

WIAP # 1-03 revised

SUBJECT: Revised Audit Resolution, Audit Appeal and Debt Collection Standards and Procedures

Statutory Reference: WIA§

- Title 20 Code of Federal Regulations (CFR) 667.200(b), 667.400, 667.500(a), 667.705, 667.720, 667.730 and 667.740
- Titles 29 CFR 95, 96, 97 and 99
- Office of Management and Budget (OMB) Circular A-133, Subject: Audits of States, Local Governments and Non-Profit Organizations (June 24, 1997)

Effective Date: July 1, 2005

I. PURPOSE:

To establish standards and procedures for audit resolutions and audit appeals for expenditures of Workforce Investment Act (WIA) funds, and for the recovery of disallowed costs.

II. BACKGROUND:

Non-Federal entities receiving awards of WIA funds must meet the audit requirements of OMB Circular A-133. The regulations at 20 CFR 667.200(b)(2)(ii) require commercial organizations expending more than \$300,000 in federal funds to have either an organization-wide audit conducted in accordance with OMB Circular A-133, or a program specific financial and compliance audit. The regulations at 20 CFR 667.500(a) require that the Governor, through the Idaho Department of Commerce and Labor, is responsible for resolving findings that arise from the State's monitoring reviews, investigations and audits of subrecipients. These regulations require the establishment of standards and procedures for audit resolution, audit appeals and debt collection.

The U.S. Department of Labor holds its direct recipients of WIA funds liable for all misexpenditures of funds awarded to the recipient. In turn, the Idaho Department of Commerce and Labor, as the State Administrative Agency, holds subrecipients responsible for WIA funds and may ultimately hold units of local government and other subrecipients liable for disallowed costs.

III. DEFINITIONS:

Auditee means any entity that is subject to the requirements of OMB Circular A-133 and the above referenced regulations, or has been investigated or otherwise monitored by an Awarding Agency.

Awarding Agency means the WIA recipient or subrecipient that awarded the subgrant or contract. The Idaho Department of Commerce and Labor is designated as the State Administrative Entity and the local Administrative Entity for Regions I, II, IV, V and VI. Sage Community Resources has been designated as the Administrative Entity for Region III.

State Administrative Agency (SAA) means the Idaho Department of Commerce and Labor.

IV. STANDARD:

All administrative entities expending WIA funds shall comply with these standards and procedures when resolving subrecipient-level findings arising from audits, investigations, monitoring or oversight reviews.

Resolution of subrecipient-level findings shall consist of a three-part process that includes an Initial Determination, an Informal Resolution Period, and a Final Determination. Receipt of the Initial and Final Determinations by the auditee must be documented by the Awarding Agency.

V. AUDIT RESOLUTION AND APPEAL PROCEDURE:

- A. As a result of an audit, investigation, on-site visit or other monitoring, Awarding Agencies must:
 1. Establish an audit or monitoring resolution file to document the disposition of any reported questioned costs and the corrective actions taken for all findings.
 2. If findings are identified, issue a letter of Initial Determination based on the audit, investigation, monitoring or oversight review. A copy of the Initial Determination should be provided to the SAA. The Initial Determination will allow 45 days for informal resolution.

3. The Initial Determination letter should include:
 - a) A list of all questioned costs.
 - b) Whether the costs are allowed or disallowed, including the reasons with appropriate citations for such actions.
 - c) Acceptance or rejection of any corrective action taken to date, including corrective action on administrative findings.
 - d) Possible sanctions.
 - e) The opportunity for informal resolution of no more than 45 days from the date of Initial Determination.
4. During the 45 day informal resolution period, the auditee may provide documentation to support allowability of costs and propose corrective actions for administrative findings. Informal resolution discussions may be held by telephone, if necessary, but in person is preferable. Negotiations for repayments can be initiated at this time, except that the SAA retains the exclusive right to authorize repayments other than cash. The informal resolution process should be documented.
5. Stand-in Costs: The application of stand-in costs is an informal resolution activity. If the auditee agrees that the Awarding Agency's questioned cost is unallowable and wishes to propose the use of stand-in costs as substitutes for otherwise unallowable costs, the proposal shall be included with the response to the Initial Determination and submitted during the informal resolution period.

Stand-in costs are substitutes, disbursed or accounted for from non-Federal funds, for unallowable Federal costs identified in the audit report. To be considered as valid substitutions, the costs must:

- a) Not be caused by the willful disregard of the requirements of the Act, gross negligence, failure to observe accepted standards of administration, or fraud;
- b) Be allowable Federal costs that were actually incurred by a Federal program, but paid by a non-Federal source;
- c) Have been reported as uncharged Federal program costs;
- d) Have been included within the scope of the subrecipient's audit;
- e) Have been accounted for in the auditee's financial system; and
- f) Be adequately documented in the same manner as all other Federal program costs. This means that the unbilled expense must be treated in a manner consistent with cost principles affecting other expenses, including, but not limited to the cost allocation methodology, cost classification methodology and supporting documentation requirements.

To be accepted, stand-in costs must come from the same Federal Title/Program and program year as the costs that they are proposed to replace, and they must not cause a violation of the cost limitations.

6. Issue a written Final Determination. A copy of the Final Determination should be provided to the SAA.

The Final Determination letter should include:

- a) Reference to the Initial Determination.
 - b) Summary of the informal resolution process, if attempted.
 - 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.
- B. Hearing. The auditee has 15 days from the date of the Final Determination to file a written request for a hearing with the Awarding Agency. The Awarding Agency will appoint a hearing officer and hold a hearing within 30 days of the filing date. A decision should be issued by the hearing officer within 60 days of the filing date.
- C. Appeal to the SAA. If either party receives an unsatisfactory decision, or if the hearing officer fails to issue a decision within the prescribed timelines, either party may file a written appeal with the SAA. The written appeal must be filed with the SAA within 15 days of the date of the hearing officer's decision, or within 75 days of the auditee's written request for a hearing if no hearing decision is timely issued. The SAA shall be given all necessary information, including, but not limited to, the following:
1. The complaint.
 2. A summary of the efforts to informally resolve the complaint.
 3. Tapes of and exhibits from the hearing.
 4. The hearing officer's written decision, if timely issued.

The SAA will complete its review and issue a final decision within 45 days from the date the request was received. The SAA may assign disallowed costs and demand repayment, negotiate alternative payments, or impose any other remedies or sanctions allowed by law.

If the Awarding Agency is the SAA, then the hearing officer will issue a recommended resolution for consideration by the SAA. The SAA will review the hearing officer's recommendation and issue a final decision within 45 days from the date of the hearing officer's recommendation.

- D. The Awarding Agency that conducted the audit or monitoring review shall ensure the correction of any unresolved administrative findings. The Awarding Agency shall determine the status of the unresolved administrative findings through its monitoring process and determine that appropriate corrective action has been taken. A copy of the monitoring report substantiating the implementation of the appropriate corrective action must be filed with the audit report. In the event the Awarding Agency fails to take corrective action to secure compliance with the Act and regulations, the SAA may impose sanctions and corrective actions to secure prompt compliance.

VI. DEBT COLLECTION PROCEDURES

- A. When the resolution process results in a final order by the Awarding Agency that WIA funds were misspent, a debt is established on the part of the subgrant recipient or contractor and the Awarding Agency will maintain an accounts receivable control sheet on the amount in question.

The Awarding Agency is expected to collect the debt. However, if a subgrant recipient or contractor appeals, no further collection action will be taken pending the outcome of the appeal.

The Awarding Agency will give written notice to the subgrant recipient or contractor of the following:

1. The amount of the liability;
 2. The reason for establishing the debt; and
 3. Give notice that the debt will become delinquent within 30 days if not resolved or if a satisfactory alternative repayment plan has not been negotiated.
- B. The preferred corrective action for disallowed costs is non-Federal cash repayment. With prior approval from the SAA, other options for debt resolution that may be offered by the Awarding Agency include offsets against subsequent grants or a reduction in payments.
 - C. If the debt is not repaid or resolved in 30 days, a second more strongly worded 30 day notice will be sent. If no satisfactory resolution occurs at the end of the second 30 day period, a third and final collection letter will be sent.

The final collection letter will indicate that the Awarding Agency will impose one or more of the following sanctions:

1. Withhold payments due the contractor.
 2. Initiate litigation.
 3. Withhold future funding where appropriate.
 4. Terminate the current contractor agreement.
 5. Initiate debarment.
- D. If the debt is still outstanding after 90 days, a determination will be made by the Awarding Agency to use other methods of collection. In making this determination, consideration will be given to the following factors:
1. Amount of the debt.
 2. Cost of further collection.
 3. Amount collected to date.
 4. Probable success of collection.
- E. Before any debt is compromised or terminated, approval must be obtained from the SAA. The Awarding Agency may request that the SAA submit a waiver of liability to the U.S. Department of Labor for uncollected disallowed costs if it can be demonstrated that such a request would satisfy the requirements of 20 CFR § 667.720.
- F. Any debt involving fraud or abuse shall be repaid in cash. Funds collected in settlement of these debts must be returned to the SAA. The refund check must identify the year to which the misexpenditures were originally charged.

When the debt was not the result of fraud or abuse, the cash repayment of the disallowance will be treated as a credit for the year in which it was originally charged. If the year of allocation is still open, the Awarding Agency may expend the funds for program purposes. Cash payments received after the fund availability period must be returned to the SAA.

INQUIRIES:

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