

**Department of Workforce Development
Division of Workforce Solutions**

Financial Policy

Applies to: Child Support Directors
County Department of Human Services Directors
County Department of Social Services Directors
Tribal Chairpersons
W-2 Agency Directors
Workforce Development Boards
All DWS Contract and Grant Agencies

Issue Date: 12/20/2004

Topic: Prohibition on Profit

PURPOSE

To reiterate the prohibition on the charging of profit to contracts and grants funded by the Division of Workforce Solutions (DWS) with funds coming from the US Department of Health and Human Services (US DHHS) and the US Department of Labor (US DOL).

BACKGROUND:

US DHHS 45CFR 74.81 states:

§ 74.81 Prohibition against profit. Except for awards under the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs (15 U.S.C. 638), no HHS funds may be paid as profit to any recipient even if the recipient is a commercial organization. Profit is any amount in excess of allowable direct and indirect costs.

US DOL 29CFR 97.22 reads:

§ 29CFR 97.(a) Limitation on use of funds. Grant funds may be used only for: (1) The allowable costs of the grantees, subgrantees and cost-type contractors, including allowable costs in the form of payments to fixed-price contractors; and (2) Reasonable fees or profit to cost-type contractors but not any fee or profit (or other increment above allowable costs) to the grantee or subgrantee.

POLICY

DWS has had a positive history working with private sector profit agencies in the delivery of workforce development and related services. DWS is interested in maintaining these positive relationships. The Division is willing to pay reasonable costs for the delivery of services. The Division is not, however, able to approve any costs that are added purely as profit to a contract.

Agencies may issue subcontracts that are cost reimbursement. These are to be reimbursed for the actual allowable costs incurred. Such subcontracts can be with profit agencies. However, only the actual costs incurred can be reimbursed.

Agencies may also issue subcontracts that are fixed fee or performance based. These are to be reimbursed at the rate set in the agreement for the quantity of service received. These

subcontracts are well suited when procuring low cost, basic or standard services. The fixed fee rate set in the agreement can be based on market rates that are competitively procured. Agencies need not obtain line item cost data when procuring these subcontracts. Hence, the subcontractor may realize a small profit or loss.

The prohibition against profit does not apply to payments made to third party vendors for goods and services such as phone bills or supply purchases.

QUESTIONS

Contact Mark Macke, (608 266-5309 or email mark.macke@dwd.state.wi.us) or Jim Foelker, (608 266-3623 or email james.foelker@dwd.state.wi.us) in the DWS Grants & Contracts Section.