


Date: July 1, 2009

To: Pacific Gateway Workforce Investment Network Staff
WIN Sub-Recipients

From: Bryan S. Rogers 
WIB Executive Director

Subject: **POLICY MEMORANDUM: WDB-13A**
AUDITS AND AUDIT RESOLUTION / DEBT COLLECTION

EFFECTIVE DATE

This policy is effective upon date of issue. It supersedes previous policy dated April 30, 2008.

PURPOSE

The purpose of this policy is to provide direction for the audit responsibilities of recipient and sub-recipient organizations that expend \$500,000 or more in Federal financial assistance funds (received from all Federal sources combined) during a fiscal year.

POLICY/PROCEDURES

1. Every sub-recipient agreement or cooperative agreement that expends \$500,000 or more in Federal financial assistance funds (received from all Federal sources combined) during a fiscal year to operate one or more programs must have a Single Audit conducted.

2. Sub-recipient must establish an audit resolution file to document the disposition of reported questioned costs and corrective actions taken for all findings.

3. Sub-recipient 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. 29 CFR 99.315(b) requires that each auditee prepare a summary schedule of prior findings that includes

- a) All audit findings with a statement that they were either fully corrected or the current status of any corrective action
- b) An explanation if the corrective action taken varies significantly from the prior audit planned resolution
- c) Reasons that the auditee believes prior audit findings are no longer valid.

5. The **Initial Determination** is a preliminary decision on whether to allow or disallow questioned costs and resolve any non-monetary (administrative) findings. It offers the auditee/sub-recipient 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/sub-recipient within a reasonable time after the end of the sub-recipients' comment period. The **Initial Determination** should be sent U.S. Certified Mail, return receipt requested and must include the following information:

- A list of all questioned costs.
- Whether the costs are allowed or disallowed, including the reasons with appropriate citations for such actions.
- Acceptance or rejection of any corrective action taken to date, including corrective action on administrative findings.
- Timeframe for Resolution of Findings
- Possible sanctions.
- The opportunity for informal resolution of no more than 60 days from the date of Initial Determination.

6. During the **Informal Resolution** Period, the sub-recipient has an opportunity to present new evidence, documentation, and an explanation to modify the decision by the awarding agency. The auditee/sub-recipient has an opportunity to agree to corrective action before the awarding agency initiates sanctions or remedial actions. The auditee/sub-recipient can admit to the non-allowability of a 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 may also be included in the Final Determination.

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.

7. The **Final Determination** should be sent to the auditee/sub-recipient 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.

8. The **Final Determination** should include:
- a) Reference the Initial Determination.
 - b) Summation of the informal resolution meeting, if held.
 - c) Decisions regarding the disallowed costs, listing each disallowed cost and noting the reasons for each disallowance.
 - d) Questioned costs that have been allowed by the awarding agency and the basis for the allowance
 - e) Demand for repayment of the disallowed costs
 - f) Description of the debt collection process and other sanctions that may be imposed if payment is not received.
 - g) Rights to a hearing.
 - h) The status of each administrative finding.
9. Administrative findings may not be corrected within the six-month time frame allowed. To ensure that these 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 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.
10. Local-level **Hearing Procedures**:
- a) The hearing shall be recorded mechanically or by court reporter.
 - b) The auditee is given 30 calendar days after the Final Determination is issued to submit a written request for a hearing.
 - c) The auditee/sub-recipient is provided with a written notice of the date and site of the hearing at least 10 calendar days prior to the hearing.
 - d) The auditee/sub-recipient is informed of the right to withdraw a hearing request as long as it is in writing.
 - e) The hearing officer is required to issue a decision within 60 days of the request filing date.
 - f) The auditee/sub-recipient is informed of the right to file an appeal 10 days from receipt of the local hearing officer's adverse decision to the State Review Panel.
 - g) The auditee/sub-recipient is informed that if a local hearing is not held or the decision is not rendered timely, the auditee has 15 days from the date on which the hearing should have been held to file an appeal with the State Review Panel.
 - h) The subgrantee will send the Compliance Review Division the complete audit for review by the State Review Panel if the auditee appeals the decision of the hearing officer to the State.

11. The Pacific Gateway Workforce Investment Network (Network) will utilize the appeals rights for sub-recipients found at 20 CFR Part 667, Subpart H.

12. When the debt was not a result of fraud, malfeasance, misapplication of funds or other serious violations or 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, the Network may expend the funds within the cost limits. Cash payments received after the fund availability period must be remitted to the CRD:

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

13. The Network will utilize the same procedures as the State for audit resolution, debt collection, and audits of WIA sub-recipients as are used for other Federal grant programs. They are as follows:

- A process for notifying sub-recipients of the establishments of the debt, their appeal rights, the date that the debt will be considered delinquent, the sanctions (which may include but are not limited to debarment) if the debt is not repaid and the interest rate charged, if any;
- The requirement that three debt collection letters be sent to the sub-recipient at no less than 30 calendar day intervals;
- The establishment of an outstanding debt category in the local area's accounts receivable system;
- The Network standards and specifications for termination, compromising, and litigating debts; and
- An audit resolution tracking log shall document the disposition of reported questioned costs and corrective actions taken for all findings shall maintain a permanent record of all debt collection cases and their status.

14. Stand-In Costs. 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 WIA costs that were reported as uncharged WIA 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.

All WIA 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 will be of short 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 payments must have prior approval of the Employment Development Department, Compliance Review Division.

The Network will continue submitting copies of its Single Audit Reports to the State Controller:

Attn: Single Audit Reports
Division of Audits
State Controller's Office
P.O. Box 942850
Sacramento, CA 94250-0001

Copies of private, non-profit organizations' Single Audit reports are to be submitted to EDD as follows:

Audit & Evaluation Division, MIC 78
Employment Development Department
P.O. Box 826880
Sacramento, CA 94280-0001

REFERENCES

WIAD05-17, Audit Resolution (05-25-2006)
WIAD05-16, Audit Requirements (05-25-2006)
WIAD01-5 Debt Collections; WIAD03-7 Audit Requirements
WIA Section 184; OMB Circular A-133
Title 20 CFR Section 667.200(b) Audit Requirements
Title 20 CFR Section 667.500(b) Resolution of Findings, Arising for Audits etc.
Title 29 CFR Part 95.26 or 97.26 (as applicable)
Title 29 CFR Part 96.53 Audit Resolution Generally (as applicable)
Title 31 United States Code (USC) Chapter 75
DOL Financial Management TAG Part II, Chapter 11-12

CONTACT

Should you have any questions regarding this Policy Memorandum, please contact Arleen Ward at (562) 570-3680.

Thank you.

BSR:mh