



AUDIT RESOLUTION and DEBT COLLECTION

SAWDC Policies and Procedures

POLICY #: G202

Effective Date: November 28, 2012

BACKGROUND:

While the Workforce Investment Act (WIA) and Washington State (State) policy requires these policies and procedures for all WIA-funded programs, the Spokane Area Workforce Development Council (SAWDC) is applying the policy to all SAWDC-issued funds and programs. The text immediately below provides background and reference information for the basis of this policy.

Workforce Investment Act—Public Law 105-220. The chief elected official in a local area shall serve as the local grant recipient, and shall be liable for any misuse of the grant funds allocated to the local area under WIA sections 128 and 133. Each state, local area and provider receiving WIA funds shall comply with the appropriate uniform administrative requirements for grants and agreements applicable for the type of entity receiving the funds, according to the OMB circulars or rules [WIA Section 184(a)(3)(A)].

Workforce Investment Act Final Regulations

The WIA Regulations audit requirements are at Section 667.200(b). All governmental and non-profit organizations must follow the audit requirement of Circular A-133. These are found at 29 CFR 97.26 for governmental organizations and at 29 CFR 95.26 for institutions of higher education, hospital, and other non-profit organizations. Commercial organizations that are WIA Title I subrecipients must meet A-133 requirements.

Local policies, interpretations, guidelines and definitions to implement provisions of Title I of WIA should not be inconsistent with the Act and the regulations issued under the Act, Federal statutes and regulations governing One-Stop partner programs, and with State policies, WIA Regulations Section 661.120(a).

State of Washington Audit Requirements

State of Washington Policy is established by the office of Financial Management in the State Administrative & Accounting Manual (SAAM) Section 50.30, Compliance with Federal Single Audit Act.

Workforce Development Councils (WDCs) should ensure their entities and subrecipients comply with the requirements of A-133, federal and state laws, regulations, and state policies, including submittal of an annual audit plan, see 50.30.50 (SAAM).

AUDIT RESOLUTION POLICY:

The SAWDC is considered a "Pass-Through Entity" and has the following responsibilities according to A-133.400(d) and State of Washington Policy 50.30.50 (SAAM):

1. Properly identify federal awards by informing each subrecipient of the CFDA title and number, award name and number, award year and name of the federal agency;
2. Advise subrecipients of requirements imposed on them by federal laws, regulations, and the provisions of contract and grants agreements as well as any supplemental requirements imposed by the pass-through entity;

3. Monitor the activities of subrecipients as necessary to ensure that awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grants agreements and those performance goals are met.
4. Require subrecipients to provide an annual inventory of awards sufficient to allow the pass-through entity to determine whether a single audit is required;
5. Ensure that subrecipients expending \$500,000 or more (for fiscal years ending after December 31, 2003) in awards during the subrecipient's fiscal year have met the audit requirements of A-133;
6. Issue a management decision on audit findings within six months after receipt of the subrecipient's audit report and ensure that the subrecipient takes appropriate and timely corrective action;
7. Consider whether subrecipient audits necessitate adjustment of the pass-through entity's own records;
8. Require each subrecipient to permit the pass-through entity and auditors to have access to the records and financial statement as necessary to comply with A-133.

Pass-through entities must review subrecipient audits

To ensure that legal requirements are met, reviews of subrecipients must include processes and procedures to verify that applicable audit requirements are satisfied and audit findings are reviewed for timely corrective actions, see 50.30.55. 7. and 8. (SAAM). These include, review and follow-up on subrecipient single audits; and use checklists to document activities of review and follow-up on subrecipient audits or receipt of required reports and documents prior to closure of contracts or grant agreements.

Local Actions:

Audit Plan

As required, an audit plan is prepared annually and submitted to the Washington State Employment Security Department. Subrecipients that are public agencies are generally covered by A-133 audit procedures, are audited according to their fiscal period, and are audited by the Office of the State Auditor, State of Washington. Subrecipients that are private non-profit agencies are audited by an independent CPA firm of their choice.

Audit Procedures

Field work is conducted on site by the auditor per their schedule with the subrecipient.

Single Audit Act

The Department of Labor views the requirements of the Single Audit Act as consistent with the existing requirements of WIA and its implementing regulations. Compliance with the Single Audit Act will constitute compliance with WIA audit requirements. The SAWDC interface with Single Audit Act requirements will be governed by State WIA Policy.

Exit

Unless there is a major finding, the SAWDC is not generally part of exits conducted by the State Auditor's Office. Upon completion of the on-site audits, an exit briefing will be held with the appropriate Auditor staff, subrecipient and SAWDC staff.

The Auditor will simultaneously send a copy of the final audit report to the cognizant federal agency as appropriate, a copy to the subrecipient, and a copy to the SAWDC. The SAWDC Director will review the final report to determine the appropriate course of actions. If the report does not specify expenditures recommended for disallowance or questionable expenditures, or contain significant administrative findings, the SAWDC Fiscal Officer will review the audit and then return it to the SAWDC Secretary for inclusion in the official audit file. Copies of audit reports will be sent to the Washington State Employment Security Department by the State Auditor's Office or the SAWDC when a copy is received. A report containing expenditures recommended for disallowance, questioned expenditures, or significant administrative findings will initiate the audit resolution procedure pursuant to State Policy.

Audit Resolution

The SAWDC will maintain a file of subrecipient audit reports and log of audits awaiting final resolution.

The final audit report will constitute the SAWDC's initial determination. The subrecipient will have an opportunity to respond and provide additional documentation or explanation. The burden of proof in providing sufficient information or documentation to explain costs recommended for disallowance or questioned costs rests with the subrecipient. The SAWDC reserves the right to make its final determination solely upon the content of the final audit report. The subrecipient will have a 30 day period for comment and informal resolution.

The SAWDC will issue a final determination within 60 days of receipt of the subrecipient's response, at which time the subrecipient has no more than 30 days to submit an appeal letter specifying the reason for appeal. The SAWDC will issue a response to the appeal within 60 days of receipt. This response will be considered a final determination.

The audit resolution process is to be completed within 120 days after the receipt of the final audit report by the SAWDC Director. The audit resolution process will be completed when all questioned costs have been allowed, all administrative findings resolved or when a final debt is created.

DEBT COLLECTION POLICY

This Debt Collection Policy is intended to provide information and guidance on debt collection after all opportunities for appeal, request for waiver or offset have been exhausted. Additional information on appeals, waivers and offsets is contained in the Department of Labor, One-Stop Comprehensive Financial Management Technical Assistance Guide, Chapter 11-13 Disposition of Disallowed Costs and Washington State Policy 3255, Audit Requirements.

Debt collection and appeal procedures will comply with those established in State Policy No. 3265. Specifically, a debt is due within 30 days of issuance of the final determination. Intent to appeal must be made known to the SAWDC Director within 10 days of issuance of the final determination. Appeal will be subject to the provisions of the SAWDC hearing and complaint procedures and appropriate State policy.

Unless other arrangements have been documented and approved by ESD, the local area, and as appropriate, non-vendor entities providing contracted services, must pay all debts within 30 calendar days of the date on which the debt was established as final. When the debtor is unable to make restitution in full, an installment repayment agreement may be negotiated. Installment repayment 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. The ESD must approve all installment repayment agreements for WIA-related debts.

Each recipient of WIA funds shall be liable to repay amounts, with non-federal *and non-SAWDC issued* funds, found not to have been expended in accordance with the Workforce Investment Act of 1998 laws and regulations. In the federal resolution process, the Secretary (of the Department of Labor) makes a final determination if the misexpenditure of funds was due to willful disregard of the requirements of this title, gross negligence, failure to observe accepted standards of administration, or a demonstrated pattern of misexpenditure. No determination will be made by the Secretary until notice and opportunity for a fair hearing has been given to the recipient.

Each recipient of other SAWDC-issued funds shall also be liable to repay amounts, with non-SAWDC issued funds, found not to have been expended in accordance with the funded program guidelines. For all other funds, the SAWDC Executives will review and make a final determination of the misexpenditure of funds due to the willful disregard of the program rules and requirements, failure to observe accepted standards of administration, or demonstrated pattern of misexpenditure.

The SAWDC will maintain records that document the actions taken with respect to debt collection, restoration or other debt resolution activities will also document why the actions were taken.

Cash Settlement of Debts

The settlement of all debts resulting from fraud, malfeasance, or other serious violations or illegal acts must be cash from nonfederal sources, and non-SAWDC issued funds, unless otherwise determined by the Secretary (of the Department of Labor). Checks are payable to the SAWDC *and sent directly to the local SAWDC offices*. Funds collected in settlement of these debts will be clearly identified as Debts Collected. *Funds collected on WIA-related debts will be forwarded by the SAWDC to the Employment Security Department in Olympia.*

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 SAWDC may expend the funds within the cost limits. Cash payments received after the fund availability period must be remitted by the SAWDC to Specialized Accounting Services *in Olympia*.

Stand-in Costs

The use of stand-in costs may be considered as a substitute for disallowed costs in audit, or other resolution procedures. The application of stand-in costs occurs during the initial resolution process. If an auditee or other applicable party agrees that the questioned costs are disallowable and wishes to propose the use of stand-in costs; the proposal shall be included with the audit resolution report or other documents provided as comments to the SAWDC. If the auditee or other applicable party is uncertain about the allowability of the questioned costs before the initial determination, the proposal to use stand-in costs may be presented during the informal resolution period.

Stand-in costs are non-federal costs that may be substituted for disallowed grant costs when certain conditions are met. Stand-in costs must meet the following criteria:

- Have been actually incurred allowable grant costs that are considered to be uncharged to an ETA funded program, included within the scope of the audit and accounted for in the auditee's financial system as required by 29 CFR Part 95 or 97, as appropriate. Cash match in excess of the required match may also be considered for use as stand-in costs.
- To be accepted, stand-in costs must come from the same appropriation year as the costs that they are proposed to replace, and they must not cause a violation of the administrative or other costs limitations.

For a more detailed explanation of the use of stand-in costs, refer to One-Stop Comprehensive Financial Management Technical Assistance Guide, chapter II-12, Audits and Audit Resolution.

DEFINITIONS

Final Determination: Final Determination is the awarding agency's decision to allow or disallow questioned costs and the resolution of any non-monetary findings, with respect to Federal or non-federal determinations.

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

Upon establishment of a fund debt, the SAWDC's Fiscal Officer will establish accounts receivable in the SAWDC's records.

Funds received as repayment of debt will be processed per State Policy 3265 depending on if the debt resulted from fraud, malfeasance, or other serious violations or illegal acts or not. Proper follow-up with the audit resolution and monitoring unit's staff will be maintained.

ATTACHMENTS:

Sample letters to be used for notification:

A - Letter to Subrecipient from Director (Transmittal of Audit Report Only)

B - Letter to Subrecipient from Director (Initial Determination)

C - Letter to Subrecipient from Director (Final Determination)

REFERENCE:

- WIA Section 184
- 20 CFR Part 652
- Washington State Policies 3255 and 3265