

TITLE 11 LABOR AND WORKERS' COMPENSATION
CHAPTER 2 JOB TRAINING
PART 19 WORKFORCE INNOVATION AND OPPORTUNITY ACT OVERSIGHT AND
MONITORING

11.2.19.1 ISSUING AGENCY: New Mexico Department of Workforce Solutions (DWS)
[11.2.19.1 NMAC - N, 7/1/2018]

11.2.19.2 SCOPE: State workforce development board (state board), department of workforce solutions (DWS), chief elected officials (CEOs), local workforce development boards (local boards), local workforce system administrative entities (local administrative entities), workforce system sub-recipients and workforce system partners.
[11.2.19.2 NMAC - N, 7/1/2018]

11.2.19.3 STATUTORY AUTHORITY: Title I of the Workforce Innovation and Opportunity Act (WIOA), 29 U.S.C. Chapter 32, Subchapter I; and NMSA 1978, Section 50-14-1 *et seq.*
[11.2.19.3 NMAC - N, 7/1/2018]

11.2.19.4 DURATION: Permanent.
[11.2.19.4 NMAC - N, 7/1/2018]

11.2.19.5 EFFECTIVE DATE: July 1, 2018, unless a later date is cited at the end of a section.
[11.2.19.5 NMAC - N, 7/1/2018]

11.2.19.6 OBJECTIVE: To provide comprehensive guidelines for local boards, sub-recipients, and contract service providers, on the monitoring and procedures to be used by DWS to oversee the appropriate administration of WIOA formula funds in New Mexico, including roles and responsibilities of affected entities.
[11.2.19.6 NMAC - N, 7/1/2018]

11.2.19.7 STATE MONITORING AUTHORITY, PURPOSE, AND COMPLIANCE

A. Purpose. The purpose of monitoring activities is to identify strengths and weaknesses in the program operations and minimize risk for local boards. Monitoring also serves as a way to provide technical assistance and resources to the local boards as they are held accountable for the appropriate and effective expenditure of funds, as well as the scope of activities associated with the implementation of WIOA.

B. Oversight roles and responsibilities. Recipients and sub-recipients of federal financial assistance awarded under Title I of WIOA and the Wagner-Peyser Act must conduct regular oversight and monitoring of its WIOA and Wagner-Peyser Act programs and those of its sub-recipients and contractors as required under Title I of WIOA and the Wagner-Peyser Act, as well as under Section 2 CFR 200, including 2 CFR 200.327, 200.328, 200.330, 200.331, and 2 CFR 2900, in order to:

(1) determine that expenditures have been made within the proper cost categories and within the cost limitations specified in WIOA and related federal regulations;

(2) determine whether there is compliance with WIOA provisions, related federal regulation, and other applicable laws and regulations;

(3) assure compliance with Section 2 CFR 200; and

(4) determine compliance with the nondiscrimination, disability, and equal opportunity requirements of Section 188 of WIOA, including the Assistive Technology Act of 1998 (USC 3003).

C. State monitoring authority. DWS is required to monitor the fiscal and program activities of sub-recipients, which include the local boards, as well as their contractors, i.e. service providers and one-stop operators to ensure the integrity and compliance with WIOA, and related federal regulations.

D. Compliance requirements. Sub-recipients and contract service providers shall comply with all required program and fiscal monitoring activities including site visits, document review, requests for information, and any other information necessary in order to determine sub-recipient and contract service provider compliance or performance. Failure to comply with this requirement will result in corrective action and possible sanctions pursuant to 11.2.20 NMAC.

E. Access to records and personnel.

(1) Access to records. DWS, or its authorized representative, has the right of timely access

to any hard copy or electronic document or communication, or any other record of sub-recipients or contract service providers that are pertinent to the receipt and use of any funds administered by DWS. DWS, or its authorized representative, is also permitted to make any necessary copies, transcripts, etc. in accordance with its monitoring activities.

(2) Access to personnel. The right of access also includes timely access to sub-recipient and contract service provider personnel for the purpose of interview and discussion related to such documents.

(3) Record retention. In accordance with Section 29 CFR 97.42, the right of access is not limited to any required retention period but will last as long as the records are retained. Electronic or hard copy documents obtained during a monitoring review will be secured appropriately. All monitoring records shall be retained for a period of three years or, in cases of any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three year period, the records shall be retained until completion of the action and resolution of all issues which arise.

[11.2.19.7 NMAC - N, 7/1/2018]

11.2.19.8 LOCAL BOARD SELF-MONITORING: Sub-recipients are also required to monitor their own grant-supported activities to include the development of local-level monitoring plans, tools, and processes.

A. Written procedures. Sub-recipients under WIOA Title I, must have written monitoring and resolution procedures in place that are consistent with Section 2 CFR part 200 to be used in monitoring both program and fiscal operations. In addition, sub-recipients and contract service providers shall develop their own local-level monitoring plan that includes:

(1) the schedule or timetable for monitoring WIOA funded activities; and
(2) identification of the type of review planned, such as on-site review, comparative financial analysis, desk review, staff analysis, or other type of appropriate review.

B. Monitoring Controls. To ensure comprehensive and effective monitoring, sub-recipients and contract service providers must adhere to the following:

(1) require periodic reports from their contract service providers outlining monitoring reviews, noncompliance issues, and the status of corrective actions;
(2) ensure that a briefing regarding monitoring activities and findings is provided to the local board or appropriate local board subcommittee at regularly scheduled meetings and that this briefing is documented; and

(3) perform an annual evaluation of the monitoring function to determine its effectiveness.

C. Reporting and resolution requirements. Sub-recipients and contract service providers shall ensure monitoring reports identify instances of noncompliance with applicable federal, state, and local laws, regulations, contract provisions or grant agreements, policies, and official directives, and provide recommendations for corrective action and program quality enhancements. Sub-recipients and contract service providers shall ensure that timelines are established for the completion of corrective action based on the severity of the deficiency, and shall work with the contract service providers to ensure implementation of corrective action. Timelines shall support prompt correction of any instances of noncompliance. Sub-recipients and contract service providers shall ensure that a copy of all monitoring reports are made available to all local board members.

[11.2.19.8 NMAC - N, 7/1/2018]

11.2.19.9 MONITORING REVIEW ELEMENTS:

A. Self and risk assessments. The monitoring process begins with an assessment of the overall health of the WIOA program to assist DWS in determining each local board's level of risk and serves as guidance for setting monitoring focus and priorities.

B. Monitoring reviews. The types of reviews that can be conducted include annual onsite monitoring reviews and quarterly desk reviews, both fiscal and programmatic with timeframes set by DWS.

(1) Annual onsite monitoring reviews. State monitors may conduct two kinds of onsite monitoring reviews of each local board annually at the mid program-year mark, which includes an annual fiscal review and an annual programmatic review. The purpose of these reviews is to identify the strengths and weaknesses of local board implementation of WIOA.

(2) Desk Reviews. State monitors may conduct two kinds of desk reviews of local boards, which includes a quarterly fiscal review and a quarterly programmatic review. The reviews are designed to identify any issues with the local board's fiscal or administrative controls, programmatic operations, and are intended to ensure that these issues are addressed timely.

C. Monitoring reports. When preparing for and performing monitoring reviews, monitors will use a

set of monitoring tools to guide their review work activities. Upon completion of monitoring activities, the monitor will begin work on, and issue, a detailed monitoring report which will be sent electronically to the appropriate local elected official(s) and administrator(s) within 30 days of the completion of the evaluation period. The report will identify issues, policies, or practices that are noncompliant with program standards or other WIOA-related regulations. These observations are risk areas (i.e. areas of concern or findings) that if not corrected, could lead to an area of noncompliance in future monitoring reviews. Findings will include citations for laws, rules, or policies that are out of compliance, and the corresponding corrective actions and recommendations that are required. The report will also include any local board strengths identified by the monitor worth noting, as well as any best practices or technical assistance information the monitor determines may be beneficial to the local board.

D. State monitoring outcomes. Findings can result in the development of a detailed corrective action plan, the provision of technical assistance, or other means by which the deficiencies identified during the evaluation and monitoring period shall be addressed. The requirements for corrective action can be found pursuant to Section 20 CFR 683 and 11.2.20 NMAC. Likewise, exceptional performance, as determined by DWS, can lead to incentives as noted in 11.2.20 NMAC.

E. Review follow-ups. State monitors will conduct follow-ups to verify the completion of required or recommended corrective action activities within the timeframes communicated through the state monitoring manual. This will ensure that any lingering monitoring findings throughout the program year have been resolved, or that a robust corrective action plan is in place for the resolution of those items as appropriate. Follow-up reviews revealing failed compliance will be documented in a formal report to DWS for determination of appropriate sanctions.

[11.2.19.9 NMAC - N, 7/1/2018]

11.2.19.10 TECHNICAL ASSISTANCE: Technical assistance is an ongoing activity vital to addressing performance and encouraging an environment of continuous improvement. DWS will proactively assist local boards by issuing policy guidance, sharing of best practices, and will work to resolve operational issues as they arise. DWS will also provide guidance and assistance to highlight areas that are working well. Monitors will also be offering technical assistance as a part of the annual onsite monitoring review process, as needed.

[11.2.19.10 NMAC - N, 7/1/2018]

11.2.19.11 INCENTIVES: Clean monitoring reports (i.e. no findings), exceptional performance outcomes (i.e. more than one hundred percent of the local negotiated performance level), or demonstrated tangible positive outcomes of innovative service strategies, as determined by DWS, can result in the local board's receipt of an incentive award. Incentives will emphasize accountability, high performance, seamlessness and continuous improvement, supporting New Mexico in achieving its workforce development goals. DWS will annually determine the total amount of funds to be awarded from funds available. State technical guidance will be used to address the process for the administration of incentive awards in accordance with WIOA and federal regulations.

[11.2.19.11 NMAC - N, 7/1/2018]

HISTORY OF 11.2.19 NMAC:

History of Repealed Material:

11.2.10 NMAC, Workforce Investment Act (WIA) Oversight and Monitoring, filed 6-16-2000 - Repealed effective 8-15-2012.

11.2.19 NMAC, Workforce Investment Act (WIA) On-the-Job Training, filed 12-15-2005 - Repealed effective 8-15-2012.

11.2.19 NMAC, Workforce Investment Act (WIA) On-the-Job Training, filed 8-15-2012 - Repealed effective 7-1-2018.