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Reference: OMB Circulars re: Contingency Reserves

FINAL GUIDANCE Contingency Reserves

OF INTEREST TO:

Workforce Florida Inc., Regional Workforce Boards (RWBs), Early Learning Coalitions (ELCs), and other subrecipients of funds from the Agency for Workforce Innovation (AWI). This guidance also applies to subrecipients of the above and any affiliated or related entities.

SUBJECT:

The prohibition in federal regulations against establishing or maintaining contingency reserves and using escrow or similar accounts.

PURPOSE:

To define a contingency reserve and establish that their use is not allowable, including discussion of escrow and similar accounts.

DEFINITIONS:

Contingency Reserve: Funds that have been placed in reserve (i.e., escrow accounts) or any similar provision made for events, the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening. The term "contingency reserve" excludes self-insurance reserves, pension funds, and reserves for normal severance pay.

Authorized official: An appropriate member of management from the awarding grantor agency (AWI). For purposes of this guidance, the AWI Grants Management Section leader is the authorized official.

BACKGROUND AND UNDERLYING FEDERAL POLICY:

The Office of Management and Budget (OMB) Circulars A-21, A-87, and A-122 state "Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable."

Furthermore, 2 CFR Part 215, par. 215.22(b)(2) states that "Cash advances to a recipient organization shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program or project costs ..."

STATE GUIDANCE:

Organizations may not draw grant funds from AWI to create or maintain a contingency reserve in any manner, whether through the use of an escrow or any similar account. Examples of prohibited activities include, but are not limited to:

- Drawing funds and recording current expenditures to establish an endowment for future training or similar activities or any other form of “parking” award balances.
- Drawing and recording expenditures for future building repairs or improvements.
- Providing funds to an attorney to be held in trust pending resolution of legal issues.

Any funds held in a contingency reserve, including any earnings thereon while in the reserve, are considered unauthorized draws and must immediately be returned to the Agency for Workforce Innovation. The immediate return of these funds to AWI must include the following information:

- Detailed accounting transaction list itemizing expenditures related to the funds held in reserve, including any remaining balance of funds (including all earnings thereon);
- Check for the amount in escrow, including any earnings thereon; and
- Summarization of returned funds by grant and year.

At a minimum, the AWI may assess interest on contingency reserves using established procedures related to disallowances.

If a subject organization encounters a situation where they have legal or other issues involving grant funds that may expire before final resolution of the contingency, they should inform the AWI authorized official above and obtain additional guidance. In many cases alternative allowable funding mechanisms can be arranged.

EFFECTIVE DATE:

Issuance of this guidance represents efforts by AWI management to clarify OMB Circular requirements already in effect.

If you have questions or concerns regarding the guidance provided here, please contact the AWI Grants Management Office.

AUTHORITY:

- OMB Circular A-21, “Cost Principles for Educational Institutions,” Section J.9
- OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments," Attachment B, Section 12, Contingencies;
- OMB Circular A-122, "Cost Principles for Non-Profit Organizations," Attachment B, Section 9, Contingency Provisions;
- 2 CFR Part 215 Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (OMB Circular A-110); Final Rule