

EASTERN WASHINGTON PARTNERSHIP

WORKFORCE DEVELOPMENT COUNCIL

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SUBJECT DEBT COLLECTION POLICY

PURPOSE

The purpose of this policy is to set forth procedures for collection of any debt due and owed to the Eastern Washington Partnership Workforce Development Council (WDC).

BACKGROUND:

The Workforce Innovation and Opportunity Act (WIOA) requires all subrecipients expending WIOA funds to comply with Federal and State debt collection requirements. Among the required controls specified in Proposed Rule 20 CFR 683.420 (a)(i) is a process for collecting debts. Information on appeals, waivers and offsets is contained in the Department of Labor, One-Stop comprehensive Financial Management Technical Assistance Guide, Part II, Chapter II-13-Disposition of Disallowed Costs.

POLICY:

This policy applies to the debts owed based on the State or WDC's final decision or, if applicable, the decision issued on an appeal. Also included in final debts are funds due from incidents of fraud or other serious violations.

The WDC will conduct a process to collect any Final Debt that has been established based upon the WDC's final determination.

DEFINITIONS

Final Determination: Final Determination is the awarding agency's decision to allow or disallow questioned costs and the resolution of any non-monetary findings.

Final Debt: 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.

PROCEDURE:

Notification Process: Once it has been determined that a debt is owed the WDC by any subrecipient, the subrecipient shall be notified in writing of the existence and the basis of the debt. At this time the subrecipient will be notified of the date the debt will be considered delinquent and the interest rate charged, if any, on the balance due. If the subrecipient is entitled to file a grievance, it shall be notified of the availability of the WDC grievance procedures. The subrecipient shall be informed as to the possible sanctions (which may include but are not limited to debarment) if the debt is not paid. The WDC must send three debt collection letters to the subrecipient at no less than 30 calendar day intervals. The debt collection letters must be sent Certified Mail-Return Receipt Requested.

State Waiver in Event of Bankruptcy: In the event a subrecipient has filed a petition for bankruptcy, the WDC shall request from the State a waiver of any possible sanctions against the WDC. The request for waiver shall demonstrate that it has met the four criteria as stated below:

1. Established and adhered to an appropriate system for the award and monitoring of contracts with program operators that contains acceptable standards for ensuring accountability.
2. Entered into a written contract with such program operators that established clear goals and obligations in unambiguous terms.
3. Acted with due diligence to monitor the implementation of the program-operator contract, including carrying out of the appropriate monitoring activities (including audits) at reasonable intervals.
4. Taken prompt and appropriate corrective action upon becoming aware of any evidence of a violation of the WIOA or the Regulations under WIOA by such program operator.

Compromise of Debt: In the event a subrecipient desires to compromise a debt, the WDC shall make a determination as to whether or not the compromise is in its best interest. In making that determination, the WDC shall consider the following factors:

1. The amount of the debt.
2. Methods of repayment.
3. The cost of further debt collection.
4. The amount collected to date.
5. The probable success of any litigation.
6. The ability of a debtor to satisfy any judgment.

In the event it is determined to be in the best interest of the WDC to compromise a debt, the WDC shall request a waiver from the State of the amount to be compromised. In addition to the information forwarded to the State to request a waiver, the WDC shall include the factors considered in the compromise decision.

In the event a determination is made that it is not in the best interest of the WDC to compromise a debt, or if the subrecipient offers no compromise, a decision shall be made as to whether or not to litigate the claim. In making this determination, the WDC shall consider the following factors:

1. The amount of the debt.
2. The cost of further debt collection.
3. The amount collected to date.
4. The probable success of any litigation.
5. The ability of the debtor to satisfy any judgment.

Litigation of Debt: If the amount of the claim is within the jurisdiction of the small claims court, the litigation shall be instituted in small claims court. If the amount in controversy exceeds the jurisdiction of the small claims court, the WDC shall seek legal counsel with respect to the collection of the debt.

If, after consultation with legal counsel, it is determined that litigation is not in the best interests of the WDC, the procedures for a waiver set out above shall be followed. The opinion of counsel shall be in writing and shall be among the documents forwarded to the State in the request for waiver.

Debt Repayment: Unless other arrangements have been documented and approved by the Employment Security Department (ESD) and the WDC, 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 shall 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. ESD must approve all installment repayment agreements.

Disposition of Debt Settlement: 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. The WDC will forward funds collected in settlement of these debts to the Employment Security Department immediately upon their receipt.

When a debt was not a result of fraud, malfeasance, misapplication of funds or other serious violation or illegal act, 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, the WDC may expend the funds within the cost limits. Cash payments received after the fund availability period must be remitted to ESD.

Record of Debt Collection Cases: An outstanding debt category will be established in the WDC accounts receivable system that will detail the amount of the debt, the date the debt will become due, any payments received against the debt, and any interest to be charged. The WDC must maintain records that document the actions taken with respect to debt collection, restoration, or other debt resolution activities. The WDC must also document why the actions were taken to

support their decisions. A permanent record of all debt collection cases and their status will be maintained.

REFERENCES:

All fiscal policies and guidance letters published for WIOA are governed, as appropriate, under:

- Public Law 113-128, Section 184
- Proposed Rules 20 CFR Sections 683.410 (a) and 683.420 (a)(i) and 683.750
- 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 2 CFR Part 230, Cost Principles for Non-Profit Organizations
- 2 CFR Part 220, Cost Principles for Educational Institutions
- 2 CFR Part 225, Cost Principles for State, Local and Indian Tribal Governments
- Generally Accepted Accounting Procedures (GAAP)
- State Debt Collection Policy 5265