



DEBT COLLECTION POLICY

EDD Revision Date: 9/10/01

WDB Review Date: 5/23/02; 3/22/07; 12/17/15

EXECUTIVE SUMMARY

Purpose:

This document establishes the Workforce Development Board of Madera County's (WDB) policy on debt collection associated with the misspent or unexpended Workforce Innovation and Opportunity Act (WIOA) funds.

Scope:

Policy and procedures for debt collection associated with misspent WIOA funds as required under the WIOA which requires that all subrecipients expending WIOA funds to comply with federal and State debt collection requirements.

Effective Date:

This policy is effective on the date of approval by the WDB, pending release of new State guidance.

REFERENCES:

Note: References from WIOA are from the Act, as signed into law in July 2014. References from Title 20 of the Code of Federal Regulations (CFR) are cited from the Notice of Proposed Rulemaking, and are therefore subject to change pending issuance of final Federal Regulations.

- WIOA
- Title 2 OMB, CFR 200.338; 200.345; 200.428
- 20 CFR 683.730 - 683.750

STATE-IMPOSED REQUIREMENTS:

This directive may contain State-imposed requirements in **bold**, *italic* type.

FILING INSTRUCTIONS:

This policy implements the requirements of the new CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

BACKGROUND:

The WIOA requires that states establish fiscal controls. Among the required controls specified in OMB CFR Part 200 is a process for collecting debts. The policies and procedures described below have been used for other federal programs and will be used for WIOA.

POLICY AND PROCEDURES:

Definitions:

Final determination is the awarding agency's decision to allow or disallow questioned costs and resolve any nonmonetary findings.

Final debt is the amount owed based on the awarding agency's final determination if an appeal is not filed, 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.

Bad debt (debts which have been determined to be uncollectable), including losses (whether actual or estimated) arising from uncollectable accounts and other claims, are unallowable. Related collection costs, and related legal costs, arising from such debts after they have been determined to be uncollectable are also unallowable.

Policy:

The WDB is responsible for local subrecipient audit resolution and debt collection action. At the State level, audit resolution and debt collection are the responsibility of the Employment Development Department's (EDD) Compliance Review Division (CRD).

Any funds paid to the non-Federal entity in excess of the amount to which the non-Federal entity is finally determined to be entitled under the terms of the Federal award constitute a debt to the Federal Government. If not paid within 90 calendar days after demand, the Federal awarding agency may reduce the debt by: (1) Making an administrative offset against other requests for reimbursement; (2) Withholding advance payments otherwise due to the non-Federal entity; or (3) Other action permitted by Federal Statute. Except where otherwise provided by statutes or regulations, the Federal awarding agency will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (31CFR parts 900-999). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

The settlement of all debts resulting from fraud, malfeasance, misapplication of funds or other serious violations or illegal acts must be cash from nonfederal sources. ***Funds collected by LWDS's in settlement of these debts must be returned to CRD immediately on their receipt.*** The mailing address for CRD is:

Employment Development Department
Compliance Review Division, MIC 22M
P. O. Box 826880

The Madera County Workforce Investment Corp. (MCWIC) will maintain records that document the actions taken with respect to debt collection, restoration, or other debt resolution activities. MCWIC will also document why the actions were taken to support their decisions. 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, MCWIC may expend the funds within the cost limits. Cash payments received after the fund availability period must be remitted to CRD.

Procedures:

The following procedures will be followed in order to collect an outstanding debt of Federal funds:

- MCWIC will notify subrecipients in writing of the establishment of the debt, their appeal rights, the date that the debt will be considered delinquent, the sanctions (which may include but are not limited to debarment) if the debt is not repaid and the interest rate charged, if any;
- Three debt collection letters will be sent to the subrecipient at no less than 30 calendar day intervals;
- MCWIC will establish an outstanding debt category in their accounts receivable system;
- MCWIC standards and specifications for terminating, compromising, and litigating debts unless specifically stipulated in contract provisions will be the following: It is not our policy to compromise debts. Debts may proceed to litigation if no response is received within 30 days of the final debt collection letter. Debts will not be terminated unless MCWIC has established that there is no reasonable means to collect.
- A permanent record of all debt collection cases and their status will be kept on file. To be relieved of liability for a subrecipient's debt, MCWIC will submit a written request that EDD seek Department of Labor (DOL) agreement to forego collection action to CRD. Requests will include documentation and other demonstrations of facts showing compliance with WIOA NPRM Section 683.730. Mere statements of compliance and recitation of the criteria will not be submitted. Examples of appropriate documentation which may be included, but are not limited to, proof that debt collection letters were sent (e.g., returned certified mail receipts), litigation was conducted and withholding of funds was attempted. Without the prior approval of both CRD and DOL, MCWIC will remain responsible for repayment of the entire debt. Unless other arrangements have been documented and approved by CRD, MCWIC, and (when appropriate) the subrecipient, all WIOA debts must be paid 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 agreements 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 CRD must approve all installment repayment agreements.

CRD will:

- Instruct the Fiscal Programs Division (FPD) to issue an invoice with payment due date and the interest charge, if any, to the local area once a final debt is established.
- Notify FPD to issue two additional invoices to the local area at 30 calendar day intervals, when payment has not been received or a satisfactory alternative repayment plan has not been negotiated.
- Determine whether to use another method of collection if the debt is still outstanding after 90 calendar days. In making the determination, consideration will be given to the amount of the debt, the cost of further debt collection, the amount collected to date, and the probable success of pursuing further collection action.
- Notify the Chief Elected Official of each relevant unit of general local government, if the agreed upon payment is not received within 90 calendar days after the date of the third invoice. When multiple units of general local government are designated as the local area, the liability of the individual jurisdictions must be specified in a written agreement between the chief elected officials.

INQUIRIES:

If you have questions, please contact the Executive Director or Fiscal Manager at (559) 662-4500.