Today’s Presenters

◆ Deborah Galloway
  Fiscal Policy Manager
  Division of Policy, Review & Resolution

◆ Jennifer Friedman
  Division Chief
  Region 2 – Philadelphia Office

◆ Chris Mayo
  Regulatory Policy Analyst
  Office of Policy Development and Research
Today’s Agenda

✔ Purpose

✔ Terms and Definitions

✔ Subparts

Subpart A - Funding and Closeout
Subpart B - Administrative Rules, Costs and Limitations
Subpart C - Reporting Requirements
Subpart D - Oversight and Resolution of Findings
Subpart F - Grievance Procedures, Complaints, and State Appeals Processes
Subpart G - Sanctions, Corrective Actions, and Waiver of Liability
Subpart H - Administrative Adjudication and Judicial Review

◊ Subpart E - Pay for Performance Contract Strategies - Will be discussed at a later time.
Purpose of Training

- Previously found in Sec 667 in WIA
- Updated to reflect OMB’s Uniform Guidance (2 CFR part 200) and DOL’s exceptions (2 CFR part 2900)
- Impacts to Federal, State, Local & Title I Programs
- Applies to formula, discretionary grants and cooperative agreements funded under title I of WIOA and parts of Wagner-Peyser
- This presentation only contains the WIOA provisions that were identified as new or changed from WIA
  - Highlighted the NEW provisions in green
  - Highlighted the CHANGED language in orange
New & Changed Terms & Definitions

- 2 CFR 200.24 – Cooperative Agreement
- 2 CFR 200.51 – Grant Agreement
- 2 CFR 200.69, 2900.2 – Non-Federal Entity
- 2 CFR 200.74 – Pass-through Entity
- 2 CFR 200.86 – Recipients
- 2 CFR 200.93 – Subrecipients
- 2 CFR 200.71 – Obligations
- 2 CFR 200.97 – Unliquidated Obligations

*All other definitions at 2 CFR part 200 apply to the regulations where relevant, but will not be discussed in this session. Please review the Code of Federal Regulations.

https://www.ecfr.gov
Subpart A: Funding & Closeout

WIOA Final Rule § 683.1

- Sec. 683.105 – Authority of Funds Under WIOA & W-P
- Sec. 683.110 – Period of Performance
- Sec. 683.115 – Required State Planning Information
- Sec. 683.120 – Allotment Of WIOA Title I Formula Funds
- Sec. 683.125 – Minimum Funding Provisions
- Sec. 683.130 – Funds Transfer Between Adult and DW
- Sec. 683.140 – Local Reallocation Procedures
- Sec. 683.145 – Merit Review and Risk Assessment
- Sec. 683.150 – Closeout Requirements
WHAT'S NEW:

- Timeline and application of the competitive reevaluation criteria for Research, studies, and multi-State projects - 683.105(e).

- Fiscal Year (FY) of Appropriations; Program Year (PY) Basis
  
  ◆ **Program Year July 1- June 30**
  
  - Youth Funds - April 1
  - WIOA - July 1
  - Wagner-Peyser - July 1
  - Discretionary Grants - In accordance fiscal year appropriation
Authority of Funds under WIOA & W-P
Subpart A SEC.683.105

WHAT’S CHANGED:

- Federal funds allotted to States and outlying areas for each program will be obligated by grant agreement - 683.105(b)

- Native American and Migrant & Seasonal Farmworker programs competitive grants 683.105(c) & (d)
  - Available every 4 years
  - Not to exceed a period of performance of 4 years
Period of Performance
Subpart A: SEC. 683.110

WHAT’S NEW:

Grant funds expended by States
- Program year and 2 succeeding program years

Grant funds expended by local areas
- Program year and the succeeding program year

Pay-for-Performance
- Obligated pay-for-performance funds are available until expended

Local Areas
- Funds not expended in 2 years must be returned to the state
Example: DW Funds

- State receives a special allotment to serve DW participants on February 26, 2017. Funds expire September 30, 2018.
- State must spend the special allotment funds first!
Required State Planning Information
Subpart A: SEC. 683.115

WHAT’S CHANGED:

- Must submit a Unified or Combined State Plan

IMPACTS:

- States
- Locals
- Title I Programs
WHAT’S NEW:

- Local areas funded within 30 days of the State being funded or 7 days after approval of local plant – 683.120(a)(2)(iii)
- Unobligated rapid response funds, after the first year, can be used for statewide activities – 683.120(f)(2)
- College students and members of Armed Forces excluded from calculation of substantial unemployment – 683.120(g)
Minimum Funding Provisions  
Subpart A: SEC. 683.125

WHAT’S CHANGED:

- Minimum Funding Provisions – For a fiscal year, local area must not receive an allocation percentage less than 90 percent of the average allocation percentage for the two preceding years

IMPACTS:
- States
- Locals
- Title I Programs
Transfer Between Adult & DW Programs

Subpart A: SEC. 683.130

WHAT’S CHANGED:

- Local workforce development boards (local WDBs) can transfer up to 100% between Adult and Dislocated Workers (DW) programs

IMPACTS:

- States
- Locals
Merit Review & Risk Assessment
Subpart A: SEC. 683.145

WHAT’S NEW:

- DOL to perform merit review process and required risk assessment as prescribed by 2 CFR 200.204 of competitive grants under title I, subtitle D – 683.145(a)

- Additional factors weighed for Native American, MSFW & other subtitle D grantees – 683.145(b) & (c)

IMPACTS:
- States
- Locals
- Title I Programs
Closeout Requirements
Subpart A SEC. 683.150

WHAT’S NEW:

- All required reports must be submitted no later than 90 calendar days of POP end – 683.150(a)(1)
- After closeout reports are received, DOL must make prompt settlement of adjustments to Federal costs – 683.150(e)
- Must account for real and personal property acquired with grant funds – 683.150(f)

IMPACTS:

- Federal
- States
- Locals
- Title I Programs
Closeout Requirements (Cont.)

Subpart A SEC. 683.150

WHAT’S NEW:

❖ Closeout of grant does not affect: – 683.150(h)(1-5)
  ❦ Subsequent disallowance of costs by ETA
  ❦ Returning of funds due to later refunds, corrections, or other transactions
  ❦ Audit requirements
  ❦ Property management
  ❦ Records retention

❖ Pass-through entities of WIOA funds must institute a timely closeout process – 683.150(j)

IMPACTS:

✓ States
✓ Locals
✓ Title I Programs
Each State must prepare either a Unified or Combined State Plan that covers “core programs” including WIOA Adult, Dislocated Workers, and Youth formula programs, Wagner-Peyser Act employment services, Adult Education, and Vocational Rehabilitation?

A. True

B. False
Subpart B: Administrative Rules, Costs & Limitations

WIOA Final Rule § 683.2

- **Sec. 683.200** – General Fiscal and Administrative Rules
- **Sec. 683.205** – Administrative Cost Limitations
- **Sec. 683.215** – Administrative Costs: Functions and Activities
- **Sec. 683.220** – Internal Controls Requirements
- **Sec. 683.230** – Veterans Income Eligibility Determination
- **Sec. 683.235** – Construction
- **Sec. 683.240** – Real Property With Federal Equity
- **Sec. 683.290** – Salary and Bonus Restrictions
- **Sec. 683.295** – Earning Profit Under WIOA
WHAT’S CHANGED:

- For those items requiring prior approval in the Uniform Guidance, the authority to grant or deny approval is delegated to the Governor – 683.200(b)(2)

WHAT’S NEW:

- Must disclose in writing any potential conflict of interest – 683.200(c)(5)(iii)
- Timely disclosure in writing all violations of Federal criminal law involving fraud, bribery, or gratuity violations – 683.200(h)

IMPACTS:

- States, Locals, Title I Programs
Administrative Costs Limitations

Subpart B Sec. 683.205

WHAT’S NEW:

Cost of negotiating a One-Stop Partners Memorandum of Understanding (MOU) or Infrastructure Funding Agreement (IFA) are excluded from administrative costs limitations – 683.205(a)(5)

IMPACTS:

✓ States
✓ Locals
✓ Title I Programs
Administrative Costs: Functions & Activities

Subpart B: SEC. 683.215

WHAT’S CHANGED:

- Regions are now included as entities that can incur administrative costs – 683.215(a)
- Fiscal agent responsibilities now included in the list of administrative costs – 683.215(b)(1)(x)

WHAT’S NEW:

- Must make efforts to streamline administrative services to reduce administrative costs – 683.215(d)

IMPACTS:

- States, Locals, Title I Programs
WHAT’S NEW:

- Must have an internal control structure and written policies to safeguard to protect sensitive information
- Internal controls should be in compliance with:
  - Standards for Internal Control in the Federal Government
  - Internal Control Integrated Framework
- Internal controls must include reasonable assurance that the entity is:
  - Managing the award
  - Complying with Federal statutes, regulations, term and conditions

IMPACTS:
- States
- Locals
- Title I Programs
WHAT’S NEW:

This section establishes policy for use of pre-military wages for veterans and other individuals when local areas impose a priority of service threshold for “low income individuals” with Title I WIOA funds.

https://wdr.doleta.gov/directives/
WIOA title I funds must not be spent on construction, purchase of facilities or buildings, or other capital expenditures for improvement to land or building, except with the prior written approval of the Secretary.
WHAT’S NEW:

- Instructions for using real property with Federal equity:
  - SESA properties: Federal equity acquired in real property is transferred to the States
  - Wagner-Peyser (ES) must be co-located in One-stop centers
WHAT’S NEW:

- Reed Act-funded properties: 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 of occupancy by Unemployment Compensation and W-P programs – 683.240(b)

- JTPA and WIA-funded properties: Now transferred to WIOA title I programs and must be used for WIOA purposes. – 683.240(c)

IMPACTS:

- States
- Locals
- Title I Programs
Salary & Bonus Restrictions
Subpart B SEC. 683.290

WHAT’S NEW:

- States may establish a lower level than Level II of Executive Schedule (OPM) – 683.290(d)

- This section does not apply to contractors providing goods and services – 683.290(c)

IMPACTS:
- States
- Locals
- Title I Programs
Earning Profit Under WIOA
Subpart B SEC. 683.295

**WHAT’S CHANGED:**

- For-profit entities are eligible to be one-stop operators, service providers, and eligible training providers – 683.295(a)(1-2)

**WHAT’S NEW:**

- Programs authorized by other section of WIOA are prohibited from earning and keeping profit in Federal financial assistance – 683.295(b)
- Income earned by non-profit entity may be retained only if used to carry out program – 683.295(c)

**IMPACTS:**

- States, Locals, Title I Programs
Which of the following is NOT considered an administrative activity:

A. Procurement
B. Fiscal Agent Responsibilities
C. Intake of Participants
D. Costs of Good and Services for Administrative Functions
The salary and bonus limitation outlined in Sec. 683.290 applies to staff of the local board and one-stop operators?

A. True

B. False
Subpart C: Reporting Requirements

WIOA Final Rule § 683.3

- **Sec. 683.200** – General Fiscal and Administrative Rules
- **Sec. 683.300** – Financial Reporting and Subrecipient Reporting
- **Sec. 683.300** – Electronic Documents, Data Systems, Reports
Reporting Requirements
Subpart C SEC. 683.300

WHAT’S NEW:

- Reports, records, plan or any other data required to be submitted or made available through electronic means
- Subrecipient reporting: States must require the use of a template to report on outcomes achieved by the core programs for:
  - Annual eligible training provider performance reports
  - Local area performance reports
- Financial reports: Local WDBs submit quarterly financial report to the Governor
WHAT’S NEW:

❖ All reports, whenever practicable, should be collected, transmitted, and stored in open and machine readable formats – 683.300(f)

❖ Develop strategies for aligning data systems based upon guidelines issued by the Secretaries of Labor and Education (FERPA) – 683.300(g)

❖ Reporting may be required more frequently at Grant Officer’s discretion – 683.300(h)

IMPACTS:

✓ Federal
✓ States
✓ Locals
✓ Title I Programs
WHAT’S CHANGED:

- Increased accountability and transparency through electronic reporting, evaluations and required reports, records, plans, and data
- Use of financial and performance records across ALL programs

IMPACTS:
- Federal
- States
- Locals
- Title I Programs
Failure to meet the minimum performance measures can lead to sanctions being placed on States?

A. True
B. False
Subpart D: Oversight & Resolution of Findings

WIOA Final Rule § 683.4

- **Sec. 683.400** – Oversight and Resolution of Findings
- **Sec. 683.410** – Roles and Responsibilities
- **Sec. 683.420** – Procedures for Resolution of Findings
WHAT’S NEW:

- Documentation of monitoring reports, audit work papers with corrective action plans made available for review – 683.400(d)
  - At the request of the Secretary, Governor, or representative of Federal Government

IMPACTS:

- Federal
- States
- Title I Programs
Governor must certify to the Secretary every 2 years that:

- State has implemented Uniform Guidance
- Local areas are compliance with annual certification and disclosures
- State has taken appropriate corrective action

Failure to do so may result in suspension and debarment
Procedures for Resolution of Findings
Subpart D SEC. 683.420

WHAT’S CHANGED:

- For subrecipients, direct recipients must have **written** monitoring, audit resolution, debt collection, and appeal procedures – 683.420(a)(i)

IMPACTS:

- States
- Locals
- Title I Programs
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.

A. True
B. False
Pay for Performance Contract Strategies is new under WIOA and will be addressed separately at a later time.
Subpart F: Grievance, Complaints, & State Appeals

WIOA Final Rule § 683.6

- Sec. 683.600 – Grievance, Complaints, and State Appeals
- Sec. 683.650 – Appeal Processes
WHAT’S NEW:

- Local WDBs and CEOs also considered “other interested parties” and may file grievances and complaints alleging violations – 683.600(a)

- DOL guidance is forthcoming and will expand on the subject of non-discrimination and complaints

- States must provide opportunity for appeal to the Secretary – 683.600(d)(5)
Ability to File Grievances
Subpart F SEC. 683.600

WHAT’S CHANGED:

► WIOA Nondiscrimination and Equal Opportunity Regulations (29 CFR Part 38)

Final Rule to be released shortly

► Sec. 184(f) Discrimination against Participants

IMPACTS:

✓ States
✓ Locals
✓ Title I Programs
WHAT’S CHANGED:

- A local area which has failed to meet local performance indicators for 3 consecutive program years and received Governor’s notice to reorganize, may appeal to the Governor to rescind or revise the plan – 683.650(c)
Filing grievances and complaints under State established procedures includes Local WDBs except CEOs.

A. True
B. False
Complaints arising under WIOA sec 184(f) or sec 188, will be referred to the appropriate State or local area for resolution in accordance with the section.

A. True  
B. False
Subpart F: Sanctions, Corrective Actions and Waiver of Liability

WIOA Final Rule § 683.7

- **Sec. 683.710** – Responsible Party For Title I and Wagner-Peyser Funds
Responsibility of Funds
Subpart G SEC. 683.710

WHAT’S NEW:

- Use of a fiscal agent does not relieve CEO or Governor of responsibility for any misuse of grant funds – 683.710(b)(4)

IMPACTS

- States
- Title I Programs
Subpart H: Administrative Law Judge Authority

WIOA Final Rule § 683.8

- Sec. 683.820 – Authority of Administrative Law Judge
WHAT’S NEW:

- The ALJ has full authority of the Secretary under WIOA except in grant selection appeals of awards under WIOA Title I, subtitle D – 683.820(b)(1)
Questions?