

**POLICY AND PROCEDURES DIRECTIVE**

**DATE ISSUED:**           **October 18, 2016**

**SUBJECT:**               **Debt Collection**

**REFERENCE:**           **WIOA 01-31**

**Background:**

WIOA requires, as specified in 20 CFR 683.420(a)(i), NWC (LWDB) establish 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**

All debts of WIOA funds incurred by NWC subrecipients, or other entities (excluding vendors) providing contracted services, whether the result of unresolved audit findings or other unallowable costs, will be vigorously pursued. A subrecipient debt is established when local NWC personnel judge a previously reimbursed expense to be unreasonable or unallowable in accordance with applicable DOL, [OMB 2 CFR Part 200](#) and/or [WIOA Title IB](#) requirements and guidelines, because of a subrecipient audit, fiscal or performance monitoring or in the normal course of project management.

**Process**

1. Upon receipt of an initial report showing an unallowable cost from a subrecipient or entity (excluding vendors) providing contracted services, NWC Deputy Director, or designee, shall verify the acceptability of the report and determine if any of the disallowed costs pertain to the contract funded through NWC. NWC shall demand from the subrecipient the repayment of the disallowed costs.

The Deputy Director shall notify Employment Security Department of the on-going process. If no resolution is reached, then a final determination of the debt is issued.

2. Within five working days of the receipt of the final determination and/or decision, a letter will be sent to the debtor indicating the official establishment of the debt, the debtor's right to appeal, the appeal process including notification of the right to appeal the decision and request a hearing (see Appeal Rights, #5, below), the date the debt will be considered delinquent, the sanctions that may be imposed if the debt is not paid and the interest rate to be charged. (Interest rate will be based on the prime rate at the date of the letter) The letter should also specify that payment must be made within 30 days from the date of the letter and encourage debtor to respond to the request as soon as possible.

3. If the debt is not paid within 30 days of the first official notification, a follow-up letter will be sent to the debtor. Two more collection letters will be sent to the debtor at 30-day intervals. At any time during the date of the initial notification of the debt up to the third notification, the debtor may appeal the determination and negotiate for resolution of the issue (see process in Appeal Rights, #5, below).
4. **Debt Repayment:** Cash repayment from non-Federal funds is the preferred method of collection. If the debtor is unable to pay the full amount of the debt, the Deputy Director may enter into negotiation with the debtor for the satisfactory disposition of the amount owed. Options may include the following:

Installment Payments - Installment repayment will be of short duration, from 3 to 12 months, with a maximum of 36 months unless a waiver to State Policy is obtained. The length of the repayment agreement will be negotiated based on the size of the debt and the debtor's ability to pay. This agreement is subject to approval of ESD prior to implementation.

Adjustment in payments offset: Under this method, an agreement is entered into with the debtor whereby the contract is reduced by the amount of the debt while the program is maintained at an undiminished cost level supported by non-federal contributions;

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

Additional Services: This method involves a repayment agreement with the debtor whereby additional grant services, above those originally agreed to with the NWC, paid through non-federal funds are received in lieu of cash. This method requires a written agreement signed by both parties with conditions regarding the type of funds to be used, documentation subject to audit, a description of the services rendered, and a time limitation.

5. **Appeal Rights:**
  - a. The debtor has been advised throughout the process of the right to appeal before an impartial hearing officer, with the final date to request an appeal 10 days following the third notification of the debt.
  - b. Upon receipt of a hearing request, the Council's will arrange such hearing consistent with the Northwest Workforce Council's Complaint and Hearing Procedures.
  - c. Upon receiving the decision of the hearing officer, the Council will ensure that the adversely affected party is advised of any rights under WIOA and Washington State Policy for further appeal.

- d. Upon final determination or a decision issued on an appeal lodged by a subrecipient or other entities for cost disallowance or incidents of fraud, malfeasance or other serious violations or illegal acts which confirms the debt owed, the Deputy Director must implement the formal debt collection procedure as described above.

**Documentation of All Debt Collection Actions Maintained**

A file will be kept in the Deputy Director's office that will contain a list all the actions taken and copies of letters and/all documents provided and/or received from the debtor through the process described throughout this policy. The Financial Director shall be notified of this action and instructed to set it up in the accounts receivable system.

**Settlement Funds Returned to ESD**

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 NWC in settlement of these debts must be returned to ESD immediately, identified as "Debts Collected", on their receipt to:

Finance and Administrative Services Division  
Employment Security Department  
P.O. Box 9046  
Olympia, Washington 98507-9046

**Cash Repayment Credit**

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, local areas may expend the funds within the cost limits. Cash payments received after the fund availability period must be remitted to Financial and Administrative Services Division at the address noted above.

**Request for Waiver of Liability**

NWC may request the State for waiver of liability if all collection efforts fail if the debt was not the result of fraud, gross negligence, willful disregard of the WIOA Act and/or regulations or failure to follow accepted standards of administration.

**REFERENCES:**

- Public Law 113-128, Section 184
- 20 CFR 683.410(a), 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