an annual thing. It is extremely difficult to get something through BOCC signatures, so I can see a perpetual problem with my LEOs. Please make it at least a 3-year deal. | 1 | Please review the general responses concerning this section of the agreement. |
| 2. WIOA does not allow for the decertification of local areas/boards without a hearing – DEO should recognize that it does not have the absolute power to terminate this Agreement and should modify the language accordingly. | 1 | The terms of the Grantee-Subgrantee Agreement are consistent with WIOA and state law. |
| 3. WIOA does not allow for the de-certification of local areas/boards without a hearing. DEO should recognize that it does not have the absolute power to terminate this Agreement and should modify the language accordingly. | 1 | |

| | | |
|---|---|---|
| 4. Under what circumstances may DEO terminate this agreement? For cause or not? If for cause, please define cause. | 1 | Please review the general responses concerning this section of the agreement. |
| 5. What authority does the State Board have in this section? | 1 | Please review the Grantee-Subgrantee Agreement regarding this question. |
| 6. Please define "sole discretion". | 1 | This phrase comports with its common meaning. |
| 7. I believe the term of this agreement should be longer than one program/fiscal year. It should be for three years and continue in perpetuity unless modified by DEO and boards after the three year period. | 1 | Please review the general responses concerning this section of the agreement. |
| 8. No reason for termination is required and no reference to another section describing reasons for termination. We are requesting such provisions be added to the Agreement. | 1 | Please review the general responses concerning this section of the agreement. |
| 9. An agreement of this magnitude should not expire within 365 days. Please consider a 3 or 5 year term. At the very least, there should be consideration of both entities' needs, new legislation impacting one or both parties, and other outside factors. | 1 | |
| 10. The term of the agreement is set for one year. One year passes quickly. Perhaps a longer term, with annual reviews (which can occur through annual monitoring) might be more practical? | 1 | |
| 11. If LWDA is redesignated, especially in part, the LWDA may still exist. This agreement would still be in place as there is nothing defining geographic boundaries herein. | 1 | |
| 12. Can you be more specific on the extensions? | 1 | |
| 13. Section 2 Term and Expiration - The statement that "the Subrecipient <u>is absolutely responsible</u> for all work performed and all expenses incurred in fulfilling the obligations of this agreement" appears one-sided, and does not appear to clearly outline the responsibilities of DEO, or DEO's costs that may be related to policy development, monitoring, oversight. We suggest changing the wording to indicate that the Subrecipient is responsible for all work performed and all expenses incurred at the local level as related to the issued NFAs. | 1 | DEO received this comment and in consideration thereof, elected to make no change. |

| | | |
|---|---|---|
| 14. Section 2 Term and Expiration - The statement beginning "If DEO elects to terminate this agreement" comes across as threatening and perhaps an overstep of authority. Perhaps reflecting the previous sentence that mentions re-designation or decertification, and changing that wording to begin the next sentence with… "In such case, DEO will notify the Board…" | 1 | |
| 15. By what date each year is DEO required to notify local areas that the agreement has been renewed? By what date is DEO required to provide local areas with any changes to the agreement? Changes to the agreement may require board and CLEO action so any changes should require a notification date of March 31st each year to allow appropriate time to review changes and make comments. | 1 | Please review the general responses concerning this section of the agreement. |
| 16. LWDB needs the opportunity to agree to the renewal or extension of the termination date. LWDB needs the ability to terminate this Agreement. Agreement should be terminable only "for cause". | 1 | Please review the general responses concerning this section of the agreement. |
| 17. LWDB needs the opportunity to agree to the renewal or extension of the termination date. LWDB needs the ability to terminate this Agreement. Agreement should be terminable only "for cause". | 1 | |
| 18. The term of this agreement is only for one year. It may be renewed or extended by DEO with no approval from the Board. This requirement violates the concept of "home rule" and implies that the Boards (which are separate legal entities) are part of DEO. Since this agreement now includes the CLEO's, you have not offered any opportunity for their input. The current agreement has been in place since 2012, so why is there a hurry to have a new one in place by July 1? LWDB's have been asking for this to be updated for multiple years. The following is recommended:<br>o Require local board approval to renew or extend.<br>o Have each local board notify each CLEO to make them aware of the extension. That is if DEO continues to require CLEO's to sign.<br>o Strike "sole discretion" since the operation of the workforce system is designed by WIOA to be a collaboration between federal, state and local partners.<br><br>This section does not make any reference to the CSF Policy Number 94 "Local Workforce Development Area Designation". This policy calls out how "adverse actions" are handled. Reference should be made to this policy since it reasonably involves CSF, DEO, CLEO and | 1 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| LWDB's. It also shows the appeal process including the Federal Appeals Procedures. The following is recommended:<br>o Reference the CSF Policy Number 94.<br>o Describe reasons for termination in the document so that it is transparent to the public and partners. | | |
| 19. Comment: Recommend modification to incorporate an Administrative hearing as part of the decertification process as this proceeding is required. | 1 | Please review the general responses concerning this section of the agreement. |
| 20. **TERM AND EXPIRATION.** The Effective Date of this Agreement is July 1, 2020. This Agreement ends on June 30, 2021 (the "Expiration Date"), unless otherwise terminated as set forth herein. This Agreement may be renewed or extended for a period of time upon mutual written agreement by the Parties. ~~to be determined by DEO in its sole discretion, and without the Board's approval, at any time prior to the Expiration Date.~~ This Agreement terminates, supersedes, and replaces any prior agreement in effect between DEO and the Board regarding the subject matter set forth herein as of the Effective Date, except that any all statutory obligations in existence remain duties of only the Party governed by such obligations. The period between the Effective Date and the Termination Date is the "Agreement Period". Subrecipient is absolutely responsible for all work performed and all expenses incurred in fulfilling the obligations of Subrecipient and no other Party or third-party beneficiary of this Agreement. If the LWDA is redesignated (as what?) in whole or in part, or the Board is decertified, then DEO may terminate this Agreement. If DEO elects to terminate this Agreement, then DEO will notify the Board and the CLEO of such termination, when the termination becomes effective, and any termination instructions. Under this Section, the DEO, the Board, or the Subrecipient shall have the authority to use the administrative process and request a hearing to terminate this Agreement, for any reason each sees fit. | 1 | DEO received this comment and in consideration thereof, elected to make no change.<br>- |



This document includes questions and comments received as of ***May 8, 2020***.

## 3. Fiscal and Administrative Controls

General response – Section 3

DEO received the highest volume of questions and comments related to section 3. Section 3 concerns fiscal and administrative controls. DEO emphasizes that each local board must spend all funding in accordance with applicable federal and state laws, rules, and regulations and the agreement. DEO is ultimately responsible to the U.S. Department of Labor for any misuse or unallowable expenditure by the local boards, and DEO will pass down any cost disallowances down to any local board, where it is found that the local board improperly utilized the funds.

Some commenters were concerned with the meaning of "performance," "completed performance," or "successful performance" by the local board. The foregoing terms and phrases comport with their respective common meanings, with the added clarification that "successful performance" is performance which is consistent with all applicable federal and state laws, rules, and regulations and the agreement. In a similar vein, some commenters questioned what DEO's performance under the agreement would be. DEO's performance under the agreement is to provide funding to the local areas, and to provide ongoing technical support and fiscal and programmatic monitoring and oversight.

Some commenters expressed confusion as to certain uses of funds, specifically with prosecuting or defending claims or appeals. Funding provided under the agreement may not be used by the local board to prosecute or defend any claim or suit against the State of Florida or DEO. Any such matters must be paid for out of unrestricted funds. DEO has added language to the Grantee-Subgrantee Agreement to provide clarity. This provision is consistent with WIOA and the Uniform Guidance. Similarly, some commenters questioned DEO's ability to recoup funds, and confusion over what amounted to an overpayment. DEO may recoup overpayments of funds, and may also seek to offset future awards against amounts previously overpaid to a local board, after a determination of overpayment has been reached. While DEO is the final authority on what is an overpayment, DEO will not reach a decision without thorough review and discussion with the chief local elected officials and local board.

DEO received several comments regarding the term "Overpayment" and the process for making an overpayment determination. DEO emphasizes that it will work with the chief local elected officials and local boards in its monitoring and oversight role to accurately determine compliant and noncompliant uses of funds, and in no event will DEO inform a chief local elected official or local board that an overpayment has definitively occurred without first communicating with the chief local elected official and local board to fully understand the nature and extent of any overpaid funds. DEO further emphasizes that the cooperation of chief local elected officials and local boards and the board's staff, employees, contractors and administrative entities is key in achieving the most correct determination.

Several commenters asked about the uses of Notices of Funds Availability (NFAs). An NFA is a vehicle through which a local board is provided access to grant funds. The issuance of an NFA may include conditions regarding use of funds. Those conditions may need to be met prior to the release of funding or demonstrated after expenditure has occurred, depending on the

condition and circumstances. Further, certain grants may have different programmatic or regulatory limits or requirements. The NFA will inform the local board of those requirements. DEO notes that the local boards currently receive funding through this NFA process, and the process will remain unchanged from how it operates now.

A number of comments discussed the $710 per day limit on paying consultants. Please review the United States Department of Labor Employment and Training Administration Standard Federal Award Terms & Conditions for your federal pass-through awards. 48 CFR 31.205-33(a), defines professional and consulting services as, "those services rendered by persons who are members of a particular profession or possess a special skill and who are not officers or employees of the contractor. Examples include those services acquired by contractors or subcontractors in order to enhance their legal, economic, financial, or technical positions. Professional and consultant services are generally acquired to obtain information, advice, opinions, alternatives, conclusions, recommendations, training, or direct assistance, such as studies, analyses, evaluations, liaison with Government officials, or other forms of representation." The pay is determined by the consultant's hourly fee, with the limitation of $710 per day based upon an eight-hour work day.

| Question / Comment | Document Page # | Response |
|---|---|---|
| **(Related to item a)**<br>1. WIOA funds must be provided within 30 days of allotment to the states – pursuant to WIOA 128 and 133 and 20 CFR 683.120<br><br>The state is obligated to allocate the formula portion of WIOA to the local areas – this right is not waivable and the language in this section is contrary to the overriding federal statute<br><br>Further the word "performance" in this context is inappropriate at least as it applies to WIOA – because termination for lack of performance must be defined in accordance with WIOA and not loosely to encompass unknown parameters as is the case with the language as written. | 2 | The terms of the Grantee-Subgrantee Agreement are consistent with WIOA and state law. |
| **(Related to item a)**<br>2. Please clarify the meaning of DEO's performance. What is considered as a subrecipient successfully completed performance? What authority does the State Board have over the budget? | 2 | Please review the general responses concerning this section of the agreement. |
| **(Related to item a)**<br>3. What is the definition of "satisfactory performance" in this item. | 2 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| **(Related to item a)**<br>4. When did DEO take on the role of determining allocations? CSF Board should maintain that role as the policy entity. DEO needs to maintain the role of fiscal entity and program compliance guidance and monitoring. | 2 | This paragraph does not reduce or eliminate the State Board's role in approving the formula for funding allocations. |
| **(Related to item a)**<br>5. a. Subrecipient may not expend "any funds" to prosecute or defend? Does "any funds" mean those issued under this agreement? May DEO use their allocated funds for this purpose? | 2 | Please review the general responses concerning this section of the agreement. |
| **(Related to item a)**<br>6. Section 3 Fiscal and Administrative Controls item a. - The statement "DEO will provide funds in consideration for the Subrecipient's satisfactory performance under this Agreement" appears too broad as written. We respectfully suggest adding a section that clearly outlines the terms "satisfactory performance" as related to funding and in accordance with the parameters of the law. | 2 | Please review the general responses concerning this section of the agreement. |
| **(Related to item a)**<br>7. Section 3 Fiscal and Administrative item a. - The statement that says DEO shall have final authority as to both the availability of funds and what constitutes annual appropriation" appears misleading. It is our understanding that WIOA law outlines general formulas and guidelines for fund distribution. Perhaps something like "DEO shall distribute funds based on federal and state guidance, annual appropriations and funding availability"? | 2 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item a)**<br>8. If the state legislature and Governor have executed the state budget and USDOL has released funds to the state, how then does DEO have the authority to withhold funds if all terms of this agreement are being met? | 2 | Please review the general responses concerning this section of the agreement. |
| **(Related to item a)**<br>9. What is considered satisfactory performance? What is DEO's performance? | 2 | Please review the general responses concerning this section of the agreement. |
| **(Related to item a)**<br>10. Funds are passed through the state by the federal gov't, accordingly there would not be a state funding shortfall. This needs to be re-worded. WIOA funds must be provided within 30 days of allotment to the state. | 2 | |

| | | |
|---|---|---|
| **(Related to item a)**<br>11. What is meant by "not expend funds to pay any costs incurred in connection with any defense against any claim or appeal? Where is the authority to prohibit this? Appears to conflict with 2 CFR 200. §200.435 – Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements. | 2 | |
| **(Related to item a)**<br>12. Comment: Recommend modification of language as DEO is obligated to allocate the formula portion of WIOA to the local areas. | 2 | |
| **(Related to item a)**<br>13. DEO will provide funds no later than sixty from allotment, in consideration for the Subrecipient's ~~satisfactory performance~~ performance of its obligations under this Agreement. The State of Florida's and DEO's performance and obligation to pay under this Agreement is contingent upon an annual appropriation for workforce and other related funds by the Legislature of the State of Florida. DEO shall confer with Subrecipient as to ~~have final authority as to~~ both the availability of funds and what constitutes an "annual appropriation" of funds. The Board shall have final authority as to the local use and allocation towards local programs and projects from the amount of funds budgeted towards the aforementioned "annual appropriation." The lack of appropriation or availability of funds shall not create DEO's default under this Agreement. If there is a state or federal funding shortfall, then the funding otherwise made available under this Agreement may be reduced. The Subrecipient shall not be required to expend funds to pay any costs (costs needs to be defined) incurred in connection with any defense against any claim or appeal of the State of Florida or any agency or instrumentality thereof (including DEO) or to pay any costs incurred in connection with the prosecution of any claim or appeal against the State of Florida or any agency or instrumentality thereof (including DEO), which the Subrecipient instituted or in which the Subrecipient has joined as a claimant. Subrecipient shall be entitled to select Subrecipients own attorney in any such appeals and all attorney's fees and costs incurred by the Subrecipient in defending against any actions as described herein shall be reimbursed by DEO to Subrecipient. | 2 | DEO received this comment and in consideration thereof, elected to make no change. |

| | | |
|---|---|---|
| **(Related to items a-c)**<br>14. Paragraphs a-c, we have to pay back DEO within 30 days of our discovery of any overpayment or receipt of notification from DEO that an Overpayment has occurred. The Subrecipient shall not expend funds to pay any costs incurred in connection with any defense against any claim or appeal of the State of Florida or any agency or instrumentality thereof (including DEO) or to pay any costs incurred in connection with the prosecution of any claim or appeal against the State of Florida or any agency or instrumentality thereof (including DEO).<br><br>**Comment:** DEO decides what an overpayment is without a formal hearing. This seems vague that the "subrecipient shall not expend any funds to pay any costs in connection with any defense..." Not clear as to what "shall not expend funds to pay any costs" means and appears to conflict with 2 CFR 200. See §200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements. | 2 | Please review the general responses concerning this section of the agreement. |
| **(Related to item b)**<br>15. Usually NFAs contain conditions subsequent (upon expenditure) not preceding the issuance of the NFA. Can DEO please review the language? | 2 | The issuance of an NFA may include conditions regarding use of funds. Those conditions may need to be met prior to the release of funding or demonstrated after expenditure has occurred, depending on the condition and circumstances. |
| **(Related to item b)**<br>16. Prior to receipt? Or upon expenditure? It is unclear how or why an LWDA would/could meet requirements prior to spending the money. | 2 | |
| **(Related to item b)**<br>17. Section 3 Fiscal and Administrative item b. - Please define what is meant by "The subrecipient's receipt of funding under an NFA may be conditioned upon the subrecipient's performance of certain requirements prior to receipt of such funding" and under what circumstances this may be implemented? If this is based upon a performance improvement plan or similar arrangement, this should be so stated. | 2 | |
| **(Related to item b)**<br>18. What are the terms, conditions, assurances, restrictions or other instructions that will be included in a NFA? Suggest, as an attachment, a form of NFA to be used. Alternatively, suggest the following language: "The NFA may incorporate applicable state and federal law, rules regulations, policies, and the terms of this Agreement." | 2 | |

| | | |
|---|---|---|
| **(Related to item b)**<br>19. Cannot agree to allow the terms of a NFA to trump the terms of this Agreement without knowing the terms of the NFA. The terms of the Agreement should always prevail. | 2 | |
| **(Related to item b)**<br>20. What are the terms, conditions, assurances, restrictions or other instructions that will be included in an NFA? Suggest that DEO include, as an attachment, a form of an NFA to be used. Alternatively, suggest the following language: "The NFA may incorporate applicable state and federal law, rules, regulations, policies, and the terms of this Agreement." Otherwise there is unlimited discretion on what DEO can require, and CSB should not agree to allow the terms of an NFA to trump the terms of the Agreement. The terms of the Agreement should always prevail. | 2 | |
| **(Related to item b)**<br>21. The Subrecipient must comply with all terms, conditions, assurances, restrictions, or other instructions contained within the NFA as a condition precedent to the Subrecipient's receipt of funding set forth in the NFA. Except as specifically set forth herein, if a conflict between the terms of this Agreement and any NFA, the terms of the NFA shall control.<br><br>Question: The NFA outlines the terms, conditions, assurances, etc. that are to be follow subsequent to the receipt of funds. Should the highlighted wording be "conditions subsequent"? | 2 | |
| **(Related to item b)**<br>22. DEO will make funding available to the Subrecipient by issuing NFAs through DEO's financial management information system. Each NFA may list or incorporate specific terms, conditions, assurances, restrictions, or other instructions based upon statutory requirements , grant funding or other required prescribed mandatory perquisites for funding applicable to the funds provided by the NFA. The Subrecipient's receipt of funding made under an NFA may be conditioned upon the Subrecipient's performance of certain statutory requirements , grant funding or other required prescribed mandatory perquisites for funding requirements prior to the receipt of such funding. The Subrecipient must comply with all terms, conditions, assurances, restrictions, or | 2 | |

| | | |
|---|---|---|
| other instructions contained within the NFA as a condition ~~precedent~~ to the Subrecipient's receipt of funding set forth in the NFA. Except as specifically set forth herein, if a conflict between the terms of this Agreement and any NFA, the terms of the Agreement ~~NFA~~ shall control. | | |
| **(Related to item b)**<br>23. WIOA funds must be provided within 30 days of allotment to the states – pursuant to WIOA §§128 and 133 and 20 CFR §683.120. The state is obligated to allocate the formula portion of WIOA to the local areas. This right is not waivable and the language in this section is contrary to the overriding federal statute. Further the word "performance" in this context is inappropriate at least as it applies to WIOA because termination for lack of performance must be defined in accordance with WIOA and not loosely to encompass unknown parameters as is the case with the language as written. | 2 | The terms of the Grantee-Subgrantee Agreement are consistent with WIOA and state law. |
| **(Related to item c. i)**<br>24. WIOA 184 and 20 CFR 683.700 "except for actions under WIOA secs. 116 and 188(a) or 29 CFR parts 31, 32, 35, and 38 and 49 CFR part 25, the Grant Officer must use the procedures outlined in § 683.440 before imposing a sanction on, or requiring corrective action by, recipients of funds under title I of WIOA.) this applies to recipients (states) and their actions vis a vis their sub-recipients as well.<br><br>Generally, the state could only take the action above after a hearing and consultation with the applicable local elected officials. It is recommended this section be modified or deleted as the power of the state is already contained within the authorizing legislations. | 2 | The terms of the Grantee-Subgrantee Agreement are consistent with WIOA and state law. |
| **(Related to item c. i)**<br>25. After consultation with the LWDB? CLEO? | 2 | Please review the general responses concerning this section of the agreement. |
| **(Related to item c. i)**<br>26. The reference to reducing or suspending funding is an issue that should include our Chief Local Elected Officials; the agreement does not reference this. We feel the legal process for these actions should be included as our signature would indicate that we approve what is contained in the agreement as written. | 2 | The terms of the Grantee-Subgrantee Agreement are consistent with WIOA and state law. |

| | | |
|---|---|---|
| **(Related to item c. i)**<br>27. Comment: Recommend modification of language as generally, the state could only take the action above after a hearing and consultation with the applicable local elected officials in accordance with WIOA 184 and 20 CFR 683.700. | 2 | The terms of the Grantee-Subgrantee Agreement are consistent with WIOA and state law. |
| **(Related to item c. i)**<br>28. WIOA §184 and 20 CFR §683.70 provide:<br>"except for actions under WIOA §§116 and 188(a) or 29 CFR parts 31, 32, 35, and 38 , and 49 CFR part 25, the Grant Officer must use the procedures outlined in §683.440 before imposing a sanction on, or requiring corrective action by, recipients of funds under Title I of WIOA. This applies not only to recipients (states), but also to their action's vis a vis their sub-recipients. Generally, the state can only take the action above after a hearing and consultation with the applicable local elected officials. It is suggested this section be modified or deleted as the power of the state is already contained within the authorizing legislation, albeit in a different manner. | 2 | The terms of the Grantee-Subgrantee Agreement are consistent with WIOA and state law. |
| **(Related to item c. i)**<br>29. Reduction or Suspension of Funding. After an administrative ~~adversarial~~ hearing requested by any of the Parties and a Recommended Order issued by an Administrative Law Judge,~~ and consultation with the appropriate elected official,~~ DEO ~~may~~ shall comply with the Administrative Law Judge's Recommended Order and follow any Recommended Order's partial~~ly~~, complete~~ly~~, temporary ~~ily~~ or permanent~~ly,~~ reduction ~~e~~ or suspension of ~~d~~ any funding provided under this Agreement or funding made available pursuant to an NFA, if the Subrecipient was found by the Administrative Law Judge ~~fails~~ to have failed to comply with all applicable state and federal laws, rules, and regulations, or the terms of this Agreement. ~~or any NFA.~~ | 2 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item c. ii)**<br>30. What is the process for determining which funds and how recouping occurs? Who has input? | 2 | Please review the general responses concerning this section of the agreement. |
| **(Related to item c. ii)**<br>31. Language should note that this could happen only following a hearing. | 2 | |



This document includes questions and comments received as of ***May 8, 2020***.

| | | |
|---|---|---|
| **(Related to item c. ii)**<br>32. Comment: Recommend modification of language to note that this can only take place following a hearing and if adjudicated as such. | 2 | |
| **(Related to item c. ii)**<br>33. This provision should be modified to provide that this could happen only after notice and hearing. Also, we do not agree that all these amounts should be characterized as "overpayments." There may simply be a difference of opinion on the use of funds as not every type of expenditure can possibly be defined. | 2 | |
| **(Related to item c. ii)**<br>34. This item also does not reference the legal process or inclusion of our local elected officials in this process. If funds have been spent and there is any funding lost, our local elected officials would be liable and should therefore be included somewhere in this language. If this is covered in WIOA law or rule perhaps that should just be referenced here. For example: "the process cited at _____ would be followed in this case. | 2 | Please review the general responses concerning this section of the agreement. |
| **(Related to item c. ii)**<br>35. Recoupment. Notwithstanding anything in this Agreement ~~or any NFA to the contrary~~, DEO has a~~n absolute~~ right to recoup funds if after an administrative hearing on the merits, the Administrative Law Judge issues a Recommended Order requiring the Subrecipient to reimburse funds to DEO and the Subrecipient does not appeal such an Order to the appropriate next finder of fact . ~~DEO may refuse to reimburse the Subrecipient for any cost if, after an adversarial hearing, DEO determines that such cost was not incurred in compliance with the terms of this Agreement~~ DEO may demand an accounting ~~return~~ of funds from the Subrecipient if DEO terminates this Agreement. | 2 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item c. iii)**<br>36. Can the state provide the citation providing this authority?<br><br>We do not agree that overpayment is an appropriate term – as there may be a difference of opinion on the use of funds as not every type of expenditure can possibly be defined – some may be subject to further consideration. | 2 | Please review the general responses concerning this section of the agreement and the Grantee-Subgrantee Agreement regarding this question. |

| | | |
|---|---|---|
| **(Related to item c. iii)**<br>37. it sounds like there is no recourse or consideration by other authorities. In certain situations, if a hearing or appeal were warranted, more than 30 days would be necessary. | 2 | |
| **(Related to item c. iii)**<br>38. Comment: Recommend modification of language to replace "overpayment" as the use of funds vary and certain funds may be subject to further consideration. | 2 | |
| **(Related to item c. iii)**<br>39. Can the state provide the statutory authority justifying this provision? | 2 | |
| **(Related to item c. iii)**<br>40. It is unclear to use exactly what this means, but it sounds like activities conducted by a board which are deemed unlawful and therefore would potentially be considered a disallowed cost. IS that what this is referencing? In either case, this is something that should contain a process of how the decision/charge is arrived upon and should include the process of how this will be communicated to Chief Local Elected Officials. | 2 | |
| **(Related to item c. iii)**<br>41. Overpayments. If after an administrative hearing on the merits and after adverse findings by the Administrative Law Judge in a Recommended Order that was not appealed or taken to the next step by the Subrecipient ~~the Subrecipient's (a) noncompliance with this Agreement or any applicable federal, state, or local law, rule, regulation, or ordinance, terms of any NFA, or (b) performance or nonperformance of any term or condition of this Agreement results in (i) an unlawful use of funds; (ii) a use of funds that doesn't comply with the terms of this Agreement; or (iii) a use which constitutes a receipt of funds to which the Subrecipient is not entitled (each such event is defined as an "Overpayment"), then~~ the Subrecipient shall return any ~~such O~~Overpayment of funds to DEO. ~~In event of such Overpayment, the Board shall have the authority to demand reimbursement of the Overpayment amount.~~. (Overpayment still needs a better definition). | 2 | DEO received this comment and in consideration thereof, elected to make no change. |



This document includes questions and comments received as of ***May 8, 2020***.

| | | |
|---|---|---|
| **(Related to item c. iv)**<br>42. The Administrative Law Judge or the courts should be the final authority on the expenditure and 30 days in not reasonable – the resolution process provided for in federal law is longer than 30 days and requires more than an arbitrary determination in someone's office. | 2 | Please review the general responses concerning this section of the agreement. |
| **(Related to item c. iv)**<br>43. An Administrative Law Judge or the Courts should be the final authority as to overpayments. Further, 30 days in not reasonable, the resolution process provided for in federal law is longer than 30 days and requires more than an arbitrary determination in DEO's office. | 2 | Please review the general responses concerning this section of the agreement. |
| **(Related to item c. iv)**<br>44. Define overpayment. | 2 | Please review the general responses concerning this section of the agreement and the Grantee-Subgrantee Agreement regarding this question. |
| **(Related to item c. iv)**<br>45. Please define "overpayment". What authority does the State Board have here? | 2 | |
| **(Related to item c. iv)**<br>46. Overpayments? Wouldn't that be better termed de-obligation or recouping disallowed costs? | 2 | |
| **(Related to item c. iv)**<br>47. ~~Discovery of Overpayments. The Subrecipient shall refund any Overpayment of funds to DEO within 630 days of the Subrecipient's discovery of an Overpayment or receipt of notification from DEO an Administrative Law Judge that an Overpayment has occurred. DEO An Administrative Law Judge of appropriate jurisdiction is the final authority as to what may constitute an Overpayment of funds. Refunds should be sent to DEO's Agreement Manager and made payable to the "Department of Economic Opportunity". Should repayment not be made in a timely manner, DEO may charge interest at the lawful rate of interest on the outstanding balance beginning 30 days after the date of notification or discovery.~~<br><br>(Prior paragraph addressed repayment issue. ) | 2 | |



This document includes questions and comments received as of ***May 8, 2020***.

| | | |
|---|---|---|
| **(Related to item c. iv)**<br>48. Comment: Recommend modification of language as the Administrative Law Judge or the courts should be the final authority on the expenditure. In addition, 30 days is not sufficient as the resolution process provided for in federal law is longer than 30 days. | 2 | Please review the general responses concerning this section of the agreement. |
| **(Related to item d)**<br>49. Section 3 Fiscal and Administrative item d. - Since this document is being prepared for multiple entities, we understand inclusion of CDBG-DR; however, our local entity would not be able to attest to having procedures, processes and fiscal controls in place for funds which we do not receive. Perhaps adding "as applicable" to the sentence for the funding streams may resolve this? | 3 | The Department is evaluating the agreement in light of this comment. |
| **(Related to item e)**<br>50. Question: What is considered acceptable documentation to support that the value of the supportive service is consistent with the documented need of the participant? | 3 | The Department is evaluating the agreement in light of this comment. |
| **(Related to item h)**<br>51. Should be real "estate" property. | 3 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item j)**<br>52. This is a federal government standard and there is no reason to apply this to the local level. It is not codified in 2 CFR 200 et seq. As long as there is a proper procurement local area should be able to select consultants as needed. | 3 | Please review the general responses concerning this section of the agreement. |
| **(Related to item j)**<br>53. Please define consultant. In what capacity does this refer? LWDBs already adhere to the procurement procedures as identified in our local plans, so why is this needed here? | 3 | |
| **(Related to item j)**<br>54. How is the CAP on consultant pay determined? I think this leads to issues with terminology and determining how much to pay for a consultant's services should be left up to the local board based on the service provided. All LWDBs have their approved procurement policies and follow them. | 3 | |
| **(Related to item j)**<br>55. Paragraph j, funds provided by DEO may not be used to pay consultants in excess of $710 per day and must be documented as reasonable and necessary. | 3 | |

| | | |
|---|---|---|
| **Comment**: What does this include? What is the definition of a consultant? What is the definition of a day? Clarification needed. | | |
| **(Related to item j)**<br>56. Not in 2cfr200. contractors typically work per project or deliverable…not per day. That's not the billing increment (nor are hours). Define consultant. | 3 | |
| **(Related to item j)**<br>57. Can you describe consultants? | 3 | |
| **(Related to item j)**<br>58. What statute or regulation sets this amount? Does this then translate into a maximum hourly rate of $88.75? | 3 | |
| **(Related to item j)**<br>59. What is the definition of "consultant"? Under what authority does DEO have to impose this cap? | 3 | |
| **(Related to item j)**<br>60. This is new to Florida. It is not known how the $710 figure is calculated. Some fiscal caps such as this one requires there is local/ regional discretion able to be applied (i.e. cost of consulting in California is different than another State). Since this has never been applied in Florida, what requires it to be applied now? The following is recommended:<br>• Provide reference to the Federal rule/law that requires this to be applied to LWDB's. | 3 | |
| **(Related to item j)**<br>61. Comment: Recommend modification of dollar threshold as this is a federal government standard and It is not codified in 2 CFR 200 et seq and as long as there is a proper procurement and the amount paid is reasonable, local areas should be capped at a per day amount. | 3 | |
| **(Related to item j)**<br>62. There is a limitation on payment of consultants to $710.00 per day, but the term "consultant" is not defined in the agreement. This works out to a rate of $88.75 per hour for an eight (8) hour work day. Most professionals will not work for such a low rate, so it is suggested that this rate is unpractically low unless licensed professionals | 3 | |

| | | |
|---|---|---|
| are excluded from the definition of a consultant. Also, federal law permits payments so long as they are reasonable. There is no restriction in Federal law which requires a limit to $710.00 per day. As long as there is a proper procurement, local areas should be able to select consultants as needed. | | |
| **(Related to item j)**<br>63. Funds provided to the Subrecipient by DEO may ~~not~~ be used to pay consultants ~~in excess of $710 per day~~as needed, with the understanding that all such payments must ~~and must~~ be documented as reasonable and necessary. "Consultant," in this context, refers to third-party professionals engaged at Subrecipient's ~~DEO's~~ discretion to perform specific tasks of finite duration pursuant to a written contract provided to the Consultant by the Subrecipient. | 3 | |

## 4. Performance, Reporting, Monitoring and Auditing

General response – Section 4

DEO received the second-highest volume of questions and comments related to section 4. Section 4 concerns performance, reporting, monitoring and auditing.

DEO received several questions with respect to requests to provide information to DEO. DEO wishes to emphasize that as the cognizant state agency and pass-through entity for federal funds, DEO has an absolute right to inspect, view, and copy any record arising out of or related to the federal pass-through funds, or any activities arising out of or related to the agreement. DEO will work with its local board partners in making requests for information or scheduling on-site visits to view documents and perform monitoring and audits.

DEO received a number of comments with respect to investigations and reimbursement of costs. DEO urges the commenters to closely read the Grantee-Subgrantee Agreement. Any costs incurred under this section would ultimately be due to efforts expended by DEO over and above normal monitoring, which ultimately result in suspension or termination of the agreement, and which are a direct result of the local board's failure to comply with DEO's requests for documents and information.

| Question / Comment | Document Page # | Response |
|---|---|---|
| **(Related to item a)**<br>1. So long as the time frame is reasonable – or insert a reasonable time frame for notice. | 3 | DEO will establish reasonable timeframes as required on a case-by-case basis. |

| | | |
|---|---|---|
| **(Related to item a)**<br>2. We request that there be some clarification around "any information at any time" Might the information be specific to the programs listed under 3.d.? And might a reasonable time frame for response be more appropriate than "within the time established by DEO? | 3 | Please review the general responses concerning this section of the agreement. |
| **(Related to item a)**<br>3. I believe this section should request that the information is submitted within a reasonable time frame. Also, will DEO provide information to the contractee within the same timeframe? | 3 | |
| **(Related to item a)**<br>4. DEO should be held to the same standards in the agreement as the boards in providing information or data "within a specified timeframe. There should be expectations listed for both parties in the contract for how long it can take to provide needed information or data. DEO should also be held accountable in this agreement. | 3 | |
| **(Related to item a)**<br>5. Timeframe should be made available by DEO within a reasonable timeframe relative to the timeframe provided to the region. Consideration should be made as to the scope and breadth of the request when establishing a timeframe for response. | 3 | |
| **(Related to item a)**<br>6. Revise as follows: DEO may request any information related to this Agreement at any time from the Subrecipient. | 3 | |
| **(Related to item a)**<br>7. LWDB's understand that when DEO or CSF need information we are required to provide it in a timely fashion. DEO generally provides a time line and LWDB's try and comply. Generally if there is a problem, it is worked out with the requestor and normally it is provided in the format requested. The words "any information" is all encompassing and would seem to include information that would not be needed by DEO. The following is recommended:<br><br>• Revise language so that DEO may request any information "related to this agreement" at any time. | 3 | |

| | | |
|---|---|---|
| • Include language which states that "DEO shall provide as much advanced notice of needed information as possible based on the volume of information needed and the time it may take to prepare it for transmittal". | | |
| **(Related to item a)**<br>8. Comment: Please consider modification to read "reasonable" time frame or insert a reasonable time for notice. | 3 | |
| **(Related to item a)**<br>9. There is no objection to giving DEO any information it requests so long as a reasonable time is given to respond, and the Proposed Agreement should be amended to make it clear that the sub-recipient will have a reasonable time to respond.<br><br>The Proposed Agreement also provides that DEO reserves the right to, in its sole discretion, to decide what constitutes full cooperation under this paragraph. DEO may exercise its rights under this paragraph at any time and as frequently as DEO deems necessary. Please consider revising the language above. This agreement is so one-sided it is questionable that it would be enforceable as in many respects DEO is holding formula funds and funds awarded by the legislature hostage unless the agreement is signed. A court would be hard pressed to agree sub-recipients have a fair opportunity to negotiate, as many of the terms and conditions do not appear to be ones DEO is prepared to change in response to concerns raised by sub-recipients and local elected officials. | 3 | |
| **(Related to item a)**<br>10. Item 4a. states, "DEO may request any information at any time from the Subrecipient. The Subrecipient shall provide any requested information in the form and manner requested by DEO, within the time frame established by DEO, so DEO may review the Board's performance and compliance and compile and submit information to the appropriate parties. The Board shall provide timely electronic data to DEO, via the electronic financial and programmatic data systems established by DEO in order to allow DEO to provide accurate reports to state and federal funding agencies, the State Board, and other interested parties, and to review the Board's fiscal status and performance." | 3 | |

| | | |
|---|---|---|
| Questions are not limited to information requests to those items relevant to programs operated by the LWDA through funds provided by the DEO. This would give DEO the ability to ask for information related to other programs operated by the board that may have additional confidentiality requirements, such as work with a domestic violence shelter. This would literally allow DEO to make the LWDA act as Siri or Alexa in that they could request any information regardless of relevance to DEO.<br><br>In addition, there is no requirement for DEO to be reasonable in the request for information. Previously DEO has asked for information to be uploaded electronically, then later printed one or more times all at the expense of the local Board. There should be a requirement on DEO related to requests as well to prevent duplication of efforts and additional waste of taxpayer dollars by having to provide the same document multiple times in multiple formats. | | |
| **(Related to item a)**<br>11. "DEO may require any information at any time from the subrecipient."<br><br>This is very open-ended and should contain wording that references the information requested would be related to grants or programs awarded by the agency and ensure that the time frame established is reasonable. | 3 | |
| **(Related to item a)**<br>12. DEO may request any information ~~at any time~~within a reasonable time frame with a response time of at least 30 ~~not to exceed 60~~ days from the Subrecipient. The Subrecipient shall provide any requested information in the form and manner requested by DEO, with a preference for an electronic response within the minimum 30 day time frame established by DEO, so DEO may review the Board's performance and compliance and compile and submit information to the appropriate parties. The Board shall provide timely electronic data to DEO, via the electronic financial and programmatic data systems established by DEO in order to allow DEO to provide accurate reports to state and federal funding agencies, the State Board, and other interested parties, and to review the Board's fiscal status and performance. | 3 | |
| **(Related to item c)** | 4 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| 13. Please consider rewording the language above (in this section). This agreement is so one-sided it is questionable that it would be enforceable as in many respects DEO is holding formula funds and funds awarded by the legislature hostage unless the agreement is signed. A court would be hard pressed to agree that everyone was represented and had a fair opportunity to negotiate as many of the terms and conditions are not negotiable. | | |
| **(Related to item c)**<br>14. This is not required under federal law and is punitive in nature – as once funds are suspended then local government would be liable and it is unlikely that this is insurable. DEO is using grant funds to do investigation as part of its role as the oversight entity – they should not be paid twice and should not be reimbursed for doing their job under the grants and also pay their staff with grant funds.<br><br>This is an equity issue. The state is already being paid to conduct this oversight. | 4 | |
| **(Related to item c)**<br>15. The statement "DEO reserves the right to, in its sole discretion, decide what constitutes full cooperation under this paragraph. DEO may exercise its rights under this paragraph at any time and as frequently as DEO deems necessary" is overly harsh. | 4 | |
| **(Related to item c)**<br>16. This totally feels like punishment for something you think we might do. Our records are available any time you ask for them. Our board staff has never withheld any information that was requested by DEO, CSF, or any reasonable state or federal agency. Now you seem to be saying we have to pay DEO for time spent asking for records. | 4 | |
| **(Related to item c)**<br>17. There needs to be some sort of reasonableness standard applied here. | 4 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item c)**<br>18. This portion of the subsection implies that if a LWDB is terminated then DEO will be reimbursed cost of the activity. The LWDB is not responsible for cost incurred if there is no resulting suspension or termination. This appears to allow DEO to receive additional funding beyond the federal administrative funds provided to states. As DEO has already been paid to oversee and monitor, this seems to be unfair. The following is recommended: | 4 | |

| | | |
|---|---|---|
| • Remove this provision to pay cost if suspended or terminated.<br>• Could consider asking for the additional cost of forensic accountants, consultants, etc. over and beyond the normal DEO resources made available. | | |
| **(Related to item c)**<br>19. "DEO reserves the right to, in its sole discretion, decide what constitutes full cooperation under this paragraph. DEO may exercise its rights under this paragraph at any time and as frequently as DEO deems necessary."<br><br>**Comment:** Please consider rewording the language above as this section is extremely unilateral and does not provide an opportunity for a LWDA to negotiate terms and conditions.<br><br>"The Subrecipient will reimburse DEO for all reasonable costs incurred by DEO for any activity conducted pursuant to this section that results in the suspension or termination of this Agreement."<br><br>**Comment:** Please consider removing this language as it is not required under federal law and is punitive in nature. | 4 | |
| **(Related to item c)**<br>20. This paragraph requires the sub-recipient to reimburse DEO for the cost of investigations which result in suspension or termination of the agreement. However, in such event, the sub-recipient would not have the funds to reimburse DEO. Additionally, DEO is funded to perform this task by the Federal government and so would be receiving double payment for this task. | 4 | Please review the general responses concerning this section of the agreement. |
| **(Related to item c)**<br>21. The Subrecipient shall allow access to representatives of DEO, DEO's Office of Inspector General and Office of Civil Rights, appropriate representatives from other state and federal funding agencies, and any other entity authorized by law for the purposes of conducting monitoring, reviews, inspections, investigations, proceedings, hearings, or audits (each a "Compliance Review"). The Subrecipient will fully cooperate with any Compliance Review conducted pursuant to this section. Failure to fully cooperate could | 4 | DEO received this comment and in consideration thereof, elected to make no change. |

| | | |
|---|---|---|
| ~~will~~ constitute a material breach of this Agreement and after an administrative hearing and after review of a Recommended Order issued by an Administrative Law Judge, may result in the termination or suspension of this Agreement and any funding provided by DEO. ~~DEO reserves the right to, in its sole discretion, decide what constitutes full cooperation under this paragraph.~~ DEO may exercise its rights under this paragraph at any time and as frequently as DEO deems necessary, with appropriate notice of a least fourteen (14) calendar days of an intent to audit. In defining "~~full~~ cooperation," and in the frequency of DEO exercising its rights, DEO shall be held to a "rational basis standard," and must provide such rational basis, in writing, to all other Parties to this Agreement when acting pursuant to this Section. ~~The Subrecipient will reimburse DEO for all reasonable costs incurred by DEO for any activity conducted pursuant to this section that results in the suspension or termination of this Agreement.~~ The Subrecipient will not be responsible for any costs incurred from activities conducted under this section that do not result in the suspension or termination of this Agreement after a hearing on the merits in front of an Administrative Law Judge. ~~Nothing in paragraph (b) of this section, or Exhibit A, is intended to limit the terms of this paragraph (c).~~ | | |
| **(Related to item d)**<br>22. The agreement requires a budget to be defined and submitted by July 1 of each year. Our Board normally likes to see the numbers from the state as well as any actual carry over dollars before they approve the budget. Of course we don't know the actual carry over until after June 30. Many years we also don't know even the planned amounts to be released for secondary programs until after July 1.<br><br>This would require us to have all of our budget work for this year completed in time for our May 14 meeting, which, unless something changes with Covid, will be our first ever video meeting, so I'm not sure how effective that meeting is going to be for our membership.<br><br>If it is not possible to push the July 1 date back we will give them our best estimates and ask they proceed with those numbers. Normally they would direct us to continue programs as currently operated, with possible changes if it appears funding is | 4 | To address this concern, DEO will amend the Grantee-Subgrantee Agreement to change the due date from July 1 to October 1. |

| | | |
|---|---|---|
| decreasing by a significant amount, and then pass a budget at the next bi-monthly meeting. I'm just trying to determine how to proceed given we have our meeting in a few weeks and we still don't have all of our finance numbers from DEO, which in our case also includes an ask for additional funds from USDOL for Hurricane Michael activities. | | |
| **(Related to item d)**<br>23. Annual detailed budget by July 1--While it is completely possible to submit a draft budget that has been approved by the CLEO's, it is impossible to submit an ACCURATE or detailed budget by July 1. typically we do not have final allocations at this time, nor do we have final carry-forward amounts for multi-year grants. It is typically in the Fall Board meeting that a detailed budget is considered | 4 | |
| **(Related to item d)**<br>24. Change Executive Director to President/CEO. | 4 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item d)**<br>25. In order to be held to these dates, language needs to be added that DEO will provide the forms to be completed with at least 30 days for board to complete. | 4 | DEO will the requisite information to the boards at least 30 days prior to the deadline. DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item d)**<br>26. Item d, third bullet requires completion of the Internal Control Questionnaire (ICQ) by September 30, but there is no requirement that DEO provide the ICQ in a timely fashion that allows the LWDA to sufficiently review and complete the document. DEO does change the document from year to year. DEO would be able to deliver the document and require completion on the same day. There should be a requirement that DEO deliver the document at least sixty days in advance. | 4 | |
| **(Related to item d)**<br>27. This item should include the dates for when the ICQ will be provided by DEO. It changes annually and we can only comply with the due date if we receive it with ample time since it requires board review and board meetings are sometimes only quarterly or six times per year. | 4 | |
| **(Related to item d)**<br>28. The term “Completed Salary Cap” is not defined in the Agreement. | 4 | The Salary Cap is a calculation completed by the board to document compliance with the Florida Legislature and U.S. Department of Labor’s limitation on salary and bonuses funded with funds |

| | | |
|---|---|---|
| | | provided by DEO. DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item d)**<br>29. Annually, the subrecipient shall submit the following information electronically to FMA- RWB@deo.myflorida.com by the deadlines prescribed below:<br>• Completed Salary Cap by April 1;<br>• Annual detailed budget of revenues and expenditures by funding source by July 1; and<br>• Completed Internal Control Questionnaire signed by Board Chair and Executive Director, with the title Executive Director, President or Chief Executive Officer of the Subrecipient by September 30. | 4 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item e)**<br>30. Section 4 Performance and Accounting item e - The document appears to add audit requirements that are not federally mandated, and do not apply to entities other than LWDBs. Please review and reconsider. | 4 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item e ii)**<br>31. Section 4 Performance and Accounting item e ii – We are unaware of an existing SERA Manual. Please can you forward that to the LWDBs or remove this item? | 4 | The SERA Manual is available at: http://www.floridajobs.org/docs/default-source/lwdb-resources/lwdb-grants-management/deo-sera-lwdb-training-guide-2.pdf?sfvrsn=376f78b0_2 |
| **(Related to item 4.e.iv)**<br>32. Clarification is requested for section 4.e.iv. | 4 | Please review the general responses concerning this section of the agreement. |
| **(Related to item e. vii)**<br>33. How does this requirement not violate an open and fair procurement process required under state law? A small firm could be excluded under this requirement. | 4 | Please review the general responses concerning this section of the agreement. |
| **(Related to item e. vii)**<br>34. The Board must limit the audit services to no more than five years and then must follow Florida Statutes and its own policies to competitively re-procure these services. The previous audit firm may be awarded the new contract for audit services through the competitive procurement if the lead partner of the audit firm had not been engaged in any way with the Board for any of the previous five years | 4 | DEO received this comment and in consideration thereof, elected to make no change. |

| | | |
|---|---|---|
| other than as the Board's auditor. | | |
| **(Related to item f)**<br>35. This is not at DEO discretion – this is required to be negotiated WIOA §116.<br><br>Language should be added to acknowledge that this in only after failing the measure 2 years in a row. | 5 | DEO has reviewed the agreement in light of this comment and has made a change. |
| **(Related to item f)**<br>36. Section 4.f. appears to conflict with Policy #104: sanctions for local workforce development boards' failure to meet federal and state standards. Please define "any item". | 5 | |
| **(Related to item f)**<br>37. At DEO's discretion? Even though it is a WIOA provision? Also, final negotiated measures should be a product of all three entities (LWDB, CSF, DEO) not just one. Additionally, failure to comply should denote 2 consecutive years of not meeting the same standard... | 5 | |
| **(Related to item f)**<br>38. Comment: This is not at DEO discretion and required to be negotiated per WIOA § 116. In addition, Language should be added to acknowledge that this is only after failing the measures 2 years in a row. | 5 | |
| **(Related to item f)**<br>39. WIOA mandates that DEO negotiate local performance standards, it is not at their discretion. | 5 | |
| **(Related to item f)**<br>40. The "minimum" threshold for state and federal performance levels needs to be included in this Agreement. | 5 | |
| **(Related to item f)**<br>41. The 2012 document contained the statement "On an annual basis, the Department, under the direction of Workforce Florida, Inc. shall meet with each regional workforce board to review the board's annual performance." This is what occurs at present. The inclusion of the words CLEO will add significant complications. The CLEO's | 5 | |

| | | |
|---|---|---|
| representative sits on the local board and therefore is technically included in the annual process. To actually require a joint meeting as indicated by the word "and" will be very difficult to set up and accomplish. The following is recommended:<br><br>• Revise language as follows: DEO will meet at least annually with the Board which includes the CLEO or CLEO's designated Board Member to review the Board's performance and compliance and will notify the Board's Chief Executive Officer and CLEO in writing of any findings, deficiencies, recommendations, or other areas of concern. | | |
| **(Related to item f)**<br>42. item 4f states DEO will meet at least annually with the CLEO and the Board to review the Board's performance and compliance. There is no requirement that DEO complete this task in a timely fashion that is meaningful and useful to the LWDA board of directors and the CLEO. Presentation of performance after the mid-point of the year does not allow a local board of directors sufficient time to make changes based on performance as reported by DEO to avoid a similar issue in the next reporting period. The same holds true for the CLEO in that this lack of timely presentation also prevents the CLEO from taking actions that may be deemed necessary in a manner that prevents the issue from becoming an item reported for multiple years.<br><br>DEO should be required through the agreement to provide the report to the board no later than the second LWDA Board meeting after July 30 of each year to assure the LWDA's Board of Directors has time to make changes where necessary to improve performance in the current year to avoid having similar issues as part of the next reporting period. The same should hold true for a presentation to the CLEO understanding that in some cases two presentations may be required if the CLEO does not attend the local board meeting when the presentation is made. | 5 | |
| **(Related to item f)**<br>43. DEO does not have unfettered discretion to specify performance levels for sub-recipients. Performance levels are required to be negotiated pursuant to WIOA § 116. The Board and DEO must negotiate minimum performance levels for the programs the sub-recipient administers. The Board's failure to meet the minimum established state | 5 | |

| | | |
|---|---|---|
| or federal threshold of its negotiated level of performance or its failure to comply with any item may constitute grounds for corrective measure, but only after failing the measures 2 years in a row, and the Proposed Agreement should be amended to so provide. | | |
| **(Related to item f)**<br>44. DEO will meet at least annually with the CLEO and the Board to review the Board's performance and compliance and will notify the Board's Chief Executive Officer and CLEO in writing of any findings, deficiencies, recommendations, or other areas of concern. At ~~DEO's~~ the Party's mutual discretion~~discretion~~, the Board may negotiate minimum levels of state or federal performance for the programs it administers. The Board's failure to meet the minimum established state or federal threshold of its negotiated level of performance, or its failure to comply with any item, for two consecutive years may constitute grounds for corrective measures. DEO may require corrective measures be taken in accordance with a Performance Improvement Plan, or other appropriate action, developed by DEO. The Board's failure to comply with the terms of any Performance Improvement Plan or other appropriate action will constitute a material breach of this Agreement, may result in the suspension or termination of this Agreement, the reduction or withholding of funding provided under this Agreement, or any other remedy available to DEO by law. | 5 | |

## 5. The Board's One-Stop Delivery System

General response – Section 5

DEO received several questions and comments related to infrastructure funding negotiations occurring at the state level. DEO wishes to emphasize that Infrastructure Funding Agreements (IFA) may not be negotiated at the state level as WIOA requires local boards, with the agreement of the chief elected official, to develop and execute memoranda of understanding (MOU) with required partners on the operation of the one-stop delivery system in the local service delivery area. Each local board must include an IFA in the MOU with required partners. The state only becomes involved in this process when consensus cannot be reached at the local level. Please refer to Administrative Policy 106 – Memorandums of Understanding and Infrastructure Funding Agreements.

DEO also received a couple of comments/questions related to chief local elected officials (CLEOs) being signatories to this agreement. The CLEOs are being placed as signatories in an acknowledgement capacity, to ensure that CLEOs are fully informed of their fiscal responsibilities under WIOA.

| Question / Comment | Document Page # | Response |
|---|---|---|
| 1. It is difficult if not improbable that local areas can negotiate with the required partners that are state entities, such as Vocational Rehabilitation and Division of Blind Services. The addition of our CLEOs signatures on these agreements is making the process arduous. While MOUs outlining how local entities can collaborate, putting the burden of IFAs to the local boards needs to be reconsidered. | 5 | Please review the general responses concerning this section of the agreement. |
| 2. The Infrastructure cost agreements need to be moved up to the state level and funds exchanged between agencies. This activity is a complete drain on us at the local level and not needed. I recommend you appeal to the Governor to make this happen between agency heads, especially considering how difficult it is to get signatures from those same agency heads. | 5 | Please review the general responses concerning this section of the agreement. |
| 3. Locally, this has been a difficult implementation. Small regions, and probably most regions, don't have the capacity to work through negotiations that may be better, more efficiently, handled at the state level. | 5 | Please review the general responses concerning this section of the agreement. |
| **(Related to item a)**<br>4. Guidance is needed from DEO on how to recover IFA costs from partners who ignore/fail to pay agreed upon rate. Is there a means for IFAs to be negotiated at the state level rather than the LWDBs negotiating with state level partners? | 5 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| **(Related to item a)**<br>5. The Infrastructure Funding Agreements are one of the most onerous requirements of WIOA. The amount of work required and the net result is not improving the funding available for the operation of a one-stop. It costs more to administer the requirement than the benefit received. The mandated partners have varying degrees of understanding and desire to comply. The following is recommended:<br><br>• Negotiate IFA's at the State Level and pass down whatever the State Level entities agree to.<br>• CLEO's should not be a signatory in this process. | 5 | Please review the general responses concerning this section of the agreement. |
| **(Related to item a)**<br>6. Each partner program in the Board's career centers will contribute to infrastructure costs at a rate negotiated and mutually agreed upon by the Parties after the Governor has timely allocated costs as required by F.S. §445.002(2)(c).~~, or pursuant to a policy established by the Governo~~r. The following infrastructure elements, set forth specifically in 20 CFR 678.755, must be incorporated into the period of time in which the infrastructure funding agreement is effective. This may be a different time period than the duration of the MOU. In the event partners ignore or fail to pay the agreed upon rate (e.g. if the Division of Blind Services or similar entity ignores attempts to recover the IFA costs), the following steps shall be employed to recover such defined costs […]. | 5 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item b)**<br>7. Can this Master Agreement recognize other options which might not require quarterly reconciliation?<br><br>USDOL also allows for a technology presence with would not necessarily require quarterly reconciliation as the cost would be stable throughout the year or a mall approach supported by a lease which would also not require quarterly reconciliation.<br><br>Also in Florida a large portion of partner funding streams are sub state allocated and accounted for locally through cost allocation. | 5 | DEO received this comment and in consideration thereof, elected to make no change. |

| | | |
|---|---|---|
| **(Related to item b)**<br>8. Identification of an infrastructure and shared services budget that will be periodically reconciled against actual costs incurred and adjusted accordingly to ensure that it reflects a cost allocation methodology that demonstrates how infrastructure costs are charged to each partner in proportion to its use of the career center and relative benefit received, and that complies with 2 CFR part 200 (or any corresponding similar regulation or ruling). Other options, which do not require quarterly reconciliation, include […].<br><br>Add the following:<br>• Requisite steps for DEO to recover IFA costs from partners who ignore or fail to pay the agreed-upon rate as established under this Agreement.<br>• Steps for IFA costs to be negotiated at the State level, in the event LWBD choose to negotiate with State-level partners. | 5 | |

## 6. Services Delivered by DEO Staff Within the Board's One-Stop Delivery System

General response – Section 6

With respect to section 6, DEO received several questions requesting access to the People First system. DEO is not authorized to grant access to the People First system to individuals who are not employees of the state of Florida. The People First system is administered and maintained by the Department of Management Services, which has ultimate authority over that system.

| Question / Comment | Document Page # | Response |
|---|---|---|
| 1. Given the language of Section 6, does this mean that the State of Florida will not be implementing the Wagner-Peyser Act staffing flexibility afforded by the US Department of Labor ruling of February 2020? | 6 | DEO is carefully considering the new staffing flexibility provided by the U.S. Department of Labor in its Final Rule issued on January 6, 2020. The Grantee-Subgrantee Agreement reflects the current staffing structure. |
| 2. LWDB leadership should have access to the state merit staff time system in order to properly supervise and verify attendance and leave. We used to have that and I do not know of any problem with us having it – it was just stopped for a reason not shared with us. | 6 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| **(Related to item b)**<br>3. Section 6 Services Delivered by DEO Staff Within the Board's One-Stop Delivery System, item b – In our opinion, maintaining a staffing structure chart with this level of detail and providing a copy of the staffing structure in an organizational chart to DEO Human Resources annually by July 1 or within 30 days upon changes to the organizational structure will be more costly in terms of man hours for both the LWDBs and DEO's HR Department than the realized benefit to either party. Some of our LWDBs have staff wearing multiple hats, and have less than .5 FTE working on HR issues throughout our entire organizations. Please help us understand the benefit of this requirement. We suggest that provision of a general organizational staffing chart should suffice. | 6 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item c)**<br>4. LWDBs staff do not have access to PeopleFirst for validation of performance reviews. Having a DEO staff enter the information is a conflict of interest. | 6 | Please review the general responses concerning this section of the agreement. |
| **(Related to item c)**<br>5. In order to prevent a conflict of interest, or the appearance of a conflict of interest, the Board will appoint a local personnel liaison for the purpose of accessing the PeopleFirst system , and conducting performance reviews once the Subrecipient and the Board has access to the PeopleFirst system, The ~~Board~~ liaison will provide DEO with the requisite ~~information~~ information and recommendations regarding the performance of DEO staff assigned to the Board pursuant to a procedure developed and implemented by the Parties. The Board shall exercise due care with respect to its ~~submission~~ receipt and processing of information concerning the performance of DEO staff. DEO will act on the information provided by the ~~Board~~ liaison, but the ultimate decision for any personnel action remains with DEO. | 6 | Please review the general responses concerning this section of the agreement. |
| **(Related to item e)**<br>6. The Board shall consult with DEO with regard to any issues that may affect, or be in conflict with, the terms or conditions of the collective bargaining agreement, if any, for any DEO staff holding positions covered by a collective bargaining agreement. DEO will provide guidance to the Board upon request for the purpose of ensuring compliance with terms of any applicable collective bargaining agreement. The Board retains the right to consult with labor and employment counsel of the Board's and/or the Subrecipient's choosing. | 6 | DEO received this comment and in consideration thereof, elected to make no change. |

| | | |
|---|---|---|
| **(Related to item f)**<br>7. DEO retains ultimate decision-making authority with respect to wages, salary, benefits, hiring, firing, discipline, and promotion of DEO staff. The Board and/or Subrecipient retains ultimate decision- making authority with respect to wages, salary, benefits, hiring, firing, discipline, and promotion of the Board and/or Subrecipient's staff. | 6 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item g)**<br>8. The local area must appoint a local personnel liaison for the purpose of coordinating personnel related activities for DEO staff. The personnel liaison must be a DEO staff member.<br><br>**Comment**: What about the possible change in required use of merit staff? | 6 | Please review the general responses concerning this section of the agreement. |
| **(Related to item g)**<br>9. There should be an alternate procedure for bringing personnel matters to DEO's attention when the personnel liaison is the person whose actions/activities are under question or where that person has a close personal relationship with the person whose action/activities are under question. | 6 | Any Center Manager, Executive Director or designee can contact Louise Mondragon or Derrick Elias at any time to discuss any HRM liaison or any DEO employee. |
| **(Related to item g)**<br>10. The Board will appoint a local personnel liaison for the purpose of coordinating personnel related activities for DEO staff. The personnel liaison must be a DEO or LWDB staff member. The Board will provide the name and contact information of the designated personnel liaison to the DEO Human Resource Office upon designation of this staff member and thereafter annually or upon changes in the designated staff member. The designated LWBD personnel liaison to DEO can also be any Human Resources employee selected as the personnel liaison at the sole discretion of the Subrecipient. | 6 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item h)**<br>11. This seems to go above and beyond them handling HR issues. This sounds like we can't deploy the staff locally as we see fit unless we plan it with DEO. Consider rewording. | 6 | Day to day activities and assignments can be supervised by Board staff and merit staff may be assigned to various locations if they are within 50 miles from the current location. |
| **(Related to item h)**<br>12. This makes it sound like DEO has to get in the day-to-day operations decisions by the LWDB for how to deploy staff locally. I don't think that's a good idea for either party. | 6 | |

| | | |
|---|---|---|
| **(Related to item h)**<br>13. this information is included in our published 4 year plan. Will DEO engage in our planning meetings? Will they comment on our plans? | 6 | Please review the general responses concerning this section of the agreement. |
| **(Related to item h)**<br>14. The Board shall jointly plan with DEO for the use of resources available to each partner to ensure a coordinated and efficient approach to the delivery of customer services.<br><br>Comment: The above wording reads as though local board will require DEO's approval on how staff are utilized to deliver customer service. Is that the intent? | 6 | |
| **(Related to item h)**<br>15. ~~The Board shall jointly plan with DEO for the use of resources available to each partner to ensure a coordinated and efficient approach to the delivery of customer services.~~ The Board will provide the services outlined in section 445.009, Florida Statutes. The Board will also provide basic and individualized career services pursuant to section 134(c)(2) of WIOA, access to training services pursuant to section 134(c)(3)(D) of WIOA, access to programs and activities carried out by the Board's partners listed in 20 CFR 678.400 through 678.410, including the Employment Service program authorized under WP, as amended by WIOA Title III, and workforce and labor market information. For clarification purposes, "basic career services" are referred to as "core services" in section 445.009(6)(a)(c), Florida Statutes, and "individualized career services" are referred to as "intensive services" in section 445.009(7), Florida Statutes | 6 | DEO received this comment and in consideration thereof, elected to make no change. |

## 7. Open Government and Confidentiality

General response – Section 7

DEO also received some questions and comments concerning access to confidential reemployment assistance information. DEO holds its local board partners to the highest standards of accountability in receiving and using confidential reemployment assistance information. Each local board is responsible for any breach that occurs with respect to information within its access or control, and each local board is responsible for coordinating with DEO to ensure proper notification to affected individuals, as consistent with law. Finally, improper use or disclosure of the confidential reemployment assistance information may result in suspension of access to the confidential information.

| Question / Comment | Document Page # | Response |
|---|---|---|
| 1. I recommend all public records requests be forwarded to DEO. | 7 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item a)**<br>2. This section does not take into consideration the current policy regarding confidentiality. The following is recommended:<br><br>• This section should make reference to AWI FG 02-033: Confidentiality of Records and Public Records Requests and Subpoenas.<br>• This policy does say local boards handle subpoenas, however many requested items are not open for public unless they go through DEO. Please read the policy to determine the disconnect between this statement and the policy requirements. | 7 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item a)**<br>3. The Board is subject to Chapters 119 and 286 of the Florida Statutes. The Board is responsible for responding to public records requests and subpoenas. The Board is responsible for ensuring that its staff and agents have a working knowledge of Chapter 119, Florida Statutes. The Board agrees to appoint a public records coordinator, who shall be identified and whose contact information shall be promptly provided to DEO, for the purpose of ensuring that all public records matters are handled appropriately. | 7 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item c)** | 7 | DEO received this comment and in consideration thereof, elected to make no change. |

| | | |
|---|---|---|
| 4. This should read:<br>DEO shall provide guidance to the board with respect to confidentiality matters. | | |
| **(Related to item c)**<br>5. The Board will have access to varying types of confidential information as a result of its performance under this Agreement. The Board will protect the confidentiality of any information to which it has access in accordance with applicable law. The Board will obtain guidance from DEO with respect to confidentiality matters. DEO will facilitate the Board's requests for guidance from other state agencies if the Board is unable to achieve cooperation from other state agencies without DEO's assistance. | 7 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item d)**<br>6. Staff of the Board granted access to workforce information systems, including systems containing confidential information, must complete Exhibit B to this Agreement, "Individual Non-Disclosure and Confidentiality Certification Form," prior to accessing said workforce information systems. A copy of each completed form must be retained by the Board and made available to DEO upon request. DEO systems," in this context, means any system created, owned, maintained, or relied upon by DEO to perform its Agency work. | 7 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item e)**<br>7. What is included under the definition of a "DEO system" as referenced on page 7? | 7 | Please review the general responses concerning this section of the agreement. |
| **(Related to item e)**<br>8. Please clarify what constitutes a DEO system. | 7 | |
| **(Related to item e)**<br>9. The statement in Section 7.e. that DEO will only grant access to DEO systems to Board staff has some serious implications for those regions who use providers who access Employ Florida and OSST. Please provide a list of the DEO systems that fall into this definition. | 7 | Please review the general responses concerning this section of the agreement. |
| **(Related to item e)**<br>10. Based on responses already issued, DEO systems include EF…so can contract staff (3rd party monitors, auditors) or service providers not have access? | 7 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| **(Related to item e)**<br>11. The statement *DEO will only grant access to DEO systems to Board staff* in the draft agreement would result in drastically changing how several LWDBs conduct businesses, including Flagler Volusia. If our contracted providers cannot access DEO systems, specifically OSST and Employ Florida, we would have to bring services in-house. Which is contradictory how my board has interpreted the WIOA. Given the fact that in order to bring services in-house, I would also need to obtain a waiver from DEO and the State Board to provide services, it appears to contradict the US DOL's interpretation as well.<br><br>I'm making sure that you are aware of the, perhaps unintended, consequences of this new rule. | 7 | Please review the general responses concerning this section of the agreement. |
| **(Related to item e)**<br>12. Define "DEO data". Define "executive staff". Define "DEO systems". | 7 | Please review the general responses concerning this section of the agreement. |
| **(Related to item e)**<br>13. What is "DEO data" for purposes of this section? | 7 | Please review the general responses concerning this section of the agreement. |
| **(Related to item e)**<br>14. This item seems to indicate that only board staff will be granted access to DEO systems. Our providers also need access to the system to complete their work. | 7 | Please review the general responses concerning this section of the agreement. |
| **(Related to item e)**<br>15. item 7.e. states, "DEO will only grant access to DEO systems to Board staff." What systems are considered a DEO system? For example, if Employ Florida is considered a DEO system under the terms of the agreement service provider staff would not be able to utilize Employ Florida for case management purpose necessary to perform the work required at the career centers.<br><br>Depending on the answer to the question what does DEO consider to be DEO systems this section may make it impossible for service provider staff to fulfill the requirements of their contracts. This may also require local boards to purchase their own systems for service providers that would then be used to transfer required data to the DEO system by some manner which could be manually by board staff. | 7 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| There should be a requirement in the agreement that requires DEO to establish and follow a policy that allows Boards working with third party vendors to transfer data meeting protocol and security requirements into the DEO case management system currently known as Employ Florida.<br><br>Programs are, or may be, utilized by local Boards that give the Board sufficient increased efficiency and/or data to justify cost. The effectiveness of these programs and benefit to the taxpayer may be greatly improved if that is allowed transfer data directly into the Employ Florida system in a safe and effective manner. It is my understanding there are some programs currently operating in this manner. With the update of this Agreement DEO should include a clause formally requiring this practice to continue to allow for greater effective use of tax payer funding. | | |
| **(Related to item f)**<br>16. The following subsection and list refer only to the RA systems. DEO may provide the Board access to RA information on an ongoing basis as a result of the Board's use of shared information systems and the provision of integrated services. Access to such information will typically be at no cost (any cost imposed by DEO will be reflected in a separate agreement between the Parties). Certain RA information is made confidential by section 443.1715, Florida Statutes, and 20 CFR 603.9(b)(1) requires the Board to agree to the following terms as a condition of accessing this information. DEO will immediately suspend or cease providing the Board access to RA information if DEO determines the Board is not in compliance with section 443.1715, Florida Statutes, 20 CFR 603, and the conditions set forth below. DEO may, in its sole discretion, provide access once DEO is satisfied that the Board has cured the deficiency. For RA information, ~~T~~the Board shall: | 7 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item f)**<br>17. Does this paragraph and following list only refer to the RA system? | 7 | Yes. |
| **(Related to item f)**<br>18. Agreement states, "DEO may provide the Board access to RA information on an ongoing basis as a result of the Board's use of shared information systems and the provision of | 7 | The Department is evaluating the agreement in light of this comment. |

| | | |
|---|---|---|
| integrated services. Access to such information will typically be at no cost (any cost imposed by DEO will be reflected in a separate agreement between the Parties). In what situations could a cost be imposed on the LWDB by DEO? | | |
| **(Related to item f. vii)**<br>19. DEO needs to specify what information it would like the sub-recipient to maintain which would be sufficient to allow DEO to conduct an audit of transactions. | 8 | The Department is evaluating the agreement in light of this comment. |
| **(Related to item g)**<br>20. 7.g. states "The Board is responsible for all fees and costs incurred due to a breach of security occurring in an operation, program, or physical setting under the Board's control, including, but not limited to, the cost of sending breach notifications." There is no provision for a breach of data by a state employee being supervised by the LWDA who is physically located in a LWDA career center. The LWDA should not be held responsible for a breach of data caused by a state employee operating in a local Board's facility especially in cases where it can be documented the state employee failed to follow local operating procedures or requirements.<br><br>There are laws governing the notification of individuals impacted by data breaches. A delay in notification that causes harm to the individual could result in additional penalties against the party responsible for the notification. The agreement requires the Board to withhold notification until approved by DEO. The agreement does state that DEO will not unreasonably withhold approval; however, in the event DEO does not provide approval in a timely fashion and the Board is subject to penalty or judgement, this agreement does not require DEO to pay any portion of the penalty or judgement against a Board. The agreement also prevents the Board from taking action against DEO for such a breach and as such places the Board in a position where a state employee could cause a data breach by not following local procedures, and DEO could fail to provide a timely approval to the Board for release of information causing additional penalties, judgements, or other financial harm to the Board with the Board having no recourse against the party that actually caused the issue for which the financial harm is incurred. | 8 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| **(Related to item g)**<br>21. This provision prohibits the local Board from providing notifications as required by state statute unless the same are approved by DEO. It further makes the Board responsible for the payment of all fees and costs. The State Department of Legal Affairs has the ability under F.S. '501.171to fine the Board up to $500,000.00 for failure to make required notifications to it. If the Board requests permission to serve notification and DEO denies that request, DEO, and not the Board, should be responsible for the payment of any fines assessed. | 8 | Please review the general responses concerning this section of the agreement. |
| **(Related to item g)**<br>22. The Board will immediately notify DEO of any breach of security impacting more than 500 individuals, as defined and required by~~by~~ section 501.171(3)(a), Florida Statutes, occurring in any operation under its control. ~~If the breach of security concerns data belonging to DEO, DEO reserves to right to determine whether the provisions of section 501.171, Florida Statutes, apply.~~ DEO will work in conjunction and cooperation with the Board determine if notifications are necessary and, if so, the procedure for making, and the content included in, those notifications. The Board will provide the notifications if deemed necessary by DEO and will not provide said notifications without prior approval fromDEO. DEO will not unreasonably withhold approval to send notifications and will make all decisions regarding said notifications as quickly as possible and consistent with the timelines in section 501.171, Florida Statutes. The Board is responsible for all fees and costs incurred due to a breach of security occurring in an operation, program, or physical setting under the Board's control, including, but not limited to, the cost of sending breach notifications. | 8 | DEO received this comment and in consideration thereof, elected to make no change. |

## 8. Background Screenings

General response – Section 8

DEO received several questions related to background screenings. DEO is not authorized to provide, share, copy, deliver, or otherwise give access to the contents or results of a level 2 background screening. Currently, for positions of special trust at a local board for which a level 2 screening is required, DEO HRM will schedule that individual for a fingerprinting. DEO is notified when the screening is complete. DEO then notifies the local board whether the individual is disqualified from holding the position of special trust.

| Question / Comment | Document Page # | Response |
|---|---|---|
| 1. Regarding background screenings, the same clarification is requested. Contracted provider staff access the same confidential data as jointly managed and board staff. | 8 | Please review the general responses concerning this section of the agreement. |
| 2. Before you require level 2 background screenings, we must have access to that service, whether it's through FDLE or another provider. FDLE does not recognize us as an organization with status that requires Level 2 background screening and we got locked out of that years ago. This has been an open issue unresolved by DEO for all of those years. IF you want us to find our own source for the service, please allow for it in the contract, and then make sure we have the funding to cover the costs. | 8 | |
| 3. DEO should confirm for each Board that the boards are eligible to participate in the Level 2 background screens with FDLE before putting this language in the agreement. As nonprofits we cannot utilize this resource. Also, DEO should guide each Board during the FDLE process so the Board can be approved as an entity who can obtain Level 2 checks. At present, I don't believe the local area would qualify under any portion of the Florida statute to be able to conduct Level 2 background screens. | 8 | |
| **(Related to item a)**<br>4. Section 8 Background Screenings item a. – Please review the wording in its entirety. Level 1 screenings for entities outside the LWDBs should be scheduled and performed by those entities. LWDBs should not be expected to incur the costs of Level 1 background screening for other entities unless they are included in a subrecipient contract initiated by the LWDB. | 8 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| **(Related to item a. i)**<br>5. Is DEO requiring boards ask their sub-recipients to do level 1 screenings on their staff. | 8 | Please review the Grantee-Subgrantee Agreement regarding this question. |
| **(Related to item a. i)**<br>6. Please clarify whether DEO is requiring local Boards to require their sub-recipients to do level 1 screenings of their staff. | 8 | |
| **(Related to item a. i)**<br>7. Question: Is DEO requiring that LWDAs ask their vendors and sub-recipients to do level 1 screenings of their staff? | 8 | |
| **(Related to item a. i)**<br>8. The Board will require and obtain a Level 1 background screening as a condition of employment or contract award for all Board, career center staff, contractors, and subcontractors. Additionally, the Board will require and obtain a Level 1 background screening for all individuals performing financial management activities. The Level 1 background screening must be conducted prior to employment or, for contract awards, prior to contractor's employees beginning work. The Level 1 background screening must be conducted at least every five years of consecutive employment, and upon re-employment in all circumstances (including assignment to a new or different contract for Board contractors). The Board will develop a policy for implementing background screenings.<br>The Level 1 background screenings are further explained in section 435.03, Florida Statutes. The Board will contract with an FDLE-approved provider to perform the Level 1 background ~~screenings~~screenings, but such screenings do not include any ~~of on all~~ Subrecipients' staff. The Board is responsible for all costs associated with obtaining the Level 1 background screening described in this section. | 8 | DEO received this comment and in consideration thereof, elected to make no change. |
| 9. Level 1 background screening as a condition of employment or contract award for all Board, career center staff, contractors, and subcontractors and all individuals performing financial management activities every 5 years. We are required to develop a policy for implementing background screenings. Level 2 Screenings required for all Board staff positions that may be granted access to confidential data, including confidential data stored in the information systems used by workforce service providers | 8/9 | The cost is $62.50 per background screen. |

| | | |
|---|---|---|
| to manage and report participant information (position of special trust). States conditions of employment.<br><br>**Comment**: Level 2 background screenings of all staff that have a "Position of Special Trust", we must also report these staff to DEO. Currently we do Level 1 background screenings for staff, however this wording now expands the level 2 screenings to most staff.<br><br>**Comment**: Currently we aren't able to do Level 2 background checks. Majority of the staff would be in a position of special trust. We don't know what the cost would be or the logistics of getting it done. | | |
| **(Related to item b)**<br>10. ALL positions at a career center and board are of 'special trust.' Additionally, LWDA's can no longer obtain VECHS numbers and can therefore not request level 2's. Lastly, is there a provision for how long ago or other circumstances surrounding convictions? DEO will need to provide specific guidance on who they would authorize to access their systems. That seems to be a better course of action than an LWDB having to wait on a determination from the agency to hire someone. (It currently takes us over 6 weeks, sometimes months, to receive approval of a DEO staff person. Can deo handle this additional capacity for staff who are not even theirs). | 9 | Please review the general responses concerning this section of the agreement. |
| **(Related to item b)**<br>11. Section 8 Background Screenings item b. – Obtaining Level 2 screenings has been an ongoing issue for some LWDBs who do not meet the definitions under the statute. We have seen nothing in statute that changes the situation that has previously and periodically been investigated. Again, we are unaware of any changes in the statute that allow LWDBs set up as not-for-profit entities the authority to conduct Level 2 screenings. | 9 | Please review the general responses concerning this section of the agreement. |
| **(Related to item b)**<br>12. The Board has not been able to obtain level 2 screenings for any employee. If such screenings are necessary DEO should take the lead in obtaining the screenings. Further, DEO should commit to a reasonable time frame for the performance of such screenings, as any long delay is likely to result in persons who are offered employment selecting positions with employers who are ready to employ them immediately. | 9 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| **(Related to item b. i)**<br>13. What defines special trust? It appears, in this paragraph, that all LWDB positions could be considered. How does an LWDB have access to level 2 screenings? Not-for-profits cannot get a VECHS number/account. | 9 | Please review the general responses concerning this section of the agreement. |
| **(Related to item b. i)**<br>14. Level 1 information contained in subsection is clear and is what is currently done.<br>Please clarify whether the Special Trust positions only relate to confidential data access stored in information systems and is not related to vulnerable customers. If there is application to access to vulnerable customers then it is requested that all employees be checked with a Level 2 screen. It is too difficult to manage customer flow with Level 1 and Level 2 employees.<br><br>Please clarify whether you have secured permission with FDLE for local workforce boards to have access to Level 2 since our authority to do so was removed several years ago. Please do not put this in the agreement unless you are sure. Much time was wasted several years ago implementing Level 2. | 9 | The Department is evaluating the agreement in light of this comment. |
| **(Related to item b. i)**<br>15. What determines special trust? | 9 | Please review the general responses concerning this section of the agreement. |
| **(Related to item b. i)**<br>16. ~~The Board shall identify and disclose to DEO all Board staff positions that may be granted access to confidential data, including confidential data stored in the information systems used by workforce service providers to manage and report participant information. The Board must review all board staff positions to determine if the positions should be designated as a position of Special Trust. "Special Trust," in this context, refers to positions~~ Positions ~~determined by DEO to be positions of special trust, and all employees placed or considered for placement in a Board Special Trust Position must undergo a Level 2 background screening as set forth more specifically below. For all Board Special Trust Positions, only a Level 2 background screening is necessary. LWDB shall have access to positions of Special Trust upon successful and satisfactory completion of a Level 2 Screening pursuant to this Section.~~ | 9 | DEO received this comment and in consideration thereof, elected to make no change. |

| | | |
|---|---|---|
| **(Related to item b.i -ii)**<br>17. Define "special trust". LWDBs are unable to do Level 2 background check. | 9 | Please review the general responses concerning this section of the agreement. |
| **(Related to item b. ii)**<br>18. Level 2 background screenings are necessary to ensure individuals with criminal convictions or individuals that are under criminal investigation or become under criminal investigations related to theft, fraud, forgery, embezzlement, crimes of violence or any similar matters are not approved for access to confidential information. This includes individuals who plea or pleaded nolo contendere or no contest to such charges or offenses; negative information of this type may disqualify a person from being granted access to confidential information under this Agreement. The Level 2 background screenings must include a state and National Criminal Information Center check through the Federal Bureau of Investigations with no negative results to the above type of offenses/convictions. DEO will assist the Board with all requests for Level 2 screenings as the LWFDB, the Board, and/or the Subrecipient do not have access to Level 2 screenings. | 9 | Please review the general responses concerning this section of the agreement. |
| **(Related to item b. iii)**<br>19. ~~For Board employees that have not had a Level 2 background screening within the past five years and who are currently employed in a Board Special Trust Position, the Board shall transmit a list of those employees in the method prescribed by DEO, in form and substance acceptable to DEO, within 45 days after request by DEO. DEO and the Board shall coordinate to establish a timeline to conduct all level 2 background screenings for current Board employees in a Board Special Trust Position. If the Board intends to place a new employee in a Board Special Trust Position, then the Board shall require that employee undergo a Level 2 background screening prior to any offer of employment. The Level 2 background screening must be conducted at least every five years of consecutive employment and upon re-employment in all circumstances. Note that LWDB staff cannot obtain Level 2 background screenings~~ | 9 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to b. iv)**<br>20. Can the results of the background screening be shared with the local board? | 9 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| **(Related to item b. iv)**<br>21. DEO will assist the Board in obtaining state merit staff the required Level 2 background screenings pursuant to DEO's established processes and procedures<br><br>**What does this sentence mean?** | 9 | Please review the general responses concerning this section of the agreement. |
| **(Related to item b. iv)**<br>22. DEO should be required to provide the results of the background screening to the sub-recipient. | 9 | Please review the general responses concerning this section of the agreement. |
| **(Related to item b. iv)**<br>23. State merit staff shall undergo Level 2 background screenings pursuant to the standards specified in section 435.04, Florida Statutes, as a pre-condition of employment. DEO will assist the Board in obtaining state merit staff the required Level 2 background screenings pursuant to DEO's established processes and procedures. The Level 2 background screening must be conducted at least every five years of consecutive employment and upon re- employment in all circumstances. The results of all such background screenings under this Section shall be shared with the local Board. | 9 | |

## 9. Local Plan and Assurances

| Question / Comment | Document Page # | Response |
|---|---|---|
| **(Related to item a)**<br>1. item 9a states, "The Board must submit and receive approval of local plans which outline the Board's delivery . . ." For purposes of this agreement is the definition of Board meaning the organization as a whole or just the Board of Directors of the LWDA. If defined as just the Board of Directors DEO needs to clarify how the volunteer members of the board are to complete this task. It may be more appropriate for this and other items to say the Board, "shall cause," or the Board shall "require staff to . . ." Since DEO has separated the Board from Board staff in a different section of the | 10 | DEO received this comment and in consideration thereof, elected to make no change. |

| | | |
|---|---|---|
| agreement it is not clear if DEO intends to allow Board staff, operating at the direction of the local Board, to complete said items. | | |
| **(Related to item b)**<br>2. The board is required to use E-Verify system after the effective date. The effective date of what? | 10 | Please review the Grantee-Subgrantee Agreement regarding this question. |
| **(Related to item b)**<br>3. Are our sub-recipients expected to use the E-Verify system? What is the effective date referenced in section 9? | 10 | Yes. The effective date is defined in the Grantee-Subgrantee Agreement. |
| **(Related to item b)**<br>4. E-Verify compliance says that you can't create cases for employees hired before the employer enrolled in E-Verify. | 10 | Please review the general responses concerning this section of the agreement. |
| **(Related to item b)**<br>5. The language is not clear here and needs some clarification. "After the Effective Date" does this refer to the effective date of this agreement or the staff first date of employment? Are we now required to conduct E-Verify on a staff member receiving a promotion if the E-Verify had already been completed at the time of employment? | 10 | Please review the Grantee-Subgrantee Agreement regarding this question. |
| **(Related to item b)**<br>6. Question: Is there a cost associated with e-verify? | 10 | There is no cost associated with using E-Verify. |
| **(Related to item b)**<br>7. Executive Order 11-116, signed May 21, 2011, by the Governor of Florida, requires DEO to use the U.S. Department of Homeland Security's E-Verify system. As of the date this Agreement is executed by all Parties, ~~T~~the Board and LWDB shall commencetrainingto utilize the E-Verify system to verify the employment eligibility of all new employees after the Effective Date of this Agreement. DEO will assist the Board with locating and conducting E-Verify training a~~A~~fter which training, all applicants and new hires ~~the Effective Date of this Agreement, and for all current employees, prior to any promotion or during that employee's Level 1 or Level 2 background rescreening, the Board~~ shall use the E-Verify system to verity identity and employment eligibility as required by federal immigration law. | 10 | DEO received this comment and in consideration thereof, elected to make no change. |

## 10.Procurement

General response – Section 10

Commenters provided a number of responses to the Grantee-Subgrantee Agreement regarding the use of funds to pay for memberships or to enter into agreements with the Florida Workforce Development Association (FWDA). To be clear, DEO encourages the sort of training, education, and unified channels of communication and organization such as FWDA may provide. However, as FWDA's primary revenues come from the local boards, and as FWDA provides advocacy services on behalf of its component boards, DEO is not prepared to authorize expenditure of federal or state funds for costs associated with FWDA memberships. Local boards may use unrestricted funds to pay for such memberships and agreements. Local boards may also, in as much as it is consistent with applicable law, use federal and state funds to pay for registration fees associated with attending trade or industry gatherings, such as the annual FWDA summit. DEO has made a change to the Grantee-Subgrantee Agreement to reflect the preceding statement.

| Question / Comment | Document Page #? | Response |
|---|---|---|
| **(Related to item a)**<br>1. Please define "affiliated". | 10 | The Department is evaluating the agreement in light of this comment. |
| **(Related to item a)**<br>2. Technically, we are all affiliated with local governments. More description of "affiliated," please. | 10 | |
| **(Related to item a)**<br>3. Comment: Please define affiliated. | 10 | |
| **(Related to item a)**<br>4. Please define "affiliated." | 10 | |
| **(Related to items a – b)**<br>5. This is very confusing. The definition of "affiliated with a local government entity" is needed. The following is recommended:<br><br>• Define "affiliated with a local government entity" | 10 | |

| | | |
|---|---|---|
| **(Related to item a)**<br>6. If the Board is affiliated (e.g. associated with in any professional capacity, or in any manner which involves the exchange of money or some other definition) with a local government entity and enters into a contract in the amount of $1,000,000 or more, in accordance with the requirements of section 287.135, Florida Statutes, the Board will obtain a certification that the contractor is not listed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, engaged in business operations in Cuba or Syria, or meets the conditions for exemption as provided in section 287.135(4), Florida Statutes. These lists are created pursuant to sections 215.4725 and 215.473, Florida Statutes. The Board certifies that it is in compliance with this provision. Upon request, DEO will provide a form the Board may utilize in connection with any procurement for the purposes of ensuring compliance with this paragraph. If federal law ceases to authorize the states to adopt and enforce the contracting prohibition described in this paragraph, this paragraph will be null and void. | 10 | DEO has reviewed the agreement in light of this comment and has made a change. |
| **(Related to item b)**<br>7. If the Board is affiliated with a local government entity , e.g. associated with in any professional capacity, or in any manner which involves the exchange of money or some other definition) the Board ~~it~~ will ensure compliance with section 287.133(2)(a), Florida Statutes. Any person or affiliate, as defined by that section of the Florida Statutes, placed on the convicted vendor list following a conviction for a public entity crime may not submit a response to any solicitation for the provision of goods or services to the Board. The Board will not accept any solicitation response from such an entity and will not award a contract in excess of $35,000 for a period of 36 months from the date an entity is placed on the convicted vendor list. Upon request, DEO will provide an attestation form the Board may utilize in connection with any procurement for the purposes of ensuring compliance with this paragraph. | 10 | DEO has reviewed the agreement in light of this comment and has made a change. |
| **(Related to item d)**<br>8. What about adding women and minority-owned businesses in this agreement along with the ones in 10 (d)? | 10 | DEO received this comment and in consideration thereof, elected to make no change; however, the boards are encouraged to contract with women and minority-owned businesses where able. |

| | | |
|---|---|---|
| **(Related to item e)**<br>9. Please explain "access DEO's electronic information technology equipment or software." | 10 | DEO has reviewed the agreement in light of this comment and has made a change |
| **(Related to item g)**<br>10. ~~The Board may not purchase memberships or enter into any agreements with the Florida Workforce Development Association with funds provided by DEO, because of privacy and security concerns regarding the Florida Workforce Development Association's bookkeeping practices..~~ | 10 | Please review the general responses concerning this section of the agreement. |
| **(Related to item g)**<br>11. Would Registration fees paid to FWDA for the training summit be considered an agreement or contract? | 11 | |
| **(Related to item g)**<br>12. It is suggested that DEO reconsider this section. 2 CFR 200 et seq allows for memberships. While the state and local areas may not always agree having an association that is staffed and can vocalize statewide issues through a single individual to DEO in an organized and reasonable way is advantageous to the state and the local areas. If the state is concerned with respect to FWDA advocacy activities, then require that funds that support advocacy not be paid with grant funds. If is never health to stem outlets for engaging in reasonable discussions. FWDA has worked for many years very cooperatively with the state and should not be discarded. | 11 | |
| **(Related to item g)**<br>13. Please clarify the reason this one professional membership has been selected as disallowed. | 11 | |
| **(Related to item g)**<br>14. What is the reason that we cannot enter into agreement with FWDA? They have been the organizer of the state and workforce summit for the past 10 years – is out registration for the workforce summit an agreement for training? Local boards determine memberships necessary to carry out the work of the Local Workforce Development Boards, what authority does DEO have to override that choice? | 11 | |
| **(Related to item g)** | 11 | The Department is evaluating the agreement in light of this comment. |

| | | |
|---|---|---|
| 15. No memberships? Or just FWDA? We have so many memberships expected of us: Chambers of Commerce, multiple professional associations including NAWB, etc. This is another thing that feels like punishment for something but what? | | |
| **(Related to item g)**<br>16. I would encourage DEO to work with FWDA to make this work. This agreement has solidified why FWDA is needed. While possibly not the intent, it feels like DEO is saying the LWDB's cannot have a separate, unique voice. Most states have associations like fwda. How are those allowable? Is adding staff the answer? If DEO simply says dues can't be paid to fwda, there are so many work arounds. Tell us why this is not allowed. Be clear. We want to comply, and at the same time, we will continue to associate in some form (with or without our existing structure or name). | 11 | |
| **(Related to item g)**<br>17. Why is this any different from any other membership? | 11 | |
| **(Related to item g)**<br>18. Why? What other organizations are we not allowed to join using Federal dollars? | 11 | |
| **(Related to item g)**<br>19. What is the legal authority to prohibit this? | 11 | |
| **(Related to item g)**<br>20. Regardless of the Federal/State funding source, membership organizations (such as FWDA) are designed to promote, educate and improve the administration, operation and services to eligible customers or participants abound. Why is FWDA the focus of this prohibition? Please explain? | 11 | |
| **(Related to item g)**<br>21. Payment of registration fees to the Florida Workforce Development Association (FWDA) appear to be disallowed under the provision of the agreement that states local boards may not enter into an agreement with FWDA as the local Board requires an agreement that training will be provided for the fee being paid. Is it the intent of DEO to prevent FWDA from providing much needed training to the front-line staff and other workforce professional across the state? | 11 | |

| | | |
|---|---|---|
| **(Related to item g)**<br>22. Comment: It is suggested that DEO reconsider this section as per 2 CFR 200 memberships are allowable. | 11 | |
| **(Related to item g)**<br>23. To the best of the undersigned's' knowledge, Florida will be the only state which prohibits the use of program funds for payment of membership fees in a State Workforce Development Association, or similar organization. Please delete this prohibition as 2 CFR §200 et. Seq. allows for memberships. If the state is concerned with respect to any FWDA advocacy activities then require that funds that support advocacy not be paid with grant funds. We strongly feel it is never healthy or desirable to stem outlets for engaging in reasonable discussions. FWDA has worked for many years very cooperatively with the state and should not be discarded. | 11 | |
| **(Related to items g-h)**<br>24. Paragraph g, h, the local board may not purchase memberships or enter into any agreements with the Florida Workforce Development Association with funds provided by DEO. Funds expended for events must be compliant with 2 CFR 200.421, and DEO's Guidance on Use of Funds for the Purchase of Outreach/Informational Items (FG-OGM-84).<br><br>**Comment**: We currently pay approximately $8,000/yr.- from program funds. It is unlikely we would make that contribution from our unrestricted funds. We wouldn't expect FWDA to continue as a result of this prohibition. | 11 | |
| **(Related to item h)**<br>25. Funds expended for events must be compliant with 2 CFR 200.421, and DEO's Guidance on Use of Funds for the Purchase of Outreach/Informational Items (FG-OGM-84). Documentation must be retained to support the cost of the funds expended and must demonstrate that the costs are reasonable and necessary taking into account the geographic area and market rates to connect individuals to employment and training services. | 11 | DEO received this comment and in consideration thereof, elected to make no change. |

## 11.Compensation and Travel

| Question / Comment | Document Page # | Response |
|---|---|---|
| **(Related to item a)**<br>1. ~~Funds provided by DEO may not be used to fund the salary, bonus, or incentive of any employee in excess of Federal Executive Level II, regardless of the funding source.~~. This does not take into account market rate for a county like Broward versus a county like Okeechobee. | 11 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item b)**<br>2. We understand some of the challenges which have faced DEO and we understand why DEO is seeking for more transparency, but this language does not really fix the concerns.<br><br>Most if not all boards approve CEO salaries. Consider requiring Board CLEO approval of increases for CEOs and staff not covered by the pay and classifications systems adopted by the Board. This should address the concern. | 11 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item b)**<br>3. The local board sets the salary for CEO, not local elected officials or CSF or DEO. In my case, there is a contract that requires board approval of any change including salary. Please leave that up to the discretion of the local boards. And please define "executive staff" as only the DEO/Executive Director/President! All other employee salaries are set by structure in place and under the director of the CEO. You are inviting board members to get into the day-to-day operations here. | 11 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item b)**<br>4. No changes to compensation for executive staff of the Board are allowed without documented Board approval and must be in alignment with local policies, ~~and~~ procedures, and market rates. The Board shall ensure that all bonuses, pay raises, and benefits are reasonable and necessary for the performance of the award and are a prudent use of federal funds. CLEO approval shall be required prior to any increase in pay | 11 | DEO has reviewed the agreement in light of this comment and has made a change. |

| | | |
|---|---|---|
| for CEO and staff members not covered by the pay and classification systems adopted by the Board and within the discretion of the CEO. | | |
| **(Related to item b)**<br>5. What is the definition of "Executive Staff"? It's mentioned twice in this agreement. Once in section 11(b) where it says no changes can be made to executive staff compensation without documented Board approval and once again in section 7(e) where it says that board requests for DEO data must come from Board executive staff. Are you saying the Executive Director's pay only or the Chief Financial Officer, as well? And are you trying to say board leadership staff can request DEO salary data? | 11 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item b)**<br>6. Section 11 Compensation and Travel item 11 b – What is the definition of "executive staff"? If defined as positions other than the President/CEO, this conflicts with Carver model of governance which has been adopted by some LWDBs. We suggest changing this wording to indicate that Boards approve salary increases for LWDB CEOs, and for any staff not covered by the pay and classification systems that have been adopted by the Board. | 11 | |
| **(Related to item b)**<br>7. Define "executive staff". | 11 | |
| **(Related to item b)**<br>8. The term "executive staff" is undefined.<br><br>We understand some of the challenges which have faced DEO and we understand why DEO is seeking for more transparency but this language does not really fix the concerns. Most, if not all, boards approve CEO salaries. As an alternative, please consider requiring Board CLEO approval of increases for CEOs and staff not covered by the pay and classifications systems adopted by the Board. This should address the concern. | 11 | |
| **(Related to item b)**<br>9. The President/Executive Director is the only direct employee of the Board and therefore is the only employee whose compensation would be approved by the Board. All other staff including those DEO might deem as executive staff report to the | 11 | |

| | | |
|---|---|---|
| President/Executive Director who approves compensation based on policy. The following is recommended:<br><br>• Please define the positions that DEO feels are considered executive staff.<br>• Please amend to acknowledge that the Board of Directors can approve policies and budget which dictate the compensation for executive staff and all other employees. This action should be considered "documented board approval".<br>• Pease rethink this very operational requirement. | | |
| **(Related to item b)**<br>10. Comment: Consider revising language to, "The Board is to approve all payment of bonuses to the Executive Director and changes his/her compensation. In addition, the Board is to ensure the bonus or change in compensation is reasonable, in-line with local policies and procedures, and necessary for the performance of the award and are a prudent use of federal funds." | 11 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item c)**<br>11. For some meetings, training, conferences, lodging and meals are much higher than our local areas – even in Florida. The state needs to consider what it's asking of our budgets in this area. You could be shutting down travel seriously…I won't ask staff to travel on business and pay for it themselves. And if we impose our rules on our service providers we risk not having them when we need them. Please reconsider. | 11 | DEO has reviewed the agreement in light of this comment and has made a change. |
| **(Related to item c)**<br>12. Section 11 Compensation and Travel item 11 c – With all due respect, this mandate seems inappropriate in its entirety, since it appears to be in direct conflict with F.S. 112.061 and F.S.445.07. F.S. 445.007(10) gave CSF the authority to mandate the LWDBs to follow 112.061; however, it doesn't appear to provide authority to overrule F.S. 112.061, nor does it provide authority for specific applicability to LWDB subrecipients or vendors. In addition, lodging expenses are not limited by F.S. 112.061, nor does capping the cost comply with the legislative intent of the statute. This mandate would prohibit meeting events in various locations throughout Florida, unless the staff member wishes to pay the difference in price. It is unlikely that a staff member would be willing to pay the difference between actual costs of the hotel and the $150 imposed cap under any circumstances, but instead would simply not attend the meeting/event. The fact that | 11 | |

| | | |
|---|---|---|
| most individuals are no longer able to claim unreimbursed business expenses on their tax returns for these items further disinclines individuals to absorb yet another non-reimbursable cost for lodging. Lastly, applicability to DEO staff is notably absent from this mandate. Please reconsider this. Please see the following statute:<br><br>F.S. 112.061 (1) states: (1) LEGISLATIVE INTENT.—To prevent inequities, conflicts, inconsistencies, and lapses in the numerous laws regulating or attempting to regulate travel expenses of public officers, employees, and authorized persons in the state, it is the intent of the Legislature:<br>(a) To establish standard travel reimbursement rates, procedures, and limitations, with certain justifiable exceptions and exemptions, applicable to all public officers, employees, and authorized persons whose travel is authorized and paid by a public agency.<br>(b) To preserve the standardization established by this law:<br>1. The provisions of this section shall prevail over any conflicting provisions in a general law, present or future, to the extent of the conflict; but if any such general law contains a specific exemption from this section, including a specific reference to this section, such general law shall prevail, but only to the extent of the exemption.<br>2. The provisions of any special or local law, present or future, shall prevail over any conflicting provisions in this section, but only to the extent of the conflict.<br><br>This also appears to be in direct conflict with F.S.445.007(10) which states: State and federal funds provided to the local workforce development boards may not be used directly or indirectly to pay for meals, food, or beverages for board members, staff, or employees of local workforce development boards, CareerSource Florida, Inc., or the Department of Economic Opportunity except as expressly authorized by state law. Preapproved, reasonable, and necessary per diem allowances and travel expenses may be reimbursed. | | |

| | | |
|---|---|---|
| Such reimbursement shall be at the standard travel reimbursement rates established in s. 112.061 and shall be in compliance with all applicable federal and state requirements. CareerSource Florida, Inc., shall develop a statewide fiscal policy applicable to the state board and all local workforce development boards, to hold both the state and local workforce development boards strictly accountable for adherence to the policy and subject to regular and periodic monitoring by the Department of Economic Opportunity, the administrative entity for CareerSource Florida, Inc. | | |
| **(Related to item c. ii)**<br>13. It is recommended that this section be deleted. It may not have been intended but it is punitive with no basis for adoption. We understand the need for cost reasonableness but do not believe it will be served through adoption of this language.<br><br>Local areas attached to local government are being increasingly asked to adopt policies not in sync with local government policies – we do not believe this is in accordance with State powers<br><br>Local areas which are not part of state government should not have to comply with state restrictions not required by federal law unless the state is also ready to extend all benefits enjoyed by state employees to local area employees<br><br>There is no WIOA or 2 CFR 200 requirement for this and no interest being served through this new travel restriction<br><br>Hotels run far more than $150/day in major cities and visits are not always attached to a conference where there is a negotiated rate – as long as there is a legitimate business reason we should not have to be limited to this amount when traveling<br><br>This also affects Female staff in particular more than their male counterparts. Female staff need to know that they can stay in safe locations without having to pay out of | 11 | |

| | | |
|---|---|---|
| pocket. This policy has a discriminatory impact as it applies to female staff that would be forced to stay in locations not as secure or pay out of pocket for those locations whereas male staff might not be as uncomfortable in those locations and therefore not have to spend out of pocket.<br><br>Consider different language to assure reasonableness. | | |
| **(Related to item c. ii)**<br>14. The board should be allowed to use non-federal funds as well...not just employee funds | 11 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item c. ii)**<br>15. There is no cap of $150 per day in Sec 112.061 Fla. Stat. Under what authority is this cap imposed, and why? | 11 | DEO has reviewed the agreement in light of this comment and has made a change. |
| **(Related to item c. ii)**<br>16. Comment: It is recommended that this section be deleted or modified as it is punitive in nature and it is not required by WIOA or 2 CFR 200 to impose this travel restriction. Hotels run far more than $150/day in certain areas and an LWDA may not be able to benefit from a negotiated group discount rate. As long as there is a valid business reason, this travel restriction should not be imposed. | 11 | |
| **(Related to item c. ii)**<br>17. It is recommended that this section be deleted. There is no WIOA or 2 CFR §200 requirement for this and no interest being served through this new travel restriction. It may not have been intended but these limitations are punitive with no basis for adoption. We understand the need for cost reasonableness but do not believe it will be served through adoption of this language. Local areas which are not part of state government should not have to comply with state restrictions not required by federal law unless the state is also ready to extend all benefits enjoyed by state employees to local area employees. Hotels room rates far exceed $150/day in major cities and visits are not always attached to a conference where there is a negotiated rate. As long as there is a legitimate business reason, employees should not have to be limited to this amount when traveling. This also burdens female staff more than their male counterparts. Female staff need to know that they can stay in safe locations without having to pay out of pocket. This policy potentially discriminates against female staff by | 11 | |

| | | |
|---|---|---|
| forcing them pay out of pocket to stay in a safer location whereas male staff might not be as uncomfortable in those locations and therefore would not have to spend out of pocket. | | |
| **(Related to item c. ii)**<br>18. ~~Lodging expenses for an employee of the Board may not exceed $150 per day, excluding taxes and fees, unless the Board is participating in a negotiated group rate discount or the Board obtains and maintains documentation of at least three comparable alternatives demonstrating that such lodging at the required rate is not available. However, an employee of the Board may expend his or her own funds for any lodging expenses more than $150 per day.~~ | 11 | |
| **(Related to item c. iii)**<br>19. This will be hard to impose on vendors even some sub-recipients like school boards and colleges will push back or won't want to do business with us. | 11 | Please review the general responses concerning this section of the agreement. |
| **(Related to item c. iii)**<br>20. Comment: This will be difficult to require on vendors and subrecipients and will result in push back or even some sub-recipients like school boards and colleges will push back or possibly not conducting business with the LWDA. | 11 | |
| **(Related to item c. iii)**<br>21. Some important sub-recipients such as school boards and colleges may be unwilling to do business with us if this requirement is forced upon them. | 11 | |
| **(Related to item c. iii)**<br>22. The Board shall ensure that travel and expense reimbursements made to vendors and subrecipients are in accordance with the Board's travel and expense policy and aligned with local market rates and event surge price increases. The Board's travel and expense policy must ensure that vendor reimbursements are made at a fair ~~the lowest possible~~ cost necessary to ensure a reasonable level of service, comfort, and security. | 11 | DEO received this comment and in consideration thereof, elected to make no change. |

## 12. Board Governance, Responsibilities, and Transparency

General response - Section 12

DEO received the third-highest volume of questions and comments related to Section 12. Section 12 concerns board governance, responsibilities, and transparency. DEO first wishes to thank those local boards that have presented themselves with the highest levels of accountability – DEO looks to you as a guide and model for what good governance at the local board level should endeavor to be.

DEO received 18 comments and questions regarding the new online posting requirements for the boards. DEO cannot emphasize enough the duty of the local boards to operate in an open and transparent manner, and that all funds are treated with accountability. Recent experiences have shown that board staff may not be fully communicating with the board with respect to hiring and promotion, and the online posting requirements are intended to address that issue. With respect to posting employee position information and salaries, DEO is not requesting that the local boards post individual's names.

With respect to reporting litigation, investigations, or discoveries of violations of federal criminal law, DEO has an interest in understanding the impact or potential impact to or the use of state or federal funding through board litigation, responses to investigations, and allegations of fraud or bribery. This information must be disclosed to DEO consistent with the terms of the agreement.

| Question / Comment | Document Page # | Response |
|---|---|---|
| 1. This entire section is somewhat in the weeds and petty. It's overbearing. To post everything you ask for on a web site would require a separate website, when we all use the same as our organization's services site. We will run up some nice costs to create a separate website for all of your requirements. There is such a thing as overdoing the transparency intent. | 11 | Please review the general responses concerning this section of the agreement. |
| 2. What is the need for going beyond what WIOA requires? | 11 | |
| **(Related to item a)**<br>3. The statement suggested in comment # 1 would apply and therefore the statement in item a would not be necessary ("both parties agree to follow federal and state laws, Codes of Federal Regulations, and Uniform Guidance in all fiscal and programmatic operations relative to the programs covered under this agreement"). | 11 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| **(Related to item b)**<br>4. WIOA only requires items i, iv, and vii be posted. There is no state or federal requirement for the highlighted items/records (ii, iii, v, vi, vii (within 15 days of board approval), and viii to be posted. All of these documents are available through a public records request.<br><br>If a local area is attached to local government DEO is going beyond Home Rule and Charter rights of local government by making the above highlighted postings a requirement<br><br>Compensation and salaries – while the state does post, most local governmental units do not post this information. Posting this information can lead to dissatisfaction among non-executive staff who generally don't inquire as to the salaries of other non-executive staff. This may lead to unintended consequences of law suits, complaints and other types of HR claims. This is because most boards are single focus entities with easily identified positions as opposed to all the staff at the state or a college<br><br>While local staff salaries can be deemed public record by the state and can be requested many local staff would be very uncomfortable knowing their neighbor can look on their work website and see their salaries. Consider only requiring executive staff salary postings if any.<br><br>Studies have shown that not all transparency has the positive results intended. What interest is served in the posting of contracts? Again, while these are public records they are rarely requested. We think this would impact local area ability to negotiate with private entities bidding on local contracts<br><br>We are not sure what interest is served by posting the interlocal agreements (which in some case are already posted as part of Local Plan documents anyway). There is already a federal requirement that local elected officials be provided with the interlocal upon election to a position which makes them a part of the governance structure | 11 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| DEO already gets these documents upon request or during monitoring so DEO has no reason to have to pull the documents from the local websites.<br><br>Most boards and one-stops share the same websites – contracts and salaries so easily accessible to participants and customers who would not otherwise think to request this information may give rise to a variety of demands and complaints such as a participant not receiving the services that were "contracted for", misunderstandings about what was contracted for, comparisons with services received and the wages paid an individual<br><br>Posting audits and broadcasting total funds is very different from posting funds associated with a college, school board or governmental entity. Local funds are specific and much easier to identify – we would request the state reconsider as a public records request would provide this.<br><br>ADA requirements would have to be met for all non required postings as the state is aware this is costly. | | |
| **(Related to item b)**<br>5. Posting on our website – things like staff names and salaries are just a surefire way to create discontent within our organizations. Same for posting contracts…if we have an RFP out there seeking proposers, why would we put up all the details to give anyone an unfair advantage? Besides, anyone needing particular information can already file a public records request and get it. | 11 | |
| **(Related to item b)**<br>6. As a private nonprofit, boards should not have to list their employee salaries, benefits, and bonuses to the public. These aren't state employees…And, to calculate the wages, benefits, and bonuses for each person is more than what the state employees have posted publicly. | 11 | |
| **(Related to item b)**<br>7. WIOA only requires items i, iv, and vii be posted. There is no state or federal requirement for the other items or records to be posted Further, all of these documents are available through a public records request. | 11 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| In regard to compensation and salaries, while the state does post this information, most local governmental units do not do so. Posting salary information can lead to dissatisfaction among non-executive staff who generally don't inquire as to the salaries of other non-executive staff. This may lead to law suits, complaints and other types of HR claims. While local staff salaries can be deemed public record by the state and can be requested, many local staff would be very uncomfortable knowing their neighbor can look on their work website and see their salaries. Please consider only requiring executive staff salary postings, if any.<br>In regard to the posting of contracts while these are public records, they are rarely requested. We think this requirement could negatively impact local area ability to negotiate with private entities bidding on local contracts<br>Additionally, we are not sure what interest is served by posting the inter-local agreements (which in some case are already posted as part of Local Plan documents anyway). There is already a federal requirement that local elected officials be provided with the inter-local upon election to a position which makes them a part of the governance structure. DEO already gets these documents upon request or during monitoring so DEO has no reason to have to pull the documents from the local websites. Posting audits and broadcasting total funds is very different from posting funds associated with a college, school board or governmental entity. Local funds are specific and much easier to identify – we would request the state reconsider this requirement as a public records request would provide this information.<br>ADA requirements would have to be met for all non-required postings. Compliance will be costly. | | |
| **(Related to item b)**<br>~~The following information must be posted on the Board's website in a manner easily accessed by the public:~~<br>~~i. Notice of all Board meetings at least seven days before the meeting is to occur. Notice of special board meetings must be posted at least 72 hours before the meeting is to occur. Such notice shall be extended to all staff, including local DEO team members.~~<br>~~ii. Employee positions and salary information for each position (including any benefits and performance bonuses), including~~ | 11 | |

| | | |
|---|---|---|
| ~~contracted and jointly-managed staff.~~<br>~~iii.~~i. ~~A plain language version of any contract that is estimated to exceed $35,000 with a private entity, municipality, city, town, or vendor of services, supplies, or programs, including marketing, or for the purchase or lease or use of lands, facilities, or properties. "Plain language version," in this context, shall mean that the publicly-accessible version of the contract shall come with a glossary defining all terms of art employed throughout the contract;~~ this includes sub-recipients.<br>~~iv. A list of all Board members, company or entity that the Board member is employed by or owns, and their terms of service.~~<br>~~v. Interlocal agreement(s), as applicable vi. Single Audit for the last two years.~~<br>~~vii.~~ii. ~~Board meeting minutes within 15 days of Board approval.~~<br>~~viii. All active agreements with another board that delegates partial or complete responsibility for any duties the Board is expected, required, or mandated to perform under this Agreement or WIOA, even if the cost is not expected to exceed $35,000.~~<br>Board meetings and minutes are not necessarily pubic and exposing private employees to this level of disclosure and public scrutiny is unnecessary, not required, and could frankly be unsafe for the employees. | | |
| **(Related to item b. i)**<br>8. No issue with providing salary and bonus information but including benefits as well is over the top. What benefits are included in this? | 11 | Costs of benefits should include the estimated annual cost of the employer's share of health benefits, FICA, Medicare, retirement plans, unemployment insurance, worker's compensation insurance, employer provided disability benefit premium, employer provided life insurance premium, sick and annual leave, and other benefits partially or wholly paid for by an employer. |
| **(Related to item b. ii)**<br>9. Does this include contracted/provider staff and jointly managed staff? | 12 | No, this is only applicable to board staff and not contracted staff or jointly managed. |
| **(Related to item b. ii)**<br>10. Could this not be handled with a range. With a fight for employees you need to have some advantage to getting good talent. This would just be a mess. | 12 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| **(Related to item b. ii)**<br>11. Revise to a salary range for positions rather than for "each position". | 12 | Please review the general responses concerning this section of the agreement. |
| **(Related to item b. ii)**<br>12. Because DEO and other State Departments/Divisions do this does not mean that it should be passed down to separate non-profit organizations. Employee salaries can and should be open to public inquiry when asked for. It can be reported to monitors and auditors when requested but posting it on a website is over reacting to monitoring failures. The following is recommended:<br><br>• Remove this requirement.<br>• Substitute the language which states that the information about executive salaries shall be provided to DEO as part of the programmatic and/or financial monitoring. | 12 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item b. iii)**<br>13. Please define plain language. Does this include sub-recipients? | 12 | This phrase comports with its common meaning. Only the boards are expected to comply with the transparency requirements listed in this paragraph. |
| **(Related to item b. iii)**<br>14. All of these contracts are public records, subject to disclosure under the public records act. The majority of LWDB contracts exceed $35k. The amount of time to review whether a contract contains information which is confidential and exempt from disclosure before posting on the website will be extensive. Further, what is a "plain language version"? This requirement should be deleted. | 12 | Please review the general responses concerning this section of the agreement. |
| **(Related to item b. iii)**<br>15. For a board of our size, posting all contracts over $35K will create an administrative burden. Since we operate under the Florida Sunshine Law, requestors can see any document they want when requested. If this is not a problem now, why add more administrative burden to Board staff? Our Board and Committee packages are posted and all expenditures are listed by vendor. This is already available to the public. If a citizen wants to see a contract, we comply with the request. The following is recommended:<br><br>• Remove this language causing an administrative burden and extensive monitoring challenge. | 12 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| **(Related to item b. iii)**<br>16. The term "plain language version" is undefined. Further, the restatement of legal agreements into terms easily understood by those having little or no knowledge of legal terms and their import, if that is the intent of this provision, may entail considerable extra legal expense for local Boards. Please delete this provision. | 12 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item b. i. – iv.)**<br>17. It is our understanding that only items i., iv. and vii. are mandated for posting according to the law. Although most of the other items may be considered public record, individuals interested in obtaining this information can easily submit public record requests. Also, keeping up with the ADA requirements for many of these requested website postings will be difficult and costly. Local counties have decreased the number of items posted because they cannot afford the related costs. At least for smaller boards, and likely for others, the costs of ensuring the ADA requirements are met for all postings, combined with the man hours needed to keep up with these postings, will be problematic. In addition, some LWDBs websites have size/data constraints imposed by the website hosts (sometimes based on cost and budget limitations). Transparency does not mean every document or piece of information needs to be posted on a website. Transparency may also be reflected in open to the public committee/board meetings and via public record requests. A general statement that LWDBs must follow the Sunshine Law should suffice. Please reconsider this section.<br><br>i. - Please cite the regulatory authority that requires meetings be posted at least 7 days prior to the meeting?<br><br>ii. - Posting of employee positions and salary – Please remove this item. While we understand this may be considered public record, posting to the website is not mandated in the law, and is likely to have negative consequences on employee satisfaction and morale. Salaries for similar positions may vary due to length of service within the organization. Some boards have incentive policies that are not based on across the board awards, but instead are based on factors such as annual evaluation scores, length of service, level of responsibility in the organization, etc. While the determination of calculations may be standardized, amounts may vary per employee. Again, posting this | 12 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| information is likely to cause dissatisfaction, decreased morale, various HR complaints, and possible lawsuits. Also, since wage rates vary across LWDBs, this encourages job hopping to entities that are able to pay higher wages for similar positions. Individuals seeking this information can easily submit a public records request. If oversight is the issue, wage information can be reviewed by DEO during financial monitoring. We suggest this item be removed, or, allow boards to post generic board approved salary structures (pay scales/ranges for positions) only, not to include specific individuals' pay.<br><br>iii. - Please, what is the purpose of posting all contracts above $35,000? Please consider our comments concerning the costs of keeping up with ADA requirements of all website postings, as well as website data/size constraints.<br><br>iv. - No issue<br><br>v. - Please, what is the purpose of posting the Interlocal Agreement? Please consider our comments concerning the costs of keeping up with ADA requirements of all website postings, as well as website data/size constraints.<br><br>vi. - Please, what is the purpose of posting the Single Audits for the last two years? Audit results are already sent to DEO, reviewed at board meetings, and available through public record requests. Please consider our comments concerning the costs of keeping up with ADA requirements of all website postings, as well as website data/size constraints.<br><br>vii. - No issue<br><br>viii. - Same comments as item # iii.<br><br>In addition, many marketing experts share the opinion that businesses frequently put too much information on their websites, much of which is not read and not considered helpful to the general user. This appears to be what is being requested of LWDBs. The majority of | | |

| | | |
|---|---|---|
| businesses and individuals accessing our websites are seeking information on services available to them, and how to access those services. It is our opinion that this is the type of information LWDBs should concentrate on posting and keeping updated and ADA compliant, rather than staff salaries, contracts, interlocal agreements, and single audit reports. As noted above, anyone interested in this other information can submit a public records request. | | |
| **(Related to item b. i. – viii)**<br>18. **Comment:** WIOA only requires items i, iv, and vii be posted. There is no state or federal requirement for the highlighted items/records to be posted. All of these documents are available through a public records request.<br><br>Compensation and salaries – while the state does post, most local governmental units do not post this information. Posting this information can lead to dissatisfaction among non-executive staff who generally don't inquire as to the salaries of other non-executive staff. This may lead to unintended consequences of law suits, complaints and other types of HR claims.<br>While local staff salaries can be deemed public record by the state and can be requested many local staff would be very uncomfortable knowing their neighbor can look on their work website and see their salaries.<br>We are not sure what interest is served by posting the interlocal agreements (which in some case are already posted as part of Local Plan documents anyway). There is already a federal requirement that local elected officials be provided with the interlocal upon election to a position which makes them a part of the governance structure. DEO already gets these documents upon request or during monitoring so DEO has no reason to have to pull the documents from the local websites.<br>Most boards and one-stops share the same websites – contracts and salaries so easily accessible to participants and customers who would not otherwise think to request this information may give rise to a variety of demands and complaints such as a participant not receiving the services that were "contracted for", misunderstandings about what was contracted for, comparisons with services received and the wages paid an individual.<br>Posting audits and broadcasting total funds is very different from posting funds associated with a college, school board or governmental entity. Local funds are specific | 12 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| and much easier to identify – we would request the state reconsider as a public records request would provide this.<br>ADA requirements would have to be met for all non required postings as the state is aware this is costly | | |
| **(Related to item b. viii)**<br>19. Please clarify what constitutes an "active agreement" under this section. | 12 | This phrase comports with its common meaning. |
| **(Related to item d)**<br>20. No problem with the content but has little to do with grant implementation – suggest deleting and implementing through policy. | 12 | Please review the general responses concerning this section of the agreement. |
| **(Related to item d)**<br>21. ~~In compliance with sections 39.201 and 415.1034, Florida Statutes, if the Board knows or has reasonable cause to suspect that a child, aged person, or disabled adult is or has been abused, neglected, or exploited, the Board agrees to immediately report such knowledge or suspicion to the Florida Abuse Hotline by calling 1-800-96ABUSE, or via the web reporting option at http://www.dcf.state.fl.us/abuse/report, or via fax at 1-800-914-0004.~~ Workforce boards/employees are not mandatory reporters under Florida's child abuse laws, and this has nothing to do with workforce and grant management. | 12 | Please review the general responses concerning this section of the agreement. |
| **(Related to item d)**<br>22. item 12, d. requires reporting if "the Board knows or has reasonable cause . . . " This should be changed to say the Board must require all employees and operator staff to report. The Board as a body may not know just because one person has knowledge but has not shared that knowledge with any other individual. | 12 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item d)**<br>23. It would be unlikely that the Board would know or suspect abuse of any of our clients. The board does not work directly with clients. This should be reworded to indicate if the board staff or their service providers know of or suspect abuse… | 12 | The Department is evaluating the agreement in light of this comment. |
| **(Related to item e)**<br>24. Unless the state is a named party what interest is served by noticing the state regarding civil litigations, investigations, etc.? | 12 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| **(Related to item e)**<br>25. In Section 12.e. states that the Board must disclose…to whom do we disclose? | 12 | Please review the general responses concerning this section of the agreement. |
| **(Related to item e)**<br>26. This provision may subject the sub-recipient to liability for defamation if it reports an alleged violation of criminal law which later turns out to be unfounded. The local board should have a reasonable time frame to investigate prior to making any report. | 12 | Please review the general responses concerning this section of the agreement. |
| **(Related to item e)**<br>27. Consistent with 2 CFR 200.113, the Board must, within one business day of discovery, disclose any violation of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award (to whom should this be disclosed? If it doesn't involve DEO, no legal duty to disclose such to DEO). Additionally, the Board shall disclose any other on-going civil or criminal litigation, investigation, arbitration, or administrative proceeding in which DEO is a named party upon execution of this Agreement. | 12 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item g)**<br>28. DEO is a pass through for most of our funds not the sponsor. The program is sponsored by the local board and DEO should not be in the same size and type as the organizations name. | 12 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item g)**<br>29. Comment: DEO is a pass through for most of our funds not the sponsor. The program is sponsored by the local board and DEO should not need to be in the same size and type as the organizations name. | 12 | |
| **(Related to item g)**<br>30. Section 12 Board Governance, Responsibilities, and Transparency- g - The wording in this section does not reflect the wording in the statute. The statute referenced relates to state sponsorship. We understand how this would apply to the receipt of Florida General Revenue funds. However, concerning funds received under the agreement, DEO serves as a pass-through entity of federal funds. Consider the feasibility of a marketing flyer – how many entities would have to be reflected, and the same size, to remain in compliance? Please reword. | 12 | |

| | | |
|---|---|---|
| **(Related to item g)**<br>31. Clarification of this paragraph is requested. | 12 | |
| **(Related to item g)**<br>32. This applies to nongovernmental organizations. I am not sure the point giving sponsorship credit to DEO makes sense. LWDB's were asked to build a statewide brand around CareerSource, not DEO. LWDB's also handle funding from DCF, USDA, etc. Why would we give sponsorship credit to DEO alone? LWBD are funded by the funds passed through DEO, rarely is funding provided to a Board for GR funding. The following is recommended:<br><br>• Remove the requirement to list "Sponsored by (entities name) and the State of Florida, Department of Economic Opportunity." | 12 | |
| **(Related to item g)**<br>33. item 12.g. addresses the requirements of section 286.25, Florida Statutes, but it adds the requirement to add the agency name. This statute does not include the addition of the agency name and defines in quotes the wording shall be, "Sponsored by (name of organization) and the State of Florida." There is no provision in the statute for the addition of an agency name. If the legislature had intended the name of the pass through agency to be recognized the statute would read, "Sponsored by (name of organization) and the State of Florida, agency name", but it does not. | 12 | |
| **(Related to item g)**<br>34. In compliance with section 286.25, Florida Statutes, the Board will ensure any nongovernmental organization which sponsors a program financed, in whole or in part, with funds provided under this Agreement will, in publicizing, advertising, or describing the sponsorship of the program, state: "Sponsored by (entities name)". If ~~and the~~the DEO is also a sponsor, a logo for the " State of Florida, Department of Economic Opportunity" ~~y." If the sponsorship reference is in written form, the words "State of Florida, Department of Economic Opportunity"~~ will appear in the same size letters or type as the name of any ~~the~~ othersponsoringentity. | 12 | |

| | | |
|---|---|---|
| **(Related to items g-h)**<br>35. Paragraphs f, g, discuss requirements of Stevens Amendment Act language. DEO guidance is requested. | 12 | Boards must comply with the Stevens Amendment, Public Law No. 115-141 as described within the Grantee Sub-Grantee Agreement. DEO has previously issued guidance on the board's compliance with this law and will provide additional guidance to individuals requesting assistance. |

## 13.Ethics

| Question / Comment | Document Page # | Response |
|---|---|---|
| **(Related to item a)**<br>1. The Board shall adopt an employee ethics code modeled after the provisions of Chapter 112, Florida Statutes, and shall name a Chief Ethics Officer. The Chief Ethics Officer can hold more than one position with the Subrecipient and/or the Board. The Officer shall be responsible for the periodic training of Board staff and for maintaining the Ethics Code and for, which addresses | 13 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item b)**<br>2. . "The Board must ensure that separate entities are designated, or procured, to perform the functions of fiscal agent, staff to the Board, one-stop operator and direct service provider." The Board, per state and federal law, can serve in all of these capacities...simultaneously even.<br><br>It is strongly requested this item be reworded to reflect this ability. Additionally, this sentence seems to indicate as written the "one-stop operator and the service provider" should be the same provider. An oxford comma should be considered to clarify unless the intent of the department is otherwise—in which case, it would be encouraged to reconsider. | 13 | The Department is evaluating the agreement in light of this comment. |
| **(Related to item b)**<br>3. item b. states, "The Board must ensure that separate entities are designated, or procured, to perform the functions of fiscal agent, staff to the Board, one-stop operator and direct service provider." First without a comma after "operator" and before the word "and" this sentence would require the one-stop operator and direct service | 13 | |

| | | |
|---|---|---|
| provider to be one in the same. Second, this sentence doesn't address situations where the Board has chosen to designate the organization as both the administrative entity and the grant recipient. As written the Board would be required to procure a separate entity for each area. This section would also be in conflict with local consortium agreements if those agreements name the same entity in any of those roles. Is it DEO's intent to remove this authority from the local level as allowed in WIOA? | | |
| **(Related to item b)**<br>4. item b, states "The Board must ensure that separate entities are designated, or procured, to perform the functions of fiscal agent, staff to the board, one-stop operator and direct service provider." Please cite the regulatory guidance that requires this. This could be problematic for a majority, if not all, all boards. Our counties BOCC's have designated our entity as the fiscal agent and administrative entity. Direct service provision has proven to be less costly and has resulted in improved morale, increased organizational communication, and higher performance. One-stop operation procurement resulted in one response which our board deemed inexperienced, overpriced, and not acceptable. We suggest removal of this statement. | 13 | |
| **(Related to item b)**<br>5. "The board must ensure that separate entities are designated, or procured, to perform the functions of fiscal agent, staff to the board, one-stop operator and direct service provider."<br>Differs from the language in the planning instructions:<br>"Agreements describing how any single entity selected to operate in more than one of the following roles: local fiscal agent, local board staff, one-stop operator or direct provider of career services or training services entity will carry out its multiple responsibilities, including how it develops appropriate firewalls to guard against conflicts of interest. Also attach copies of any procedures on how roles are delineated to verify the firewalls are effective."<br><br>The planning instructions allows for one entity to have multiple roles and the agreement does not. Is DEO implying that we will need four separate entities for fiscal, staff, operator and provider? | 13 | |

| | | |
|---|---|---|
| **(Related to item b)**<br>6. Comment: The above statement contradicts WIOA. WIOA allows LWDBs to be direct providers of basic and individualized career services (also referred to as "workforce services"), fiscal and administrative agent with the agreement of the Chief Elected Official in the local area, LWDB, and the Governor. The Governor has provided this waiver for the State of Florida. | 13 | |
| **(Related to item b)**<br>7. The way this item is currently worded would require us to completely restructure our organization. This requirement of separate entities for each function is not required in either state or federal law. This clause will affect many, if not all, boards across the state. There is a section in the state plan where we explain how a single entity will carry out its multiple responsibilities, including how it develops appropriate firewalls to guard against conflicts of interest. In fact, we just completed our approval through our CLEOs to continue to provide direct services as a workforce board, a process whereby we are always required to show the cost savings in order to be approved to do so. As this item is currently worded, costs to separate these duties/functions would increase leaving less for those we serve. | 13 | |
| **(Related to item b)**<br>8. The Board will adopt and abide by a conflict of interest policy that ensures compliance with state and federal law and applicable State Board and DEO policies. The Board will make reasonable modifications to the policy if requested by DEO. ~~The Board must ensure that separate entities are designated, or procured, to perform the functions of fiscal agent, staff to the Board, one-stop operator and direct service provider.~~ | 13 | |
| **(Related to item c)**<br>9. The Board must ensure grievance procedures and Equal Opportunity representation, consistent with 20 CFR 683.285, federal law, state law, and local ordinance is available and made known to staff, participants, and other interested parties in the local workforce development system. The Board must also adopt a whistle blower policy that facilitates the reporting of violations of policy or law without fear of retaliation. | 13 | DEO received this comment and in consideration thereof, elected to make no change. |

## 14.Local Board Composition, Board Member Selection and Training

| Question / Comment | Document Page # | Response |
|---|---|---|
| **(Related to item a)**<br>1. Under the local Board membership requirements there is no provision by DEO to follow the requirements of 20 CFR § 679.320 (d) (3) (ii). Has DEO received a waiver from the United States Department of Labor waiving this provision? Has DEO decided this provision of WIOA does not apply to DEO? The agreement seems to want to hold the local Boards to very strict interpretations of law and policy; however, DEO has ignored this requirement for years. DEO should be required to appoint an individual with significant policy making decision under the Wagner-Peyser Act (29 U.S.C. 49 et seq). Furthermore, this individual should be required to attend local Board meetings on a regular basis. The failure of DEO to appoint representatives to the local Boards is an example of an action, or failure to act, by DEO placing the Boards in a situation where they are unable to fully comply with the requirements of WIOA. Under terms of the agreement DEO could apparently punish the Boards for failure to meet required membership while having been the very agency that placed the local Boards in the violation. | 13 | This comment is currently under review. |
| **(Related to item b)**<br>2. Consider revising. This is an elected official responsibility. The board can weigh in but the elected are not required to follow those processes and procedures. | 13 | The Department is evaluating the agreement in light of this comment. |
| **(Related to item b)**<br>3. Comment: Consider revising as this is the responsibility of CLEO who follow their processes and procedures. | 13 | |
| **(Related to item b)**<br>4. Consider deleting this provision as this is an elected official responsibility. The Board can attempt to influence the process, but the elected officials are not required to follow Board suggestions. | 13 | |

| | | |
|---|---|---|
| **(Related to item b)**<br>5. The Board must develop and implement clear processes and procedures for recruiting Board members~~. and documenting their qualifications in alignment with the requirements of WIOA, and compliant with all federal and state laws, polices, procedures, and rules. Elected officials shall be advised, but not required, to implement such processes and procedures.~~ | 13 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item d)**<br>6. Given the language in section 14.d., does this imply that DEO will not be providing training for LWDB board members and our chief elected officials? Sign-in sheets is limiting in its requirement for those of us who will use an online platform. | 14 | The Department is evaluating the agreement in light of this comment. |
| **(Related to item d)**<br>**7.** Asking volunteer board members and elected officials to certify they have been trained would be offensive to them. | 14 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item d)**<br>8. Item 14 d. states, "The Board shall develop mandatory Board orientation and training for governing Board members and CLEO's. The LWDA does not have the authority to require the Chief Local Elected Official to attend such training. The LWDA can make the training available and request the CLEO attend. | 14 | The U.S. Department of Labor expects that training is provided to chief elected officials to ensure they understand their key roles and responsibilities. |
| **(Related to item d)**<br>9. We can create and work with CLEOs on mandatory training, but at the end of the day, we cannot require them to complete the training. | 14 | |
| **(Related to item d)**<br>10. The Board shall develop mandatory Board orientation and training for governing Board members and CLEOs. The Board shall retain ~~and provide to DEO upon request~~ the dates of training and sign-in sheets both handwritten and electronic of training participants. | 14 | The Department is evaluating the agreement in light of this comment. |

## 15.Related Parties

General response – Section 15

DEO is requiring an annual disclosure of related party agreements between the board and a board member to ensure the transparency and compliance of all related party contracts with the Florida Statutes. This disclosure is not a Financial Disclosure that is requested by the Commission on Ethics.

The U.S. Department of Labor performed a review of Florida, CareerSource Pinellas, and CareerSource Tampa Bay and has issued Compliance Review of Florida on May 15, 2019. As part of the Compliance Review, U.S. Department of Labor is requiring that that board members with the conflict remove themselves from any discussion and prior to any voting. To document this compliance, DEO has amended the forms, as necessary.

| Question / Comment | Document Page # | Response |
|---|---|---|
| **(Related to item c)**<br>1. There is already is 100% accountability for the funds in the statute and regulations. This language would require that local areas get certificates of coverage for the state and may not be able to get coverage that insures the state. | 14 | DEO has not requested a certificate of coverage but requires the Board to disclose related party agreements and transactions annually to ensure all related party transactions are known and comply with the Florida Statutes. |
| **(Related to item c)**<br>The Board and its employees must annually disclose to DEO any conflicts of interest that may arise during the upcoming year, or that actually arose in the current year and were not previously disclosed.<br><br>Is this Financial Disclosure? Why DEO? Annual Financial Disclosure is made to Commission on Ethics not DEO. No where in 445.007(11) does it mention annual disclosure to DEO. | 14 | Please review the general responses concerning this section of the agreement. |
| **(Related to item c. i)**<br>2. Workforce Innovation and Opportunity Act very intently focused on having high level decision makers from the private sector as board members. Requesting these members to leave the room prior to any discussions where they have a conflict is discrediting to their ethics. In addition, our meetings fall under the sunshine rules where on one may be asked to leave a meeting. | 14 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| **(Related to item c. i)**<br>3. This is not required in any policy previously established. No where in statutes does it say the local public officer must remove himself from the meeting.<br><br>Florida Statutes(3)(a) No county, municipal, or other local public officer shall vote in an official capacity upon any measure which would inure to his or her special private gain or loss; which he or she knows would inure to the special private gain or loss of any principal by whom he or she is retained or to the parent organization or subsidiary of a corporate principal by which he or she is retained, other than an agency as defined in s. 112.312(2); or which he or she knows would inure to the special private gain or loss of a relative or business associate of the public officer. Such public officer shall, prior to the vote being taken, publicly state to the assembly the nature of the officer's interest in the matter from which he or she is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his or her interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.<br><br>This is done with Form 8A and 8B | 14 | Please review the general responses concerning this section of the agreement. |
| **(Related to item c. i)**<br>4. This is non-sense and not required under any statute. This would actually conflict with current Sunshine Laws... | 14 | Please review the general responses concerning this section of the agreement. |
| **(Related to item c. i)**<br>5. Item c. i. states "the Board member or employee with the conflict removes himself or herself from the room prior to any discussion at any meeting . . ." This goes well beyond the requirements of Florida law and enters the realm of rulemaking which requires a certain process be followed. If enforced it is unclear how to handle this for telephonic or video conference meetings where the Board may not be able to tell a member has left the call. Board members are currently required to declare the conflict and may not participate in discussion or otherwise indicate their opinion or by word or action, or attempt to influence the decision of the Board in any other manner. | 14 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| Also, this could cause issues related to necessary quorums present at a meeting. A member that leaves the room would no longer be at the meeting and thus no longer count for a quorum. | | |
| **(Related to item c. i)**<br>6. Board members are already required to file a Form 8B and refrain from participation, discussion, and voting on any matter in which they have a conflict. The requirement that Board Members remove themselves from the room prior to any decisions is demeaning and will undoubtedly result in Board member resignations.<br><br>Further, there is no guidance as to what should be done as to Board members attending meetings telephonically if this measure is retained in the Agreement. | 14 | Please review the general responses concerning this section of the agreement. |
| **(Related to item c. i)**<br>7. Asking a board member with a conflict during a related party contract is overkill and potentially embarrassing. It infers that they are not capable of not being a part of the discussion. This is not required under the Ethics Commission nor in any state law that we are aware of. It will also be problematic for virtual meetings or conference call meetings. | 14 | Please review the general responses concerning this section of the agreement. |
| **(Related to item d)**<br>8. Completion of Forms. For each Related Party Contract, the Board must ensure that the forms attached hereto as Exhibits C and D are completed, dated, executed, and certified prior to execution of the contract or incurring of expenditures for the current fiscal year. Exhibits C and D must be submitted at or before the Board meeting in which the vote is to take place for board members and employees of the board who have any conflict of interest with the contracting vendor. For conflicts unknown at the time of entering into the Related Party Contract, the Board shall ensure that completed forms of Exhibits C and D are provided to the Board ~~filed~~ within 15 days after the disclosure with the person responsible for recording the minutes of the meeting. The disclosure shall be incorporated into the minutes of the meeting at which the oral disclosure was made. ~~If the Related Party Contract was approved by the Board in the current or previous fiscal year and the Board intends to continue the Related Party Contract, Exhibits C and D must be submitted annually to DEO for approval prior to the beginning of the next fiscal year~~ | 14 | DEO received this comment and in consideration thereof, elected to make no change. |

| | | |
|---|---|---|
| **(Related to item e)**<br>9. ~~Contracts Less Than $25,000. Within 30 days after execution of any contract less than $25,000, the Board must approve and electronically submit a certified board membership roster listing all members on the Board at the time of the vote on the approval of the contract with a vote tally indicating attendance or absence at the meeting. For those in attendance, the affirmative and negative votes and abstentions for each member, along with completed copies of the forms attached hereto as Exhibits C and D, must be submitted to WorkforceContract.Review@deo.myflorida.com.~~ | 14 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item e)**<br>10. According to Florida Statutes, are we still filing with CareerSource Florida? Does the CareerSource Florida Board approve? Are we following policy approved by the CareerSource Florida Board? 2012.05.24.A.2 and revisions?<br><br>This policy sets forth the criteria and specifies the exemptions allowed. | 14 | The LWDB must comply with all federal and state laws, rules and regulations, the policies of CSF, and the agreement. |
| **(Related to item e)**<br>11. Change title to "Related Party Contracts $25,000 or greater. | 14 | DEO received this comment and in consideration thereof, elected to make no change. |
| **(Related to item e)**<br>12. item 15, e states, "DEO may disapprove, in its sole discretion, any contract for the Board's failure to submit any required document or form as required by this section." This is counter to the requirements of F.S. 445.007 (11) which states the contracts must be submitted to DEO for "review and recommendation according to criteria to be determined by CareerSource Florida." Clearly Florida Statute grants DEO the ability to review and recommend, but not decide. The statute goes on to state, "If a contract cannot be approved by CareerSource Florida, Inc., a review of the decision to disapprove the contract may be requested by the local workforce development board or other parties to the disapproved contract." As such the ability to decide rests with CareerSource Florida and not DEO. There is no allowance for sole discretion by DEO and appeals are allowed by the statute cited in the agreement. | 14 | DEO received this comment and in consideration thereof, elected to make no change. The terms of the Grantee-Subgrantee Agreement are consistent with WIOA and state law. |

| | | |
|---|---|---|
| **(Related to item e)**<br>13. The state here is not aligned with the requirements under F.S. 445.007 which we have always followed. | 14 | The terms of the Grantee-Subgrantee Agreement are consistent with WIOA and state law. |
| **(Related to item f)**<br>14. These requirements are new. The requirements to submit a certified board membership roster at the time of the vote, the votes abstentions and forms C & D. are not what has been required. In the past, a Board member abstains, files Form 8A or 8B and we notify within 30 days.<br><br>**Florida Statutes 445-007(11)**<br>To increase transparency and accountability, a local workforce development board must comply with the requirements of this section before contracting with a member of the board or a relative, as defined in s. 112.3143(1)(c), of a board member or of an employee of the board. Such contracts may not be executed before or without the approval of CareerSource Florida, Inc. Such contracts, as well as documentation demonstrating adherence to this section as specified by CareerSource Florida, Inc., must be submitted to the Department of Economic Opportunity for review and recommendation according to criteria to be determined by CareerSource Florida, Inc. Such a contract must be approved by a two-thirds vote of the board, a quorum having been established; all conflicts of interest must be disclosed before the vote; and any member who may benefit from the contract, or whose relative may benefit from the contract, must abstain from the vote. A contract under $25,000 between a local workforce development board and a member of that board or between a relative, as defined in s. 112.3143(1)(c), of a board member or of an employee of the board is not required to have the prior approval of CareerSource Florida, Inc., but must be approved by a two-thirds vote of the board, a quorum having been established, and must be reported to the Department of Economic Opportunity and CareerSource Florida, Inc., within 30 days after approval. If a contract cannot be approved by CareerSource Florida, Inc., a review of the decision to disapprove the contract may be requested by the local workforce development board or other parties to the disapproved contract.<br><br>**Comment** There is no mention of the exemptions allowed. | 15 | DEO received this comment and in consideration thereof, elected to make no change. |

| | | |
|---|---|---|
| **From CSF Policy**<br>II) Prohibition Against a Board Contracting with its Board Members No board (CSF or a local board) shall enter into a contract with its board members, with organizations represented by its board members or with entities in which its board members have a relationship with the contracting vendor. At a board's discretion, the following may be exempted from the above paragraph: a) A contract with an agency (as defined in section 112.312(2), Florida Statutes, including, but not limited to, those statutorily required to be board members) when said agency is represented by a board member and said member does not personally benefit financially from such contracts. b) A contract with a board member or a vendor (when a board member has any relationship with the contracting vendor) in which the contract relates to that member's appointment to the board under section 107(a)(2), Public Law 113–128, Workforce Innovation and Opportunity Act of 2014 (WIOA). c) A contract with a board member receiving a grant for workforce services under federal, state or other governmental workforce programs. d) A contract between a board and a board member which is not exempted under paragraphs II(a), II(b) or II(c) in which the board documents exceptional circumstances and/or need and the board member does not personally benefit financially from the contract. Based upon criteria developed by CSF, DEO shall review the board's documentation and assure compliance. e) Each contract that is exempted from the general prohibition in paragraph II must meet the requirements set forth in paragraph III below, including, but not limited to, the requirements of the criteria established in the "conflict of interest" provisions under section 101(f), Workforce Innovation and Opportunity Act of 2014. However, since section 445.007(11), FS requires CSF to perform the review and approval process pertaining to local board contracts, CSF contracts shall not be subject those provisions of this policy pertaining to review and approval processes.<br><br>**Comment:** The additional paperwork is new and not required by Florida Statute or CSF policy. It is almost the same as for contracts in excess of $25,000. Just a lot of unnecessary paperwork. | | |

| | | |
|---|---|---|
| **(Related to item f)**<br>15. Change title to "Related Party Contracts Less Than $25,000." | 15 | DEO received this comment and in consideration thereof, elected to make no change. |

## 16.Additional Provisions

General response – Section 16

DEO received a number of comments regarding annual scheduling. Consistent and reliable availability of services at the local level are critical to a functioning workforce delivery system. DEO has noted in the past that providers and boards in local areas have authorized extended closures, usually corresponding with holidays, without sufficient notice. DEO notes that a closed provider is a provider that cannot serve the citizens of the state. Therefore, DEO is taking this step to ensure consistent and reliable availability of services. Finally, while DEO is requiring adoption of either a federal or state holiday closure schedule, DEO is not mandating that local boards keep that schedule without deviation. Emergency or unforeseen circumstances may occur that warrant temporary full or partial closure. DEO is mandating that any deviations from the adopted schedule that do not occur because of an emergency or Governor's order that such deviation occur only after a board meeting and approval. DEO will revise the agreement to include county holiday closure schedules to the list of options and to ensure any Governor's order to extend holiday-related state closures does not require additional action by the local board.

| Question / Comment | Document Page # | Response |
|---|---|---|
| (Related to item a)<br>1. This Agreement will be construed, performed, and enforced in all respects in accordance with the laws, rules, and regulations of the State of Florida. Each Party will perform its obligations herein in accordance with the terms and conditions of the Agreement. The exclusive venue of any legal or equitable action that arises out of or relates to this Agreement will be either the Division of Administrative Hearings or the appropriate state court in Leon County, Florida. In any such action, the Parties waive any right to jury trial. The prevailing party in any such action shall be entitled to the reimbursement of all attorney's fees and costs incurred from the non-prevailing party in any such action(s). | 15 | DEO received this comment and in consideration thereof, elected to make no change. |

| | | |
|---|---|---|
| **(Related to item c)**<br>2. Paragraph c, the Board is fully liable for its actions, and the actions of the Board's officers, agents, contractors and employees. The Board will indemnify, defend, and hold harmless the state, the State Board, and DEO, and their respective officers, agents, and employees from any suit, action, damage, judgment, and costs of every name and description, including attorney's fees, arising from or relating to any action of the Board.<br>**Comment**: The language is vague regarding attorney fees. Implies all attorney fees and settlements have to be paid with unrestricted funding. | 15 | The payment of legal fees with federal funds must be in compliance with 2 C.F.R. 200.435 to be federally allowable. |
| **(Related to item c)**<br>3. Section 16, Additional Provisions – item c – Please review the intent of this statement and clarify by rewording. The current wording suggests that LWDBS would have to obtain insurance coverages for the entities and individuals identified in the section, which is problematic. The wording also does not take into consideration that LWDBs have no control over who decides to take action or to sue for any reason, or that there are laws that protect individuals rights that could be impacted by this statement. | 15 | DEO appreciates your feedback and has decided not to take any action at this time. |
| **(Related to item c)**<br>4. If the board action is based on guidance from DEO, then what? | 15 | The Department is evaluating the agreement in light of this comment. |
| **(Related to item c)**<br>5. Need to exclude acts taken by the Board which are done in reliance on performance reports and other information which comes from DEO or other federal entity. Implies that all attorney fees and settlements must be paid with unrestricted funds. | 15 | The payment of legal fees with federal funds must be in compliance with 2 C.F.R. 200.435 to be federally allowable. |
| **(Related to item c)**<br>6. item 16. C. states, the Board is fully responsible for the actions of the Board and related parties. The item continues to state the Board will, "hold the state, the State Board, and DEO, and their respective officers, agents, and employees from any suit, action, damage, judgement, and costs of every name and description, including attorney's fees, arising from or relating to any action of the Board." This section fails to provide similar assurances to the Board for actions caused by the state or DEO.<br><br>There have been times in the past where the state has decided to implement a policy that required local Boards to take certain actions later deemed counter to federal regulation, policy, or law. These actions have caused the state to be required to pay dollar amount back to the federal treasury. If such an event were to occur with this item in effect it could force the Board into a position of having to bear the cost of | 15 | DEO appreciates your feedback and has decided not to take any action at this time. |

| | | |
|---|---|---|
| a Board action required by the state, DEO, or its respective officers, agents, and employees. This also fails to protect the Board when acting in good faith based upon information provided by the state, DEO, or its respective officers, agents, and employees. An authorized state employee could give a Board an answer to a question, the Board could act on that answer with a decision, and if it is later determined the Board's action was not inline with policy, regulation, or law the Board could still face total liability despite only acting in good faith based on information provided by DEO.<br><br>A clause should be included that requires DEO to protect the Board from any action, damage, judgement, and costs of every name and description, including attorney's fees, arising from or relating to any action of the local Board taken in good faith based upon requirements or information provided by DEO that was later determined to be in violation of a regulation, policy, or law. DEO should also include a clause that holds the Board harmless for actions taken by the Board due to direction or responses from DEO that includes future penalties, enforcements, decisions, or actions seen as a punishment against a Board for which DEO had to pay a penalty or judgement. | | |
| **(Related to item c)**<br>7. Comment: There already is 100% accountability for the funds in the statute and regulations. This language would require that local areas get certificates of coverage for the state and may not be able to get, coverage that insures the state – | 15 | DEO appreciates your feedback and has decided not to take any action at this time. |
| **(Related to item c)**<br>8. The State has sovereign immunity which would protect it from all actions except those instituted by the Federal government. The Board is already responsible for any such actions, so it appears this provision is unnecessary. | 15 | DEO appreciates your feedback and has decided not to take any action at this time. |
| **(Related to item c)**<br>~~Per the governing statutes and regulations, Tthe Board is fully liable for its actions, and the actions of the Board's officers, agents, contractors and employees. The Board will indemnify, defend, and hold harmless the state, the State Board, and DEO, and their respective officers, agents, and employees from any suit, action, damage, judgment, and costs of every name and description, including attorney's fees, arising from or relating to any action of the Board.~~ | 15 | DEO appreciates your feedback and has decided not to take any action at this time. |
| **(Related to item g)**<br>9. As the state is aware from time to time holidays such as Christmas and New Year or other holidays that fall on Thursday or Tuesday will result in the Governor allowing a 4 day weekend – in general the board/CEO would give approval but it could happen that there is no intervening board meeting and a | 15 | The Department is evaluating the agreement in light of this comment. |

| | | |
|---|---|---|
| Director confers with their Chair or CEO who approves without a board meeting. – consider slight changes to the wording to recognize such occurrences. | | |
| **(Related to item g)**<br>10. If our board approves our schedule, why does it have to be one or the other of these? | 15 | Please review the general responses concerning this section of the agreement. |
| **(Related to item g)**<br>11. Section 16, Additional Provisions – item g – The determination of the holiday schedule and other employee benefits should be left to the discretion of the LWDBs. Different areas have different populations that may impact their holiday schedules. State and federal entities do not even follow the same holiday schedules. e.g. Consider the state college system's schedule as compared to DEO's schedule. In addition, there have been times when the Governor has, at a late date, added additional days as holidays, (often around Christmas). The requirement in this section would prohibit LWDBs from recognizing these days as holidays. Also, what is the purpose of posting a holiday schedule on the website? Please consider our comments concerning the costs of keeping up with ADA requirements of all website postings, as well as website data/size constraints. We suggest removing this item in its entirety.<br><br>State College recognizes the following paid holidays for employees filling 12-month positions: 2020-21 Academic Year<br><br>**Holiday** — **Date Observed**<br>Memorial Day — May 25, 2020<br>Independence Day — July 4, 2020 (observed July 3, 2020)<br>Labor Day — Sept. 7, 2020<br>Day before Thanksgiving — Nov. 25, 2020<br>Thanksgiving Day — Nov. 26, 2020 | 15 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| Day after Thanksgiving Day Nov. 27, 2020<br>Winter Break * Dec. 19, 2020-Jan. 1, 2021<br>Martin Luther King Jr. Day Jan. 18, 2021<br>Spring Break March 15-19, 2021<br>Memorial Day May 31, 2021<br>** includes Christmas Day and New Years Day* | | |
| **(Related to item g)**<br>12. Again, overreach. We have a set holiday schedule that the board has approved. It doesn't need to be approved each year. We simply change the dates in accordance with the approved holiday schedule. | 15 | Please review the general responses concerning this section of the agreement. |
| **(Related to item g)**<br>13. In general, the Federal and State holiday calendars are followed. However, being that each LWDB is a separate organization with knowledge of local customs and expectations, the exact holiday schedule should be determined locally. Holiday schedules and variations among the 24 LWDB have never been pointed out to be a problem in any audit, monitoring or other evaluation. Schedules are posted on the website and each Board generally knows the holiday schedule that is followed. The following is recommended:<br>• Remove language specifying that either the federal or state holiday schedule shall be used.<br>• Ensure that each local board will be permitted to establish their own calendar and that DEO will be kept informed of the final approved calendar and any revisions. | 15 | |
| **(Related to item g)**<br>14. Comment: As the state is aware from time to time holidays such as Christmas and New Years or other holidays that fall on Thursdays or Tuesdays result in the Governor allowing a 4 day weekend - in general the board /CEO's would give approval but it could happen that there is no intervening board meeting and a Director confers with their Chair or CEO who approves without a board meeting – consider slight changes to the wording to recognize such occurrences. | 15 | |

| | | |
|---|---|---|
| **(Related to item g)**<br>15. As the state is aware, from time to time holidays such as Christmas and New Year's or other holidays that fall on Thursdays or Tuesdays result in the Governor allowing a four-day weekend. - In general, the Board /CEO would give approval but it could happen that there is no intervening board meeting and the CEO confers with their Chair who approves without a board meeting. Please consider slight changes to the wording to recognize such occurrences. | 15 | |
| **(Related to item g)**<br>16. Operations schedules are already posted on our websites and notices of changes get put out on the site plus social media pages. | 15 | |
| **Related to item g)**<br>17. If the region's holidays were approved by the board years ago, why would they need to vote on them every single year? Also, the agreement says the holidays have to be either the state or federal schedule. Why? We're a private nonprofit. | 15 | |
| **(Related to item g)**<br>18. Annually before July 1 of each state fiscal year, the Board shall adopt a schedule of operations for the upcoming state fiscal year. Such schedule of operations shall include, but is not limited to, daily hours of operation of One-Stop providers, and a holiday closure ~~schedule which adopts either the federal or state holiday schedule~~. The proposed schedule must be approved by the Board and hours of service and closures posted on the LWDA website in a conspicuous, easily-accessible manner. ~~The Board must give prior approval to any deviations from the schedule, except in emergency circumstances (e.g., an order of the President or Governor ordering a shutdown, total loss of facilities from a catastrophic natural or man-made disaster, etc.).~~ If emergency circumstances exist which result or could foreseeably result in a shutdown, the Board shall ensure that DEO and the State Board are informed within ~~48~~ 72 hours of such shutdown or potential shutdown. | 15 | DEO received this comment and in consideration thereof, elected to make no change. |

## 17.Services to Individuals with Disabilities

General response - Section 17

Several questions were received related to a designated staff person for services to individuals with disabilities. Please note, the intent is not to identify a staff person solely dedicated to serving persons with disabilities. The intent is for the designated staff person to serve as a resource for the local board to ensure the appropriate delivery of workforce services to persons with disabilities and that these individuals also have access to meaningful employment opportunities. The language in the agreement does not preclude a staff person from being the designee for multiple career centers within the local board's operating area.

| Question / Comment | Document Page # | Response |
|---|---|---|
| 1. While the local area prides itself on serving all individuals, including those with a disability, the requirement of section 17 is an unfunded mandate; there is no specific funding to serve individuals with disabilities. And is this staff member to be a jointly-managed staff? | 15 | Please review the general responses concerning this section of the agreement. |
| 2. Is DEO or Voc Rehab going to provide and pay for a disability navigator to each workforce area? | 15 | |
| 3. We have a designee and an assistant that serves the entire region, that should be sufficient. | 15 | |

## 18.Services to Individuals with Limited English Proficiency

| Question / Comment | Document Page # | Response |
|---|---|---|
| *No question/comment received as of 5/8/2020.* | | |

## 19.Response to Customer Service Complaints

| Question / Comment | Document Page # | Response |
|---|---|---|
| *No question/comment received as of 5/8/2020.* | | |

## 20.Liaisons

| Question / Comment | Document Page # | Response |
|---|---|---|
| 1. There are seven people who work in DEO with the last name Richardson; perhaps a bit more clarification of which Ms. Richardson is the liaison referenced in Section 20 would be helpful. Along with the same contact information provided for Ms. Womack. | 16 | The reference to Ms. Richardson will be removed from the agreement. Ms. Caroline "Tisha" Womack is the designated liaison for the Grantee Subgrantee Agreement. |
| 2. Who is Ms. Richardson and how do we contact? | 16 | |
| 3. DEO's formal liaison for purposes of this Agreement is currently Caroline Womack. Ms. Womack can be reached at Caroline.Womack@deo.myflorida.com or (850) 245–7126. All communication for which the Parties' course of dealing does reveal a more appropriate liaison will be directed to Ms. Womack~~Richardson~~, or other designee. | 16 | |
| 4. Will this document need to be updated should these contacts change? | 16 | Please see section 20.d. of the Grantee-Subgrantee Agreement. |

## 21.Required Local Positions

General response – Section 21

DEO received several questions regarding the appointment of required local positions. DEO assures the local boards that these positions are not required to be standalone positions. To the extent that no conflict of interest exists, an individual may serve in more than one appointed position. DEO will revise the Grantee-Subgrantee Agreement to add clarifying language in this regard. DEO urges the local boards to take all reasonable and necessary steps to limit actual or apparent conflicts of interest in making appointments. Finally, DEO has elected to leave flexibility and discretion with the local boards in the job expectations and position descriptions for the appointed positions, under the expectation that all appointments will be made consistent with law.

| Question / Comment | Document Page # | Response |
|---|---|---|
| 1. It is not clear if these positions must be stand-alone. Requiring these 6 positions as stand-alone positions is expensive and also adds to local administrative burdens.<br><br>Consider adding language that states that the responsibilities associated with these positions can be combined with duties associated with existing positions. Other than the personnel liaison which is funded by DEO, the other positions are not required by law. Even the 188 regulations state that the EEO office duties can be combined with those of another position. | 16 | Please review the general responses concerning this section of the agreement. |
| 2. Section 21 Required Local Positions- Please clarify that these positions are not required to be stand-alone positions. Please also provide job descriptions/expectations for positions ii., iv. and vi. (purchased property and equipment custodian, public records coordinator, and Ethics Officer.) | 16 | |
| 3. The Ethics Officer appears to be a new requirement. It is assumed that these appointments can be persons who have other duties in the organization. It is not clear if these positions must be stand-alone. The following is recommended:<br><br>• Add language which clearly states these are not stand-alone position and can be done by existing staff.<br>• Add a definition for each position so that there is clarity on what is expected for each. | 16 | |

| | | |
|---|---|---|
| 4. **Comment:** It is not clear if these positions must be stand-alone Requiring these 6 positions as stand-alone positions is expensive and also adds to local administrative cost burdens.<br><br>Consider adding language that states that the responsibilities associated with these positions can be combined with duties associated with existing positions. Other than the personnel liaison which is funded by DEO, the other positions are not required by law. Even the 188 regulations state that the EEO officer duties can be combined with those of another position. | 16 | |
| 5. It is not clear if these positions must be stand-alone requiring these six positions as stand-alone positions is expensive and also adds to local administrative cost burdens. Please add language to permit one person to act in multiple capacities. | 16 | |
| 6. The responsibilities associated with the aforementioned positions in this Section 21 may be combined with the duties already associated with equivalent existing positions, at the Board's discretion | 16 | |

## 22.Construction, Interpretation

| Question / Comment | Document Page # | Response |
|---|---|---|
| Item 22 states in part, "The Parties have participated jointly in the negotiation and drafting of this Agreement." This statement is false. Neither the local boards or the CLEO's were contacted prior to the document being released for public comment. Public comment is not negotiation. Unless DEO intends to actually negotiate the agreement this line should be removed. | 16/17 | DEO thanks the commenter for this comment. |

## 23.Preservation of Remedies; Severability; Right to Set-off

| Question / Comment | Document Page # | Response |
|---|---|---|
| *No question/comment received as of 5/8/2020.* | | |

## 24.Entire Agreement; Amendment; Waiver

| Question / Comment | Document Page # | Response |
|---|---|---|
| *No question/comment received as of 5/8/2020.* | | |

## Exhibits Pages

DEO received several comments and questions regarding the attached exhibits. With respect to exhibit A, that exhibit is a rule-based form required by the Department of Financial Services to be incorporated into every grant agreement entered into by a state agency. This form generally may not be altered, amended, or changed. DEO has no authority to make the requested changes. Further, DEO reminds the local boards that the boards are currently subject to the terms of a form of this exhibit in their current agreements with DEO.

| Question / Comment | Document Page # | Response |
|---|---|---|
| 1. Most of these exist in policy and on the DEO or CSF websites. Why not just link to them in the event they are updated…then this agreement isn't constantly having to be updated and that we have direct access to the most up-to-date version. | 19-26 | Please review the general responses concerning this section of the agreement. |

| | | |
|---|---|---|
| **(Related to exhibits A – D)**<br>2. Exhibits A – D – We did not see any sections within the document that reference the use of these exhibits. Perhaps amending the first statement in item 24: ENTIRE AGREEMENT, to include the phrase underlined and in italics? " This Agreement, *which includes Exhibits A-D*, embodies the entire Agreement of the parties…" | 19-26 | |
| **(Related to exhibit A)**<br>3. We suggest that references to "CFO" or Auditor General include "State of Florida" or similar descriptor for the appropriate entity. Listing only a position title can be confusing.<br><br>It is recommended that DEO review and amend "recipient" throughout this Exhibit to correct the descriptor. It is also recommended that DEO separate the Monitoring section into two components – federal and state – as the receipt of direct state funding by a LWDB would be a recipient (or grantee). In most cases, the use of the word "recipient" would apply to DEO and "subrecipient" would apply to the LWDBs, or their subrecipients. Please review, as there seems to be some unclear usage of "recipient" in Exhibit A . It is also our humble opinion that Direct state or federal funds awarded to the LWDBs (not passed through DEO) should be outside of the scope of this agreement.<br><br>Audits –Part I - We would recommend that DEO simply state that the subrecipient's audit for federal funds needs to be compliant with 2 CFR 200, Subpart F and provide the hyperlink to the ecfr.gov website. The language indicated in Part 1 is not the same as the current version of this CFR and many components of this are redundant, such as the $750,000 threshold reference. The hyperlink would provide quick access to current regulations.<br><br>Audits, Part II – Similar to Part I, we recommend that DEO simply state that the subrecipient's audit for state funds needs to be compliant with F.S. 215.97, perhaps with a hyperlink to the statute.<br><br>Attachment 1 to Exhibit A – Please explain how this is relevant to Exhibit A or this agreement. Compliance issues are identified in relevant laws and guidance, with some details on NFAs. | 19 | |

| | | |
|---|---|---|
| **(Related to exhibit A)**<br>4. The administration of resources awarded by the Department of Economic Opportunity (Department or DEO) to the recipient may be subject to audits and/or monitoring by DEO as described in the Agreement and as described further in this Exhibit. I f the r e i s an y c onfl i c t be tw e e n th e ~~No provision of the~~ Agreement and ~~is intended to limit~~ the terms of this Exhibit, ~~and no provision in this Exhibit is intended to limit~~ the terms of the Agreement govern. The term "contract," as used throughout this Exhibit, means the Agreement, and any individual subaward granted to the recipient through a Notice of Fund Availability (NFA).<br><br>**MONITORING.** In addition to reviews of audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and section 215.97, Florida Statutes (F.S.), as revised (see AUDITS below), monitoring procedures may include, but not be limited to, on-site visits by DEO staff, limited scope audits as defined by 2 CFR §200.425, or other procedures. By entering into this agreement, the recipient agrees to comply and cooperate with any monitoring procedures or processes deemed appropriate by DEO. In the event DEO determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions within the scope of the contract and as provided for in statute provided by DEO staff to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any contractually and/or statutorily required inspections, reviews, investigations, or audits ~~deemed necessary~~ by the Chief Financial Officer (CFO) or Auditor General.<br><br>**AUDITS**.<br><br>**PART I: FEDERALLY FUNDED.** This part is applicable if the subrecipient is a state or local government or a nonprofit organization as defined in 2 CFR §200.90, §200.64, and §200.70.<br>1. A recipient that expends $750,000 or more in federal awards in its fiscal year must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. EXHIBIT A to this form lists the federal resources awarded through DEO by this | 19 | |

| | | |
|---|---|---|
| agreement. In determining the federal awards expended in its fiscal year, the subrecipient shall consider all sources of federal awards, including federal resources received from DEO. The determination of amounts of DEO provided federal awards ~~expended~~ should be in accordance with the guidelines established in 2 CFR §§200.502-503. An audit of the subrecipient conducted by the Auditor General in accordance with the provisions of 2 CFR §200.514 will meet the requirements of this Part.<br>2. For the audit requirements addressed in Part I, paragraph 1, the subrecipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR §§200.508-512 so long as the subrecipient is required to comply with such per statute.<br>3. A recipient that expends less than $750,000 in fDEO-provided federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. If the subrecipient expends less than $750,000 in DEO provided federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other than federal entities) | | |
| **(Related to exhibit A)**<br>5. The Board will obtain the internal control work papers from the auditor(s) performing its annual independent financial statement audit. The Board will keep these work papers onsite as part of their financial records and will make these records available for review by DEO upon request within thirty days of such request. The Board further agrees that, upon request, DEO will also be provided other audit work papers as needed | 20 | |
| **(Related to exhibit A)**<br>6. Comment: The internal control audit workpapers are the property of the Independent Audit Firm. It will be hard pressed for the LWDA mandate this requirement. | 21 | |
| **(Related to exhibit B)**<br>7. I understand that I will be exposed to certain confidential information for the limited purpose of performing my job. I understand that confidential records may include names (or other personally identifiable information), social security numbers, wage | 23/24 | DEO has reviewed the agreement in light of this comment and has made changes. |

| | | |
|---|---|---|
| information, reemployment assistance information, employment information, and public assistance information. I understand that this information is confidential and may not be disclosed to others. Prior to receiving access to such information, and any information systems containing such information, I acknowledge and agree to abide by the following standards:<br>1. I will comply with all security requirements imposed as a condition of use for any system(s) to which I may be granted access.<br><br>2. I will use access to the system(s) only for purposes authorized by law within the course and scope of my employment to secure information to conduct program business.<br><br>3. I will not disclose my user identification, password, or other information needed to access the system(s) to any party nor shall I give any other individual access to secured information contained within the system(s), except as necessary and required to my supervisor or to an IT Department/IT Help Desk. If I become aware that any unauthorized individual has or may have obtained access to my user identification, password, or other information needed to access system(s) to which I have been granted access, I will immediately notify the Board's Regional Security Officer.<br><br>4. I will store any physical documents containing confidential information in a place that is secure from access or disclosure by unauthorized persons.<br><br>5. I will store and process information maintained in electronic format, such as magnetic tapes, ~~or~~ discs, thumb drive, or external hard drive in such a way that unauthorized persons cannot obtain the information by any means.<br><br>6. I will undertake precautions to ensure that only authorized personnel are given access to disclosed information stored in computer system(s).<br><br>7. I will not share with anyone any other information regarding access to the | | |

| | | |
|---|---|---|
| system(s) unless I am specifically authorized to do so by the Board, by the leadership team at the Subrecipient, and/or by the Department of Economic Opportunity.<br><br>8. I will not share with anyone any other information regarding access to the system(s) unless I am specifically authorized to do so by the Board, by the leadership team at the Subrecipient, and/or by the Department of Economic Opportunity.<br><br>9. I will not access or request access to any social security numbers, personal information, wage information, employer information, reemployment assistance information, or employment data unless such access is necessary for the performance of my legitimate business duties.<br><br>10. I will not disclose any individual data to any parties who are not authorized to receive such data except in the form of reports containing only aggregate statistical information compiled in such a manner that it cannot be used to identify the individual(s) or employers involved.<br><br>11. I will not access or divulge information about any personal associates, including relatives, friends, significant others, co-workers, or anyone with whom I reside. I will not provide services to these individuals and will, instead, refer such individuals to other qualified service providers within my organization or to outside organizations.<br><br>12. I will retain the confidential data only for that period of time necessary to perform my public duties and I shall not retain any copies whether paper or electronic. Thereafter, I will either arrange for the retention of such information consistent with federal or state record retention requirements or destroy such data, and any copies made, after the purpose for which the information is disclosed is served. I will do this in such a way so as to prevent the information from being reconstructed. ~~copied, or~~copied or used by any means. However, I | | |

| | | |
|---|---|---|
| will not destroy or delete information from information system(s) when such destruction or deletion is outside the scope of my authority.<br><br>13. I understand that it is misdemeanor of the second degree to disclose confidential reemployment assistance information to unauthorized persons. I further understand that the Department of Economic Opportunity has processes and procedures in place to detect unauthorized access to such information. I understand that it is the practice of the Department of Economic Opportunity to prosecute violations of to the fullest extent of the law.<br><br>14. I certify and affirm that I have either (1) received training on the confidential nature of the data to which I am being granted access to, the safeguards required for access privileges, and the penalties involved for any violations; or (2) have received written standards and instructions in the handling of confidential data from my employer or the Department of Economic Opportunity. I will comply with all confidentiality safeguards contained in such training, written standards, or instructions, including but not limited to, the following: a) protecting the confidentiality of my user identification and password; b) securing computer equipment, disks, and offices in which confidential data may be kept; and c) following procedures for the timely destruction or deletion of confidential data.<br><br>15. I understand that if I violate any of the confidentiality provisions set forth in the written standards, training, and/or instructions I have received, my user privileges may be immediately suspended or terminated. I also understand that applicable state and/or federal law may provide that any individual who discloses confidential information in violation of any provision of that section may be subject to criminal prosecution and if found guilty could be fined, be subject to imprisonment and dismissal from employment. I have been instructed that if I should violate the provisions of the law, I may receive one or more of these penalties. | | |

| | | |
|---|---|---|
| Should I have any questions concerning the handling or disclosure of confidential information, I shall immediately ask my supervisor, rRegional ~~s~~Security ~~o~~Officer, or One-Stop Operator for guidance and comply with their instructions. | | |
| **(Related to exhibit C)**<br>8. This form is to disclose a conflict or potential conflict and to seek approval of a contract involving a conflict or potential conflict of interest of board members or employees. All requested information is required. Failure to provide complete information may result in disapproval of the contract.<br><br>I,_____, hereby certify the following information regarding a contract that was approved by a two-thirds (2/3) vote of a quorum of CareerSource_____and will be executed and implemented immediately after reporting the contract to the DEO ~~receiving the State's approval~~ in compliance with section 445.007(11), Florida Statutes. | 25 | DEO has reviewed the agreement in light of this comment and has made a change. |