

Oversight and Monitoring

April 15, 2019

ACCESSIBILITY: Workforce publications and forms are available on Pennsylvania Department of Labor & Industry website for [download](#).

Area of Responsibility: BWDA/Oversight Services

Certified by: BWDA/OS
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Supersedes: WSP No. 183-01, May. 21, 2018

Pages: 18

This policy provides direction on the topic of Pennsylvania's requirements regarding the oversight of workforce administration, funds, programs and activities.

Summary of Changes

On May 21, 2018, L&I issued Workforce System Policy No. 183-01, *Oversight and Monitoring*. This change to the original policy incorporates the following revisions:

- This section, *Summary of Changes*, was added to reflect the changes from the original policy;
- Oversight Methods, "*On-site visit*" was changed from "The Department will conduct..." to "L&I may conduct..."
- Added Attachments 1-3 to Appendix C, "Department Responsibilities." Titled "Local Risk-Assessment Protocol," "Local Risk-Assessment Standards," and "Risk-Assessment Workbook" respectively; these three attachments outline the criteria and monitoring instrument the Department uses to assess sub-grantee risk.
- Formatting, grammar, mechanics and usage revisions were made

I. **Background.** Non-federal entities receiving federal workforce funds shall provide oversight of workforce programs, administration, activities and funds. Fiscal and programmatic monitoring and oversight are designed to ensure performance goals are achieved and funds are used for authorized purposes, in compliance with federal requirements and consistent with the terms and conditions of the award or sub-award. The Workforce Innovation and Opportunity Act, or WIOA, requires that, at a minimum, sub-recipient/provider, program and fiscal oversight activities are conducted. Additionally, the Commonwealth requires local workforce development boards, or LWDBs, provide oversight of all workforce programs and activities associated with funds allocated by the Pennsylvania Department of Labor & Industry, or L&I.

II. **References and Resources.** *Appendix A* is a list of the reference and resources used to develop this policy.

III. **Definitions.** *Appendix B* is a list of definitions for terminology used throughout this policy.

IV. **Required Actions.** LWDBs are required to, at a minimum:

- Ensure compliance with applicable federal, state and local statutes, regulations, policies and the terms and conditions of any applicable awards or sub-awards.
- Develop a written plan for local oversight.
- Develop a tool to support and ensure the totality of its required oversight responsibilities.
- Perform risk assessment evaluations on sub-recipients.
- Perform and document regular oversight.
- Report and discuss the results of all monitoring activities with the full board.
- Perform an annual review of the local area's monitoring function to determine effectiveness.

Note: Appendix D provides greater detail.

V. Roles and Responsibilities.

- A. **Department.** L&I is required to monitor the entities that administer federal workforce funds, as well as any service providers and other sub-recipients. L&I's oversight role is detailed by *Appendix C*.
- B. **Local Boards and other Grant Recipients.** Recipients of funds administered by L&I are required to perform regular oversight of sub-recipient activities as outlined by *Appendix D*.

VI. Access to Records. L&I, and its authorized representatives, have the right of timely access to any files, books, documents, computer records, emails and other sub-recipient, contract service providers and contractor records that are pertinent to the use of any funds administered by L&I.

The right of access also includes access to sub-recipient, contract service provider and contractor personnel for interview and discussion for determining compliance during oversight activity.

The right of access pertains to records that are retained as required by applicable statute. (See 2 CFR 200.333 and L&I's Financial Management Policy and corresponding guide for additional information regarding record retention requirements.)

VII. Contact Entity. Requests for technical assistance and/or inquiries regarding this policy may be directed to the Pennsylvania Department of Labor & Industry, Bureau for Workforce Development Administration, Oversight Services, 651 Boas Street, Suite 1200, Harrisburg, PA 17121. Electronic inquiries may be directed to RA-LI-BWDA-OS@pa.gov. Telephone inquiries may be directed to (717) 783-8050.

VIII. Appendices.

- Appendix A: References
- Appendix B: Definitions
- Appendix C: Department Oversight Responsibilities and Processes
 - Attachment 1: Local Risk-Assessment Protocol
 - Attachment 2: Local Risk-Assessment Standards
 - Attachment 3: Risk-Assessment Workbook
- Appendix D: Local Board Oversight Responsibilities
 - Attachment: Sample Risk Assessment Scoring System
- Appendix E: Epilogue

APPENDIX A: REFERENCES

- [Workforce Innovation and Opportunity Act \(WIOA\), Public Law \(Pub. L.\) 113-128](#)
- [20 Code of Federal Regulations \(CFR\), WIOA Final Rules and Regulations](#)
- Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; 2 CFR [Part 200 et al](#), and [Part 2900](#)
- U.S. Department of Labor [Core Monitoring Guide](#) and the [Core Monitoring Guide Financial Supplement](#)
- [Pennsylvania Sunshine Act, 65 Pa. C.S.A. §701 et seq.](#)
- [Pennsylvania Right-to-Know Law, 65 P.S. §66.1 et seq.](#)
- [Pennsylvania Workforce System Directives](#)
- [Pennsylvania Management Directives](#)
- [Training and Employment Guidance Letter \(TEGL\) 39-11, Guidance on Handling and Protection of Personally Identifiable Information \(PII\)](#)

APPENDIX B: DEFINITIONS

Audit is a formal oversight method conducted as required, or when deemed useful, for thorough inspection purposes. Various types of audits may be used; however, fiscal audits are the most common type of audits, and as required must be consistent with OMB Circular A-133, 2 CFR Part 200, and any other applicable federal and state statutes, regulations, policies and the terms and conditions of any applicable awards or sub-award.

Bureau of Workforce Development Administration (BWDA) is the entity responsible for the administration of workforce funds on behalf of L&I.

Bureau of Workforce Partnership and Operations (BWPO) is the entity responsible for operating workforce programs on behalf of L&I.

Corrective Action Plan (CAP) is provided by a monitored entity, along with supporting documentation, regarding any unresolved findings. (See Appendix C, Section E, Resolution)

Chief Elected Official (CEO) is the chief elected executive officer of a unit of general local government in a local workforce development area.

Chief Local Elected Official (CLEO) is a chief elected executive officer that is selected from among the consortium of chief elected officials that represent each of the units of general local government in a multi-governmental jurisdiction composing a local workforce development area.

Commonwealth Workforce Development System (CWDS) is the management information system of record used for all workforce data collection and reporting in Pennsylvania. It is a secured Internet-based website providing multiple operational functions. Accessed through CWDS are two (2) financial-oriented information management sub-systems. The first is the *Financial Management System (FMS)* used by local area grantees and/or fiscal agents for reporting federal and state expenditures and making cash disbursement requests. The second system is the *Cost Allocation Reimbursable System (CARS)* whereby BWDA allocates funds to the local workforce development areas through the Resource Sharing Agreement Budget (RSAB) process for each PA CareerLink® center.

Contractor means an entity that receives a legal instrument (i.e., a contract) by which a non-federal entity purchases property or services needed to carry out a project or program under a federal award.

Contract Service Provider is an entity other than a vendor engaged to provide goods, services or both under a contract with a sub-recipient, or other provider of services pursuant to an executed contract funded with monies administered by L&I.

Department is the Pennsylvania Department of Labor & Industry, which has been designated by the governor to serve as the state administrative entity/state workforce agency.

Disallowed Costs are those charges to a federal award that L&I determines to be unallowable, in accordance with the applicable federal statutes, regulations or the terms and conditions of the federal award.

[2 CFR 200.31]

Evaluation is a method used to assess effectiveness and to promote, establish, implement and use strategies for continuous improvement of the local workforce service delivery system.

Generally Accepted Accounting Principles (GAAP) is a collection of commonly-followed accounting rules and standards for financial reporting.

Fiscal Audit. For the purposes of the required activities pertaining to WIOA funds, a *fiscal audit* is a formal inspection by an independent, public accountant in accordance with Generally Accepted Government Auditing Standards

covering financial audits, which includes thresholds, timeframes, auditor selection responsibilities and reports consistent with applicable federal, state and local statutes, regulations, policies and the terms and conditions of any applicable awards or sub-awards.

Management Decision is a determination by the federal awarding agency or pass-through entity of findings and suitability of a corrective actions, as well as the issuance of a *written* decision to the auditee regarding the necessary corrective action.

Monitoring is a method of a grant recipient's oversight responsibilities that includes the collection and analysis of data for the purpose regarding programmatic and fiscal activities, administrative systems and management practices. It is a systematic review of internal and external programs and operations.

Non-Federal Entity is a state, local government, Indian tribe, institution of higher education, for-profit entity, foreign public entity, foreign organization or non-profit organization that carries out a federal award as a recipient or sub-recipient. [2 CFR 2900.2]

Oversight is a requirement of any recipient of federal and state funds to ensure that such funds comply with all applicable federal, state and local statutes, regulations, policies and the terms and conditions of any applicable awards or sub-awards.

PA CareerLink® is the registered trademark for Pennsylvania's one-stop service delivery system, including each of the PA CareerLink® centers as a part of the American Job Center network.

Pass-Through Entity is a non-federal entity that provides a sub-award to a sub-recipient to carry out part of a federal program.

Personally Identifiable Information (PII) is information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual.

Questioned Cost is a cost that is questioned by an auditor, federal project officer, grant officer or other authorized awarding agency representative:

- Which resulted from a violation or possible violation of a statute, regulation, policy or the terms and conditions of a Federal award, including for funds used to match Federal funds;
- Where the costs, at the time of the audit, are not supported by adequate documentation; or
- Where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take given the circumstance(s).

Sub-Award is an award provided by a pass-through entity to a sub-recipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or an individual that is a beneficiary of a federal program.

Sub-Recipient is a non-federal entity that receives a sub-award to carry out part of a federal program; but does not include an individual that is a beneficiary of such program. A sub-recipient may also be a recipient of other federal awards directly from a federal awarding agency. For example, local workforce development boards are sub-recipients.

Uniform Guidance (commonly referred to as "Super Circular") is the Office of Management and Budget (OMB) final rule that encapsulates multiple OMB circulars into one. The formal name is "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards."

APPENDIX C: DEPARTMENT RESPONSIBILITIES

- I. **Responsibilities.** L&I is responsible for oversight of the programmatic, fiscal and performance of sub-recipients. L&I will use oversight methods and necessary resources to ensure compliance with federal, state and local statutes, regulations, contract provisions/grant agreements, policies and directives. Oversight methods will also be used to evaluate the grantees' governance structure, performance outcomes and fiscal integrity. L&I will use oversight as the basis for identifying opportunities for technical assistance and improvement of program and administrative functions. L&I will conduct oversight, which may include, but is not limited to:

A. **Administrative.**

- local governance
- local plans and agreements
- local board compliance and certification
- PA CareerLink® certification
- organizational structure
- administrative policies and procedures
- sub-recipient capacity to provide oversight
- Americans with Disabilities Act (ADA) compliance
- non-discrimination and civil rights provisions
- equal opportunity requirements
- PA Sunshine Act compliance
- Right-to-Know law compliance

B. **Program.**

- program management and standards
- program policies and procedures
- service delivery
- access to services
- participant eligibility
- performance measures and program outcomes
- services to priority and special populations
- record retention and case file maintenance
- sub-recipient monitoring activities
- supportive services and need related payments
- youth activities
- data analysis
- data element validation

C. **Fiscal.**

- fiscal agent responsibilities and activities
- fiscal policies and procedures
- fiscal plans and agreements
- sub-recipient monitoring activities
- cost allocation and allowability

- resource sharing
- cash management practices
- procurement practices
- internal controls
- reporting requirements
- closeout procedures
- audits
- sub-contract compliance
- program income and reporting
- property management
- record retention
- Generally Accepted Accounting Principles (GAAP) adherence
- payroll administration

D. **Other.** L&I may conduct specialized reviews as deemed appropriate.

II. **Oversight Methods.** L&I will use monitoring, evaluation and audits as the primary methods of oversight. The following activities may be employed by L&I to uphold its oversight obligations:

- **On-site visit.** L&I may perform fiscal and programmatic monitoring to ensure WIOA funds are adequately safeguarded, program performance goals are met, and local areas are programmatically, operationally and fiscally compliant.
- **Desk review.** L&I may perform desk reviews of programs and related financial and participant data to test compliance to identify potential or recurring problems, to prepare for more in-depth on-site visits and to conduct more systematic and continuous oversight.
- **Random sampling.** L&I may select a pre-defined volume of samples at random to be used to help identify compliance violations, questioned costs and/or potential weaknesses in performance.

Note: All participant data or any data that contains personally identifiable information, or PII, must be sent using secure email, data encryption or through a secure document repository (e.g., Move It, etc.). When requesting data that contains PII, respondents may be directed to use a particular, secure method of transmission. All transmissions of such data must comply with L&I's System of Record policy.

- **Survey.** Surveys may be used to help identify compliance violations, questioned costs or potential weaknesses in performance, as well as to capture promising practices or needs for technical assistance.

III. **Oversight Resources.**

- **Monitoring Tools.** L&I has developed tools to support and ensure the completion of all required oversight activities. These tools are useful in conducting monitoring, evaluation, and audits and are updated as necessary.
- **Technical Assistance.** Technical assistance is a means of improving program operations, facilitating the implementation of corrective action, or providing information. Assistance may include, but is not limited to: special training, discussion of areas of concern, evaluation of program operation or any combination thereof.

Sub-recipient requests for technical assistance must be provided in writing to L&I (RA-LI-BWDA-OS@pa.gov) with sufficient information to determine the most appropriate form and level of support needed. If several entities request assistance on related topics, a general training session may be scheduled.

IV. Department Oversight Process.

- A. **Notification.** L&I will provide notification of monitoring activities, except for unscheduled visits, which may be performed at L&I's discretion.
- B. **Oversight Activities.** L&I will conduct, on an annual basis, on-site monitoring of each local area to ensure compliance with the uniform administrative requirements, and to monitor other areas of emphasis as deemed necessary.
- C. **Exit Conference.** L&I will conduct a formal exit conference within 10 business days after an overall monitoring cycle has been completed. Informal conferences may be provided throughout the cycle to provide technical assistance.
- D. **Report.** L&I will issue a report summarizing the oversight activity results, which may include the following:
- Findings and Required Actions. Identified issues, policies or practices that are non-compliant with federal, state and/or local statutes, regulations, terms and conditions of an award or contract, policies and directives. L&I may require a corrective action plan for any or all findings.
 - Areas of Concern. Issues, policies or practices observed during the oversight activity that may negatively impact the sub-recipient or service provider's ability to effectively manage the grant or provide services. L&I may require a response to identified concerns.
 - Promising Practices. Effective or innovative practices may be noted or highlighted in the report.
- E. **Resolution.**
- Within 30 calendar days of the issuance of a final report, a sub-recipient is required to submit a CAP along with supporting documentation as prescribed in L&I's notification. The corrective action plan must identify actions the entity will take to correct the finding(s) and a timeline by which the action(s) must be completed.

Note: The sub-recipient or contract service provider may be required to provide a progress report that describes the progress the entity has made toward correcting the finding(s) identified. At the discretion of L&I, further oversight activities may be conducted.
 - Within 30 calendar days of receipt of the CAP, L&I staff will review the plan and render a determination (i.e., management decision) addressing the acceptability of planned or implemented corrective action(s), to resolve any findings.

Note: If any costs have been determined to be disallowed, L&I will establish a debt against the sub-recipient or contract service provider. If any findings are not resolved or debts paid, the sub-recipient or contract service provider will be subject to corrective actions and sanctions. For additional guidance, see L&I's Financial Management Policy and its corresponding guide.
- F. **Appeal.** All management decisions issued by L&I may be appealed pursuant to the process outlined in the L&I's Sanctions Policy.

APPENDIX C: DEPARTMENT RESPONSIBILITIES (*Attachment 1*)**LOCAL AREA RISK-ASSESSMENT PROTOCOL**

Protocol: Based on the risk level identified for each area, the following levels of risk aversion will be in effect. Because every area is monitored for uniform guidance on-site at least once annually, the risk assessment will be used to determine any measures needed to be taken to mitigate such risk. High-risk grantees are to be monitored earlier to provide the maximum amount of time to allow remediation and technical assistance as soon as possible. Additionally, the following control actions will be implemented based on risk category.

High Risk: 31+ Points

- Mandatory quarterly conference calls with the Bureau discussing factors affecting risk level (monitoring findings and frequency, personnel changes, previous audit results and performance)
- Any control activities the bureau implements to reduce or minimize risk, such as required pre-approvals and authorizations, reconciliations, separation of duties, submission of source documents
- If deemed necessary, a second on-site monitoring review to be performed by bureau staff
- Mandatory technical assistance of program-related matters as needed
- Required evidence of single-audit corrective action plan implementation to applicable findings
- If deemed necessary, additional provisions to terms of conditions under the grantee's notice of obligation

Medium-Risk: 11 – 30 Points

- Any control activities the bureau implements to reduce or minimize risk, such as required pre-approvals and authorizations, reconciliations, separation of duties, submission of source documents
- Technical assistance on program matters as needed
- Enhanced review of single-audit corrective action plan implementation to applicable findings

Low Risk: 1 – 10 Points

- No additional actions required

APPENDIX C: DEPARTMENT RESPONSIBILITIES (*Attachment 2*)

LOCAL AREA RISK-ASSESSMENT STANDARDS

Timeline: Risk assessments will be completed during the pre-award phase (prior to NOO issuance)

Categories:

1. Funding Levels

- All funding amounts/sources that pass through BWDA
 - WIOA formula funds

2. Personnel Changes

- All instances where a change has occurred in staff (staff to the local board, one-stop operator, service providers, one-stop partner, fiscal agent, et al)

3. Monitoring Findings

- Noncompliance as a result of oversight activities
 - Noncompliance related to local board composition
 - Noncompliance related to fiscal integrity
 - Noncompliance related to policy compliance
 - Noncompliance related to law compliance
 - Noncompliance related to structure

4. Frequency of Findings

- Consecutive findings (same finding for consecutive years)
- Recurrent findings (nonconsecutive findings determined to indicate a pattern of failure/risk)

5. Previous Audit Results

- All findings provided as a result of a local area's single-audit report

Deductions are as follows:

	Late SAR submission	1	Past the 9-month mark
OR	SEFA unreconciled 1-3 contracts	0	Only one of these will be checked off
	SEFA unreconciled >3 contracts	2	
	Material Weakness Identified (if yes)	2	Part of the auditor's summary
	Non-Financial Findings (1 point for each) [program specific]	1	There was 1 finding x 1 point = 1
	Financial Findings (2 points for each) [program specific]	4	There were 2 findings x 2 points = 4
	MAX IS 10 POINTS	10	

6. Performance

- Federal Nonperformance
 - Failure to meet any WIOA primary indicator, or federal performance measure
- State Nonperformance

Failure to meet the established minimum standards for any statewide initiative, state-funded grant and/or any additional performance measures the state may develop.

APPENDIX C: DEPARTMENT RESPONSIBILITIES (*Attachment 1*)

RISK-ASSESSMENT WORKBOOK

Appendix C, Attachment 3, *Risk-Assessment Workbook* is an Excel workbook, is published alongside this policy, and is available for download at the Pennsylvania Department of Labor & Industry website.

APPENDIX D: SUB-RECIPIENT OVERSIGHT RESPONSIBILITIES

I. Responsibilities.

Recipients of funds administered directly by L&I, including local workforce development boards and contract service providers, must conduct and document consistent oversight of their programs and activities. Such recipients must also systematically oversee the activities of any sub-recipients or contract service providers through a comprehensive monitoring plan. Oversight must include review of the uniform administrative and fiscal requirements as well as program performance. These activities must be designed to ensure compliance with federal, state and local requirements, ensure that the programs achieve intended results, and that grant funds and other assets are adequately safeguarded.

- All direct recipients of Departmental funds must comply with the requirements outlined in the grant agreement, as well as any other federal, state or local requirements.
- Local boards. The local board, in partnership with the CLEO for the local area, must ensure compliance with applicable federal, state and local laws and regulations, as well as contract provisions, policies, official directives and grant agreements. The board's oversight responsibilities must include, but are not limited to, the following:
 - Administrative Oversight.
 - local governance
 - local plans and agreements
 - local board compliance and certification
 - PA CareerLink® certification
 - organizational structure
 - administrative policies and procedures
 - sub-recipient capacity to provide oversight
 - Americans with Disabilities Act (ADA) compliance
 - non-discrimination and civil rights provisions
 - equal opportunity requirements
 - PA Sunshine Act compliance
 - Right-to-Know law compliance
 - Programmatic Oversight.
 - program management and standards
 - program policies and procedures
 - service delivery
 - access to services
 - participant eligibility
 - performance measures and program outcomes
 - services to priority and special populations
 - record retention and case file maintenance
 - sub-recipient monitoring activities
 - supportive services and need related payments
 - youth activities
 - data analysis
 - data element validation
 - Fiscal Oversight and Reporting.
 - fiscal agent responsibilities and activities
 - fiscal policies and procedures
 - fiscal plans and agreements
 - sub-recipient monitoring activities
 - cost allocation and allowability

- resource sharing
- cash management practices
- procurement practices
- internal controls
- reporting requirements
- closeout procedures
- audits
- sub-contract compliance
- program income and reporting
- property management
- record retention
- Generally Accepted Accounting Principles (GAAP) adherence
- payroll administration

- Other. At the discretion of the local board, specialized oversight activities may be conducted to investigate allegations of mismanagement, to clarify unusual findings or for any other reason.
- Local Oversight Plan. Local boards must develop a written plan to demonstrate adequate oversight of the grant funds (*see below*).

II. **Methods of Oversight**. The following activities may be employed by sub-recipients to uphold their oversight obligations:

- On-site visit. Sub-recipients and contract services providers will perform fiscal and programmatic monitoring to ensure all funds allocated to the local workforce development area are adequately safeguarded, program performance goals are met, and local sub-contractors are programmatically, operationally and fiscally compliant.
- Desk review. Sub-recipients and contract service providers may perform desk reviews of programs and related financial and participant data to test compliance to identify potential or recurring problems, to prepare for more in-depth on-site visits, and to conduct more systematic and continuous oversight.
- Random sampling. Sub-recipients and contract services providers may select a pre-defined volume of samples at random to be used to help identify compliance violations, questioned costs and/or potential weaknesses in performance.

Note: All participant data or any data that contains personally identifiable information, or PII, must be transmitted using secure email, data encryption, or through a secure document repository (e.g., Move It, etc.) in compliance with L&I's System of Record policy.

- Survey. Surveys may be used to help identify compliance violations, questioned costs or potential weaknesses in performance, as well as to capture promising practices or needs for technical assistance.

III. **Oversight Resources**. The following resources may be employed by sub-recipients and contract service providers to ensure compliance is achieved and maintained:

- Monitoring Tools. All sub-recipients must develop written oversight tools that assist the sub-recipient or contract provider in conducting a thorough review of programs and activities. The varying requirements of each of the funding streams involved must be taken into consideration when designing the tools and determining the most effective activities to be used. The tool used for each oversight activity must be included with the final oversight report (*below*) and must include, at a minimum:
 - name of the agency
 - name of the individual performing the monitoring
 - date of the monitoring
 - services or activities provided

- total amount of the contract and sources of the funding
 - date(s) of the oversight activity
 - staff interviewed
 - summary of the results that include program strengths, concerns, deficiencies and areas where technical assistance may be needed
- Technical Assistance. Technical assistance is a means of improving program operations, facilitating the implementation of corrective action, or providing information. Assistance may include, but is not limited to: special training, discussion of areas of concern, evaluation of program operation, or any combination thereof.

IV. Oversight Process.

- A. **Activities.** Oversight activities must include monitoring and must assess each sub-recipient and contracted service provider's compliance with federal, state and local laws, regulations, contract provisions/grant agreements, policies, and official directives and compliance with the appropriate uniform administrative requirements for grants and agreements. Oversight activities must encompass both uniform administrative requirements and programmatic monitoring.
- B. **Local Oversight Plan.** The local oversight plan must be designed to demonstrate that an entity can meet the requirements of the grant agreement, on time, and within cost limits and to identify the purpose of performing the oversight activities. This plan must address, at a minimum, the following:
- Oversight Process. The sub-recipient or contract service provider must describe the process it will use to ensure that all monitoring reports are reviewed and acted upon by the local board. (See Section C, *Reporting and Resolution Requirements*, of this appendix below.)
 - Risk Assessment. Local boards are required to incorporate a risk-assessment approach as a part of their oversight plan. Risk assessment results must inform the frequency and manner in which oversight will take place. Each local board's risk assessment plan must include the following:
 - Assess Risks. Consider which contract(s) involve the most risks that may expose the local board to adverse consequences.
 - Identify frequency in which to monitor sub-recipients. Consider the level of vulnerability to the local area or local board if a contractor's compliance with programmatic and fiscal system requirements is not systematically and regularly monitored.
 - Identify the factors used to assess risk. At a minimum, the following must be answered and evaluated:
 - Is the service provider new to operating or managing a state or federal funds, or has not done so within the past five years?
 - Whether the sub-recipient has new personnel or new or substantially changed systems
 - The extent and results of Federal awarding agency monitoring (e.g., if the sub-recipient also receives Federal awards directly from a Federal awarding agency)
 - Does the provider lack effective operational and fiscal procedures and controls?
 - The results of previous audits including whether the sub-recipient receives a Single Audit in accordance with 2 CFR 200, Subpart F—*Audit Requirements* of this part, and the extent to which the same or similar sub-award has been audited as a major program
 - What is the contractor's share of the local area's allocation?

Local boards may include additional steps, risk factors and questions in developing a comprehensive risk-assessment methodology.

- Project the risk. Assign well-defined, supported point values to the scoring system. The numerical ratings must be used to determine the overall risk associated with, and how often to monitor, each sub-recipient. Local boards must classify service providers as high-risk, medium-risk or low-risk. A sample scoring system has been provided as an attachment to this appendix.
 - Frequency. Local boards must monitor their providers based on the level of risk assessment; however, a formal monitoring must be conducted at least once per program year (PY). Monitoring may occur as established in the local oversight plan or may be prompted by some event such as a complaint, poor performance, negative managerial patterns, or unusual EO data. The following is a list of sections that make up the formal monitoring.
 - Administrative oversight. Monitoring of administrative functions must be conducted at least once each program year as part of the formal monitoring conducted by the local board.
 - Programmatic oversight. A review of each service provider's programmatic activities must be conducted at least quarterly. These reviews may be conducted using any of the oversight methods outlined in this policy (see Section II of this appendix) and may be considered as part of the annual formal monitoring activity described above.
 - Fiscal oversight. Fiscal monitoring of all sub-contracts must be conducted at least once during the contract period. Sub-contracts whose risk-assessment is "medium-risk" or "high-risk" must be monitored more frequently (i.e., high-risk sub-contractors must be monitored at least quarterly and medium-risk, biannually).
 - Schedule and Timeline. A schedule or timetable for planned oversight activities.
- C. **Reporting and resolution requirements.** Sub-recipients and contract services providers must ensure that a copy of the oversight report is provided to the monitored entity. The oversight report identifies instances of noncompliance (*if any*) and provides recommendations for corrective action(s) and program quality enhancements. Timelines must be established for the completion of corrective actions, based on the severity of the deficiency. Sub-recipients and contractors must work with the monitored entity to ensure prompt implementation of corrective actions.

Note: A copy of the completed monitoring tool used to conduct the oversight activity must be made available to the monitored entity upon request.

When the sub-recipient is a local board, all oversight reports generated within the local workforce development area, must be made available to all local board members. It is up to the local board to determine how these reports are handled (i.e., full board, committee of the board, etc.) as long as the appropriate actions are taken to ensure any required corrective actions are resolved in both a timely and effective manner. The local board must describe the process for reviewing and acting upon all monitoring reports in its oversight plan (*IV.B., Local Oversight Plan, above*). Regardless of how the board handles the monitoring reviews, a summary of such reviews must be an item on the local board's agenda during regularly scheduled local board public meetings (at least quarterly) and be appropriately documented in the meeting minutes.

D. **Controls.** Sub-recipients and contract service providers must:

- Require periodic reports from the contract service providers outlining monitoring reviews, noncompliance issues, and the status of corrective actions;

- Ensure that a briefing regarding oversight activities and findings is provided to the local workforce development board at regularly scheduled meetings, and that the briefing is documented;
 - Perform an annual evaluation of the oversight function to determine its effectiveness; and
 - Develop the written oversight process to be used in the provision of oversight.
- E. Appeals.** Sub-recipients and contract service providers must have a written policy in place that describes the entity's appeals process, which must include, at a minimum: timelines, levels of appeal, requests, reviews, adverse and favorable determinations, and resolutions. The required local appeals policy must be consistent with the process outlined in L&I's Sanctions Policy.

APPENDIX D: SUB-RECIPIENT OVERSIGHT RESPONSIBILITIES (*Attachment*)

Sample Scoring System for Risk Assessment

1. Does the sub-recipient have prior experience with the same or similar sub-awards;

10 points = new program for this entity; managed other state or federal awards

5 points = prior experience with program, but managed for less than 3 years

0 points = prior experience with same award

2. Does the sub-recipient have new personnel or new or substantially changed systems?

15 points = extensive change

8 points = some change

0 points = little to no change

3. Does the sub-recipient have a significant history of oversight/monitoring findings?

25 points = if more than 1 instance of non-compliance

10 points = if a single instance of non-compliance

0 points = full compliance

4. Does the provider lack effective operational and fiscal procedures and controls?

20 points = if more than 1 instance of non-compliance

5 points = a single instance of non-compliance.

0 points = full compliance

5. What is the extent of recent single audit?

15 points = if substantial oversight findings occurred within past 2 years

8 points = if some oversight findings occurred within past 2 years

0 points = no oversight findings occurred in the past 2 years

6. What is the contractor's share of the local area's allocation?

15 points = if more than 25% of local board's allocation

8 points = if 10% to 25% of local board's allocation

0 points = if less than 10% of local board's allocation

Note: Local boards may elect to assign point values as deemed necessary.

APPENDIX E: EPILOGUE

The *Monitoring and Oversight Policy* is an operational workforce system guidance that supports the functionary of the Pennsylvania Department of Labor & Industry (*Department*) to provide proper oversight of the Federal and state funds allocated to the Department. This policy also guides local workforce development boards and other sub-recipients of the Department in their oversight responsibilities of such funding as allocated through the Department.

On March 23, 2018, The Department posted the proposed Workforce System Policy (WSP) No. 183-01, *Oversight and Monitoring* for a public comment period.

The comments received because of the public posting have been included below, as well as the Department's response to each of the comments submitted. The Department appreciates the stakeholders who contributed comments, as well as the Pennsylvania Workforce Development Association who submitted remarks on behalf of some of the local workforce system stakeholders.

General Comments

Comment: A commenter opined that while the requirements for compliance are not substantially different from the existing policy, some requirements (old and new) go beyond what is actually required by the Workforce Innovation and Opportunity Act (WIOA), with little operational benefit. These requirements may result in local workforce development boards spending significant time in compliance review mode, rather than on other topics, such as strategy, needs, priorities, and local labor market intelligence. **Department Response:** The Department has taken into consideration the commenter's assertions throughout the editing and revision of the final document. Some changes were made in areas as indicated further in this appendix that better aligns the Department's requirements with those found in WIOA and its corresponding regulations. The Department asserts that while "strategy, needs, priorities, and local labor market intelligence" are important and required functions of the local workforce development board, the board must comply with all applicable laws, regulations, policies, and guidance, as well as the appropriate grant agreement, while doing so and monitoring is the method by which it occurs. The Department contends that the operational benefit of effective monitoring to the workforce development system is the reduced risk of failed performance measures, questioned costs, fraud, waste, and abuse, all of which affect a local workforce development board's ability to receive Department funds. A local workforce development board may request technical assistance from the Department at any time if it is struggling to create and maintain an effective monitoring strategy.

Reporting and Resolution Requirements (pg. 12)

"Sub-recipients and contract service providers must ensure that a copy of all oversight reports, including the tool used to complete the oversight activity, is provided to all local board members during a local board public meeting." **Comment:** A commenter suggested that the tool be made available upon request, but not be required in the final oversight report. The tool is readily available in local workforce areas, but is not typically included in the report itself. **Department Response:** The Department agrees with the commenter's suggestion and has revised that portion of the policy to reflect that the tool be made available upon request. **Comment:** A commenter opined that currently, local boards share oversight reports with the proper committee of the board. The commenter believes a review of all oversight reports, rather than a summary, is not an ideal use of time of the full boards. The commenter

believes sharing oversight reports with the proper local board committee is more productive than sharing them with the full board, and believes this is a decision best suited for each local board. It is most appropriate in a committee meeting to discuss monitoring in-depth, as there can be ample time built into agendas so board members who serve on the committee can offer detailed insights to the challenges presented in the reports, and can ask complex questions of staff with time to adequately discuss.

Department Response: The Department concurs with the commenter's concerns and appreciates the suggestion that a committee of the local board that is focused on the oversight activities might be a better strategy for reviewing the monitoring activities and then summarizing such activities for the full board during quarterly monitoring summaries at regular public board meetings. This portion of the policy has been updated to reflect this revision.

Methods of Oversight (pg. 10)

Comment: In the "desk review" and "random sampling" sections, "the Department" may mistakenly be listed, rather than, "local board or sub-recipients." **Department Response:** The Department concurs with the commenter that the phrase "the Department" was mistakenly listed. The narrative was changed to reflect the proper terminology: Sub-recipients or contract service providers.

Oversight Process - Frequency (pg. 12)

"Programmatic oversight. Programmatic monitoring of each service provider must be conducted at least quarterly." **Comment:** A commenter opined that the existing policy requires program monitoring at least twice per year, the commenter believes that the minimum should be yearly, with the decision to perform this more often to be retained at the local level. To that end, the commenter believes a formal annual review should be sufficient, unless there are particular concerns and/or risk assessment has revealed the need to conduct more frequent formal reviews. Quarterly monitoring for all providers, particularly in workforce areas with high numbers of contracts and sub-recipients, could create an administrative burden on both local boards and their funded programs.

Department Response: The Department agrees with the commenter regarding the Oversight policy that existed at the time of this policy was being proposed, which stipulated that program monitoring be conducted at least twice per year. The Department revised that portion of the policy to require a formal monitoring review at least once per program year (PY).

Comment: A commenter suggested that in addition to the annual review, there could be a minimum of quarterly contacts with providers to assess their progress through the other means mentioned in the policy, such as site visits and desk reviews. **Department Response:** The Department agrees with this suggestion and has revised this section of the policy accordingly. Informal reviews of the programmatic activities must be accomplished quarterly using any oversight methods outlined in the policy (i.e., on-site visits, desk reviews, random sampling, and surveys) and may be considered part of the overall formal review. **Comment:** A commenter opined, "'High-risk' providers could be monitored quarterly and medium-risk providers could be monitored bi-annually (similar to the recommendation for fiscal monitoring)." **Department Response:** The Department requires that local boards monitor their providers based on the level of risk assessment as described in the local area's oversight plan. No change was made to this portion of the policy.

Appendix D: Sub-recipient Oversight Responsibilities – Attachment A, Sample Scoring System (pg. 14)

Comment: A commenter suggested that the name of this attachment be revised to reflect a more accurate description of the contents. **Department response:** The Department agrees with the commenter and has revised the title to read, *Sample Scoring System for Risk Assessment*.