



ADWS Policy Number: WIOA I – 5.2 Effective Date: October 18, 2022

Arkansas WIOA Title I Debt Collection Policy and Procedures

PURPOSE: The purpose of this policy is to explain the reasons and circumstances for the collection of debt due to disallowed costs and misspent funds from Arkansas Division of Workforce Services (ADWS) WIOA title I sub-recipients and to outline the procedures used in the collection of such debt. The policy and procedures were developed for local workforce development areas and any ADWS WIOA title I sub-recipient. Information using terms referring to local areas apply also to sub-recipients as appropriate. In addition, other programs administered by ADWS Employment Assistance, such as sub-recipients of discretionary grants or WIOA work-based learning grants, may be subject to the procedures described in this policy in order to collect debts due to disallowed costs and misspent funds.

REFERENCE:

WIOA (Pub. L. 113-128) §184

2 CFR 200

31 CFR Parts 900-904

20 CFR 683

Current versions of:

Arkansas' Monitoring and Oversight Procedures

ADWS Policy No. WIOA I - 6.1 (Arkansas Grievance, Complaint, and Appeal Procedures for WIOA Title I Activities)

BACKGROUND: The Arkansas Division of Workforce Services (ADWS), as the grant recipient of WIOA title I funds, is responsible for monitoring and oversight of WIOA title I subrecipients and contractors. Monitoring includes determining compliance with federal and state laws, regulations, guidance, and policies and ensuring compliance with 2 CFR 200 [WIOA §184(a)(4); 20 CFR 683.410(a)]. ADWS, as the WIOA grant recipient and as the administrative entity of the Governor, is required to develop the State monitoring system and to take prompt corrective action when non-compliance is found [20 CFR 683.410-420].

ADWS is responsible for establishing fiscal controls and for monitoring to ensure that all financial transactions carried out under their WIOA title I grants and sub-grants are conducted and records are maintained in accordance with generally accepted accounting principles [WIOA § 184(a)(1)]. When a local area is not in compliance with WIOA law, WIOA regulations, or the uniform administrative requirements, ADWS is responsible for requiring prompt corrective actions and repayment of misspent funds [WIOA § 184(a)(5); 20 CFR

683.410(b)(4)]. Federal regulations require ADWS to impose sanctions as provided in WIOA §184(b-c) if the subrecipient does not take the required corrective actions [20 CFR 683.410(b)(5)].

ADWS, as the grant recipient and the Governor's administrative entity, is responsible for all funds awarded to the agency under WIOA title I and is responsible for imposing corrective actions on the local areas when funds are not appropriately spent. ADWS is also responsible for collecting the repayment of misspent funds [20 CFR 683.710(a)]. Failure on the part of ADWS to collect misspent funds and/or to correct unacceptable situations in local areas will result in sanctions for the State of Arkansas imposed by the U.S. Department of Labor [20 CFR 683.700(b)]. In addition, if the State of Arkansas does not impose corrective actions on the local areas, the Grant Officer of the U.S. Department of Labor may impose actions directly against the local area or other sub-recipient [20 CFR 683.700(c,e)].

The local area's chief elected official(s) is liable for any misuse of the WIOA title I grant funds allocated to the local area by ADWS. When a local area is composed of more than one unit of general local government, the liability of the individual jurisdictions must be specified in a written agreement between the chief elected officials (CEOs). When there is a change in the chief elected official(s), the local workforce development board (LWDB) is required to inform the new CEO(s), in a timely manner, of their responsibilities and liabilities, as well as the need to review and update any written agreements among the CEOs. The use of a fiscal agent does not relieve the CEO(s) of responsibility for any misuse of WIOA title I grant funds [20 CFR 683.710(b)].

POLICY: ADWS, as the grant recipient of WIOA title I funds and as the administrative entity of the Governor in WIOA title I matters, will take measures to collect any debts associated with any misspent WIOA title I funds by sub-grantees. All misspent WIOA title I funds or disallowed costs must be repaid (including interest) with non-federal funds [2 CFR 200.410]. Sanctions will be imposed on the local area or the grant sub-recipient if funds are not reimbursed in accordance with the procedures below.

PROCEDURES:

Step 1: Questioned costs may be identified during a State monitoring visit, a desk review, a monitoring visit from the U.S Department of Labor or its representative(s), an investigation concerning a complaint, or through any other process. Questioned costs will be reported to the local area, and the local area will be given an opportunity to explain or correct the costs, as explained in Arkansas' Monitoring and Oversight Procedures.

An initial monitoring report or other official correspondence containing information about questioned costs will be sent to the local Workforce Development Board (LWDB) Director, the LWDB Chairperson, and the Chairperson of the Chief Elected Officials (CEOs). Included with the report will be a timeframe for response by the local area.

In compliance with Arkansas' Monitoring and Oversight Procedures, the local area must respond to a monitoring report or other official correspondence containing information about questioned costs within thirty (30) calendar days of the date of receipt of such correspondence or as otherwise stated in the correspondence. Through this response, the local area may provide clarification or other justification of the questioned costs. The local area may also report actions taken to correct activities that led to the questioned costs and repay the questioned costs with non-federal funds during this time.

If, after two (2) such responses from the local area or other sub-recipient, the local area or sub-recipient cannot justify or correct the questioned costs or does not repay the questioned costs within the time frame giving in the correspondence, a final determination report of disallowed costs (also called Final Determination) or other correspondence establishing the debt will be sent to the above individuals in addition to the other

CEOs. LWDB staff must share the information with all LWDB members. Disallowed costs are expected to be repaid, with interest, within thirty (30) calendar days of the date of the Final Determination or other correspondence establishing the debt.

In accordance with 2 CFR 200.410, 2 CFR 200.346, and the Federal Claims Collection Standard (31 CFR parts 900 – 999), interest will accrue from the date of the Final Determination or other correspondence establishing the debt at the same rate as the U.S. Department of Labor charges the states.

Actions that contributed to the disallowed costs will also be detailed in the Final Determination or correspondence. These detailed actions must be changed immediately to avoid further disallowed costs. Local areas or other sub-recipients will be monitored to ensure that such actions have been changed and that no further disallowed costs have accumulated.

Appeals may be made as described in the current version of ADWS Policy No. WIOA I – 6.1 (*Arkansas Grievance, Complaint, and Appeals Procedures for Title I Activities*). If an appeal is filed within ten (10) calendar days of the date of the Final Determination or other notice establishing debt and in accordance with the current version of ADWS Policy No. WIOA I – 6.1, the collection process will be delayed until the completion of the appeal process. Interest will not accrue during the appeal process.

ADWS will accept the following repayment options (all repayment must be from non-federal funds):

- Cash Repayment:
 - “Cash” is defined as a lump-sum payment of the entire debt, usually in the form of a check.
 - Cash is the preferred method of repayment. Settlement of debts on a non-cash basis will be by exception.
 - If the debt resulted from fraud, malfeasance, or other serious violations or illegal acts, repayment must be in cash. No other option is available.
 - Repayment of the debt in cash must occur within thirty (30) calendar days of the receipt of the Final Determination or other notice establishing the debt.
- Installment Payments:
 - An installment repayment agreement may be negotiated with ADWS when the sub-recipient is unable to make restitution in full within thirty (30) calendar days of receipt of the Final Determination or other notice establishing debt.
 - The installment repayment agreement is generally of short duration (3 - 12 months, depending on the size of the debt and the sub-recipient’s ability to pay), but it may be as long as 36 months, in compliance with the Federal Claims Collection Standards (31 CFR Part 900-904) and at the discretion of the Director of ADWS.
 - This method of repayment is not offered where debts result from fraud, malfeasance, misappropriation of funds, or other serious violations or illegal acts.
 - Interest on the unpaid balance will continue to accrue until the debt is paid in full.

- Stand-in Costs:
 - Stand-in costs are expenses that could have been charged to WIOA title I, but the expenses were paid with non-federal funds instead. Such expenditures must have been reported in the monthly expenditures report in the AWIS Financial System during the month each expenditure occurred.
 - The use of stand-in costs may be considered as a substitute for disallowed costs in audit or other debt resolution situations.
 - Stand-in costs must be substituted within thirty (30) calendar days of the date of the Final Determination or other notice establishing debt.
 - Interest will accrue during the time between the date of the Final Determination or other notice establishing debt until the stand-in costs are substituted.

Step 2: If the debt is not repaid or if acceptable payment arrangements are not made within thirty (30) calendar days of the receipt of the Final Determination or other notification establishing debt, a Debt Collection Notification will be sent to the local area, with copies to the Chairperson of the LWDB and all Chief Elected Officials (or appropriate representatives of other sub-recipients) by letter or email. (If an appeal is made, the Debt Collection Notification will be sent within 10 days of the date of the decision of the appeal.) The LWDB staff must send the notification to all other LWDB members. The notification will state that payment is due from the local area within thirty (30) calendar days of the date of receipt of the Debt Collection Notification. The ADWS Director may require more immediate action if, in the opinion of the Director or a designated appointee, the situation requires more immediate action.

Step 3: If payments are not made or repayment options are not negotiated within thirty (30) calendar days of receipt the Debt Collection Notification, a written notice, in the form of a non-compliance letter, will be sent to the local area or sub-recipient, including the LWDB members and the Chief Elected Officials (or appropriate representatives of other sub-recipients), stating special conditions or sanctions that will be imposed if funds are not repaid as required and the timeframe for the repayment of these funds. These sanctions may include, but are not limited to:

- Temporarily withholding funds until the disallowed costs are repaid [2 CFR 200.339(a)]
- Placing funds to the local area or other sub-recipient on a reimbursement basis rather than on advanced basis until the funds are repaid [2 CFR 200.208(c)(1)]
- Requiring additional, more detailed financial reports [2 CFR 200.208(c)(3)]
- Requiring additional project monitoring [2 CFR 200.208(c)(4)]
- Requiring the sub-grantee to obtain technical or management assistance [2 CFR 200.208(c)(5)]
- Establishing prior approvals for expenditures [2 CFR 200.208(c)(6)]
- Wholly or partly suspending or terminating the Federal award [2 CFR 200.339(c)]
- Withholding further Federal awards for the project or program [2 CFR 200.339(e)]
- Other corrective actions described in 2 CFR 200.208 or 2 CFR 200.339

Step 4: If disallowed costs are not repaid as stated in the Debt Collection Notification, then the sanctions listed in the Debt Collection Notification will be imposed. Examples of actions that may be taken are included above in Step 3.

Step 5: The Governor is required by WIOA § 184(a) and 20 CFR 683.410(b)(5) to impose the sanctions listed in WIOA 184(b)(1) if the corrective actions taken in Step 4 do not result in the repayment of the debt. If disallowed costs are not repaid in accordance with the procedures described above, ADWS, as the pass-through entity for WIOA title I funds and the WIOA title I administrative entity for the Governor, must impose one of the two the sanctions required in WIOA §184(b)(1):

- 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 areas; or
 - making other such changes as the Director of ADWS determines necessary to secure compliance with WIOA law, regulations, guidance, and the uniform guidance, as well as State law, policies, and issuances.

Similar actions will be taken against sub-recipients that are not local areas.

In accordance with 20 CFR 683.650(a), the imposed sanctions under Step 4 will not become effective until either time for an appeal to the Secretary of the Department of Labor has expired (30 days after the receipt of the notice that the plan will be revoked or the reorganization will occur) or the Secretary of the Department of Labor has issued a decision concerning the appeal, whichever comes first.