

DIRECTIVE NO: Supersedes:08-07

TO: WIA Service Providers

EFFECTIVE: January 2011

SUBJECT: Debt Collection

REFERENCES:

- Workforce Investment Act, Sections 133 and 184 (c) and (d)
- Title 20 Code of Federal Regulations (CFR) 667.500, 667.705, 667.720, 667.730 and 667.740
- WIA Directive WIAD01-5, Subject: Debt Collection (September 10, 2001)

PURPOSE:

The purpose of this directive is to establish procedures and policy by the City and County of San Francisco, Office of Economic and Workforce Development (OEWD), for the recovery of disallowed costs expended under the Workforce Investment Act (WIA) by any person or entity.

WIA requires repayment of disallowed costs resulting from misexpended funds. WIA regulations at 20 CFR 667.705 specifically state that: “The political jurisdiction(s) of the chief elected official(s) in a local workforce investment area is liable for any misuse of the WIA grant funds allocated to the local area under WIA sections 128 and 133, unless the chief elected official(s) reaches an agreement with the Governor to bear such liability.”

Therefore, the City and County of San Francisco is liable to the State of California Employment Development Department (EDD) for repayment of all disallowed costs incurred in the operation of the WIA program within its local workforce investment area.

POLICY:

It is the policy of OWED to aggressively pursue collection of all disallowed costs resulting from monitoring or audit findings and incident reports or other means pursuant to applicable laws and regulations.

PROCEDURE:

1. When OEWD disallows costs against a service provider as a result of an audit, monitoring finding or other means, it will notify the entity by certified mail of the following:
 - The amount of the disallowed costs;
 - OEWD's reason for establishing the debt;
 - The debt, if not resolved or a satisfactory alternative repayment plan has not been negotiated, will become delinquent within thirty days;
 - The debtor's administrative appeal rights.
2. An accounts receivable control sheet will be maintained on the amount in question.
3. OEWD will attempt to negotiate resolution of the debt or establish an agreed upon repayment schedule. Options for debt resolution, which may be offered at the discretion of OEWD, include cash, installment payments, or a reduction in payments owed for work performed at the time of closeout of the contract.
4. If the debt is not repaid or resolved within the thirty (30)-day period, a second more strongly worded thirty (30)-day notice will be sent. If no satisfactory resolution occurs at the end of this sixty (60) day period, a third and final collection letter will be issued.

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

- Withholding payments due the subcontractor;
 - Initiate litigation against the Service Provider;
 - Withholding future funding in accordance with the guidance at 29 CFR 97.36(b);
 - Termination of current agreements.
5. If the debt is not repaid as a result of the sanctions imposed above and it is still outstanding after the ninety (90)-day period, OEWD will make a determination regarding other means of resolution. It may, at its own discretion, request that EDD submit a waiver of liability to the U .S. Department of Labor of any disallowed cost if it can be demonstrated that such a request would satisfy the requirements as outlined in 20 CFR 667.720 of the WIA regulations.

In making this determination, consideration will be given to the following factors:

- The disallowed costs were not due to willful disregard, gross negligence, or fraud;
- OEWD has issued a final determination which disallows the costs, its appeal process has been exhausted, and a debt has been established; and
- Further debt collection action would be either inappropriate or futile.
- In cases where the disallowance is a result of fraud, waivers will only be requested when the following has occurred:

- OEWD discovered, investigated, reported, and cooperated in any prosecution of the perpetrator of the fraud; and
- After aggressive debt collection action, it has been documented that further attempts at debt collection from the perpetrator of the fraud would be inappropriate or futile.

Cash Repayments

Any debt involving fraud or abuse shall be repaid in cash. No other means of settlement will be considered. Funds collected in repayment of these types of debts will be returned to OEWD identifying the title, year and contract number to which the misexpenditure was originally charged. OEWD will forward this repayment to EDD for submission to the U. S. Department of Labor in accordance with 184(d)(1) of the WIA.

When the debt was not a result of fraud or abuse, the cash repayment of the disallowance is a credit to the program (adult, dislocated worker, etc.) and year of appropriation to which it was originally charged. If the year of appropriation is still open OEWD may reuse the funds in that program. Cash payments received after the appropriation period has expired must be remitted to the State.

ACTION:

The OEWD and its service providers shall follow this policy. This policy will remain in effect from the date of issue until such time that a revision is required.

INQUIRIES:

Inquiries should be addressed to the WIA Program Director at (415) 581-2314 or marc.majors@sfgov.org.

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