



COUNTY OF LOS ANGELES

department
of economic
opportunity
COUNTY OF LOS ANGELES

DEPARTMENT OF ECONOMIC OPPORTUNITY CONTRACT COMPLIANCE DIRECTIVE

DATE: **October 10, 2023**

NUMBER: **CCD 23-04**

DEBT COLLECTION

EXECUTIVE SUMMARY

The purpose of this Directive is to provide all Department of Economic Opportunity (DEO) subrecipients receiving **any** federal funds with the policy and procedural guidance for the collection of disallowed costs.

This Directive supersedes CCD 19-2 dated December 13, 2019, "Debt Collection" and is effective on the date of release.

APPLICATION

This Directive is Workforce Innovation and Opportunity Act (WIOA) specific; however, it applies to all DEO subrecipients receiving **any** federal funds.

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
- 2 CFR Chapter I and Chapter II, Parts 200, 215, 220, 225 and 230- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

BACKGROUND

On December 26, 2013, the Office of Management and Budget revised the Uniform Administrative Requirements for federal grants, combining those requirements with those of the audit requirements and cost principles. These regulations are codified at 2 CFR Chapter I and Chapter II, Parts 200, 215, 220, 225 and 230, that became effective December 26, 2014, and are

referred to as the Uniform Guidance. These rules contain the requirements that subrecipient institute and implement internal controls in the managing of federally funded subawards. Among the required controls specified in Title 20 CFR Section 683.420(a)(1)(i) is a process for debt collection.

DEFINITIONS

Disallowed costs: means those charges to a federal award that the federal awarding agency or pass-through entity determines to be unallowable, in accordance with the applicable Federal statutes, regulations, or the terms and conditions of the federal award (2CFR 200.31). In addition, disallowed costs may occur with State and/or local funds that are deemed disallowed.

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.

Stand-in costs: are substituted costs, disbursed, or accounted for from non-federal funds, for unallowable subaward costs, for which there is a proven benefit, costs are for the same period and program, and have been audited.

Subrecipient: is a non-federal entity that receives a subaward from a pass-through entity to carry out part of a federal program but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other federal awards directly from the federal awarding agency (Title 2 CFR Section 200.93).

Suspension: means an action by the awarding agency that temporarily withdraws funding under a subaward or suspends contract services, pending corrective action by the subrecipient or pending a decision to terminate the subaward by the awarding agency.

Termination: means the ending of a federal award, in whole or in part at any time prior to the planned end of the performance period. (2 CFR 200.95)

POLICY AND PROCEDURES

DEO shall, by any means pursuant to applicable laws and regulations, aggressively pursue the collection of all disallowed costs resulting from monitoring or audit findings, incident reports and/or other reviews.

1. When DEO disallows costs against a subrecipient, it will notify the subrecipient by certified mail or by email of the following:

- The amount of the disallowed costs;
 - Notification that if the debt is not resolved or a satisfactory alternative repayment plan negotiated, within 30 days the debt will become delinquent; and
 - The debtor's administrative appeal rights.
2. DEO will maintain a Repayment Control Log for the subrecipient debtor.
 3. DEO will attempt to negotiate resolution of the debt, work with the subrecipient to determine whether stand-in costs are available to satisfy the debt and/or establish an agreed upon repayment schedule. Options for debt resolution, which may be offered at the discretion of the department, include cash or installment payments.

Stand-in Costs

The subrecipient may propose the use of stand-in costs to substitute for disallowed costs. For example, to be considered, stand-in costs must be incurred for allowable WIOA costs that were reported as uncharged WIOA program costs, included within the scope of the audit, and accounted for in the auditee's financial system. The stand-in cost must have been expended in support of the same title and program year as the costs they propose to replace, and the costs must not cause a violation of the cost limitations and requirements. Stand-in costs must be actual expenses paid with non-federal funds. Cash match in excess of the required match may also be considered for use as stand-in costs. Stand-in costs will not be considered in instances of willful disregard, gross negligence, or fraud.

4. If the debt is not repaid or repayment discussion with the subrecipient has not begun within the thirty (30) day period, a final collection notice will be issued by certified mail or email. The final collection letter will indicate that DEO will impose one or more of the following sanctions:
 - Suspension of payments;
 - Suspension of Contract services;
 - Placement in the Contractor Alert Reporting Database (CARD);
 - Termination of Contract;
 - Referral to the Office of the Los Angeles County Treasurer and Tax Collector;
 - Any actions outlined in the Agreement; and
 - Vendors having Unresolved Disallowed Costs in an amount over \$100,000 may not participate in active County solicitations for services unless such findings are resolved to the satisfaction of the County or are the subject of good faith negotiations.

All costs associated with the debt collection activities will be charged to the subrecipient.

DEO shall issue three debt collection letters to the subrecipient at no less than 30 calendar intervals before imposing sanctions.

Methods of Repayment

Funds collected in repayment of disallowed costs should be returned to DEO identifying the title, year, and contract number to which the mis-expenditure was originally charged. All debt settlements resulting from fraud, malfeasance, misapplication of funds, or other serious violations or illegal acts must be made in cash from non-federal sources.

Repayment should be done expeditiously, either as a lump sum or as installments following approval by the County or when required by the funding agency, to resolve a debt. (federal and County funds cannot be used to repay a debt). The standard maximum amount of time allowed for the installment method of repayment is two (2) years if approved by the County and when required by the funding agency. However, at its sole discretion, the County may extend the time limit due to demonstrated exigent circumstances, unless prohibited by the funding source. Repayment shall be made as follows:

County of Los Angeles Department of Economic Opportunity
Attn: FMD-Revenue Management
510 S. Vermont Ave.
Eleventh Floor
Los Angeles, CA 90020

Failure to repay the disallowed costs within the prescribed timeframes will result in future imposition of sanctions.

See Records Retention in the Agreement and Management Directive for information on how long subrecipients must retain records, reports, participant files and physical evidence.

Debt Collection Requirements for DEO

To be relieved of liability for a subrecipient's debt, DEO must submit a written request to the EDD's Compliance Review Office (CRO). The request is for the EDD to seek the US DOL's agreement to forego collection action (pursuant to the provisions of Title 20 CFR Section 683.740). A request to forego collection is not an option in instances of willful disregard, gross negligence, or fraud; unless:

- DEO discovered, investigated, reported, and cooperated in any prosecution of the perpetrator of the fraud; and
- After aggressive debt collection action, it had been documented that further attempts at debt collection from the perpetrator of the fraud would be inappropriate or futile.

Requests must include documentation and other demonstrations of facts showing compliance with WIOA Section 184(d) and Title 20 CFR Section 683.740. Mere statements of compliance and recitation of the criteria will not be acceptable. Examples of appropriate documentation include, 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 the CRO and the DOL, DEO will remain responsible for repayment of the entire debt. The request and supporting documentation must be submitted to the CRO through one of the following methods (email is preferred):

Email PACBCROIncidentReports@edd.ca.gov

Mail Employment Development Department
Compliance Review Office
Compliance Resolution Unit
PO Box 826880, MIC 22
Sacramento, CA 94280-0001

For non-WIOA federal programs, please contact appropriate agency.

Unless other arrangements have been documented and approved by the CRO, the awarding agency subrecipient and (when appropriate) their subrecipient, must pay all their WIOA debts within 30 calendar days of the date on which the debt was established as final. If the awarding agency subrecipient is unable to make restitution in full, then an installment repayment agreement may be negotiated. 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 awarding agency subrecipient's ability to pay. The CRO must approve all installment repayment agreements.

Debt Collection Remittance for DEO

All debt settlements resulting from fraud, malfeasance, misapplication of funds, or other serious violations or illegal acts must be made in cash from non-federal sources. *Debt settlement funds collected by DEO must be returned to the EDD immediately upon their 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
Sacramento, CA 94230-6217

For non-WIOA federal programs, please contact appropriate agency.

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.

ACTION

All DEO subrecipients receiving federal funds must ensure the requirements described herein are communicated throughout the operations, management, and governance structure of their respective organization and that this Directive is adhered to until further notice.

INQUIRIES

Inquiries regarding this directive and the policies and procedures described here in should be directed to Stephanie Maxberry SMaxberry@opportunity.lacounty.gov

Bill Evans, Administrative Director
Department of Economic Opportunity

Payment Advice

The check or warrant submitted to the Employment Development Department's (EDD) Administration and Grants Unit is to settle debt collection related to the following grant(s):

Subgrantee Name:	
Total Amount of Repayment:	
Check/Warrant number:	
Check/Warrant date:	

Project/Grant 1

Amount Repaid to Project:	
Year of Allocation:	
Sub Grant Number:	
Project Name:	
Grant Code:	
CATS Number/CRU case number (as applicable)	

Project/Grant 2

Amount Repaid to Project:	
Year of Allocation:	
Sub Grant Number:	
Project Name:	
Grant Code:	
CATS Number/CRU case number (as applicable)	

Contact Information (List Two Contacts)

Contact Name	Contact Title	Phone Number	Email Address

Payment Advice Instructions

1. One check or warrant is required for debt collection settlement. A table must be completed for each project or grant being settled. Additional tables may be added, if necessary. See the example below:

Subgrantee Name:	County
Total Amount of Repayment:	\$15,000
Warrant number:	56789
Warrant date:	10/11/22

Project/Grant 1

Amount Repaid to Project:	\$5,000
Year of Allocation:	2021-22
Sub Grant Number:	BB110222
Project Name:	WIOA Adult
Grant Code:	111
CATS Number/CRU case number (as applicable) 20XX-CA-000 = Incident Report 20XX-SA-000 = Single Audit Report Case 20XX-CR-000 = Referral Case	20XX-CA-000

Project/Grant 2

Amount Repaid to Project:	\$10,000
Year of Allocation:	2019-20
Sub Grant Number:	CC220033
Project Name:	WIOA Youth
Grant Code:	222
CATS Number/CRU case number (as applicable)	20XX-CA-000

2. Mail the Payment Advice form and the check/warrant payable to the **Employment Development Department**:
 Employment Development Department
 Fiscal Programs Division
 ATTN: MIC 70, Administration and Grants Unit
 PO Box 826217
 Sacramento, CA 94230-6217
3. Email a copy of the Payment Advice form and the check to the EDD's Workforce Services Branch's Financial Management Unit at WSBFinancialManagementUnit@edd.ca.gov