

NORTH CENTRAL COUNTIES CONSORTIUM
DEBT COLLECTION PROCEDURE

I. Purpose

The purpose of this directive is to establish guidelines relating to the collection of debts associated with the mis-expenditure of Workforce Innovation and Opportunity Act (WIOA) funds. It governs entities within the North Central Counties Consortium (NCCC) receiving funds under Title I of the WIOA.

The procedures included herein will govern the collection of debts which arise as a result of an audit, a monitoring finding, investigation or other means.

II. Background

The WIOA requires states to establish fiscal controls. In California, the Employment Development Department (EDD) is the administrative entity for federal WIOA funds. Among the required controls specified in Title 20 CFR Section 683.420(a)(1)(i) is a process for debt collection. The procedures described below have been used for other federal programs and will be used for WIOA funded programs in NCCC.

III. References

- WIOA (Public Law 113-128) Section 184
- Title 20 Code of Federal Regulations (CFR) Sections 683.410(a), 683.420(a)(1)(i) and 683.740
- Employment Development Department (EDD) Directive WSD22-07

IV. Definitions-

As used in this Procedure and EDD Directive WSD22-07.

- A. Awarding Agency- NCCC Administrative Entity
- B. Service Provider- Entities receiving WIOA funds from the NCCC Administrative Entity including, public agencies, private non-profit organizations, or private for profit entities that deliver educational, training, employment or supportive services to WIOA participants and, for the purpose of this Procedure, any such entity that provides goods or services to the WIOA program without serving specific WIOA participants.

- C. Final Determination- The awarding agency's decision to allow or disallow questioned costs and resolve any non-monetary findings.
- D. Final Debt- 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.
- E. Settlement of Debts- The settlement of all debts resulting from fraud, malfeasance, misapplication of funds or other serious violations or illegal acts must be from nonfederal sources.

V. **Procedures**

A. Responsibilities of Service Providers

- 1. Any service provider that wants to terminate or compromise a debt must first seek approval from the NCCC Administrative Entity which will in turn seek approval from the Employment Development Department (EDD). Any service provider that does not first receive approval for such actions may later be liable for the debt.

2. Debt Collection Remittance

- a. When it is determined that the action or inaction that resulted in the creation of the debt involved gross negligence, willful disregard of the requirements of the Act, failure to meet acceptable standards of administration, fraud, malfeasance, misapplication of funds or other serious violations or illegal acts, the repayment of the debt must be cash from a nonfederal source. Funds collected by NCCC in settlement of these debts will be returned to the Compliance Review Office (CRO) of the State Employment Development Department (EDD) immediately upon receipt. A Payment Advice form (Attachment 1), which details the program year, subgrant number, project name, and grant code associated with the debt settlement funds, must be remitted with a check or warrant made payable to the Employment Development Department to the EDD's Fiscal Program Division (FPD):

Mail Employment Development Department
 Fiscal Programs Division
 ATTN: MIC 70, Administration and Grants Unit
 PO Box 826217

The FPD will inform and coordinate with the CRO when the payment is received and posted. Once the payment is posted, the CRO will notify the subrecipient. The awarding agency subrecipient must maintain records that document the actions taken with respect to debt collection, restoration, or other debt resolution activities and why the actions were taken to support their decisions.

- b. When the debt is 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, awarding agency subrecipients may expend the funds within the cost limits. Cash payments received after the fund availability period must be remitted to the EDD.
3. The service provider is required to pay all debts within 30 calendar days from the date the awarding agency established the debt as final. Debts are considered to be delinquent 30 days after the final determination and are subject to the charging of accrued interest, unless a satisfactory repayment plan has been approved, when appropriate. Installment repayment agreements have a short duration ranging from 3 to 12 months, with a maximum of 36 months. The length of the installment repayment agreement will be negotiated based on the size of the debt and the service provider's ability to pay. The CRO must approve all installment repayment agreements.

B. Responsibilities of the Awarding Agency

1. When it is determined to be so, liability will be placed at the subrecipient level in all cases and for any reason, including a determination that the service provider did not meet the criteria set forth in Section 184 (d)(2) of the Act or as a result of an audit, a monitoring finding, an investigation or other means.
2. A written notification to the service provider establishing a proposed debt will be issued by NCCC. The notice will include:
 - a. notification of possible sanctions if the debt is not repaid (including being debarred from further funding pursuant to CUI Section 15061(b));
 - b. notification of appeal rights under the NCCC Complaint/Grievance Procedure;
 - c. options available, if any, for the method of repayment; if a method other than cash has previously been negotiated, terms will be so indicated.

3. After the time allowed for appeals has lapsed or after a decision that established a debt is rendered following an appeal, a written notification will be issued establishing a final debt. This notice will include:
 - a. an invoice issued by the Administrative Accounting Division of NCCC;
 - b. notification of the date the debt will be considered delinquent (unless other arrangements have been documented and approved by NCCC, all debts must be paid within 30 calendar days of the payment due date when the debt is established as final);
 - c. whether or not interest will be charged on the debt and at what rate;
 - d. a statement that the final determination of NCCC is subject to review by EDD and DOL.
4. A 30 and 60 day notice will be sent to the service provider if payment has not been received or a satisfactory alternative repayment plan has not been negotiated. Pursuant to CUIIC Section 15061(b), the 30 day notice will include language that the service provider will be barred from receiving WIA funds in the future from the State or any Local Workforce Investment Area (LWIA) if the final debt remains unpaid after 60 calendar days from the date that the debt is established as final. Pursuant to WIA Directive WIAD01-5 and CUIIC Section 15023(b), the 60 day notice will include language that final debts not paid within 90 calendar days of the due date, will become the liability of the relevant units of general local government which constitute the LWIA.

C. Resolution of Debts

1. Cash repayment from non-federal funds is required for the following mis-expenditures:
 - a. “Willful disregard,” “gross negligence,” or “failure to observe accepted standards of administration,” under WIOA Section 184 (d)(1).
 - b. “Illegal acts or irregularities” which are required to be reported in accordance with, the Office of Management and Budget Circular A-133 Subpart D .400 (a)(4).
2. All other debts may be resolved through the use of either cash or non-cash options. Any form of repayment other than full lump sum cash repayments will be submitted by NCCC to EDD for approval before approval is granted to the service provider. These options include the following:

a. Cash Installment Payments

Use of cash installment repayment may be used as a rare, last resort when debt collection efforts are impeded by an inability to pay the full debt amount in a lump sum. Cash installment repayment agreements will be of short duration, from three to 12 months with a maximum of 36 months. Duration will be based on the size of the debt and the debtor's ability to pay.

b. Withholding

This repayment method will involve withholding amounts owed the debtor for past services or other considerations already provided in satisfaction of the debt owed.

c. Adjustments in Payments

Under this method, an agreement is entered into with the service provider whereby the grant is reduced by the amount of the debt while the program is maintained at an undiminished cost level supported by non-federal contributions.

3. The Administrative Accounting Division of NCCC will maintain an accounts receivable system.
4. The Administrative Accounting Division of NCCC will maintain a permanent record of all debt collection cases and their status.