

Attachment M-1

Corrective Actions

It is the intent of the Arkansas Workforce Investment Board to be fully supportive of the local workforce investment system. To that end, the staff of the state board and other monitoring entities will assist local boards in addressing problem areas, complying with legal and regulatory mandates, and earning incentive awards.

When corrective actions are needed, technical assistance, clarification, and reasonable opportunities for corrective action opportunities will be offered first. Corrective action must occur within 90 days of notification that such corrective action is needed. There may also be instances where a violation has not yet occurred, but the grantee will be notified of a potential for problems so that corrective action may be taken on the recipient's own volition. Sanctions will be determined by the deliberateness, seriousness, and/or frequency of the violation. Failure to respond in good faith to corrective action or clarification requirements will lead to progressive sanction activity.

I. Arkansas State Monitoring System

- A. The Arkansas state monitoring system has the following components: *[20 CFR 667.410(b)]*
- Annual on-site monitoring reviews of local areas' compliance with Department of Labor (DOL) uniform administrative requirements as required by WIA §184(a)(4), including the appropriate administrative requirements for subrecipients and the applicable cost principles indicated at 20 CFR 667.200 for all entities receiving WIA Title I funds. *[20 CFR 667.400(b)(2)]*
 - Procedures to ensure that established policies to achieve program quality and outcomes meet the objectives of the Workforce Investment Act of 1998, Act 1125 of 1999, the Interim Final Rule, directives of the Arkansas Workforce Investment Board, and any other regulations concerning the Workforce Investment Act, including the provision of services by One-Stop centers, eligible providers of training services, and eligible providers of youth activities
 - Procedures to enable the Governor of Arkansas (Governor) to determine if subrecipients and contractors have demonstrated substantial compliance with WIA requirements
 - Procedures to enable the Governor to determine whether a local plan will be disapproved for failure to make acceptable progress in addressing deficiencies, as required in WIA §184(a)(5)

- B. Appropriate state entities will conduct regular oversight and monitoring of WIA activities of the state and local areas in order to: *[20 CFR 667.410(a)]*
- Determine that expenditures have been made against the cost categories and within the cost limitations specified in the Workforce Investment Act of 1998, Act 1125 of 1999, and applicable regulations and OMB circulars.
 - Determine whether or not there is compliance with other provisions of the above acts and regulations and other applicable laws and regulations
 - Provide technical assistance as necessary and appropriate
- C. Local areas, subrecipients, and contractors must conduct regular oversight and monitoring of applicable entities (including subrecipients and contractors of awarded funds) in order to accomplish the objectives listed in I(B) above. *[20 CFR 667.410(a)]*
- D. Each local area and subrecipient must continuously monitor grant-supported activities in accordance with the uniform administrative requirements at 29 CFR parts 95 and 97, as applicable, including the applicable cost principles indicated at 29 CFR 97.22(b) or 29 CFR 95.27 for all entities receiving WIA Title I funds. *[20 CFR 667.400(c)]*
- E. Prompt corrective action will be taken if any substantial violation of a standard is found. *[WIA §184(a)(5); 20 CFR 667.410(b)(4)]*
- F. The Governor will impose the sanctions provided in WIA §184(b) and §184(c) in the event the Governor determines that there is a substantial violation and corrective action has not been taken. *[20 CFR 667.410(b)(5)]*
- G. The Governor or the Arkansas Workforce Investment Board may issue additional requirements and instructions to subrecipients on monitoring activities.
- H. The Governor will certify to the Secretary of DOL (Secretary) every two years that:
- The State has implemented uniform administrative requirements
 - The State has monitored local areas to ensure compliance with uniform administrative requirements
 - The State has taken appropriate corrective action to secure such compliance
- I. The Secretary is authorized to monitor all recipients and subrecipients of all grants awarded and funds expended under WIA Title I to determine compliance with the Workforce Investment Act of 1998 and its regulations, and may investigate any matter deemed necessary to determine such compliance. *[20 CFR 667.400]*

II. Liability for Funds

The chief elected official(s) in a local workforce investment area is (are) liable for any misuse of the WIA grant funds allocated to the local area under WIA sections 128 and 133. When a local workforce area is composed of more than one unit of general local government, the joint liability of the individual jurisdictions must be specified in a written agreement between the chief elected officials. *[WIA §117(d)(3)(B)(i)(I); WIA §101(6)(B); 20 CFR 667.705; Act 1125 §3(1)(C); Act 1125 §11(b); Act 1125 §11(c)]*

III. General Guidelines for Corrective Actions:

- A. Notifications of corrective actions and sanctions will be made in writing, with copies provided to the chair of the local workforce investment board and the chief elected official(s). Notifications will include timelines for instituting corrective action. An opportunity may be given for relevant parties to meet and discuss appropriate actions. As appropriate, appeals may be made in accordance with the Grievance and Appeals Procedure.
- B. Amounts received under WIA Title I found not to have been used in accordance with Workforce Investment Act statutes or regulations must be repaid with **non-WIA** funds.

IV. Failure of Local Areas to Meet Performance Standards *[WIA §136(h); Act 1125 §(6); 20 CFR 666.420]*

- A. If a local area fails to meet levels of performance, based on the cumulative calculation method established by DOL for evaluating state programs, for any of the program areas (Adults, dislocated workers, older youth, and younger youth), customer satisfaction indicators, or state-imposed indicators, for any program year, the Governor must provide technical assistance, which may include assistance in the development of a performance improvement plan or the development of a modified local plan. This technical assistance will be provided from funds reserved for statewide workforce investment activities under WIA §128(a) and WIA §133(a)(1), or, upon the Governor's request, by the Secretary of the Department of Labor (Secretary). Technical assistance may include the development of a performance improvement plan, a modified local plan, or other actions designed to assist the local area in improving performance.

- B. If such failure continues for a second consecutive year, the Governor must take corrective actions, which may include development of a reorganization plan through which the Governor may:
- Require the appointment and certification of a new local board (consistent with the criteria established by the Workforce Investment Act of 1998, Act 1125 of 1999, and board directives)
 - Prohibit the use of eligible providers and One-Stop partners identified as achieving a poor level of performance
 - Take such other actions as the Governor determines are appropriate.
- C. The local area may appeal a reorganization plan, following the Grievance and Appeals Procedure. The decisions made by the Governor will remain effective unless the Secretary rescinds or revises such plan.

V. Eligible Providers of Training Services *[WIA §122(f)]*

- A. If the Arkansas Employment Security Department (AESD) (the state agency designated to identify eligible providers of training services), after consultation with the local workforce investment board involved, determines that an eligible provider or individual supplying information on behalf of the provider intentionally supplies inaccurate information under WIA §122, AESD shall terminate the eligibility of the provider to receive funds described in WIA §122(a) for a period of time, but not less than 2 years.
- B. If AESD, the Arkansas Workforce Investment Board, or the local board involved determines that an eligible provider under WIA §122(a) substantially violates any requirement under the Workforce Investment Act, AESD or the local board may terminate the eligibility of such provider to receive funds described in WIA §122(a) for the program involved or take such other action as AESD or the local board determines to be appropriate.
- C. A provider whose eligibility is terminated under V(A) or V(B) shall be liable for repayment for all funds described in WIA §122(a) received for the program during any period of noncompliance.
- D. This procedure shall be construed to provide remedies and penalties that supplement, but do not supplant, other civil and criminal remedies and penalties.
- E. An appeal may be made following the Grievance and Appeals Procedure.

VI. Financial and Compliance Audits *[WIA §184; 20 CFR 667.710]*

- A. If the Governor determines that a local area is not in compliance with the uniform administrative requirement referred to in WIA §184(a)(3)—29 CFR part 95 or part 97 as appropriate, the Governor must require corrective action. If the local area fails to take timely corrective action, the Governor must impose one of the following sanctions:
- Issue a notice of intent to revoke approval of all or part of the local plan affected; OR
 - Impose a reorganization plan, which may include
 - Decertifying the local board involved
 - Prohibiting the use of eligible providers
 - Selecting an alternative entity to administer the program for the local area involved
 - Merging the local area into one or more other local areas
 - Making other such changes as the Secretary or the Governor determines necessary to secure compliance.
- B. If, as a result of financial and compliance audits or otherwise, the Governor determines that there is a substantial violation of a specific provision of WIA Title I and a corrective action has not been taken, the Governor must impose the sanctions listed in VI(A) above.
- C. The actions taken by the Governor may be appealed to the Secretary in accordance with the Grievance and Appeals Procedure. The actions will not become effective until the time for appeal has expired or the Secretary has issued a decision.
- D. The Governor is authorized to impose any sanction consistent with the provisions of WIA Title I and any applicable federal or state law directly against any subgrantee or contractor for violation of WIA Title I, including regulations issued under WIA Title I.

VII. Sanctions to be taken by the Secretary of the Department of Labor (Secretary)

- A. The Secretary will promptly review and take appropriate action with regard to alleged violations of the provisions relating to: *[20 CFR 667.269]*
- Employment generating activities as described in 20 CFR 667.262
 - Other prohibited activities as described in 20 CFR 667.264
 - The limitations related to sectarian activities as described in 20 CFR 667.266
 - The use of WIA title I funds to encourage business relocation as described in 20 CFR 667.268

- B. Sanctions and remedies for the following violations will include repayment to the United States in accordance with WIA §184: *[20 CFR 667.269]*
- Construction as described in 20 CFR 667.260
 - Employment generating activities as described in 20 CFR 667.262
 - Other prohibited activities as described in 20 CFR 667.262
 - The limitations related to sectarian activities in 20 CFR 667.266(a)
- C. Sanctions and remedies for encouraging business relocation as discussed in 20 CFR 667.268 include repayment to the United States in accordance with WIA §181(d)(3). *[20 CFR 667.269]*
- D. Violation of the limitations related to sectarian activities in 20 CFR 667.266(b) will be handled in accordance with the Department of Labor nondiscrimination regulations implementing WIA §188. *[20 CFR 667.269]*
- E. If the Governor does not take corrective action for noncompliance with the uniform administrative requirements described in VI(A) above, the Secretary will impose corrective action. In such situations, the Secretary may immediately suspend or terminate funds in accordance with WIA §184(e). *[WIA §184(b)(3); 20 CFR 667.700(c)]*
- F. The Secretary is authorized to impose any sanction consistent with the provisions of WIA Title I and any applicable federal or state law directly against any subgrantee or contractor for violation of WIA Title I, including regulations issued under WIA Title I. *[WIA §184(d)(3)]*

VIII. Additional Corrective Measures, Controls, and Sanctions

- A. The Arkansas Workforce Investment Board may establish other controls and procedures as may be necessary to assure the proper disbursement of, and accounting for, federal funds allocated to local areas under WIA Title I Subtitle B and to ensure that financial transactions are conducted and records maintained in accordance with generally accepted accounting principles applicable in the State of Arkansas.
- B. Nothing in these procedures prejudices the separate exercise of other legal rights in pursuit of remedies and sanctions available outside the Workforce Investment Act of 1998 or Act 1125 of 1999. *[20 CFR 667.860]*