

01 23 COMPENSATION POLICY

I. Purpose

The purpose of this issuance is to establish executive level pay for recipients and subrecipients of Title I Workforce Innovation and Opportunity Act (WIOA) funds.

II. Summary

Under the Workforce Innovation and Opportunity Act (Pub. L. 113-128), no funds available under Title I of WIOA or the Wagner-Peyser Act may be used by a recipient or subrecipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of the annual rate of basic pay prescribed for level II of the Executive Schedule under 5 U.S.C. 5313.

Under the regulations at 20 CFR § 683.290, a State may establish a lower limit for salaries and bonuses taking into account factors including the relative cost of living in the State, the compensation levels for comparable State or local government employees, and the size of the organizations that administer the federal programs involved.

This policy establishes a lower limit for Title I WIOA recipients and subrecipients to pay the salary and bonuses of an individual either as direct costs or indirect costs.

III. References

- a. Workforce Innovation and Opportunity Act (Pub. L. 113-128)
- b. United States Department of Labor, Workforce Innovation and Opportunity Act; Final Rule, 20 CFR, § 683.290, Administrative Provisions Under Title I of the Workforce Innovation and Opportunity Act
- c. WorkForce WV Compensation Information Fact Sheet

IV. Policy

a. Compensation Limitations Generally

No funds available under Title I of WIOA or the Wagner-Peyser Act may be used by a recipient or subrecipient of such funds to pay the salary and bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of the annual rate of basic pay prescribed for level II of the Executive Schedule under 5 U.S.C. § 5313. (20 C.F.R. § 683.290(a)) A salary table providing this rate is listed on the Federal Office of Personnel Management website¹.

If the State is a recipient of WIOA funds, the State may establish a lower limit than is prescribed by level II of the Executive Schedule taking into account factors including the

¹ <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2022/executive-senior-level>. See Rates of Pay for the Executive Schedule.

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relative cost of living in the State, the compensation levels for comparable State or local government employees, and the size of the organizations that administer the federal programs involved. (20 C.F.R. § 683.290(d)) Pursuant to this authority on establishing a lower limit, the State of West Virginia is establishing a limit of \$90,000 annually for Title I WIOA funds to pay the salaries and bonuses of an individual either as direct or indirect costs.

b. Contractors

This compensation limitation does not apply to contractors as defined in 2 C.F.R. § 200.1 (Contractors) providing goods and services. In accordance with 2 C.F.R. § 200.331, characteristics indicative of a contractor are the following:

- i. Provides goods and services within normal business operations
- ii. Provides similar goods or services to many different purchasers
- iii. Normally operates in a competitive environment
- iv. Provides goods or services that are ancillary to the operation of the federal program
- v. Not subject to the compliance requirements of the federal program as a result of the agreement, though similar requirements may apply for other reasons (20 C.F.R. § 683.290(c))

c. Salaries Paid Must be in Proportion to the Work Performed

In instances where Title I WIOA funds pay only a portion of an employee's salary or bonus (i.e., if an employee works on more than one program or in more than one office) these funds may pay only the portion of the employee's salary or bonus attributable to the work performed on the applicable grant. That portion cannot exceed the \$90,000 annual limit. This restriction applies to the sum of salaries and bonuses charged as either direct costs or indirect costs under Title I of WIOA. (20 C.F.R. § 683.290(b))

When an individual works for the same recipient or subrecipient in multiple offices that are funded by Title I of WIOA or the Wagner-Peyser Act, the recipient or subrecipient must ensure that the sum of the individual's salary and bonus does not exceed the rate limitation prescribed by level II of the Executive Schedule. (20 C.F.R. § 683.290(e))

d. Cost of Living Adjustments (COLA)

The \$90,000 annual limit established by this policy will be adjusted annually by incorporating a cost-of-living adjustment (COLA). The COLA rate provided by the Social Security Administration will be used in the calculation, up to 5%.

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V. Procedures

This requirement takes effect as of July 1, 2023. Recipients and subrecipients of WIOA Title I funds shall provide evidence to the WorkForce WV Financial Office of compliance with this policy.

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