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# Audit Requirements, Audit Resolution, and Debt Collection

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## PURPOSE

The purpose of this policy is to provide direction on the audit requirements and responsibilities of the Pacific Gateway Workforce Innovation Network (Pacific Gateway) and its subrecipients that expend \$750,000 or more in federal funds (all federal resources combined) during any fiscal year. The policy also provides the procedures for debt collection associated with the misexpenditure of federal and state funds.

## BACKGROUND

Nonfederal entities that expend a total amount of federal funds equal to or in excess of \$750,000 are required to have either a single wide audit or a program specific financial and compliance audit in accordance with Title 2 Code of Federal Regulations (CFR) Part 200: "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards". Policy and procedures for audit requirements, audit resolution and debt collection must be established and shared with recipients of federal funds.

## POLICY AND PROCEDURES

### A. Definitions

*Auditee* – a non-federal entity that expends federal awards which must be audited under Uniform Guidance Subpart F – Audit Requirements. (Uniform Guidance Section 200.6)

*Auditor* – an auditor who is a public accountant or a federal, state, local government, or Indian tribe audit organization that meets the general standards specified for external auditors in generally accepted government auditing standards (GAGAS). The term auditor does not include internal auditors of nonprofit organizations. (Uniform Guidance Section 200.7)

*Federal award* – federal financial assistance that a non-federal entity receives either directly from a federal awarding agency or indirectly from a pass-through entity. (Uniform Guidance Section 200.38)

*Non-federal entity* – a state, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a federal award as a recipient or subrecipient. (Uniform Guidance Section 200.69)

*Pass-through entity* – a non-federal entity that provides a subaward to a subrecipient to carry out part of a federal program. (Uniform Guidance Section 200.74) The EDD is the pass-through entity for WIOA Title I Adult, Dislocated Worker, and Youth programs, and other federal grant awards.

*Recipient* – a non-federal entity that receives a federal award directly from a federal awarding agency to carry out an activity under a federal program. The recipient does not include subrecipients (Uniform Guidance 200.86).

*Subaward* – an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. (Uniform Guidance Section 200.92)

*Subrecipient* – a non-federal entity that receives a subaward from a pass-through entity to carry out part of a federal program, but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from the federal awarding agency (Uniform Guidance Section 200.93). Local Areas are the subrecipients of WIOA funds and other federal grant awards.

## B. Audit Types

Pacific Gateway and other non-federal entities that expend \$750,000 or more in federal awards in a fiscal year must have a single or program-specific audit conducted for that fiscal year.

### Single Audit

A single audit is a comprehensive review of an organization's financial activity for a fiscal year. All single audits must be conducted by an independent auditor in accordance with GAGAS. In order to determine whether the \$750,000 threshold is met, a non-federal entity must count the amount of federal awards received directly from federal agencies and pass-through entities.

### Program-Specific Audit

A program-specific audit is an audit of an individual federal program rather than a single audit of an entity's financial statements and federal programs. When an auditee expends federal awards under only one federal program (excluding research and development), and the federal program's statutes, regulations, or the terms and conditions of the federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program specific audit conducted in accordance with Uniform Guidance Section 200.507. A program specific audit may not be elected for research and development unless all of the federal awards expended were received from the same federal agency, or the same federal agency and the same pass-through entity, and that federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.

### Limited-Scope Audit

A limited-scope audit is focused on a specific area. An agreed-upon procedures audit may also be limited in scope; however, the specific steps needed to assess a subject matter are determined by the interested parties.

### Exemption

Non-federal entities spending less than \$750,000 under federal awards for a fiscal year are exempt from the single audit requirement, but must still have records available for review or audit by officials of the federal agency, pass-through entity, and Government Accountability Office. These entities may conduct or arrange additional program-specific, limited-scope, or an agreed-upon procedures audit or review to ensure proper accountability and compliance with program requirements (Uniform Guidance Sections 200.501[d] and 200.503).

### C. Audit Reporting Requirements

For single audit reporting, Pacific Gateway and its subrecipients must submit the audit reporting package to the Federal Audit Clearinghouse (FAC) and the SCO. Reports must be submitted within 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period, whichever is earlier. Note that the FAC and the SCO have different reporting requirements. (Uniform Guidance Section 200.507[c][1]).

The FAC operates on behalf of the OMB and is the repository of record where auditees must transmit audit reporting packages. Reporting Package submitted to the FAC must include the following documents:

- Financial statements
- Schedule of expenditures of federal awards
- Auditor's report
- Corrective action plan prepared by auditee
- Auditor's data collection form (Federal Audit Clearinghouse form SF-SAC)
- Senior official signature attesting to compliance.

(Uniform Guidance 200.508 and 200.512[c])

The SCO is the single audit oversight agency for most California local government agencies. For financial management standards, the state will continue to use and expend the federal award in accordance with state laws and procedures. As such, local government agencies receiving federal awards must submit the following reports to the SCO:

- Non-federal entities expending equal to or in excess of \$750,000 in federal awards (and that amount includes any state pass-through funds) must complete a single audit reporting package
- Non-federal entities expending less than \$750,000 in federal awards must submit written notification of its exempt status.
- Non-federal entities expending equal to or in excess of \$750,000 in federal awards (and that amount does not include any state pass-through funds) must submit either an audit report or an explanation letter. If the entity is currently being monitored by the SCO, a "no Review Letter" will be issued to the entity in return.

Entities not designated as a Local Area, but are expending less than \$750,000 in federal grant funds in a fiscal year must also submit written certification of their exempt status to the EDD Single Audit Coordinator.

(Uniform Guidance Section 200.302)

### D. Subrecipient and Contractor Determinations

An auditee may simultaneously be a recipient, a subrecipient, and a contractor. Federal awards expended as a recipient or a subrecipient are subject to audit. Payments received for goods or services provided as a contractor are not federal awards. The pass-through entity holds the discretion in classifying each agreement as a subaward or a procurement contract. (Uniform Guidance Section 200.330)

### E. Record Retention and Access

Financial records, supporting documents, statistical records, and all other non-federal entity records related to a federal award must be retained for a period of three years from the date of submission of the final expenditure report, or for the federal awards that are renewed quarterly or annually, from the

date of the submission of the quarterly or annual financial report, respectively, as reported to the federal awarding agency or pass-through entity. Federal awarding agencies and pass-through entities cannot impose any other record retention requirement upon non-federal entities. The only exceptions are as follows:

- If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- When the non-federal entity is notified in writing by the federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
- Records for real property and equipment acquired with federal funds must be retained for three years after final disposition. • When records are transferred to or maintained by the federal awarding agency or passthrough entity, the 3-year retention requirement is not applicable to the non-federal entity.
- Records for program income transactions after the period of performance. • Indirect cost rate proposals and cost allocations plans.

(Uniform Guidance Sections 200.331 and 200.333)

#### F. Pass-through Entities Responsibilities

The Uniform Guidance specifies that pass-through entities have certain responsibilities to manage and administer federal awards and ensure that all subrecipients comply with all laws and regulations and the terms and conditions of the federal award. The pass-through entity verifies that every subrecipient is audited as required and adheres to the following:

- Monitor each subrecipient to ensure appropriate use of federal funds.
- Require each of its subrecipients to permit pass-through entities and auditors to have access to records and financial statements as necessary to ensure compliance with applicable law, regulations, and terms of conditions.
- Verify each subrecipient is audited as required by Title 2 CFR Part 200 Subpart F – Audit Requirements.
- Issue management decisions for audit findings on federal funds the pass-through entity has awarded.
- Follow-up and ensure subrecipients take timely and appropriate action to resolve all deficiencies identified through audits, reviews and other means.

In cases where subrecipients fail to comply with federal laws and regulations or the terms of the federal award, the EDD may take action in accordance with Uniform Guidance Sections 200.207 and 200.338. Remedies for noncompliance include one or more of the following actions:

- Temporarily withhold cash payments pending correction of the deficiency by the nonfederal entity or more severe enforcement action by the federal awarding agency or pass-through entity
- Disallow all or part of the cost of the activity or action not in compliance.
- Wholly or partly suspend or terminate the federal award.
- Initiate suspension or debarment proceeding as authorized under Uniform Guidance and federal awarding agency regulations. In the case of a pass-through entity, the passthrough entity may recommend such a proceeding be initiated by a federal awarding agency.
- Withhold further federal awards for the project or program.
- Take other legally available remedies.

## B. Audit Resolution

1. Audit reports from subrecipients must be reviewed to ensure compliance with the requirements of Title 2 CFR Part 200: "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards".
2. The subrecipient must establish an audit resolution file to document the disposition of reported questioned costs and corrective actions taken for all findings. The audit resolution file should include the following:
  - Final Determination and proof of receipt by the subrecipient
  - Additional documentation submitted as part of the informal resolution process:
    - Notes related to the informal resolution
    - Sign-in sheets from any informal resolution meetings
  - Initial Determination and proof of receipt by the subrecipient
  - Final audit report
  - Response to the final audit report

The audit resolution process must be completed within six months after receipt of the auditee/subrecipient's audit report and must ensure that the subrecipient takes appropriate and timely corrective action.

3. The subrecipient must complete a control log. The control log must contain the following:
  - Date of the audit
  - The period covered by the audit
  - The date that the audit was received
  - The auditor
  - The questioned costs
  - The administrative findings
  - The date or dates of the Initial and Final Determinations
  - Documentation of decisions regarding the disallowed costs and administrative findings
4. Each auditee is required to prepare a summary schedule of prior findings that includes the following:
  - All audit findings with a statement that they were either fully corrected or the current status of any corrective action.
  - An explanation if the corrective action taken varies significantly from the prior audit planned resolution.
  - Reasons that the auditee believes prior audit findings are no longer valid.

### *Audit Resolution Findings Procedures*

1. The **Initial Determination** is preliminary decision on whether to allow or disallow questioned costs and resolve any non-monetary (administrative) findings. It offers the auditee/subrecipient an opportunity for informal resolution, not a formal mechanically recorded hearing. The **Initial Determination**, which addresses questioned costs and administrative findings, should be sent to the auditee/subrecipient within 30 calendar days after the subrecipients comment period. The **Initial Determination** should be sent U.S. Certified Mail, return receipt requested and must include the following information:
  - A list of questioned costs

- Whether the costs are allowed or disallowed, including the reasons with appropriate citations for such action
  - Acceptance or rejection of any corrective action to take including corrective action on administrative findings
  - Timeframe for resolution of findings
  - Possible sanctions
  - The opportunity for informal resolution of no more than 60 calendar days from the date of initial determination
2. During the **Informal Resolution** period, the auditee/subrecipient has an opportunity to present new evidence, provide documentation to support the allowability of costs, provide the proposed corrective action of administrative findings, and provide an explanation to modify the decision by the awarding agency. The auditee/subrecipient can agree to the non-allowability of the questioned cost and make repayment. In such cases, the amount is disallowed but is not subject to debt collection in the Final Determination. The terms of repayment may be negotiated and included in the Final Determination.

The **Informal Resolution** may be held by telephone, if necessary, but in person is preferable. When a meeting is held, provide a sign-in sheet. The sign-in sheet must be retained as part of the audit file. The meeting must be documented either with a voice recording or written notes.

3. The **Final Determination** should be sent to the auditee/subrecipient within 30 calendar days or a reasonable agreed upon time (not more than six months) after the awarding agency receives the final audit report. The Final Determination should be sent by U.S. Certified Mail, return receipt requested.

The **Final Determination** should include the following:

- Reference to the Initial Determination
- Summation of the informal resolution meeting, if held.
- Decisions regarding the disallowed costs, listing each disallowed cost and noting the reasons for each disallowance.
- Questioned costs that have been allowed by the awarding agency and the basis for the allowance.
- Demand for repayment of the disallowed costs.
- Description of the debt collection process and other sanctions that may be imposed if payment is not received.
- Rights to a hearing
- The status of each administrative finding.

Note: Administrative findings should be corrected within six months from the issuance of the Final Determination. To ensure the findings are fully corrected, proper controls should be implemented that will track resolution during the post-Final Determination period. Follow-up should include requirements that require auditees/subrecipients to report, at least quarterly, the status of uncorrected audit findings and corrective action. Follow-up tracking systems should include contact information that identifies the person (and telephone number) responsible for ensuring correction of the reported deficiencies and variances, and should require at least quarterly updates of progress toward achieving correction.

#### *Local level Hearing Procedures*

Subrecipients must establish local level hearing procedures for resolution of appeals related to audit and monitoring findings.

The local level hearing procedures for resolution include:

- The auditee is given 30 calendar days after the Final Determination is issued to submit a written request for a hearing. At least 10 calendar days before the hearing, a written notice of the date and site of the hearing must be provided. A withdrawal must be done in writing.
- A hearing shall be recorded mechanically or by court reporter.
- The hearing officer must issue a decision within 60 calendar days of the filing date. The auditee/subrecipient has 10 calendar days from receipt of an adverse decision to file an appeal with the State Review Panel.
- If a local hearing is not held or the decision is not rendered timely, the auditee/subrecipient has 15 calendar days from the date on which the hearing should have been held to file an appeal with the State Review Panel.
- If the auditee appeals the decision of the subgrantee's hearing agency to the State, the subgrantee will send the Compliance Review Division (CRD) the complete audit for review by the State Review Panel. Within 30 calendar days of receipt by the CRD of the auditee's written appeal, the State Review Panel will be convened to review all evidence and issue a decision based on the evidence without consideration of any imposed sanctions. There is no administrative appeal beyond this level.

### C. Debt Collection

Pacific Gateway is responsible for their subrecipient audit resolution and aggressive debt collection action. At the State level, audit resolution and debt collection are the responsibility of the Employment Development Department's (EDD) CRD.

The settlement of all debts resulting from fraud, malfeasance, misapplication of funds or other serious violations or illegal acts must be cash from nonfederal sources. Funds collected Pacific Gateway in settlement of these debts must be returned immediately upon receipt to the CRD.

Employment Development Department  
Compliance Review Division, MIC 22M  
P.O. Box 826880  
Sacramento, CA 94280-0001

Pacific Gateway must maintain records that document the action taken with respect to debt collection, restoration, or other debt resolution activities. Pacific Gateway must also document why the actions were taken to support their decisions.

When the debt was not a result of fraud, malfeasance, misapplication of funds or other serious violations of illegal acts, the cash repayment of the disallowance is a credit to the title and year to which it was originally charged. The credit reduces the expenditures of the period of the cost that was refunded. If the year of allocation is still open, Pacific Gateway may expend the funds within the cost limits. Cash payment received after the fund availability period must be remitted to CRD.

#### *Debt Collection Procedures*

Pacific Gateway will utilize the same procedures as the State for audit resolution, debt collection and audits of WIOA subrecipients and other federal grant programs.

The procedures include:

- A process for notifying subrecipients of the establishment of the debt, their appeal rights, the date that the debt will be considered delinquent, the sanctions (which may include but are limited to debarment) if the debt is not repaid and the interest rate charged, if any.

- The requirement that that three debt collection letters be sent to the subrecipient at no less than 30 calendar day intervals.
- The establishment of an outstanding debt category in the local area's accounts receivable system.
- Pacific Gateway standards and specifications for terminating, comprising, and litigating debts; and
- An audit resolution tracking log shall document the disposition of reported questioned costs and corrective actions taken for all findings and shall maintain a permanent record of all debt cases and their status.

During the audit resolution process, the auditee may propose the use of stand-in costs to substitute for the disallowed costs. To be considered, stand-in costs must be incurred for allowable WIOA costs that were reported as uncharged WIOA program costs, included within the scope of the audit, and accounted for in the auditee's financial system. The stand-in cost must have been expended in support of the same title and program year as the costs they propose to replace, and the costs must not cause a violation of the cost limitations and requirements. Stand-in costs must be actual expenses paid with nonfederal funds. Cash match in excess of the required match may also be considered for use as stand-in costs.

To be relieved of liability for a subrecipient's debt, Pacific Gateway must submit a written request that EDD seek the Department of Labor agreement to forego collection action to the CRD. Requests must include documentation and other demonstrations of facts showing compliance with WIOA Section 184(d) and Title 20 CFR 683.740 to CRD. Mere statements of compliance and recitation of the criteria will not be acceptable. Without the prior approval of both CRD and DOL, Pacific Gateway will remain responsible for repayment of the entire debt.

All WIOA debts must be paid within 30 calendar days of the date on which the debt was established as final. If the debtor is unable to make restitution in full, an installment repayment agreement may be negotiated. Installment repayment agreements must be short in duration, from 3 to 12 months, with a maximum of 36 months. The length of the repayment agreement will be negotiated based on the size of the debt and the debtor's ability to pay. All installment repayment agreements must have prior approval by the CRD.

## REFERENCES

- Title 2 CFR Part 200: "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (Uniform Guidance), Subpart F.
- Title 20 CFR, "WIOA Final Rule" Sections 683.210 and 683.740
- WIOA (Public Law 113-128), Sections 184 and 185
- WIOA Directive WSD20-03 "Audit Requirements" (October 13, 2020)
- WIA Directive WIAD01-5, "Debt Collection" (September 10, 2001)
- WIA Directive WIAD05-17, "Audit Resolution" (May 25, 2006)
- Federal Audit Clearinghouse
- State Controller's Office, Single Audits – Local Agencies

## INQUIRIES

For questions or assistance related to this policy, please contact Pacific Gateway Workforce Innovation Network staff at (562) 570-3748.

NS:am