**WorkforceGPS**

**Transcript of Webinar**

**WIOA Section 683 Administrative Provisions Subparts A-H**

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LAURA CASERTANO: Now I'm going to go ahead and move us right into today's presentation.

Again I want to welcome everyone to today's webinar, and I'm going to pass things off to Deborah Galloway. She's a fiscal policy manager for the Division of Policy, Review & Resolution. Debbie?

DEBORAH GALLOWAY: Thank you, Laura. Good afternoon, everyone, and welcome to another Workforce Innovation and Opportunity Act – WIOA – Wednesday session. This is a second webinar today, and hopefully many of you have attended the earlier webinar on career pathways. Today's session will be on Section 683 – or the administrative provision – of the DOL final rule.

Before we begin we had a quick polling question up on the screen in the lobby that asked people, how many pages of the final rule consist of Section 683, administrative provisions? So let's see what we had as the results.

A few people said the administrative provisions consist of only five pages; a few people have said 18 pages; and many people have said it's 118 pages. Well, the good answer – or the answer – is 18. The final rule for the administrative provisions only consists of 18 pages. There's not a lot there, but when you include the preamble there's some additional pages as well.

OK. So moving on, presenting today will be myself, Debbie Galloway; and along with myself, Jennifer Friedman, the division chief with the Philadelphia regional office, will be joining us. Chris Mayo was to be assisting us in this presentation today but unfortunately he was called away.

So today's presentation will go over the various subparts of the Section 683. We'll talk about the purpose of Section 683, the administrative provision; also talk about some new terms and definitions that are contained in the DOL final rule that are specific to the administrative provisions; and then go into detail on the changes or new items that are contained in any of the subparts.

One thing to note. We will not be addressing Subpart E, which is the pay for performance contract strategies. That will be discussed at a later time and in a different webinar.

Under WIA the administrative provisions were previously found in Section 667. With the passing of WIOA the administrative provisions have been updated to reflect the requirements outlined in an OMB – uniform administrative requirements, cost principles, and audit requirements for federal award found at 2 CFR Part 200. This is also known as the uniform guidance, and some people also call it the "Supercircular."

The administrative provisions also contain citations related to DOL's exceptions at 2 CFR 2900.

The uniform guidance standardizes the administrative provisions, the cost principles, and the audit requirements for all grants across the federal government, including Department of Labor. The updated administrative provisions of WIOA are now found at 683; and we hope that the new administrative provisions will enhance program results by providing consistent and uniform guidance that will increase accountability, transparency, promote fiscal integrity, and hopefully eliminate duplication.

Some of these administrative provisions are also applicable to the grants awarded under the Wagner-Peyser program, which is also amended until Title III of WIOA. Throughout the course of the presentation we will note when these provisions apply to Wagner-Peyser grants.

Something to note, also, is that these are provisions that apply to the grants and they do not apply to the Job Corps program. Their administrative provisions are found elsewhere in the final rule.

Just a couple things on the way the presentation is laid out. You will see – new provisions will be highlighted in green text; and any provisions that were previously in WIA but have been changed because of WIOA are highlighted in orange text.

So now let's move on to the list of LMU or change terms and definitions that are applicable to Section 683. The Department of Labor adopted the following terms and definitions from the uniform guidance. They include: contract, contractor, cooperative agreement, federal award, federal financial assistance, grant agreement, non-federal entity, obligations, pass-through entity, recipient, subaward, subrecipient, unliquidated obligations; and unobligated balances.

And as many of you know, our ETA 9130 form has recently been updated because of the uniform guidance and because of WIOA. Those definitions are also – the terms and definitions contained on the 9130 form have also been updated on that form.

Please note that most terms listed here on the slide have been changed to align with the uniform guidance. The new term "non-federal entity" is an entirely new term in the uniform guidance and has been further revised under DOL's exception at 2 CFR 2900.2.

For all grant awards issued by the Department of Labor the term "non-federal entity" has been revised to include foreign entities and for-profit entities. DOL had requested and obtained approval from OMB to include these organizations because of the grants awarded to foreign entities and governments through our Bureau of International Labor Affairs – also now known as ILAB – and because many of our WIOA dollars are subawarded to for-profit organizations that may be operating our One-Stop centers or providing services.

Through this exception all non-federal entities who are recipients or subrecipients of a DOL grant must adhere to all of the provisions found in Section 683 as well as they must adhere to the uniform guidance at 2 CFR 200 and DOL's exception at 2 CFR 2900.

This is especially important because we know that there are many large for-profit corporations that are out there working in the workforce system. These operators – or these organizations – must also have single audit completed as specified in Section 683.

All other definitions at 2 CFR 200 apply to the regulations where they are relevant but will not be discussed further. For a full list of the definitions in the uniform guidance you may find the link below, at www.ecfr.gov for additional information.

Now, moving on to the very first subpart. Subpart A talks about the funding and closeout process applicable to all awards made under WIOA. It talks about the funding; it talks about the mechanism that's used to award monies to states and discretionary grant recipients. Also, it carries on to discuss the closeout procedures.

As with all parts of Section 683 many items that were previously used in WIA are no longer being used in WIOA because of the agency's efforts in streamlining these provisions to be consistent with the uniform guidance.

Now we will go over what has changed and what is new under Subpart A of Section 683.

So what is new? The award document. You will no longer see anything called a Governor/Secretary agreement. DOL will use what is called a grant agreement or a cooperative agreement. What hasn't changed is monies continue to be released for the youth program beginning in April of each program year; and for the dislocated worker and adult program those monies will continue to be issued in two increments, one beginning in July and the second increment being issued in October.

I know many states have submitted comments on this section asking for some relief in this area and had hoped ETA would return in issuing DOL dislocated worker and adult funding in one single increment. Unfortunately the issuance of dislocated worker and adult funding will continue to be made in two separate increments, in a base year and in an advance year.

Wagner-Peyser funds continue to be issued every July, and discretionary awards will be made based on the appropriation and funding opportunity announcements posted by our agency.

Moving on to Section 683.105. As indicated earlier, ETA will no longer refer to the agreement that is issued to the state agencies as the Governor/Secretary agreement. This is to align our vehicles or instruments with the uniform guidance. We will only be using grants, cooperative agreements, and contracts.

Contracts were added to this section to cover those instances in which contracts are awarded for purposes of research studies and projects that are found in Section 169 of the act. For these awards made from $100,000 to $500,000 the use of a competitive reevaluation is required after a three-year period, which is consistent with the manner in which other federal grantmaking agencies award similar contracts and grants. This is a new feature for research studies and projects under Section 169 of the act.

Now, moving on. What has changed? For some additional changes to Section 683.105, funds allotted to the states in outlying areas under each program year will be obligated using a grant agreement. The change was to highlight or extend coverage to outlying areas. Funds for outlying areas will be obligated through the grant agreements.

An additional change is that the period of performance for Native American program awards and MSFW or NFJP grants will increase to four years and will be competitively awarded every four years, rather than in the past when they were awarded every two years. These changes impact both the state agencies and DOL.

Now, moving on to period of performance under Section 683.110. There's a new emphasis under WIOA Title I to ensure that all funds are expended by the end of the period of performance to avoid the risk of losing any funds. Additionally we hope that agencies use the monies with the shortest period of availability first. This should not be confused with the accounting industry's concept of first-in-first-out.

Let me provide you with an example. Say a grant recipient in 2016 received a three-year grant for $900,000. It also received an additional $250,000 under a separate appropriation that is only authorized for a 12-month period. In this example the grantee would have to spend that $250,000 first – or the monies that it received in 2017 – because those monies would have expired in an earlier timeframe than the monies that were awarded in 2016 that has a three-year life.

Please be reminded that there are no changes with the period of performance for Title I formula funds. Those funds still have a three-year life.

Section 683.110 also introduces us to the pay-for-performance contract strategy. For these contract strategies these funds remain available to local areas until they're expended. This is separate and unique from the traditional Title I formula funds which are good for three years. ETA is currently working on developing operational guidance on this subject and we hope to issue that shortly.

So to further illustrate this new provision on spending monies based on the shortest period of availability this next slide illustrates an example. In this example an agency has received PY 2017 dislocated worker funds on July 1st, 2016. Those funds expire three years later, or on June 30th, 2019. The state also receives a special allotment to serve dislocated worker participants on, say, February 26th, 2017; however, these funds expire September 30th, 2018. So it is here that the special allotment must be expended before the DW funds can be expended that were awarded in PY 2017.

JENNIFER FRIEDMAN: Debbie, this is Jennifer. Before we go on to your next slide, there's a question about slide 8 – I'm going to move back – why something – (inaudible) – they might not have changed. I think they're referring to the program year that the funds are still disseminated around the same time it was before but it was in green. So I think it was just a question of why it wasn't highlighted in green.

MS. GALLOWAY: That is a good question, because actually that has not changed. The monies that are awarded for the youth program remain to be issued earlier than the rest of the dollars.

I believe we had highlighted it as green because there is a change with the way funds are issued for research studies and multi-state projects. But thank you for noting that. We will make that correction on that slide.

MS. FRIEDMAN: Thank you.

MS. GALLOWAY: OK. Let's move on to the next part. So the next section is Section 683.115. This is the required state planning information.

As many people are aware, you have recently gone through the process of preparing and submitting your state plan. For this program you are able to submit a unified or a combined state plan.

The requirements for these plans are significantly expanded as compared to WIA, and unified planning across core programs. The new unified, or combined, state plan encourages the development of regional (wisdom ?) with other states and other regions.

The new unified plans enhance the role of the states and local workforce development boards in the development and implementation of the state plan. States must also ensure that local plans align with the strategies described in the state plan. Now, moving on to the next slide.

The allotment of Title I formula funds. Local area funds must be awarded within 30 days in which the state has received monies from the Department of Labor. Additionally, one new item is the use of unobligated rapid response money.

Unobligated rapid response monies after the first year can be used for statewide activities. This provision did not exist under WIA. Keep in mind that ETA continues to examine obligations at the end of the first program year for recapture purposes. This provision does not change that.

Lastly, the calculation for substantial unemployment for youth funds and disadvantaged adults have been updated to exclude college students and members of the armed forces. Next slide, please.

Minimum funding provisions. This was previously known as the "hold harmless" provision. The change is really just a name change. The application of the "hold harmless" provision has not changed. For a fiscal year a local area must not receive an allocation percentage less than 90 percent of the average allocation percentage of the two preceding years.

Additionally, contained in the preamble are two example that discusses what happens when a local area is combined with another local area and how to apply the minimum provisions or the "hold harmless" provisions in those situations.

Now, moving on to transfers between adult and dislocated worker programs. As we know, under WIA many state agencies had waivers to transfer up to 100 percent of their DW or adult program dollars between those two programs. Here we've identified the need for that. So previously under WIA if you did not have a waiver the limitation was up to 30 percent of those dollars.

Under WIOA the local area can transfer up to 100 percent of those dollars. However, this does not mean that any of the performance goals or metrics outlined in its local plan can be waived because of it. It is still expected that the local areas are to continue to serve these two populations. Next slide, please.

Now moving on merit review and risk assessment. This section includes new requirements mandated by the uniform guidance. For competitive awards under Subtitle D – which includes the YouthBuild program, the national dislocated worker programs which were previously known as the national emergency grants – the MSFW or the NFJP programs; the Native American programs and the evaluations and research projects, DOL will now perform a merit review process on those grant applications that is consistent with 2 CFR 200.204 in the uniform guidance.

The department determined that because the process necessary for ensuring a fair merit review may vary by competition, the process will be described in the funding opportunity announcement. And in evaluating risk posed by applicants, the department may also consider factors such as the organization's ability to administer federal funds under 2 CFR 200.205.

That may include an examination of the agency's financial stability, its quality of management, its history of past performance, previous audit results, and the applicant's ability to effectively implement the statutory, regulatory, and other DOL policies.

MS. FRIEDMAN: Debbit, before we move on we have a question about national dislocated worker grants. They want to know if those funds can be awarded competitively – or are they going to be awarded competitively.

MS. GALLOWAY: Good question, Jennifer. That's something we'll have to ask the program office on. Not 100 percent sure on that answer.

MS. FRIEDMAN: OK. We'll get back to you with all the questions we weren't able to answer, but I guess for this process, the merit review, if they are awarded competitively this would be the process that we would go through.

MS. GALLOWAY: That is correct.

OK. So moving on to closeout requirements. As you're aware, ETA has always had a closeout process in place for all of its formula grants and discretionary grants. In the WIOA final rule regulations we now outline those procedures. Those procedures and requirements are consistent, again, with the uniform guidance.

Here we're indicating that all required reports must be submitted no later than 90 calendar days from the end of the period of performance. Additionally, it is expected that DOL makes prompt settlements of any adjustments to any federal cost. Along with a tracking of expenditures in dollars, the grant recipient must also account for any real or personal property acquired or purchased using grant funds. Next slide.

The closeout of the grant does not affect litigation or possible audit that many be pending or in the process of being resolved. It also does not impact the disallowance or recovery of funds due to audits or unresolved monitoring findings that may stem from a regional or program office review.

The obligation of the grant recipient to return funds due to later refunds, corrections, or transactions still remains in place. As part of the closeout process the department should complete all closeout actions no later than one year after receipts and its acceptance of all required final reports.

In order to assist in the timely closeout, non-federal entities that award funds to subrecipients must also establish closeout processes in place in accordance with 2 CFR 200.343-344.

So basically, if you're a state agency or if you're a discretionary grant recipient that subawards monies out to subrecipients it is expected that you have a closeout process in place to ensure that there is a timely closeout between that agency and your agency.

Now, let's take a couple minutes and do one quick knowledge test. Here we have a polling question; let's see what we get as a result. Each state must prepare either a unified or combined state plan that covers core programs including WIOA Adult, Dislocated Workers, and youth programs, Wagner-Peyser Act programs, adult education, and vocational rehabilitation services.

Very good. Everyone who's submitted an answer submitted the right answer. The answer is true. Under WIOA state agencies can submit a unified or combined plan that includes our inter-agency partners at adult education and vocational rehabilitation.

Now I will turn it over to Jennifer, who will talk about Subparts B through E.

MS. FRIEDMAN: Thank you, Debbie. So we are going to talk about Sections 200 – or Subpart B – first. I'll take you through Subpart 300 and 400 (sic).

Subpart B contains all the rules applicable to WIOA grans in the areas of fiscal and administrative requirements, audit requirements, allowable costs, and cost principles. It also includes changes as a result of the uniform guidance and any exceptions that Debbie talked about in Part 2900.

There is a huge emphasis on fiscal integrity in the uniform grant guidance we heard about the last two years, and it also carries through with WIOA. You'll see that in some of the changes that we're about to go over, including Section 220, which talks about internal control; and also Section 290, which has salary and bonus restrictions.

There's also another new section, Section 240, that provides instructions on using properties funded through the Reed Act, or JTPA equity, and also a new section addressing – (inaudible) – earning profit under WIOA, which is new.

So Section 200, what's changed. For those items requiring prior approval in the uniform grant guidance – so anything that that prior approval under the UGG – the prior approval is given to the governor under WIOA.

Section 200(b)(2). What also is new is what I talked about before, an emphasis on integrity, is that you have to make disclosure in writing of any potential conflict of interest you have. And also, you have to make a disclosure of any violations of any federal criminal law involving fraud, bribery, or gratuity violations. If these are not made timely or not made at all, you could have an issue of – your grant could be – you could be suspended or disbarred under WIOA.

One of the other big changes – and I guess a welcome change – is that the cost of negotiating a One-Stop partners memorandum, which everyone has to do for the local – is not considered an administrative cost under WIOA guidelines. Normally negotiating a contract would be considered administrative cost – which we'll go over in a minute – but because of the emphasis on – the conversations in having negotiations go through, the law has excluded these as part of administrative costs.

Now we're going to Section 215. There were many, many comments about 215 when we got the first set of regulations in, and there were many concerns that they were changed a lot. So really when you look at Section 215, the changes are very minute compared to what people have thought had changed from WIA.

The one change – the major change in Section 215(a) – is that regions are now included in entities that can incur administrative cost. Section 215(a) lists everyone who has to count their administrative costs, and regions are a new entity.

Another change in Section 215 is found in 215(b), that fiscal agent responsibilities are now included in the list of administrative costs. That has been changed from WIA, which did not have those responsibilities listed as administrative costs.

What's new in Section 215 is that all grantees must make an effort to streamline administrative services and reduce administrative costs.

OK. Going to Section 220. As I mentioned earlier, internal controls are a requirement in the uniform grant guidance under 200.303 and they're also a requirements under WIOA. All grantees must have an internal controls structure and written policy.

It's important to have written policies to safeguard and protect sensitive information, and internal controls should be in compliance with the federal government standards as well as internal control integrated framework. It must include regional assurances that the entity is managing the award and complying with all federal statutes, regulations, terms and conditions.

Another section that's new is Section 230. This section establishes policies for the use of pre-military wages for veterans and other individuals when local areas impose a priority of service threshold for low-income individuals. What is new about this section is that the same method of excluding certain income of veterans must also be used when a local area imposes a priority of service threshold when funding for program services is limited.

Earnings from service in the National Guard, U.S. military, or other allowances for active duty do not reduce the level of WIOA benefits and are not considered a determining factor for priority of service of the Title I WIOA funds. However, pre-military wages can be used to determine eligibility and/or the local may request that the servicemember's military UI benefits be exhausted prior to receiving some type of dislocated worker services; for example, training.

Construction, Section 235, what has changed. WIOA title I funds must not be spent on construction, purchase of facilities or buildings, or other capital expenditures for improvement, except with the prior written approval of the secretary. This is new and this is making sure that WIOA is coming into conformance with the uniform grant guidance at 2 CFR 200.439.

Previously WIA had many exceptions for the restrictions of WIA Title I funds being spent on construction, purchase of facilities and buildings; and now WIOA makes it clear that it's not allowed except with the prior written approval of the secretary.

Real property. I'm going to spend a few moments on real property with federal equity because there's a lot of new things and some changes from the previous TEGL release we had about real property. First that that's new is instructions for using real property with federal equity is now found in the regulations at Section 240.

Federal equity acquiring real property through grants, states awarded under Title III of Social Security Act or Wagner-Peyser, including SESA real property, is transferred through the states that used the grant to acquire the equity. The portion of any real property that was attributable to federal equity transferred must continue to carry out activities authorized under WIOA, Title III of Social Security Act, or the Wagner-Peyser Act.

When you no longer need the real property, the state must request disposition instructions from the grant officer prior to disposal or sale of the property. The proceeds from the sale that is attributed to the federal equity must be used to carry out activities for WIOA, Wagner-Peyser, or Title III of Social Security Act.

You may not use any funds awarded under WIOA, Title III of Social Security Act or Wagner-Peyser to amortize the cost of real property that is purchased by on or after February 15th, 2007. This new section also mandates the properties occupied by the Wagner-Peyser employment service must be co-located with One-Stop centers.

A second part of Section 240 has to do with the Reed Act-funded properties. Properties with Reed Act equity – this is very confusing, so I'm going to speak slowly and if you have any questions please let us know – may be used for the One-Stop delivery system to the extent that the proportionate share of Reed Act equity is less than or equal to the proportionate share occupancy by the unemployment compensation of Wagner-Peyser Act programs.

It's actually a measure of the proportionate share of Reed Act equity in combination with the unemployment compensation of the Wagner-Peyser programs.

Additionally, when the property is no longer required for its authorized purpose, the state must request disposition instructions from the grant officer prior to disposal or sale of the property. Proceeds from the sale that is attributed to the Reed Act equity must be returned to the state's unemployment trust fund account and used in accordance with department-issued guidance. We will be issuing further guidance concerning this.

Lastly, real property that was purchased with WIA funds or that was transferred to WIA now transferred through WIOA Title I programs must be used for WIOA purposes. Once again, if you no longer need the property, you must seek instructions from the grant officer – or the state in case of a local or subrecipient – prior to disposition or sale of the property.

This is a brand-new section in Section 200 concerning real property. Previously we had guidance issued after WIA and we also had guidance and we also had guidance on unemployment for Reed Act, and now this is all codified in the regulations and we will be issuing other guidance shortly.

Salary and bonus restrictions. This new section implements the requirements of WIOA Section 194, related to salary and bonus restrictions. This section expanded application to Wagner-Peyser recipients and subrecipients as well. This section restates the WIA statutory provisions.

Basically, the limitation does not apply to contractors providing goods and services as defined in the uniform guidance – and we're using the term "contractors" now as opposed to "vendors" as used in the past. There is a salary level that is established under WIOA. States, however, may establish a lower level if they want to for the executive salaries and bonuses.

Earning profit under WIOA – another new section that got a lot of comments with the preliminary regs that were issued. What has changed in this section is that for-profit entities are eligible to be One-Stop operators, service providers, and eligible training providers; and they must follow 2 CFR 200.323 in the uniform guidance concerning contract costs and price.

I want to reiterate. For-profit entities are eligible to be One-Stop operators, service providers, and eligible training providers. However, programs authorized by other sections of WIOA are prohibited from earning profit and keeping profit in federal financial assistance under Section 295(b). Additionally, income earned by any non-profit entity may be retained only if it is used to carry out the program.

OK. This is the last section of Section 200, and we're going to have a knowledge check poll – there's a couple of them and they're sort of a little unfair because we didn't go over everything about them, but they were talking a little bit about what is administrative cost. What is not considered administrative activity is the first question. (Pause.)

So you guys did great. From the answers we've received so far, it is the intake of participants. That is actually a program cost.

We now have a second poll question which talks about the salary and bonus limitations. So the salary and bonus limitation outlined in Section 683.290 applies to staff of a local board and One-Stop operator; is this true or false? (Pause.)

So the answer is that it's true. They're not contractors, so there would be – the salary and bonus limitation is applicable to those staff members.

So before we go on to the next section, I think there's a couple questions.

MS. GALLOWAY: Yes, if I could address those.

MS. FRIEDMAN: OK. Thank you.

MS. GALLOWAY: There was a few questions coming in; one question is, "Is there a maximum percentage limitation allowed for administrative cost?" If we are talking about Title I formula funds the limitations have not changed.

For state agencies they're allowed to use up to 5 percent of their allotment for administrative activities. For local areas they can use up to 10 percent of their allocation for administrative activities. And for any discretionary award made using WIOA dollars you would have to refer to your grant agreement as to what the administrative cost limitation is.

Additionally we are working on a crosswalk that compared the administrative cost definition that was found in WIA against the provisions in WIOA. We hope to issue that shortly and that will be posted on the ion.workforceGPS.org website.

And one last question that came in was grant closeout procedures. Laura has provided a link – or she will be providing a link – where you can find additional information about the guidelines and processes that ETA uses to close out grants. That is made available on our doleta.gov website if you click on our grants page. But she will provide you the link.

I'll turn it back to you, Jennifer.

MS. FRIEDMAN: Thank you. So we're going to go on to – next we're going to go on to Subpart C, reporting requirements. This is actually a very short section. This section describes the period of performance for different types of WIOA Title I and Wagner-Peyser grant awards.

What's new. This subpart seeks to promote the government's initiative to manage information as an asset and to increase operational efficiencies, reduce costs, improve services, support mission needs, safeguard personal information, and increase public access. One way to promote this initiative is through the collection and transmissions of data using machine-readable formats whenever possible.

To increase operational efficiencies and reduce costs, states must now require the use of a template developed in WIOA Section 116(d)(1) to report outcomes achieved by the core programs for annual eligible training provider performance reports that are described in Section 677.230 and for local area performance reports described in 677.205.

Grantees have to submit quarterly reports to us and the local workforce development boards must submit quarterly financial reports to the governor.

Additionally, to enforce the idea of increasing operational efficiencies and reducing cost, all reports whenever practicable should be collected, transmitted, and stored in open and machine-readable format. To promote efficiencies in collecting data, states and grant recipients will develop strategies for aligning data systems based upon guidelines issued by the secretaries of Labor and Education.

And lastly, at the grant officer's or secretary's discretion, reporting may be required more frequently of its grant recipients. Such requirements is consistent with the uniform grant guidance in the department's exceptions. So with the quarterly reporting – except by the grant officer or secretary's discretion. That would be noted to the grantee itself.

What's changed in Section 300 is that 683.300 specifies that reporting requirements for programs funded under WIOA and the deadlines for such reports. Section 683.300 does not detail the program performance elements that the grant recipient should report to the department. These elements are discussed in 20 CFR Part 677.

It's a very short part; we went through the whole section. It's one of the quickest ones. We have a quick knowledge check poll here. The failure to meet minimum performance measures can lead to sanctions being placed on states; true or false.

Looks like most the pollees (sic) got it right. The answer is actually true.

Is there any questions before we move on or are we good to move on to Section 400?

MS. GALLOWAY: Hey, Jennifer. Can we answer just a few more questions that have come in?

MS. FRIEDMAN: Sure. Yep. Go ahead.

MS. GALLOWAY: OK. So one question that came in is, "How will closeout requirements within the 90 days be met when there are pay-for-performance contract strategies unliquidated obligations?"

We realize that there is a nuance in the provisions related to pay-for-performance contract strategies. We hope with additional guidance we will clarify that. But for all of the other monies that won't be used for pay-for-performance contract strategies – they're being used for all other activities – those will be closed out in a timely manner. So look for additional information regarding the tracking, the maintenance, the closeout of pay-for-performance contract strategies.

Another question that came in is, "Is the salary and bonus limitations applies to a subgrantee or a local board?" Yes, it does. The salary and bonus provisions are contained in Section 683.290, and that applies to them.

As Jennifer had indicated, the negotiations of an MOU does not have to be charged off to admin. Additionally, infrastructure cost for our programs – and our programs only – can be applied against both the program cost category and the admin cost category.

And then another question that came in, I think – can we turn back to slide 30? A question that came in says, "530 indicates that for-profit entities are now allowed to be service providers. Can you clarify this?" That is true. For-profit entities can be One-Stop operators and service providers, including training providers.

If you are not seeing – another question came in is, "I do not see Section 290, item (d), salary restrictions, in the final rule. I downloaded the final rule." Please refer to the link. Laura, I don't know if you've posted an update link, but we have links to both the DOL final rule and the joint final rule on our website.

If you go to doleta.gov/WIOA, and if you click on the menu option "resources," there you will find all of the regulations. It may be that you were looking at an early release edition, and that it may not have been in there. But it is in the final rule.

MS. CASERTANO: All the links are in the chat window.

MS. GALLOWAY: OK. Great. Thank you. All right. I will turn it back to Jennifer because we're almost out of time.

MS. FRIEDMAN: Sure. We're going over Subpart D, oversight and resolution of findings.

A newly added section to WIOA final rule is in regard to oversight and resolution responsibilities for federal and states. Section D focuses on the new provisions of oversight and resolution findings applicable to federal, state, and Title I programs as for the federal monitoring and oversight responsibilities.

The federal agency must document monitoring, including monitoring reports, audit work papers, along with corrective action plans. Such documents must be made available to the secretary, governor, and/or authorized representative of the federal government.

As for states, similar to the federal agency states must document and make available monitoring and oversight reports. States are to monitor local areas to ensure compliance with the uniform guidance – 2 CFR Part 200 – including annual certifications and disclosures as outlined in 2 CFR (part) 200.113. Failure to do so may result in suspension and debarment. This is really important.

As to the procedures applicable to resolution of findings, states must utilize a written monitoring and audit resolution, debt collection, and appeal procedures that it uses for other federal grant programs. You have to have written procedures and you have to use the same for here as you use for other federal grant programs. Under Title I programs, direct recipient must have written monitoring and an audit resolution, debt collection, and appeal procedures.

OK. Section 683.410 highlights roles and responsibilities for states in Title I programs. Recipients and subrecipients are now required to conduct oversight and monitor funds. Governors are also required to ensure that states comply with the annual certifications and disclosures. In addition, a failure to do so may result in remedies; for example, suspension and debarment.

Governors are also responsible to develop a state monitoring system. Please note that the comments made in the final rule under Section 683.410 regarding the states' compliance with Assistive Technology Act of 1998 will be considered while implementing this section. This impact states and Title I programs.

And then the last section we're going over is change to Section 420. Section 420 describes the procedures applicable to resolution of findings for state and direct recipients. Non-formula grant recipients must have written monitoring and resolution procedures in adherence to the uniform guidance. Once again, must have written monitoring and resolution procedures.

Under WIOA final rule for subrecipients, the direct recipient of the grant funds must have written monitoring and resolution procedures in place. This is really important. We'll go out and check eventually when we do our monitoring and we'll have findings, and one of the things we will be looking for is whether or not you have written procedures because they are requirements.

Very quickly, and then a knowledge check poll, and then we'll skip over Section 500, as Debbie said earlier, because we'll do a whole section (sic) on that separately.

States, direct recipients and subrecipients serving as pass-through entities awarded funds under Subtitle D of Title I of WIOA, must have written monitoring and resolution procedures in place. (Pause.) So we all went over that, 100 percent accurate. OK, Debbie. I'll skip the slide here because we're going to skip 500, Part E and I'll hand it over to you for the last couple sections.

MS. GALLOWAY: OK. Thank you, Jennifer. All right. So we'll try to quickly go over the last couple sections. The last couple sections deal with grievances, complaints, sanctions, state appeals, and administrative law judge hearings.

The very first section deals with all types of different complaints, grievances, and appeal processes. One thing to note is WIOA has identified that other interested parties may file grievances and complaints alleging violations against the WIOA program. This may include workforce development boards and chief elected officials.

Additionally, as you may be aware, the provisions that deal with nondiscrimination are in the process of being updated. They were previously found in 29 CFR (Part) 37 and now they will be found in 29 CFR (Part) 38. This additional information on nondiscrimination may be found in Section 188.

A newly-added feature is the exception for complaints arising and made directly to the secretary. Those will be referred to the appropriate state or local area for resolution in accordance with this section. Unless the department notifies the parties, the Department of Labor will investigate these grievances under 683.430.

Additionally we have the Employment and Training Order 1-10, incident reporting, that outlines the instructions and forms to be used when submitting an incident report. These are for violations or fraud, waste, or abuse. Next slide, please.

So as indicated earlier, the nondiscrimination and equal opportunity regulations are expected to be released shortly. Those may be found under 29 CFR Part 83.

Next is the appeal process. Section 683.650 describes the process for an appeal. Under WIOA a local area which has failed to meet local performance indicators for three consecutive program years and has received a notice from the governor that it intends to impose a reorganization plan may appeal to the governor to rescind or revise the plan.

This was a change from WIA, as the number of consecutive program years a local area had failed to meet local performance indicators was previously at two years, and the appeal was to go directly to the secretary.

Now, a quick knowledge check. Filing grievances and complaints under state-established procedures include local workforce development boards, true or false; will they be considered an other interested party?

OK. So the answer is true. As specified earlier, the WIOA final rule expands what it means to be an other interested party that can also – other interested parties have the right to file a grievance or a complaint. Those would include local workforce development boards and chief elected officials.

The next knowledge check, complaints arising from Section 188 will be referred to the appropriate state or local area for resolution in accordance with this section. The answer is true, very good.

OK. Now moving on to Section 7 or Subpart S. This section describes the procedures and circumstances under which the department will impose sanctions or take corrective action as described in Section 184(b) and (e) against states, local areas, grant recipients, and subrecipients.

Moving on to the next slide. This highlights in which a fiscal agent plays in the delivery of services in a local area. This provision indicates that the change was through paragraph (b)(4), which clarifies that even when a fiscal agent is used in handling such funds, this does not alleviate or relieve the CEO or governor of its responsibility for any misuse of grant funds allocated to a local area.

Bottom line is that all grant recipients of Title I funds and Wagner-Peyser funds are held responsible for using grant funds properly. Additionally, the local governmental chief elected official remains liable for misuse of those funds as well.

And moving on to the final couple slides is administrative law judge authority. This here outlines the authority that an administrative law judge has in hearing appeals. This is also contained in Subpart D of Title I of WIOA.

The last slide, very new feature to this section. The administrative law judge has full authority of the secretary in hearing appeals for all discretionary grant awards issued under Subpart D of Title I. It includes also the remedies in which an ALJ can award.

OK. So we've reached a little past the hour, so Jennifer, I don't know if there's any additional questions we can answer before we conclude for the afternoon?

MS. FRIEDMAN: Sure. Someone had asked a question about Section 683.300(b)(2), which says states can require more frequent and detailed financial reports from subrecipients. So yes. Under that Section 683.300(b)(2), financial reports and performance reports other than those that are required – which is the annual training provider list and then the local area performance reports – would have to be in the format as prescribed by WIOA.

States or other grant recipients may impose different forms or formats, shorter due dates, and more frequent reporting requirements on subrecipients. States have the ability to do that under Section 300(b)(2). (Pause.)

Debbie, have you had any other one that you can see?

MS. GALLOWAY: There is one question that came in. "Why wouldn't the One-Stop operator be a contractor?" We will provide additional guidance on the competitive selection of One-Stop operators.

But it is our intent that One-Stop operators are identified as subrecipients. So as subrecipients that provide program services they must adhere to this Section 683 along with the requirements under the uniform guidance. (Pause.)

OK. One other question. "Does WIOA require housing grants under NFJP to enter into MOU?" The NFJP program is a required partner, so yes, they're required a local MOU.

One last question here. "Are for-profit subrecipients required to have a single audit?" Yes. As indicated at the beginning of our presentation the OMB-approved exception for DOL at 2 CFR 2900.2 expands the definition of "non-federal entity" to include for-profit agencies. These agencies that may be direct grant recipients or subrecipients must adhere to the provisions of the uniform guidance, including the audit requirements.

OK. So Jennifer, I don't know if there's any other ones that we may be able to answer.

MS. FRIEDMAN: I don't see – I think you answered the other one that I can see.

MS. GALLOWAY: OK. Well, this concludes this WIOA Wednesday session. I hope you have a great rest of your day and thank you for joining us this last hour.

And to find a copy of this presentation along with all the other WIOA Wednesday sessions, you may go to ion.workforceGPS.org. That is I-O-N-workforceGPS.org. If you have not already signed up, we suggest that you sign up so that you can get email alerts about upcoming training sessions.

Thank you and have a great day.

(END)