

Northwest Workforce Council

POLICY AND PROCEDURES DIRECTIVE

DATE ISSUED: August 25, 2005 (Rev 4/01/07)

SUBJECT: Debt Collection

REFERENCE: WIA 01-31

Policy

All debts of WIA funds incurred by subrecipients, subcontractors, service providers or other entities (excluding vendors), whether the result of unresolved audit findings or other unallowable costs, will be vigorously pursued.

Process

1. Upon receipt of an initial audit report from a subrecipient/subcontractor showing disallowed costs, NWC Deputy Director, or designee, shall verify the acceptability of the audit report and determine if any of the disallowed costs pertain to the subgrant/subcontract funded thru NWC. NWC shall demand from the subrecipient/contractor the repayment of the disallowed costs. If the initial determination indicates that the disallowance is not a result of fraud, gross negligence or willful disregard of the terms and conditions of the subgrant/subcontract, the use of stand-in costs may be considered in resolving the disallowed costs.
2. Stand-in Costs: The application of stand-in costs is an informal resolution activity. If the auditee agrees that the 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.

- g. 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.

The Deputy Director shall notify Employment Security Department of the on-going process. If no resolution is reached, then a final determination of the debt is issued.

3. Upon final determination or a decision issued on an appeal lodged by a subrecipient, subcontractor, service providers or other entities for cost disallowance or incidents of fraud, malfeasance or other serious violations or illegal acts, the Deputy Director must implement the formal debt collection procedure. A file will be kept in the Deputy Director's office that will contain a list all the actions taken and copies of letters and/all documents provided and/or received from the debtor. The Financial Director shall be notified of this action and instructed to set it up in the accounts receivable system.
4. Within five working days of the receipt of the final determination and/or decision, a letter will be sent to the debtor indicating the official establishment of the debt, the debtor's right to appeal, the appeal process including notification of the right to appeal the decision and request a hearing, the date the debt will be considered delinquent, the sanctions that may be imposed if the debt is not paid and the interest rate to be charged. (Interest rate will be based on the prime rate at the date of the letter) The letter should also specify that payment must be made within 30 days from the date of the letter and encourage debtor to respond to the request as soon as possible.
5. If the debt is not paid within 30 days of the first official notification, a follow-up letter will be sent to the debtor. 2 more collection letters will be sent to the debtor at 30-day intervals. At any time during the date of the initial notification of the debt up to the third notification, the debtor may appeal the determination and negotiate for resolution of the issue.
6. Appeal Rights:
 - a. The debtor will be advised of the appeal process and given 10 days after the third notification in which to request a hearing before an impartial hearing officer
 - b. Upon receipt of a hearing request, the Council's will arrange such hearing consistent with the Northwest Workforce Council's Complaint and Hearing Procedures.
 - c. Upon receiving the decision of the hearing officer, the Council will ensure that the adversely affected party is advised of any rights under WIA and Washington State Policy for further appeal.
7. If the debtor is unable to pay the full amount of the debt, the Deputy Director may enter into negotiation with the debtor for the satisfactory disposition of the amount owed. Depending on the amount of the debt and the ability of the debtor to pay the amount due, an installment repayment agreement may be drawn. This agreement is subject to approval of ESD prior to implementation. Payment should be made from non-federal sources. Unless the cost disallowance result from fraud, malfeasance, misapplication of

funds or serious violations or illegal acts, the use of offset from succeeding year's funding (if available) may be considered.

Debt Collection Procedures

1. Within five working days of the receipt of the final determination, send a written notification to the debtor about the final determination, stating amount to be reimbursed, reason for recovery action, a description of the appeal process, the date will be considered delinquent, the sanctions that may be imposed if the debt is not paid and the interest rate to be charged. The letter must also state that payment must be made within 30 days from the date of the first notification and encourage the debtor to respond to the request as soon as possible.
2. If the debt is not paid within 30 days of the first notification, 2 more follow-up letters will be sent to the debtor at 30-day intervals. At any time during the date of the initial notice to the third notification, the debtor may appeal the determination and/or enter into negotiation for the settlement of the debt. If an appeal has been lodged by the debtor, neither further notification nor collection action may be pursued until the appeal is settled.
3. If no appeal is filed, the debt is considered delinquent and legal action may be initiated.

Cash repayment from non-Federal funds is the preferred method of collection. Delinquent debts may be recovered by unilateral adjustment to payments, withholding of funds or litigation. If the debtor is a subgrantee/contractor who is willing and can demonstrate an inability to make full repayment, collection procedures may include installment payments, negotiated bilateral adjustments to payments, or provision of services of equal value in lieu of cash repayments or offset against future funding.

Installment repayment will be of short duration, from 3 to 12 months, with a maximum of 36 months unless a waiver to State Policy is obtained. The length of the repayment agreement will be negotiated based on the size of the debt and the debtor's ability to pay.

NNWC may request the State for waiver of liability if all collection efforts fail as long as the debt was not the result of fraud, gross negligence, willful disregard of the WIA Act and/or regulations or failure to follow accepted standards of administration.

REFERENCES:

Title 20 CFR 667.500 (a)(2)

One Stop Financial Assistance Guide

Washington State WIA POLICY NUMBER: 3265, Revision 1 - Debt Collection

NNWC Complaint and Hearing Procedures WIA 01-02