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**Upper Cumberland  
Local Workforce Development Board  
POLICIES AND PROCEDURES**

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Title: PROPERTY MANAGEMENT POLICY  
Date of Adoption:

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**PURPOSE:** This policy communicates methods used by Tennessee Department of Labor and Workforce Development (TDLWD) for the procurement of goods and services obtained with Workforce Investment Opportunity Act (WIOA) funds. This policy also sets forth the requirement provided by The Office of Management and Budget (OMB), Uniform Administrative Requirement, Cost Principles, and Audit Requirements for Federal Awards; final Rule Title 2 of the Code of Federal Regulations, 2 CFR 200.

**POLICY/INSTRUCTION:**

1. Grantees and Sub-grantees must use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.
2. Grantees and sub-grantees must maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
3. Grantees and sub-grantees must maintain a written code of standards of conduct governing the performance of their employees engaged in the selection, awarding of, and administration of contracts. No employee, officer or agent of the grantee or sub-grantee shall participate in any way (including discussion, review and/or voting) in the selection, or the awarding of, or administration of a contract supported by Federal or State funds if a conflict of interest, real or apparent, would be involved. (See UCLWDB Conflict of Interest Policy). Such conflicts arise when:
  - a) The employee, officer, or agent,
  - b) Any member of his immediate family

- c) His or her partner, or
- d) An organization which employs, or is about to employ any of the above, has a financial or other interest in the firm selected for the award. The grantee's or sub-grantee's officers, employees, or agents will neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.

Written prior approval must be obtained from TDLWD for acquisition of sensitive items and nonexpendable property with a unit acquisition cost of \$5,000 or more. In addition, any agreements or activities related to costs associated with real property must receive sanction to pay back the money to TDLWD using unrestricted funds.

UCLWDB and sub-recipients will maintain an inventory system at a minimum quarterly scheduled basis, with scheduled reviews and updates being well documented. The system must include property purchased with WIOA funds transferred from WIOA, JTPA, or CETA. UCLWDB inventory will be managed and maintained by Staff to the Board. When original or replacement equipment (acquired under a grant or sub-grant) is no longer needed for the original project or program or for other activities supported by a Federal agency, the equipment will be returned to the State.

**Definitions:**

**Equipment** – Equipment means tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. Uniform Guidance specifies that equipment include information technology systems, computing devices, software and services (including support services). This includes fees for licensing or subscriptions to software support services. This even includes monthly subscription fees under \$5,000 dollars if the total annual cost for the subscription exceeds \$5,000 dollars; for such subscriptions, prior approval must be obtained.

**General Purpose Equipment** – Equipment which is not limited to research, medical, scientific, or other technical activities. Examples include: office equipment and furnishings, modular offices, telephone networks, information technology equipment and systems, air-conditioning equipment, reproduction and printing equipment, and motor vehicles (Uniform Guidance Section 200.48).

**Information technology systems** – This encompasses computing devices, ancillary equipment, software, firmware, similar procedures, services (including support services), licensing or subscriptions to software and software support services, and related services.

**Types of property for which accountability must be maintained:**

1. Tangible personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. Examples include furniture, machinery, office, operational and educational equipment, etc.

2. Sensitive equipment having a unit cost of \$100 to \$5,000. Examples include typewriters, tape recorders, printers, computer, and cameras.
3. Personal computers will be tagged as a unit consisting of monitor, keyboard, external tape cartridge and the computer itself. The printer will be tagged separately.
4. Intangible Property

(a) Title to intangible property (see definition for *Intangible property* in § 200.1) acquired under a Federal award vests upon acquisition in the non-Federal entity. The non-Federal entity must use that property for the originally-authorized purpose, and must not encumber the property without approval of the Federal awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in § 200.313(e).

(b) The non-Federal entity may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. The Federal awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

(c) The non-Federal entity is subject to applicable regulations governing patents and inventions, including governmentwide regulations issued by the Department of Commerce at 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements."

(d) The Federal Government has the right to:

(1) Obtain, reproduce, publish, or otherwise use the data produced under a Federal award; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

(e)

(1) In response to a Freedom of Information Act (FOIA) request for research data relating to published research findings produced under a Federal award that were used by the Federal Government in developing an agency action that has the force and effect of law, the Federal awarding agency must request, and the non-Federal entity must provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA. If the Federal awarding agency obtains the research data solely in response to a FOIA request, the Federal awarding agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the research data. This fee should reflect costs incurred by the Federal agency and the non-Federal entity. This fee is in addition to any fees the Federal awarding agency may assess under the FOIA (5 U.S.C. 552(a)(4)(A)).

(2) Published research findings means when:

(i) Research findings are published in a peer-reviewed scientific or technical journal; or

(ii) A Federal agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law. "Used by the Federal Government in developing an agency action that has the force and effect of law" is defined as when an agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law.

(3) Research data means the recorded factual material commonly accepted in the scientific community as necessary to validate research findings, but not any of the following: Preliminary analyses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues. This "recorded" material excludes physical objects (*e.g.*, laboratory samples). Research data also do not include:

(i) Trade secrets, commercial information, materials necessary to be held confidential by a researcher until they are published, or similar information which is protected under law; and

(ii) Personnel and medical information and similar information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, such as information that could be used to identify a particular person in a research study. (2CFR 200.315)

All UCLWDB procurements of sensitive equipment or procurements having a unit acquisition of \$5,000 or more must have prior written approval from TDLWD.

#### **Equipment Property Management Procedures**

Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, information as to who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the cost of the property. These records must also include the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

1. When property with a current per-unit value in excess of \$5,000 has been stolen or destroyed by fire (or another disaster), is considered obsolete, or is to be traded for new equipment the UCLWDB shall notify the State office of the particular event and request approval to remove the property from the Record Inventory.
2. If any property is stolen a copy of a Police Report must accompany the Report of the Survey. If the stolen property has a current per-unit value of \$5,000 or more the Federal Bureau of Investigation must be notified, and a copy of the report must accompany the Report of the Survey.

3. If the property is destroyed by fire a copy of a Fire Marshall's Report must accompany the Report of the Survey. When the UCLWDB determines that the property is non-serviceable due to obsolescence, the UCLWDB must request the destruction of the equipment through Asset Works (the State system) at which time the State procurement office re-evaluates the condition of the equipment. TDLWD will review the request and approve it with instructions to forward it to the UCLWDB before the State Procurement Office re-evaluates the condition of the equipment. All property records must be maintained for three years after final disposition of the property. (For additional information regarding disposition of property please see Provision 4 Section D of the Supplementary Financial Guide.)
  
4. The sub-grantee or the contractor must tag all property with the appropriate tag and the contractor's records must indicate the program under which the property was acquired. Upon request, tags will be provided by the TDLWD to the contractor. After tagging the equipment to the contractor should add the new items to its inventory listing. The contractor inventory records must contain the following information:
  - a) Tag number
  - b) Program funding the acquisition
  - c) Percentage federally funded (if not 100%)
  - d) Date of purchase or acquisition
  - e) Condition of the property (Cost or Fair Market Value)
  - f) Location
  - g) Serial number or other identifying number should be added to other pieces of equipment acquired.

New acquisitions must be reported to TDLWD on the Property Record form. All new property should be clearly marked. New property listings must be submitted to TDLWD as soon as possible after tagging the property.

#### **Purchase Considerations**

Although Uniform Guidance and DOL Exceptions do not address every possible cost, they serve as the foundation for all grant financial management; for this reason, sub-recipients should rely on this guidance to avoid audit findings and potential liability. To ensure that funds are being spent in a fiscally prudent and efficient manner, sub-recipients need to consider the following questions prior to requesting approval to direct-charge WIOA funds for the purchase of property to the UCLWDB:

- Is this purchase reasonable?
- Why is the purchase needed?
- Have the best products been selected?
- What procurement method was used?
- Was a lease option considered in lieu of the purchase?
- Does the State already provide the item, service, or software being considered for rent, purchase, or subscription?
- Can the purchaser show that the purchase and item is allowable under the applicable federal award?

**Special Considerations:**

The decision to lease or buy personal property should be governed by considerations of economy, property type, market conditions, and length of contract. Generally, leasing with the option to purchase is preferred over a straight lease for personal property. Guidelines concerning real property are outlined in the section below.

**Real Property**

The Uniform Guidance provides fiscal and administrative guidance for the administration of the WIOA program including requirements for purchasing property. The Uniform Guidance does not permit WIOA program funds to be used to purchase land, or for improvements to land, or to the structures, or to accessories thereto and excludes the purchase of moveable machinery and equipment (2 CFR 200.85).

**Capital Assets and Construction Costs:**

WIOA Title I funds may not be used towards the construction or purchase of real property (land, facilities, buildings, etc.) or used towards capital expenditures for improvement to land or buildings (20 CFR 667.260) except with written approval of the Department of Labor (DOL) Secretary. Exceptions to this rule can include:

- Meeting obligations to provide physical and programmatic accessibility and certain repairs, renovations, alterations, and capital improvements to the property.
- Disaster relief projects
- Youth Build programs under WIOA Section 171(c)(2)(A)(i)
- Other projects the DOL Secretary determines are necessary to carry out WIOA
- Section 189(b) and Title 20 CFR Section 683.235

**Rental Costs**

Rental costs are allowable to the extent that rates are reasonable in light of factors such as: rental costs of comparable property if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased. Rental costs under sale and leaseback arrangements are allowable only up to the amount that would be allowed had the governmental unit continued to own the property. Rental costs under less than arms-length transaction leases are allowable only up to the amount that would be allowed had title to the property vested in the governmental unit.

**Maintenance, Operations, and Repairs**

Unless prohibited by law, the cost of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, necessary maintenance, normal repairs and alterations, and the like are allowable to the extent they are:

1. Keep property in an efficient operating condition,
2. Do not add to the permanent value of the property or appreciably prolong its intended life, and
3. Are not otherwise included in rental or other charges for space.

**Rearrangements and Reconversion Costs**

Costs incurred for ordinary and normal rearrangement and alteration of facilities are allowable. Special arrangements and alterations costs incurred specifically for a Federal award are allowable with the prior

approval of the Federal awarding agency. Costs incurred for rearrangement and alternation of facilities required specifically for the grant program may be approved by the State or the pass-through entity.

### **Limitations**

Cost allocable to another Federal grant, WIOA programs, or cost categories may not be shifted to a WIOA grant, sub grant, program or cost categories to overcome fund deficiencies, avoid restrictions imposed by law or grant agreements, or for other reasons (2 CFR 200.405(c)).

### **Idle Facilities and Idle Capacity**

(a) As used in this section the following terms have the meanings set forth in this section:

(1) Facilities means land and buildings or any portion thereof, equipment individually or collectively, or any other tangible capital asset, wherever located, and whether owned or leased by the non-Federal entity.

(2) Idle facilities mean completely unused facilities that are excess to the non-Federal entity's current needs.

(3) Idle capacity means the unused capacity of partially used facilities. It is the difference between:

(i) That which a facility could achieve under 100 percent operating time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays and;

(ii) The extent to which the facility was actually used to meet demands during the accounting period. A multi-shift basis should be used if it can be shown that this amount of usage would normally be expected for the type of facility involved.

(4) Cost of idle facilities or idle capacity means costs such as maintenance, repair, housing, rent, and other related costs, e.g., insurance, interest, and depreciation. These costs could include the costs of idle public safety emergency facilities, telecommunications, or information technology system capacity that is built to withstand major fluctuations in load, e.g., consolidated data centers.

(b) The costs of idle facilities are unallowable except to the extent that:

(1) They are necessary to meet workload requirements which may fluctuate and are allocated appropriately to all benefiting programs; or

(2) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination, or other causes which could not have been reasonably foreseen. Under the exception stated in this subsection, costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending on the initiative taken to use, lease, or dispose of such facilities.

(c) The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or indirect cost rates from period to period. Such costs are allowable, provided that the capacity is reasonably anticipated to be necessary to carry out the purpose of the Federal award or was originally reasonable and is not subject to reduction or elimination by use on other Federal awards, subletting, renting, or sale, in accordance with sound business, economic, or security practices. Widespread idle capacity throughout an entire facility or among a group of assets having substantially the same function may be considered idle facilities. (2CFR 200.446)

**Debarred and Suspended Parties:**

In accordance with WIOA regulations at Final Regulation 20 Section 683.200, the LWDB will not make any award or permit (sub-grants or contracts) to any party debarred, otherwise suspended, or otherwise excluded from eligible for participation in Federal assistance programs in accordance with Department of Labor Regulation at 29 CFR Part 98. Recipients and sub-recipients shall comply with the applicable requirements of the DOL Regulations at 29 CFR parts 98.

**State of Tennessee General Services Real Property and Equipment Standards:**

In addition to adhering to the federal standards set forth in this policy, grant recipients and sub-recipients should also adhere to all property requirements set forth by the State of Tennessee General Services requirements. In the event a conflict arises between State of Tennessee General Service requirements and Federal regulations, please note that Federal regulations will take supremacy over State requirements if the property is utilized to carry out activities associated with a Federal award or purchased with monies from a Federal award.

For questions regarding this policy, contact Becky Hull, Executive Director, Upper Cumberland Local Workforce Development Board at [bhull@ucworkforce.org](mailto:bhull@ucworkforce.org)

**Attachments:** UCLWDB Inventory List

**Effective Date:**

**Policy Duration:** Indefinite



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Board Chairperson, UCLWDB