



2017

# LOCAL WORKFORCE DELIVERY SYSTEM – MEMORANDUM OF UNDERSTANDING

This guidance is designed to outline the required components of the MOU and provide assistance to chief elected officials, local boards and other local workforce system stakeholders regarding the funding of infrastructure costs and other shared costs within the one-stop service delivery system.

# THE MEMORANDUM OF UNDERSTANDING (MOU)

## INTRODUCTION

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### **WORKFORCE INNOVATION AND OPPORTUNITY ACT**

The Workforce Innovation and Opportunity Act (WIOA) was signed into law on July 22, 2014, and went into effect July 1, 2015. WIOA supersedes the Workforce Investment Act of 1998 (WIA) and amends the Adult Education and Family Literacy Act, the Wagner Peyser Act, and the Rehabilitation Act of 1973. To help both businesses and job seekers meet their needs, the workforce system established under WIOA is integrated by design. WIOA envisions connecting businesses with job seekers, through meaningful partnerships among workforce, education, human services, and economic development entities which ensure optimum results and leveraging of resources. The law addresses the needs of job seekers through establishing a workforce system that helps them access employment, education, training and support services to succeed in the labor market. Through the PA CareerLink® one-stop system, WIOA works to address employer needs by matching them to the skilled workers they need to compete in the global economy.

### **MEMORANDUM OF UNDERSTANDING UNDER WIOA**

Under WIOA, the MOU serves as a critical mechanism towards ensuring that the roles and responsibilities of the entities involved with the commonwealth's workforce system are well-defined and mutually agreed upon for the successful operation of the integrated service delivery system in each local workforce area.

Per WIOA Section 121(b)(2)(A), all entities that participate in a local area's workforce delivery system as partners, whether required or additional, must be parties to the WIOA MOU and must abide by the terms prescribed and by applicable federal, state, and local statutes, regulations, policies, plans, and grant agreements as applicable and authorized under each partner's program and in keeping with federal guidelines.

In essence, local negotiation is the planning process and the actual MOU is the blueprint for how a local area one-stop system will operate and provide services to individuals and businesses.

# GUIDE TO THE LOCAL AREA MEMORANDUM OF UNDERSTANDING (MOU)

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### **INTRODUCTION**

In order to establish a high quality one-stop delivery system and enhance collaboration amongst partner programs, local boards are required to negotiate and develop an MOU with all required partners present in their local workforce development area (local area), as well as any additional partners involved in the local workforce delivery system. Local areas are encouraged to use a collaborative approach to negotiations and work together in the spirit and intent of WIOA.

### **BACKGROUND**

The Workforce Innovation and Opportunity Act (*WIOA*) establishes strategic goals for the integration of workforce service programs. These goals are intended to maximize the value and benefits to customers of services available to them under one-stop delivery systems and workforce development programs.

In order to successfully implement WIOA's vision of all-inclusive access point to education and training programs, it is imperative for local boards, with the agreement of the chief elected official(s) and each of the workforce system partners, to enter into an MOU with each of the workforce development partners to outline operations of the PA CareerLink® one-stop delivery system. The MOU should act as a functional tool, as well as establishing a vision for how the local board and one-stop delivery system partners plan to work together to create a unified service delivery system essential to the key goal of WIOA.

This plan should be negotiated in a manner that will best meet the needs of the customers shared among partners within the one-stop delivery system. Recognizing that successful integration relates to coordinated use of resources, WIOA also requires each partner to contribute its proportionate share of costs required for operation of local one-stop delivery systems.

### **WHAT IS THE MEMORANDUM OF UNDERSTANDING (MOU)?**

The MOU is the product of local discussion and negotiation, and is an agreement developed and executed between the local workforce development board, with the agreement of the chief elected official(s) and the PA CareerLink® partners, relating to the operation of the local service delivery system in a local area.

MOUs serve as a functional tool as well as visionary plan for how the local board and PA Careerlink® partners will work together to create a unified service delivery system that best meets the needs of their shared customers. The development of the MOU will help define the ways partners can work together on

establishing a renewed commitment to state and local partners in meeting the needs of both business customers and the workforce. Most importantly, connecting outreach activities to actual job placement of job seekers across the partners is a significant task for a truly “integrated” system.

**In short, MOUs must, at a minimum, describe:**

- Services to be provided through the one-stop service delivery system, including the manner in which the services will be coordinated and delivered through the system;
- Agreement of funding the cost of services and the operating costs of the system
  - Funding of the infrastructure costs of one-stop centers
  - Funding of the shared services and operating costs of the one-stop service delivery system.
- Methods of referring individuals between the one-stop operators and partners for appropriate services and activities;
- Methods to ensure that the needs of workers, youth, and individuals with barriers to employment, including individuals with disabilities, are addressed in providing access to technology and materials that are available through the one-stop service delivery system.
- Duration of the MOU and procedures for amending it; and
- Assurances that each MOU will be reviewed, and if substantial changes have occurred, renewed, not less than once every three-year period to ensure appropriate funding and delivery of services.

## **TYPES OF MOUs**

The commonwealth recommends that local boards and their PA CareerLink® partners have the maximum flexibility to negotiate their MOUs to best serve the needs of each workforce development area and their customers. To this end, both “umbrella” agreements that encompass all partners as well as individual partnership agreements that are crafted between each partner should be allowed based upon local board determination.

### **Single “Umbrella” MOU**

A local board and PA CareerLink® partners may develop a single “umbrella” MOU addressing the issues related to operation of the PA CareerLink® service delivery system and that applies to the local board, its CEO, and all partners. The commonwealth strongly encourages the use of this type of MOU to facilitate a transparent and flexible agreement.

### **Individual Agreements**

The local board, with the agreement of its CEO, may decide to enter into separate agreements between each partner or groups of partners in the one-stop service delivery system.

## **NEW PROVISIONS from WIA to WIOA**

WIOA made many significant changes in the previous job training system authorized by the Workforce Investment Act (WIA) of 1998. Under WIA, costs that were shared among partners, including

infrastructure costs, were outlined and funded through *Resource Sharing Agreements* between local boards and one-stop partners.

Jointly funding infrastructure remains a necessary foundation for an integrated service delivery system and is critical to achieving the vision of WIOA. Today, WIOA continues to require one-stop partners to use a portion of their funds in order to support and maintain the one-stop delivery system.

In addition to the standard requirements contained in the MOU from WIA, the following requirements of WIOA have been added:

- Methods to ensure the needs of individuals with barriers to employment are addressed in providing access to services.
- Assurance that the MOU will be reviewed and renewed as needed, not less than every three years.

## REQUIRED COMPONENTS OF THE MOU

Local MOUs must include, but is not limited to the following:

1. **List of all partners.** The list must include the partners entering into the MOU, the partner program of affiliation, as well as contact information for the entity.
2. **A description of the process used to develop the MOU.** Articulate the steps taken to populate the MOU. (This step is necessary because should non-consensus ever occur, a local board must be able to state how they attempted to approach this requirement.)
3. **Access to services.** This element is where each partner describes how it will fulfill the WIOA requirement that each MOU will contain provisions describing the services to be provided through the PA CareerLink® one-stop delivery system. It includes identifying at least one comprehensive workforce center in each local area, as well as any affiliated sites and/or specialized centers where the partner's programs are accessed. These provisions must address services to be provided, the coordination of services, and the delivery of services.

To support the description of "access to services" include:

- services that will be accessible through the local one-stop service delivery system, including the location(s) at which these services will be accessible.
- method of delivery for each required partner providing services, and describe how these services will be coordinated.
- If assistance is needed in order to establish what services each partner provides, and how they are provided, consider the following:
  - a) Is the partner physically present in the center (if so, part-time or full-time)?
  - b) If not physically present, will one-stop center staff need to supply support, such as providing assistance to customers with using on-line tools?
  - c) What services will the partner offer?

- d) How do those services support a career pathway?
- e) How will the partner interact with other one-stop programs?
- f) How will supervision and guidance be provided to the partner program's staff?
- g) What administrative and other supports partners may require?
- h) Include a description of any priority populations identified by the MOU partners. At a minimum, WIOA requires each local MOU address: unemployment insurance claimants; low-income adults, including TANF and SNAP recipients, homeless, etc.; adult education and literacy participants; individuals with disabilities; veterans; older workers; displaced homemakers; re-entry populations; and youth, including youth that face barriers to employment.

**Note:** When identifying the particular career services that each partner will provide, local boards must ensure that there is no duplication of services where possible.

**4. Sharing of Costs.** Joint infrastructure funding is a critical part of establishing the foundation needed to support integrated service delivery. Therefore, under WIOA, each of the required partners must contribute a portion of their funds toward maintaining the PA CareerLink® one-stop delivery system.

- The MOU must contain an operating budget that describes how the infrastructure, services described above, and other shared costs of resources will be funded, including funding through cash and in-kind contributions, from private entities, or other alternative financing options.
- The details of the MOU will specify the sources of funding that support the partner's ongoing career services programs.

**5. Methods of Referral and Data Sharing.** The methods by which individuals and business customers will be referred between one-stop partners for services and activities must be negotiated in the MOU. These methods of referral must strive towards including a coordinated and integrated approach to common intake procedures, career services, business services, and data sharing among partners.

- In line with WIOA's intent, PA CareerLink® staff is required to connect customers to partners through effective integration or referral processes that are impartial and designed to efficiently meet the customer's individual needs.
- All parties must provide specifics in the MOU detailing how partners will refer individuals to appropriate services and activities.
- To ensure the PA CareerLink® system operates effectively, parties to the MOU must provide performance information that supports the achievement of performance goals, consistent with the requirement of law and as outlined in Pennsylvania's Combined State Plan.
- All parties agree to work cooperatively to share data to the extent necessary and as permitted or required by applicable statute or regulation, and enter into data sharing agreements as required thereto.

6. **Methods to Ensure the Needs of Workers and Youth, and Individuals with Barriers to Employment, including individuals with disabilities, are addressed.** The MOU must include the provision of necessary and appropriate access to services, including access to technology and materials, made available through the one-stop delivery system to these populations.
7. **Duration of the MOU** must be addressed not less than once every 3-year period to ensure appropriate funding and delivery of services.
8. **Assurances.** The MOU must contain an assurance that it will be reviewed and updated, at a minimum, every three years in order to ensure it contains up to date information regarding funding, delivery of services, and changes in the signatory official of the Local Board, CEO, or AJC partner(s).
9. **Signatures.** The MOU is fully executed when it contains the signatures of the local board chair, all partners entering into the MOU, and the chief elected official. Additionally, the executed MOU must contain the time period in which the MOU is in effect. Per WIOA, the MOU effective date is July 1, 2017.
10. **Other provisions.** Any other provisions agreed to by the parties regarding operation of the one-stop delivery system.

**Note:** The Department has attached a template that local boards may use in drafting their MOU(s). Local boards are encouraged to use this template; however, this format is not required. Also attached are Resource Sharing Agreement Budget (RSAB) guidance and templates, as well as a partner-program contact list, which may not be exhaustive, but can assist local boards in identifying the proper negotiators and signatories to the MOU. Finally, the Department has received several questions regarding the requirements of the MOU in general as well as the process of crafting the MOU; attached, please find the Department's response to those questions.

**Required Program/Partners in the PA CareerLink® Workforce Service Delivery System**

<b>Program/Partner</b>	<b>Program Authorization</b>	<b>Federal Agency</b>	<b>State Agency</b>
<b>Youth Workforce Investment Activities</b>	WIOA—Title I, Sec. 126	Department of Labor	PA Department of Labor & Industry
<b>Adult Employment and Training Activities</b>	WIOA—Title I, Sec. 131	Department of Labor	PA Department of Labor & Industry
<b>Dislocated Worker Employment and Training Activities</b>	WIOA—Title I, Sec. 131	Department of Labor	PA Department of Labor & Industry
<b>Job Corps</b>	WIOA—Title I, Subtitle C	Department of Labor	National Program - USDOL
<b>Native Programs</b>	WIOA—Title I, Sec. 166	Department of Labor	PA Department of Labor & Industry
<b>Migrant and Seasonal Farmworker Programs</b>	WIOA—Title I, Sec. 167	Department of Labor	PA Department of Labor & Industry
<b>Youth Build Program</b>	WIOA—Title I, Sec. 171	Department of Labor	National Program - USDOL
<b>Adult Education and Literacy Activities</b>	WIOA—Title II	Department of Education	PA Department of Education
<b>Vocational Rehabilitation State Grant Programs</b>	Title I of the Rehabilitation Act of 1973, as amended (WIOA Title IV)	Department of Education	PA Department of Labor & Industry
<b>Senior Community Service Employment Program (SCSEP)</b>	Title V of the Older Americans Act of 1965	Department of Labor	PA Department of Aging
<b>Postsecondary Career &amp; Technical Education</b>	Carl D. Perkins Vocational & Applied Technology	Department of Education	PA Department of Education
<b>Trade Adjustment Assistance (TAA)</b>	Title II of the Trade Act of 1974, as amended	Department of Labor	PA Department of Labor & Industry
<b>Jobs for Veterans State Grant Programs</b>	38 U.S.C. Chapter 41	Department of Labor	PA Department of Labor & Industry
<b>Employment and Training Activities carried out under the Community Services Block Grant</b>	Community Services Block Grant Act (42 U.S.C. 9901)	Department of Health and Human Services	PA Department of Human Services
<b>Employment and Training Activities carried out by the Department of Housing and Urban Development</b>		Department of Housing and Urban Development	PA Department of Economic Development
<b>State Unemployment Compensation Programs</b>	Social Security Act 9 of 1935 (Title III, IX and XII) and Federal Unemployment Tax Act of 1939	Department of Labor	PA Department of Labor & Industry
<b>Reintegration of Offenders Programs</b>	Second Chance Act of 2007, Sec. 212	Department of Justice	PA Department of Corrections
<b>Temporary Assistance for Needy Families (TANF)</b>	Social Security Act, Part A of Title IV	Department of Health & Human Services	Department of Human Services

**In addition to the required partners listed in Table 1, WIOA specifies that one-stop centers may incorporate other partner programs, including:**

- Employment and training programs administered by the Social Security Administration (e.g., Ticket to Work);
- Employment and training programs carried out by the Small Business Administration;
- Any employment and training activities require of recipients under the Supplemental Nutrition Assistance Program (SNAP, formerly known as the Food Stamp program) and work programs for those recipients who are able-bodied adults without dependents;
- The Client Assistance Program authorized under section 112 of the Rehabilitation Act of 1973;
- Programs authorized under the National and Community Service Act of 1990 (e.g., AmeriCorps); and
- Other appropriate government or private-sector programs.

# DEFINITIONS, REFERENCES and RESOURCES

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## Definitions

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**Generally Accepted Accounting Principles (GAAP)** are the standard framework of guidelines for financial accounting used in any given jurisdiction; generally known as accounting standards or standard accounting practice.

**Impasse** is a situation in which no progress is possible, especially because of disagreement. When negotiating an MOU, local areas that fail to reach agreement at the end of the remediation period will be considered to be at impasse.

**Infrastructure costs** mean the non-personnel costs that are necessary for the general operation of the one-stop center, including the rental costs of facilities, the costs of utilities and maintenance, equipment (including assessment-related products and assistive technology for individuals with disabilities), and technology to facility access to the one-stop center, including the center's planning and outreach activities and common identifier costs if decided on by the local board.<sup>1</sup>

**In-Kind Contributions-** Contributions by a non-PA CareerLink® partner to support the PA CareerLink® in general, not a specific partner; or contributions by a non-PA CareerLink® partner to a PA CareerLink® partner to support its proportionate share of the infrastructure costs.

**Local Funding Mechanism-** An infrastructure funding agreement (IFA) negotiated by the local boards with all PA CareerLink® partners for each comprehensive one-stop delivery center.

**Local One-Stop Delivery System** is the network of workforce-related products, programs, services and service locations established to meet business and jobseeker needs in a local workforce area.

**Memorandum of Understanding (MOU)** is a document defining the agreement between the local board, Chief Elected Official(s) and required partners relating to the operation of the workforce delivery system in the local area, including operating and infrastructure costs.

**Non-cash contributions-** Expenditures made by one partner on behalf of the one-stop center or contributions of goods or services contributed by a partner for the center's use. Contributions must be valued consistent with Uniform Guidance (WIOA Joint Final Rule Section 678.720).

**Notice of Obligation (NOO)** is an official document signed by the comptroller and BWDA authorizing the expenditure of funds under the terms and conditions of a grant agreement.

**Other System Costs** – Other costs that are agreed upon by the local board and all one-stop center partners. The other system costs budget must include a line item for applicable career services. The budget may also include the cost of other shared services commonly provided by PA CareerLink® partners to any individual such as initial intake, assessment of needs, appraisal of basic skills, identification of appropriate services to meet needs, referrals to other one-stop delivery system partners, and business services. Shared operating costs may also include shared costs related to

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functions of the local board. This could include costs associated with the PA CareerLink® operator, policy and oversight of one-stop system partnerships and its effectiveness, etc.

**Pennsylvania/PA CareerLink®** is the registered, trademarked name for Pennsylvania’s one-stop service delivery system and its local centers/sites/network.

**Proportionate share** is an amount determined by the Governor that represents a required partner’s portion of comprehensive one-stop infrastructure costs statewide for purposes of the State infrastructure funding mechanism. This amount is determined through a reasonable cost allocation methodology that assigns costs to required partners in proportion to relative benefits received.

**Required and additional partners** are the partner entities identified as “required” at WIOA Sec. 121(b)(1)(B) and as “additional” at WIOA Sec. 121(b)(2)(B), as well as, at 20 CFR §§ 679.400 and 405 respectively, that compose the designated area’s one-stop delivery system. An entity carrying out programs or activities listed in WIOA section 121(b)(1)(B) which mandates participation in the local PA CareerLink® delivery system.

**Request for Funds (RFFs)**- An application from the local area submitted to BWDA in accordance with state guidelines that requests additional funding for specified purposes.

**Operating Budget Agreement (formerly Resource Sharing Agreement or RSA)**: An agreement that is maintained at the local level, which includes signatures of all partners providing funding to a PA CareerLink®. Agreements contain language to hold parties responsible for all expenditures within the agreement period and reflect the negotiation process parties will conduct to obtain approval of all partners.

**Resource Sharing Agreement Budget (or RSAB)**: A consolidated budget report in which the local area grantees enter their budget data for the new year and report actual expenditures to BWDA on a quarterly basis. The report is provided through an online spreadsheet housed on a password-protected website maintained by BWDA. BWDA uses the consolidated budget reports provided by the local area grantees to initiate and finalize discussions and internal agreements with each state PA CareerLink® partner agency. The results provide the annual allocation of state PA CareerLink® funds that are made available for distribution to local area grantees. Grantees identify the costs as Facility, Operating, and Personnel expenses by each PA CareerLink® and applicable State PA CareerLink® partner agency.

**State Funding Mechanism (SFM)**- An IFA established by the governor that is triggered if a local board is unable to secure completed MOUs from all required partners by the deadline established in WIOA regulations.

## References and Resources

The following is a list of the resources used to develop this policy and may provide additional information:

### **Statutes**

- [Public Law \(Pub. L.\) 113-128, Workforce Innovation and Opportunity Act \(WIOA\)](#)
- [Rehabilitation Act of 1973 \(29 U.S.C. 794\) Section 504;](#)
- [Buy American Act \(Pub. L 111-350\) Title 1, Sections 8301- 8303, dated January 4, 2011;](#)
- [Further Continuing Appropriations Act, 2013 \(Pub. L 113-6\) Division F, Title I, Sections 1101 \(a\)\(4\) and 1102, dated March 26, 2013;](#)
- [Consolidated Appropriations Act, 2012 \(Pub. L 112-74\) Division F, Title I, Section 105, dated December 23, 2011;](#)
- [Age Discrimination Act of 1975 \(42 U.S.C. 6101\);](#)
- [Nontraditional Employment for Women Act of 1991 \(Pub. L102-235\)](#)
- [Wagner-Peyser Act \(29 U.S.C. 49\)](#)
- [Title IX of the Education Amendments of 1972;](#)
- [Title VI of the Civil Rights Act of 1964 \(42 U.S.C. 2000d et seq.\)](#)
- [41 U.S.C. Section 702](#)
- [42 U.S.C. Section 503;](#)
- [42 U.S.C. Section 601-619;](#)
- [The Nontraditional Employment for Women Act of 1991 \(Pub. 102-235\), dated December 12, 1991](#)

### **Regulations**

- [Workforce Innovation and Opportunity Act; Joint Rule for Unified and Combined State Plans, Performance Accountability, and the One-Stop System Joint Provisions; Final Rule pages 10-11, 317, 329, 336-337, 370-378, 423, 474-475, 776-787, 794-798, 824-825, 875-879, 894-896, 923-927, 974-978, 994-995, 1021-1022, dated June 30, 2016.](#)
- [Workforce Innovation and Opportunity Act; Department of Labor Only; Final Rule pages 124, 129, 169-170, 561-562, 573-575, 731, 900-902, 1419, 1421-1422, dated June 30, 2016.](#)
- [Programs and Activities Authorized by the Adult Education and Family Literacy Act \(Title II of the Workforce Innovation and Opportunity Act\); Final Rule pages 41-42, 47-49, 109-112, 175-177, dated June 30, 2016.](#)
- [State Vocational Rehabilitation Services Program; State Supported Employment Services Program; Limitations on Use of Subminimum Wage; Final Rule pages 174-182, 189-191, 549-560, 941-943, dated June 30, 2016.](#)
- [29 Code of Federal Regulations \(CFR\), Part 98, Subpart F, —General Principles Relating to Suspension and Debarment Actions;](#)
- [2 CFR, Chapter 2, —Office of Management and Budget Guidance for Grants and Agreements;](#)
- [2 CFR 182, —Government Wide Requirements for Drug-Free Workplace \(Financial Assistance\)](#)
- [20 CFR Part 603, —Federal-State Unemployment Compensation \(UC\) Program; Confidentiality and Disclosure of State UC Information;](#)

- [29 CFR Part 37, —Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998 \(WIA\);](#)
- [29 CFR Part 38, —Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation and Opportunity Act;](#)
- [29 CFR Part 93, —New Restrictions on Lobbying;](#)
- [29 CFR 98, —Government Wide Debarment and Suspension \(Non-procurement\);](#)
- [3 CFR 1986, —Debarment and Suspension;](#)
- [58 CFR 51751, —Continuance of Certain Federal Advisory Committees;](#)
- [34 CFR 361, —State Vocational Rehabilitation Services Program;](#)
- [34 CFR 363, —The State Supported Employment Services Program;](#)
- [45 CFR 260, —General Temporary Assistance for Needy Families \(TANF\);](#)
- [45 CFR 205.50, —Public Assistance Programs, Safeguarding Information for the Financial Assistance Programs;](#)

### **Federal Guidance**

- [USDOL FAQ On WIOA Infrastructure Costs, dated April 1, 2016;](#)
- [U.S. Department of Education Rehabilitation Services Administration Policy Directive 16-03, —Workforce Innovation and Opportunity Act \(WIOA\) Requirements for Unified and Combined State Plans, dated March 9, 2016;](#)
- [USDOL FAQ on Local Agreement Costs/Potential Penalties for PY 2016, dated January 28, 2016;](#)
- [Unemployment Insurance Program Letter \(UIPL\) 20-15, —Unemployment Insurance and the Workforce Innovation and Opportunity Act of 2014, dated August 13, 2015;](#)
- [Training and Employment Guidance Letter \(TEGL\) 05-06, —Implementing the Salary and Bonus Limitations in Public Law 109-234, dated August 15, 2006.](#)
- [Quick Reference Guide to WIOA Join Final Rule, dated June 27, 2016.](#)

### **Other References**

- [WIOA State Plan, dated April 1, 2016](#)
- [WIOA Technical Document 2016-01, —Definitions for WIOA Implementation;](#)
- [Temporary Cash Assistance \(TANF\)/Workforce Innovation Opportunity Act \(WIOA\) Partnership Update Memo, dated July 7, 2016.](#)
- [Temporary Cash Assistance State and Workforce Development Area Profile](#)
- [Workforce Innovation and Opportunity Act \(Pub. L. 113-128\), July 22, 2014](#)
- [Department of Labor \(DOL\) CFR Chapter II, Part 2900 et al. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, December 19, 2014.](#)