



SUBJECT: AUDIT RESOLUTION AND DEBT COLLECTION

Policy #: WFC-WIA-133-3265-Audit & Debt

Effective Date: August 1, 2013

Grantees, sub-recipients and contractors funded under the Workforce Investment Act (WIA), whether in whole or in part, must abide by the Workforce Investment Act (WIA) of 1998, the WIA Regulations, all applicable Office of Management and Budget (OMB) circulars, state requirements in laws and rules (Revised Code of Washington and Washington Administrative Code), Office of Financial Management (OFM) policies, and the Washington State WIA policies.

PURPOSE: This Audit Resolution and Debt Collection policy provides information and guidance regarding the Tacoma-Pierce County Workforce Development Council's (dba WorkForce Central) audit requirements and resolution as well as the process for collection of debts, where applicable.

AUDIT RESOLUTION

BACKGROUND: This policy applies to Workforce Central and all subrecipients who receive Workforce Investment Act (WIA) funds from Workforce Central.

Workforce Investment Act – Public Law 105-220 – Under the Workforce Investment Act the chief-elected official is the local grant recipient and liable for any misuse of the grant funds allocated to the Tacoma-Pierce County Workforce Development Council (dba Workforce Central) under WIA Sections 128 and 133. Each state, local area and provider receiving WIA funds is required to comply with the appropriate uniform administrative requirements for grants and agreements according to the OMB Circulars or as cited in the Workforce Investment Act at Title I-Subtitle E Administration, Section 184(a)(3)(A).

Workforce Investment Act Final Regulations – The WIA Regulations audit requirements are noted at 667.200(b). All governmental and non-profit organizations must follow the audit requirements of OMB Circular A-133. These requirements are found at 29 CFR 97.26 for governmental organizations and at 29 CFR 95.26 for institutions of higher education, hospitals and other non-profit organizations. As per WIA Regulation at 667.200(b)(2)(ii), commercial organizations that are subrecipients of WIA funds and expend more than the minimum level (\$500,000) must have either an organization-wide audit conducted as required by OMB Circular A-133 or a program specific financial and compliance audit

No local policy, guidelines, procedures or definitions related to Title I of the Workforce Investment Act should be inconsistent with the Workforce Investment Act and Regulations, federal statutes, regulations governing One-Stop partner programs, or state policies as noted at WIA Federal Regulation 661.120(a).

State of Washington Audit Requirements – State of Washington Policy is established by the Office of Financial Management (OFM) in their State Administrative & Accounting Manual (SAAM) Section 50.30, compliance with Federal Single Audit Act.

As required by OMB Circular A-133 and SAAM 50.30.50, Workforce Central is required to complete and submit an annual audit plan to the Employment Security Department covering the audit schedule for all subrecipients and service providers.

POLICY – Workforce Central audit resolution requires that an independent audit be conducted by each subrecipient expending \$500,000 or more in an audit year in conformance with the Single Audit Act and OMB Circular A-133. For those subrecipients expending less than \$500,000 a program audit is required.

Workforce Central audit requirements:

- Subrecipients will conduct an audit annually and submit a copy of the audit to Workforce Central within thirty (30) days of receipt. (Governmental entities are most often audited by the State Auditor's Office, while non-profits generally have audits performed by independent auditors.)
- Subrecipients will provide comments to Workforce Central regarding any questioned or disallowed costs within thirty (30) days of submission of the audit. Workforce Central will notify the subrecipient of the initial findings and determination within fifteen (15) days following the end of the 30-day comment period.
- Workforce Central will issue a final findings and determination within fifteen (15) days following the review of response to the initial determination.
- Subrecipients may request an extension if unable to respond within either thirty (30)-day period.
- Once all appeal options as noted below have been thoroughly exhausted and a final debt established repayment options other than cash must be reviewed and approved by the state grant recipient, the Washington State Employment Security Department. In some cases Employment Security may be required to seek Department of Labor approval.
- For audits that note programmatic issues in addition to questioned or disallowed costs, Workforce Central requires the subrecipient to prepare a correction action plan identifying the finding, an explanation of the cause of these findings, proposed strategies for resolution, and the date for completion of the proposed corrective action. Timely correction of issues could prevent findings and/or disallowed costs in future audits.

DEBT COLLECTION

BACKGROUND: The Workforce Investment Act Title 20 CFR 667.500(a)(2) and Washington State Policy Number 3265-Revision 1 Debt Collection require each local Workforce Development Area to establish a process for debt collection. Additional information on appeals, waivers and offsets is contained in the Department of Labor One-Stop Comprehensive Financial Management Technical Assistance Guide TAG), Chapter 11-13 Disposition of Disallowed Costs.

Each Workforce Central subrecipient shall be liable to repay with non-federal funds amounts found to have been expended not in accordance with the Workforce Investment Act of 1998, Regulations and other federal and state policies.

If the mis-expenditure of funds was due to willful disregard of the requirements of this the Act or Regulations, gross negligence, failure to observe accepted standards of administration, or a demonstrated pattern of mis-expenditure, the Secretary of Labor will make the final decision. No debt will be established until the final determination has been issued from the Department of Labor and Workforce Central subrecipients have received the proper notice and opportunity for a fair hearing.

Note: Review and approval concerning any repayment options other than cash are negotiated in consultation with the Employment Security Department as the grant recipient for Workforce Investment Act funds in Washington State.

POLICY: This policy applies to debts owed by subrecipients of Workforce Investment Act funds based on Tacoma-Pierce County Workforce Development Council's (dba Workforce Central) final determinations. Or, if applicable, the decision issued on an appeal. Also included in this final debt collection policy are payment methods related to incidents of fraud or other serious violations of the Workforce Investment Act and Regulations.

Resolution Options:

Cash Settlement: Debts established by Workforce Central to subrecipients receiving Workforce Investment Act (WIA) funds after all appeals have been exhausted are due within 30 calendar days unless other resolution options are being pursued.

The settlement of all debts resulting from fraud, malfeasance, or other serious violations or illegal acts must be paid in cash from non-federal resources. Repayment of debts resulting from such actions on the part of Workforce Central subrecipients receiving Workforce Investment Act (WIA) funds must be repaid immediately following the final decision of the Department of Labor. The repayment must be from non-WIA sources and made payable to Workforce Central. Payment must clearly identify the purpose is to satisfy a debt and be sent to:

Tacoma-Pierce County Workforce
Development Council (dba Workforce Central)
3650 South Cedar Street
Tacoma, Washington 98409-5714

Installment Payments: An installment payment agreement may be negotiated with Workforce Central (and in consultation with the Employment Security Department) when the debtor is unable to make restitution in full within the 30 calendar day period. The installment repayment will be of short duration (from 3-12 months up to a maximum of 36 months), negotiated based on the size of the debt and the debtor's ability to pay.

This method of repayment is not offered where debts result from fraud, malfeasance, misapplication of funds or other serious violations or illegal acts.

Stand-in Costs – The use of stand-in costs may be considered as a substitute for disallowed costs in audit or other debt resolution situations. Stand-in costs must be from non-federal sources that may be substituted for Workforce Investment Act expenditures questioned or disallowed under the following circumstances:

- Costs have been incurred for allowable grant activities considered to be uncharged to an Employment and Training Administration (ETA) funded program. These charges must be included within the scope of the audit and accounted for in the subrecipient's financial system. Grant cash match in excess of that required may also be considered for use as stand-in costs.
- To be accepted, stand-in costs must come from the same fiscal year as the costs that are proposed to be replaced and they must not cause a violation of grant administrative or other cost limitations

The use of stand-in costs may be considered as a substitute for disallowed costs in audit or other resolution procedures. The application for stand-in costs occurs during the initial resolution process to resolve identified disallowed costs. If an auditee agrees that the costs questioned are disallowable and proposes the use of stand-in costs the proposal will be included with the audit resolution report and other documents provided as comments to the Employment Security Department as grant recipient for Workforce Investment Act funds in Washington. If the auditee is uncertain about the allowability of questioned costs before the initial determination is issued, their proposal to use stand-in costs may be presented during the informal resolution period after Workforce Central issues its initial determination.

Again this method of repayment is not offered where debts result from fraud, malfeasance, misapplication of funds or other serious violations or illegal acts

Offset: The Governor (or the Employment Security Department as grant recipient of WIA funds) may request the Department of Labor (DOL) allow an offset of a final debt.

If the Department of Labor rejects the proposal and requires the state to repay the disallowed amount, the state may deduct an amount equal to the mis-expenditure from the subsequent year/years' allocations to the local area from local administrative funds.

The following factors will be considered for an offset proposal:

- Any offset considered by the Employment Security Department as grant recipient for WIA funds must be approved by the Department of Labor Grant Officer. Employment Security may not consider the offset provision until all appropriate corrective action has been taken by the local area to ensure compliance with appropriate guidelines for expenditure of WIA funds.
- After various approaches to repayment have been exhausted, Workforce Central may ask for consideration to pursue offset. Workforce Central must submit a formal written request to Employment Security including an Offset Plan. The Plan must address how offset requirements outlined in 20 CFR 67.740 will be met. The Employment Security Department may request approval from the Department of Labor or reject the Offset Plan.

Workforce Central will maintain records that document the actions taken with respect to debt collection or restoration activities as well as why the debt collection was taken.

Process: Workforce Central has the responsibility for audit resolution and debt collection. Should a debt be established, the debtor will be notified in writing by certified letter, return receipt requested. The letter will provide information as follows:

- Date on which the debt was established as a final decision;
- Request for payment within 30 calendar days of the final establishment of a debt. Two additional letters requesting payment will be sent to the debtor at no less than 30-day intervals;
- Date that the debt will be delinquent (30 calendar days from the date the debt was established as final, unless other arrangements are negotiated and approved by Workforce Central in consultation with Employment Security);
- Appeal rights (notification of the right to appeal the decision). The debtor must request a hearing within ten (10) calendar days of receipt of notice of debt to avoid sanctions or penalties. For appeal procedures see Workforce Central Complaint and Grievance Policy WFC-01-2012-3440P;
- Sanctions and/or selected remedies if the debt is still outstanding after 90 calendar days, including but not limited to debarment, litigation or referral to a collection agency;
- Interest rate to be charged (if any).

DEFINITIONS

Awarding Agency: Establishment of a final debt and approval of debt resolution alternatives (other than cash repayment) are made by the Awarding Agency, the

Washington State Employment Security Department, as grant recipient for WIA Title I funds in Washington.

Debtor: For the purposes of this policy, debt collection refers to a subrecipient of Workforce Central Workforce Investment Act funds who has received a final determination, exhausted all appeal options and a debt has been established as due and payable.

Final Determination: Final Determination is the awarding agency's decision to allow or disallow costs and the resolution of any non-monetary findings.

Final Debt: Final Debt is the amount owed based on the awarding agency's final determination if an appeal is not filed or the decision issued in response to an appeal. Included in the final debts are funds due from, but not limited to, incidents of fraud, malfeasance, misapplication of funds, or other serious violations or illegal acts.

Grant Officer: The Grant Officer for Title I Workforce Investment Act funds is the Employment and Training Administration Department of Labor (ETA/DOL).

Grant Recipient – The Grant Recipient for Title I Workforce Investment Act funds in the State of Washington is the Employment Security Department.

Subrecipient: For the purposes of this policy, a subrecipient is any entity providing client services utilizing Workforce Central Workforce Investment Act funds.

REFERENCES:

Public Law 105-200, Section 184(a)(3)(A).

20 CFR Part 652

20 CFR Section 667.410(a), 667.500(a)(2) and 667.740

20 CFR 667.200(b) – Workforce Investment Act Regulations

29 CFR 97.26 - Governmental organizations

29 CFR 95.26 - Institutions of higher education, hospitals and other non-profit organizations

2 CFR 230 – Cost Principles for Non-Profits

2 CFR 225 – Cost Principles for State and Local Governments and Indian Tribal Government

2 CFR 220 – Cost Principles for Educational Institutions

Federal Register Vol 65, No 124 – Resources Sharing for Workforce Investment Act One-Stop Centers

OMB Circular A-133 – Audit of State and Local Government

OMB Circular A-133 – Compliance Supplement

Department of Labor One-Stop Comprehensive Financial Management Technical Assistance Guide (TAG), Chapter II-13 Disposition of Disallowed Costs

SAAM 50.30 State Administrative & Accounting Manual - compliance with Federal Single Audit Act.

State Policy #3255 Revision 1 – Effective for fiscal years ending after December 31, 2003

State Policy #3265 Rev 1 dated August 20, 2007
Workforce Central's Policy WFC 01-2012-3440P, Complaint and Grievance
Generally-Accepted Accounting Procedures (GAAP)

DIRECT INQUIRIES TO:

Workforce Central
3650 South Cedar Street
Tacoma, Washington 98409-5714
(253) 472-8094 or 1-800-999-8168

EQUAL OPPORTUNITY - EQUAL ACCESS

WorkForce Central and WorkSource Washington are equal opportunity employers and providers of employment and training services. Auxiliary aids and services are available upon request for individuals with disabilities. Language services for clients are provided free of charge. WA Relay Services: 1-800-833-6384.