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**Workforce Investment Act  
State Compliance Policies**

**Section: 3.2**

**Audit Process**

**September 2006**

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**I. INTRODUCTION:**

This policy encompasses audit, audit resolution, sanctions and debt collection procedures, which may arise as the result of an audit, monitoring finding or investigation [§667.500 (a) (2&3)].

For the purposes of ensuring that terminology is consistent with the OMB Circulars, “recipients” are defined as a non-Federal entity that receives federal funding directly from a Federal-awarding agency.

**II. AUDIT REQUIREMENTS:**

- A. The Local Workforce Investment Boards (LWIBs) must ensure that the LWIB and their subrecipient organizations that expend \$500,000 or more in Federal financial assistance funds (received from all federal sources combined) during its fiscal year, to operate one or more programs, undergo an audit. The audit is to be conducted pursuant to PL-104-156 (Single Audit Act) and implemented in Circular OMB A-133 and in 29 CFR 97.26 and 95.26.
- B. The LWIBs and their subrecipients must ensure that they are in compliance with all audit requirements such as having a timely audit conducted in accordance with the Single Audit Act of 1984 (PL 104-156) (OMB Circular A-133 revised June 27, 2003 and CFR Parts 96 and 99).
- C. Final audit reports are to be submitted to the State within thirty (30) days after receipt of auditor’s report or not later than nine months after the end of the auditee’s (LWIB and subrecipient) fiscal year.
- D. To ensure these timelines are met, the LWIBs and their subrecipients will be required to submit to the state letters of engagement from an independent auditing firm within one month after the end of their respective fiscal years. The letter of engagement must include a start date and anticipated completion date.
- E. Failure to meet the timelines for the submission of either the letters of engagement or the required audit will result in one of the following (OMB Circular A-133 §.225) sanctions:
- Withholding a percentage of Federal awards until the audit is completed satisfactorily;
  - Withholding or disallowing overhead costs;
  - Suspending Federal awards until the audit is conducted; or
  - Terminating the award.
- F. All audits will be procured in accordance with State Policy 3.9.
- G. If the final audit report contains findings, the LWIB will have thirty (30) days after

receipt of the final report to submit a corrective action plan to the State.

- H. Auditors must retain working papers in accordance with Federal and State record retention requirements (see State policy 5.4). The auditor must assure that working papers will be available for examination by authorized representatives of the Governor of Nevada, federal oversight agencies, and the entity audited.
- I. The audit report may include findings (if applicable), recommendations, questioned costs, corrective actions and time frames for resolution. Adverse findings may be established in the State or internal monitoring process as well as in independent audits.
- J. Debts established through the internal and external monitoring process, as well as the audit, may be dealt with in accordance with §667.500, State policy 5.6 and paragraphs VI and VII in this policy.
- K. The notice of audits conducted or arranged by the Office of the Inspector General or the Comptroller General will be provided in advance.

### **III. RESOLUTION OF AUDIT FINDINGS:**

#### **A. Written procedures:**

Local Workforce Investment Boards (LWIBs) must have written procedures for resolving subrecipient audit findings. These procedures must include, but are not limited to, the following elements:

1. Audit Resolution Plan that includes corrective action steps and timetable for completion.
2. An initial determination, if necessary, which states:
  - a. All costs questioned or recommended for disallowance and administrative findings;
  - b. Whether these costs are allowed or disallowed and the reasons for such actions;
  - c. Acceptance or rejection of any corrective action taken to date including corrective action on administrative findings;
  - d. Statement of possible sanctions;
  - e. An offer for informal resolution of at least 60 days from issuance of the initial determination [§667.510 (c)].
3. An informal resolution period in which a subrecipient may present documentation to support allowability of costs [§667.510 (c)].
4. A final determination, which states:
  - a. Matters discussed during informal resolution and the results of the discussion;
  - b. A summation of the costs allowed and disallowed and acceptability of corrective action on administrative findings with reasons for any changes from the initial determination;
  - c. Establishment of a debt, if appropriate;
  - d. Time by which debt must be repaid and when debts become delinquent;
  - e. Whether or not interest will be charged and the interest rate;

- f. Any other required corrective actions and time frames by which they will be accomplished;
- g. Statement of possible sanctions;
- h. Procedures by which subrecipient may appeal to the State a decision of the entity making the determinations.

Time frames must be established for each step in the process and will be a part of the written audit resolution procedures. Total time for the resolution of an audit finding may not exceed 90 days from receipt of the final audit report of the subrecipient. Initial and final determinations will be mailed "Certified - Return Receipt Requested" to the State. Time frames established must be within the limits established in this policy.

**B. State Review of LWIB Resolution of Subrecipient Audit Findings:**

Local Boards are responsible for resolving adverse audit findings of its subrecipients in accordance with Audit, Audit Resolution, Sanctions and Debt Collection Procedures. A copy of the audit resolution plan, which includes audit findings, resolution of questioned costs, costs recommended for disallowance, and administrative findings must be sent to the State no later than thirty (30) days from the receipt of the final audit report from the audit firm.

Any requests for waivers of imposition of sanctions or of costs improperly incurred by subrecipients must be submitted to the State with supporting documentation no later than thirty (30) days after the issue of the final audit report [20 CFR 667.720 “The recipient requests such a waiver and provides documentation to demonstrate that it has substantially complied with the requirements of section 184(d)(2) of the Act, and this section.” and TAG II-13-4 and 5 “If the waiver request is made during the ETA audit resolution period, it must be made during informal resolution. If the waiver request relates to a debt established during the grantee’s resolution process, then a copy of the audit resolution document(s) or a resolution report must accompany the request.”]. When the State receives the resolution package from the Local Board, a letter will be sent within thirty (30) days indicating whether the documentation is sufficient for resolution and whether the request for waiver of imposition of sanctions is:

1. Approved and forwarded to the USDOL Grant Officer;
2. Disapproved and the reasons therefor; or
3. Pending until further documentation can be obtained to support the waiver request.

*Note:* When the State disapproves the resolution by the LWIB, procedures outlined in paragraphs IV.C. will be followed.

**IV. AUDIT RESOLUTION BY THE STATE [§667.500(a)(1)]:**

**A. State Agencies:**

The State of Nevada’s Legislative Counsel Bureau, Audit Division conducts regular audits of state agencies and provides a copy of preliminary findings and recommendations to the head of the audited agency.

**B. Non-State Agencies:**

A final audit report must be issued to the State by the audit firm within 30 days after the draft report has been issued, but no later than 9 months following the end of the fiscal year audited.

**C. Audit Resolution Plan:**

Within 30 days of receipt of the final audit report, each LWIB must submit an audit resolution plan that must specify plans and timetables for resolving corrective action. The plan must demonstrate how corrective action resolution will occur within 60 days of the receipt of the final audit report from the State. The audit resolution plan may include other documentation to substantiate LWIB position on adverse audit findings. The State will evaluate findings and recommendations reported by auditors and corrective action developed by the LWIB.

1. If the audit resolution plan is accepted by the State, a letter of resolution will be issued to the grantee within 30 days of receipt of the resolution plan. If the State determines that the audit is not satisfactorily resolved, an initial determination concerning unresolved audit findings will be issued to the grantee within 30 days of receipt of the resolution plan.
2. Each LWIB that has been issued an initial determination of findings will have 10 days from the receipt of the initial determination to request informal resolution. If informal resolution is not requested, the final determination will be issued.
3. All requests for resolution of initial determination of findings made by LWIBs will be submitted within 30 days of the initial determination. Additional information or documentation may be presented to substantiate the allowability of costs or to demonstrate that appropriate corrective actions on questioned costs or administrative findings has taken place.
4. Within 120 days of the initial determination, the State will issue a final determination. It will contain information on procedures by which the LWIB may request a hearing if the LWIB disagrees with all or part of the final determination.

**D. State Audit Resolution Calendar:**

<u>Activity</u>	<u>Time Frame</u>
Final Audit Report Issued	Submit within one month after receipt of auditor's report or not later than nine months after the end of the fiscal year.
Grantee Audit Resolution Plan	30 Days after Final Audit
Letter of Resolution	30 Days after receipt of Audit Resolution Plan
<b>OR</b>	
Initial Determination	30 Days after receipt of Audit Resolution Plan
Informal Resolution Request Due	10 Days from Initial Determination

**E. Debt Establishment/Collection:**

1. A debt will be established for disallowed costs included in the final determination. All questioned costs or costs recommended for disallowances that have not been resolved in the final determination will become disallowed costs.
2. Interest may be charged on debts established for disallowed costs. Interest may be charged from the day the debt becomes delinquent. The interest rate will be the current rate the State receives on its 90-day U. S. Treasury Bill Investment. After 90 days, if the debt is not resolved without good cause, a penalty fee of 5 percent of the debt and interest due will be included and added to the debt.

**F. Appeals:**

Except where preempted by specific federal law, regulation, or OMB Circular, the State Administrative Procedures Act, as set forth in Chapter 233B of NRS, shall govern the conduct of appeals from audits, monitoring findings, or investigations.

**G. Appeal Resolution Procedure at State Level:**

1. In a contested case, all parties must be afforded an opportunity for hearing after reasonable notice.
2. The notice must include:
  - (a) A statement of the time, place and nature of the hearing.
  - (b) A statement of the legal authority and jurisdiction under which the hearing is to be held.
  - (c) A reference to the particular sections of the statutes and regulations involved.
  - (d) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement must be furnished.
3. Any party is entitled to be represented by counsel.
4. Opportunity must be afforded all parties to respond and present evidence and argument on all issues involved. An agency may by regulation authorize the payment of fees and reimbursement for mileage to witnesses in the same amounts and under the same conditions as for witnesses in the courts of this state.
5. Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default. If an informal disposition is made, the parties may waive the requirement for findings of fact and conclusions of law.
6. The record in a contested case must include:
  - (a) All pleadings, motions and intermediate rulings.
  - (b) Evidence received or considered.
  - (c) A statement of matters officially noticed.
  - (d) Questions and offers of proof and objections, and rulings thereon.
  - (e) Proposed findings and exceptions.
  - (f) Any decision, opinion or report by the hearing officer presiding at the hearing.

7. Oral proceedings, or any part thereof, must be transcribed on request of any party.
8. Findings of fact must be based exclusively on substantial evidence and on matters officially noticed.

## V. **SANCTIONS AND METHODS OF REPAYMENT:**

State policy 5.6 contains possible sanctions and processes for resolving audit findings and other violations.

When repaying disallowed costs, cash is the required method of repayment if the debt is the result of misexpenditure of funds due to willful disregard of the requirements of the Act, gross negligence, or failure to observe accepted standards of administration; however, the Governor has several options for resolution of other debts. Settlement of such debts on a non-cash basis will be the exception. Any proposal for repayment other than cash will be submitted by the State to the DOL for review before approval is granted to the subrecipient. Other options include:

### A. **Stand-in Costs:**

Stand-in costs are substitutes, disbursed or accounted for from non-Federal funds for unallowable WIA cost identified in an audit report.

### B. **Offset:**

The Governor may use this option when DOL offsets a debt against the State and the debt resulted from misexpenditure by the subrecipient.

## VI. **RESTITUTION PAYMENTS:**

A. **Disallowed Costs/Debt Collection:** Disallowed costs will be repaid with non-federal funds. Liability of such costs resides with the local governmental organizations that comprise the Local Workforce Investment Areas. This would be to the extent that costs are not collectible from the source of disallowance.

B. **Restitution:** Restitution payments (Court Judgments) associated with disallowed costs will be made to the source as required by the court judgment. They will be returned at the same ratio the disallowed cost was paid by each contributing member of the consortium. Restitution payments up to the amount of disallowed costs will be returned to such organizations through the LWIB.

Restitution payments (Court Judgment) not associated with disallowed costs are to be returned to the State to be disposed of in accordance with instructions listed on the Court Judgment documents.