




State of Alaska Department of Labor and Workforce Development

Division: Business Partnerships	Policy: 675.00 <i>Final</i>		
Subject: Resolution and Sanctions for Non-Compliance with Workforce Investment Act (WIA) Requirements	Pages: 6		
Reference: Workforce Investment Act of 1998, Section 184 (a)(5)(A) and (B), and Section 184 (b)(1); 20 Code of Federal Regulations (CFR) 667.410 and 20 CFR 667.500; U.S. Department of Labor, Employment and Training Administration, One-Stop Comprehensive Financial Management Technical Assistance Guide	Effective: 7/31/05		
	Revised:		
<table style="width: 100%; border: none;"> <tr> <td style="width: 60%; border: none;">Approved: <u></u> Corine Geldhof, Acting Director</td> <td style="width: 40%; border: none; text-align: right;"><u>October 31, 2005</u> Date</td> </tr> </table>		Approved: <u></u> Corine Geldhof, Acting Director	<u>October 31, 2005</u> Date
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1) Parties Affected

Recipients of Workforce Investment Act (WIA) funds from the Division of Business Partnerships (DBP)

2) Purpose

This policy provides DBP recipients with guidance on the process for resolving questioned costs or findings of non-compliance with the statutes, regulations and requirements of the WIA. This policy also provides guidance on the sanctions that might be imposed by DBP for non-compliance with the WIA requirements.

3) Definitions

- a) *Allowable Cost* is a cost that meets all of the requirements of a funding source and is not made in violation of any federal or state law, regulation, policy or other requirement.
- b) *Disallowed Costs* are questioned costs that have been formally determined by DBP to be in violation of the statutes, regulations, policies or other requirements governing the use of WIA funds.
- c) *Final Determination* is the formal decision of DBP concerning the resolution of a finding of non-compliance or the allowableness of questioned costs.
- d) *Finding of Non-compliance* is a matter identified by or brought to the attention of DBP concerning an activity of a recipient of WIA funds from DBP that may be a violation of the statutes, regulations, policies or other requirements governing the use of WIA funds.

- e) *Grant* is all of the documents included in the contractual agreement between DBP and a financial assistance recipient under one of the Division's job training programs and includes Reimbursable Services Agreements (RSA) with other state agencies where funds are provided for services to the public.
- f) *Initial Determination* is a preliminary decision by DBP concerning the resolution of a finding of non-compliance or the allowableness of questioned costs.
- g) *Questioned Costs* are costs that have been identified as possibly being in violation of one or more federal or state laws, regulations, policies or other requirements.
- h) *Recipient* is any individual or organization that directly receives WIA funds from DBP.

4) **Policy**

Recipients of WIA funds from DBP will comply with the requirements set forth in this policy regarding the resolution of findings of non-compliance and questioned costs, and any sanctions that might be imposed by DBP.

Requirements

As the state administrator of WIA funds, DBP may become aware of activities and any associated costs that may be violations of the requirements of WIA or other state and federal requirements. This may occur as a result of monitoring by Division staff, monitoring by the federal grantor agency, complaints, investigations or other similar activities. When findings of non-compliance or questioned costs are identified in relation to WIA funds from DBP, the following procedure will be used for making determinations to resolve the matters of concern. Any findings of non-compliance or questioned costs identified through independent audits of division recipients by Certified Public Accounting firms will be resolved through the Alaska Department of Labor and Workforce Development's Audit Resolution Policy. Any matters involving fraud or abuse should be resolved using DBP Policy #266.00, *Reporting Fraud and Abuse*.

- a) Resolution of findings of non-compliance and questioned Costs
 - i) When findings of non-compliance and/or questioned costs are identified, DBP staff will send a notification letter to the recipient which will include:
 - (1) Reference to the findings and/or questioned costs.
 - (2) Reference to the statutory, regulatory or other requirements with which compliance is questioned.
 - (3) A description of the actions that might be required to resolve the findings of non-compliance or questioned costs.
 - (4) A request for the recipient to provide written comments on the findings, questioned costs, and required actions.
 - (5) A statement that the recipient's comments should be provided, in writing, within 30 days of the date of the letter.
 - (6) A statement that, based on the recipient's response, DBP will issue a determination regarding the resolution of the findings or questioned costs.

- (7) A statement that if the findings or questioned costs are not resolved, appropriate sanctions may be taken by DBP.
- ii) If the recipient submits a written response within the 30 day time period referenced in the notification letter, DBP staff will assess the response. The assessment by DBP staff will:
 - (1) Compare the recipient's stated action with the required actions identified in the notification letter.
 - (2) Identify any differences between the two.
 - (3) Determine if the recipient's stated action will accomplish a result or end comparable to the required action.
 - (4) Determine whether the recipient's stated action will resolve the matter or if further action is required of the recipient.
 - (5) If further action is required, determine if actions other than those originally specified are required or appropriate.
 - iii) Following the assessment of the recipient's response, DBP staff will prepare a determination letter regarding the monitoring findings and questioned costs.
 - (1) If the recipient's response has not fully addressed all of the findings or questioned costs, or if there are other actions that are required of the recipient, an Initial Determination will be issued.
 - (2) If the recipient's response has fully addressed all of the findings or questioned costs and no further action is required of the recipient, a Final Determination will be issued.
 - iv) An Initial Determination will include:
 - (1) Reference to the notification letter.
 - (2) A summary of each finding of non-compliance or questioned cost; including identification of statutory, regulatory or other requirements with which the recipient is in violation.
 - (3) A summary of the recipient's response, if any, to each finding or questioned cost.
 - (4) DBP determination of the acceptability of the recipient's response as a resolution for each finding or questioned cost.
 - (5) Identification of any required actions the recipient must take to resolve any matters initially determined to be unresolved.
 - (6) A request that the recipient to submit a formal, written response regarding any unresolved findings or questioned costs within 30 days of the date the Initial Determination is transmitted to the recipient.
 - (7) An offer to the recipient to informally resolve the matter through the submission of additional information or documentation or negotiation with DBP staff.
 - (8) Reference to the issuance of a Final Determination.

- (9) Reference to possible sanctions, if the findings or questioned costs are unresolved in the Final Determination.
- v) Following the issuance of an Initial Determination, DBP staff may work with the recipient to informally resolve any outstanding findings of non-compliance or questioned costs. This informal resolution may include the following:
 - (1) Division staff offering to provide technical assistance to the recipient for resolving the findings of non-compliance or questioned costs.
 - (2) The recipient submitting new evidence, documentation or explanation in support of the resolution of findings or questioned costs.
 - (3) The negotiation of a Corrective Action Plan, which details who in the recipient's organization will take what specific actions within what time frame for resolving the findings or questioned costs.
 - (4) The negotiation of repayment plans or alternative debt collection methods, if appropriate.
- vi) Within 60 days of the date of the Initial Determination, DBP staff will review the results of any informal resolution activities and will make a final assessment regarding the status of findings of non-compliance and questioned costs. Based upon this assessment, the Division staff will develop a Final Determination on the findings or questioned costs.
- vii) The Final Determination will include the following:
 - (1) Reference to the notification letter or the Initial Determination, if one was issued.
 - (2) A summary of each finding of non-compliance or questioned cost including identification of the statutory, regulatory or other requirement with which the recipient is in violation.
 - (3) A summary of the recipient's response, including the results of any informal resolution, to each finding or questioned cost.
 - (4) Description of the areas in which the recipient and DBP disagree regarding the findings or questioned costs.
 - (5) DBP final determination on whether each finding of non-compliance is resolved or unresolved, and whether each questioned cost is allowed or not allowed.
 - (6) Specification of any additional actions required, such as repayment of disallowed costs, for each unresolved finding and questioned cost.
 - (7) Identification of the specific sanctions that will be imposed upon the recipient as a result of unresolved findings or disallowed costs.
 - (8) Reference to the right of the recipient to appeal the final determination to the DBP Director within 15 calendar days of the date of receipt of the Final Determination.
- viii) The Final Determination will be sent to the recipient via Certified Mail, Return Receipt Requested, to document the date upon which the recipient receives the document.

- b) Sanctions Resulting from Non-compliance
 - i) DBP may impose one or more sanctions as a result of issuing a Final Determination as described in this section of the policy.
 - ii) Repayment of Disallowed Costs.
 - (1) Repayment must be made within 30 days of the receipt of the Final Determination.
 - (2) Repayment must be in cash and must be paid from sources other than state or federal grants.
 - (3) Alternative repayment plans or debt collection methods may be negotiated if requested by the recipient within 30 days of receipt of the Final Determination.
 - iii) Suspension of Grant Activities
 - (1) Suspension of grant activities may be imposed for findings of non-compliance that do not involve disallowed costs.
 - (2) Suspension will be made in accordance with the provisions of Appendix A of the grant agreement.
 - iv) Reduction in the Grant Amount
 - (1) This sanction may be imposed if non-compliance pertains to one specific activity or phase of a project and performance on the remainder of the grant is determined acceptable.
 - v) Termination of the Grant
 - (1) May be imposed if the findings of non-compliance are material or if there has been blatant disregard for grant requirements.
 - (2) May be imposed if the recipient fails to repay disallowed costs within the required time.
 - (3) Will be made in accordance with the provisions of Appendix A of the grant agreement.
 - vi) Debarment
 - (1) Is imposed in the most serious of situations, such as when there is fraud or abuse.
 - (2) Prohibits the recipient from receiving any grants from the Division while debarred.
- c) Appeal of Final Determinations
 - i) Recipient may appeal a Final Determination to the DBP Director.
 - ii) The appeal must:
 - (1) Be provided in writing.
 - (2) Be received within 15 days of the recipient's receipt of the Final Determination.
 - (3) Specify the factual basis by which the appeal is being made.
 - (4) Include appropriate documentation to support the claim.

- (5) Specify the form of relief requested.
- iii) The DBP Director will:
 - (1) Issue a decision on the appeal in writing.
 - (2) Will provide the decision within 15 days of the receipt of the appeal or will provide a written notification to the appellant of an extension of the amount of time within which the decision will be provided.
- iv) The decision of the Director may be appealed to the Commissioner of the Alaska Department of Labor and Workforce Development in accordance with the Commissioner Level Appeal procedures established in DBP Policy #260, Appeals.

5) Responsibilities

- a) In accordance with this policy, staff of DBP are responsible for:
 - i) Issuing notification letters pertaining to non-compliance or questioned costs.
 - ii) Issuing Initial Determinations.
 - iii) Assisting recipients with informal resolution activities.
 - iv) Issuing Final Determinations.
 - v) Determining any sanctions to impose for unresolved findings of non-compliance or disallowed costs.
- b) The Director of DBP is responsible for issuing a written decision on any appeals of a final determination or sanctions imposed through this policy.
- c) Recipients of WIA funds from DBP are responsible for:
 - i) Providing a written response to any notification letter regarding findings of non-compliance or questioned costs.
 - ii) Conducting informal resolution activities in response to an Initial Determination.
 - iii) Undertaking any required actions identified in an Initial Determination.
 - iv) Complying with any sanctions imposed through a Final Determination.
 - v) Submitting an appeal of a Final Determination when sufficient basis exists for making such an appeal.