

# ARKANSAS' MONITORING AND OVERSIGHT PROCEDURES

Monitoring and technical assistance are integral parts of the Arkansas Division of Workforce Services' (ADWS) oversight responsibilities, as required by law. Monitoring is an essential part of program and financial management to ensure compliance with applicable laws, regulations, integrated workforce plans, provider agreements, policies, and procedures. Monitoring identifies areas of strength and weakness in operations to develop program performance. Technical assistance improves program operation and management capabilities. ADWS' approach to program and fiscal monitoring of each Local Workforce Development Area (LWDA) uses a combination of on-site monitoring and desktop monitoring, as prescribed in Workforce Innovation and Opportunity Act (WIOA) Section 183.

Special on-site reviews may be conducted to investigate allegations of mismanagement or to clarify questionable findings during monitoring. Special reviews may or may not result in corrective action. The State must conduct an annual, on-site monitoring review of each LWDA's fiscal compliance with 2 CFR 200, as required by WIOA Section 184(a)(4). Specific information will be requested from the local area and will be reviewed electronically prior to the on-site review.

Since the COVID-19 pandemic, ADWS has established a more strategic method for programmatic and performance monitoring. Monitoring teams have implemented systems to electronically monitor participant files and supporting documentation, including policies and program notes. This flexibility allows for a seamless collaboration between ADWS and the LWDA's.

- I. **INTRODUCTION AND GENERAL INFORMATION:** These procedures set forth the guidelines by which the Arkansas Division of Workforce Services (ADWS), the Accountability and Compliance Unit (ACU), as the State or State staff, and as the Governor's Grant Recipient and Administrative Entity, will monitor all Agency funded grant program, financial, and operational activities. The Federal Regulations governing the Workforce Innovation and Opportunity Act (WIOA) activities authorize and require that the Governor be responsible for oversight of all Local Workforce Development Area (LWDA) grant recipients and Title I-B programs. Also, guidelines and other specific regulations, from other funding sources, may require monitoring and oversight by the grantee or administrative agency responsible for the various funds.

The State staff developed the following Arkansas Monitoring Procedures, along with the Arkansas Program and Financial Monitoring Instrument specifically for the Workforce Innovation and Opportunity Act (WIOA) funds. However, these procedures may also be used as guidelines to monitor other activities. The State staff and/or its contractor will generally use these procedures along with other issued policies and guidelines to perform monitoring and oversight activities.

**II. PURPOSE:** The primary purpose of monitoring is to ensure that all legal, contractual, and policy requirements of specific funding sources are met. A secondary purpose is to identify and call attention to questionable activities and conditions which appear to diminish opportunities for achieving the intent of the WIOA or other funding sources, though not necessarily in violation of specific requirements.

**III. MONITORING BY SUBRECIPIENTS:** All entities receiving WIOA funds, other federal and state funds are required to have and follow adequate written policy and procedures for monitoring all activities for which it receives Agency funds.

The monitoring procedures and monitoring instrument of the WIOA grant recipients and subrecipients that adopt the same procedures contained herein, are automatically approved by the State staff as adequate. For those entities who elect to adopt less than the entire monitoring procedures and monitoring instrument set forth herein, the State staff will determine whether the local procedures and monitoring instrument for these entities are adequate.

If the procedures as described in Part V are not adopted, or if they are modified, the procedures adopted and used for monitoring must include, at a minimum, the following information:

- A. Designation of specific staff to perform monitoring
- B. Description of Monitoring Scope
- C. Monitoring Schedules
- D. Program Monitoring
- E. Financial Monitoring
- F. Equal Employment Opportunity (EEO) Monitoring
- G. Property Control
- H. Monitoring Instruments
- I. Monitoring Reports
- J. Corrective Action, Responses, & Closeouts
- K. Administrative and Contract Monitoring
- L. Documentation of Internal/Self Monitoring
- M. Follow-Up

**IV. MONITORING OF SUBRECIPIENTS:** The State staff and the ACU has been designated to monitor the Workforce Innovation and Opportunity Act and other ADWS activities for which the Governor or ADWS is responsible. Circumstances may occur which compel alteration of procedures. For example, unannounced monitoring may be necessary under certain conditions. However, the State staff will generally adhere to the following procedures.

## V. ARKANSAS MONITORING PROCEDURES

- A. Decide the tools to use and who will monitor
- B. The monitoring agency will determine the review emphasis prior to monitoring
- C. The monitoring agency will use the appropriate Arkansas Program and Financial monitoring instrument and determine its appropriateness
- D. The monitoring agency will notify the monitored workforce development area of the review emphasis and ensure the monitored workforce development area has a copy of the monitoring instrument at least six (6) weeks in advance. To be completed by the monitored workforce development area prior to on-site visit.
- E. Other tools will be used as appropriate. Examples include:
  - 1. Monitored workforce development area's file(s) (i.e. Permanent File)
  - 2. Previous monitoring reports
  - 3. Letters of concern/correspondence
  - 4. Other pertinent information from the file
  - 5. Local Plan and modifications
  - 6. LWDA Subgrant
  - 7. Management Information System (MIS)
  - 8. Wage file
  - 9. Program status reports or other reports as appropriate
  - 10. WIOA Issuances
  - 11. State issued policies/directives
  - 12. Department of Labor (DOL) compliance review guides and other appropriate DOL material
  - 13. Workforce Innovation and Opportunity Act
  - 14. Final Rule 20 Code of Federal Regulations (CFR) 603,651,652,676,677,678, et al.
  - 15. Arkansas Code Annotated (A.C.A.) §15-4-3701
  - 16. WIOA Title I-B Policy Manual
  - 17. Applicable Uniform Guidance
  - 18. Follow-up reports
  - 19. Timecards
  - 20. Internal monitoring reports
  - 21. Local Workforce Development Board (LWDB) information (bylaws, agreements, certifications, local policies, and procedures)
  - 22. Cooperative Agreements, if applicable
  - 23. Contracts/subgrants
  - 24. Financial reports
  - 25. Memorandum of Understanding (MOU)
  - 26. Infrastructure Funding Agreement (IFA)
  - 27. One Stop Operator Information
  - 28. WIOA Applications for individuals not enrolled in a program
  - 29. Other pertinent information
- F. The following entities will conduct compliance reviews:
  - 1. ADWS will monitor all subgrantees.

2. Subgrantees must conduct regular oversight and monitoring of its WIOA and Wagner-Peyser Act program(s) and those of its subrecipients and contractors.

## **VI. DOCUMENTATION REQUIREMENTS**

- A. A. The following documents are required by the Administrative Entity (AE) level to accomplish the State's monitoring effort and must be kept in the participant's file (Optional documents are designated where appropriate).
  1. Signed Agency Application.
  2. Job Description - Applicable to On-the-Job (OJT), Work Experience, and other Worked Based Learning programs. The job description should be included either in the OJT agreement, or in the work-site agreement for the other types of programs.
  3. Participant Rights and Responsibilities
  4. Personnel Policy Statement
  5. Benefits and Working Conditions Statement
  6. EEO/Grievance Procedure Statement
  7. Hatch Act
  8. Local Complaint Policy and Procedures – Optional
  9. I-9 Form
  10. Thirty (30) Days Review - Optional unless stipulated by the LWDA. The State staff recommends that this checkpoint be incorporated into internal procedures as a safeguard against disallowed cost. The Thirty (30) Days Review form should be developed by the LWDA.
  11. Time and attendance records signed by the participants and the immediate supervisor/instructor; and
  12. W-4 Forms - Applicable to participants receiving monetary compensation.

Please refer to both WIOA Title I-B Policy 4.2 for the required file setup and WIOA Title I-B Monitoring Instrument for the participant file review form.

- B. It is required that the following documents be maintained within the monitored entity files and must include worksite's physical addresses:
  1. List of current work/training sites; inclusive of contact name, phone number, Assigned worksite address, number of participants at worksite, participant(s) name and participant ID#, funding stream and work schedule
  2. Worksite Agreements

## **VII. SCHEDULING OF MONITORING**

- A. The ADWS compliance officer responsible for the monitoring process will establish a general timeframe and make monitoring assignments.
- B. By telephone, the ADWS compliance officer will establish with the entity to be monitored a definite date and time for monitoring. The monitored workforce development area will be informed of the financial and program areas to be monitored, and the instrument that will be used to guide the monitoring process.
- C. As a courtesy, the ADWS compliance officer will provide a six (6) week advance notice of the monitoring visit if possible, verifying the information discussed by

telephone. The Arkansas WIOA Title I-B Program and Financial Monitoring Instrument and Monitoring and Oversight Procedures will be provided.

1. The notification will also include the LWDA documents needed for the review.
2. A tentative monitoring schedule, including the planned entrance and exit time and date. The amount of time needed for review will be predetermined unless otherwise specified, during the entrance conference or review.

## **VIII. CONDUCT THE DESK REVIEW AND PREPARE FOR MONITORING**

- A. The Compliance Officer will review the subgrant, local plan, MIS/AJL (Arkansas Job Link) information, permanent file information and all modifications of the entity to be monitored for comparison during on-site review. He/she will:
  1. Note targeted populations, program activities, and supportive services to be provided, including needs-related payments plan.
  2. Local policies and procedures.
- B. The Compliance Officer will review monitored workforce development area files to compare with information on-site. Some information may include, but not limited to:
  1. Correspondence
  2. LWDB information – current certification, agreements, attendance records, minutes, by-laws, current list of members, disclosure statements of board members, appointments/vacancies notification, etc.;
  3. Monthly financial reports - note expenditure rates, timeliness, cost categories' expenditures;
  4. Financial and non-financial agreements
  5. Recent monitoring reports
  6. Last audit report
  7. As appropriate, review reports and files in the AJL/MIS for the monitored workforce development area.
  8. Wage report to select files for review; and
  9. Verify placement and training relatedness
  10. Review appropriate performance information for special emphasis areas.

## **IX. CONDUCT THE ENTRANCE INTERVIEW**

- A. The Compliance Officer will prepare for the entrance conference prior to the on-site visit.
- B. The Compliance Officer will inform the entity of any assistance he/she will have or need from other State or Local Area staff during the on-site review.
- C. The Compliance Officer will brief the monitored workforce development area on the scope of the monitoring.
- D. The Compliance Officer will provide an overview of the information provided to the monitored workforce development area in the notification sent in advance, covering the following:

1. State which monitoring instrument will be used;
  2. Review the list of needed documents and files; and
  3. State the types of interviews (e.g., staff, subrecipients, participants, or board members, etc.).
- E. The Compliance Officer will provide detailed information regarding the overall review process, including what will be covered/reviewed, the timeframe for the review, work/training site visits, etc.
- F. During the entrance interview, the monitored workforce development area will have the opportunity to provide the documents that were not provided prior to the on-site visit, such as:
1. Subgrants, contracts, or other pertinent grant documents
  2. The monitored workforce development area must provide an updated list, if applicable, of its contracts and work/training sites to include county and type of activity:
    - a. The work/training site name, street address, telephone number, contact person, schedule of availability of participants, amount of funds, and the number of participants.
    - b. The contact person should be someone who will be generally available during the review, and if possible, be located near the work/training site.
    - c. If the Compliance Officer discovers any work/training sites that are not on the training sites list, an updated list may be requested, and the site(s) may be visited.
- G. An overall contact person will be designated by the monitored workforce development area. This may be the Director or someone else, must be the person to whom general questions may be addressed and the person who should be notified if any serious problems are discovered. This may be two people, one for general questions and one for serious problems. Generally, the person(s) must be available during the review.
- H. The monitored workforce development area will designate a contact person for each specific area or item to be reviewed (e.g., participant files, financial systems, funding streams, operational items, etc.).
- I. The monitored workforce development area will identify the working space(s) for the Compliance Officer(s) and inform the Compliance Officer during the entrance conference where that space is located. The working area must allow ample space and be conveniently located to the files and/or the contact person.
- J. The monitored workforce development area will provide internal procedures for file maintenance and control. (Note: This does not restrict the Compliance Officer from looking at any and all documents.) Internal procedures should include the location of official files, including, but not limited to the following:
1. The monitored workforce development area will provide internal procedures to the Compliance Officer for file maintenance and control, if any.
  2. The monitored workforce development area will be prepared to supplement its written internal file maintenance and control procedures with oral

information to be provided at the entrance conference if it wishes the Compliance Officer to access files in a specific way.

- K. The entrance conference/meeting is subject to FOIA. The Compliance Officer will remind the group assembled, at the beginning of the entrance conference that the meeting is subject to FOIA if the following occurs:
  - 1. If more than one (1) LWDB member or more than one (1) Chief Elected Official (CEO) or more than one (1) other member of a covered board is present, the monitored workforce development area will provide the Compliance Officer a copy of the media notification. If notification has not been made or documented, the entrance conference will be postponed and will be scheduled for a time that is at least two (2) hours after the last of the appropriate parties can be notified.
  - 2. If it is obvious following introductions that FOIA provisions will not be violated because fewer than two (2) LWDB members or CEOs or members of other bodies covered by FOIA are present, this step may be omitted.
- L. The monitored workforce development area will let those to be interviewed know and ensure their availability or, if one or more cannot be available, will let the Compliance Officer know ASAP so that other arrangements may be made.
- M. The Compliance Officer will mention items of concern or primary focus.
- N. The Compliance Officer will analyze findings and concerns from the monitored workforce development area's most recent audit(s) and monitoring report(s). He/she will explain that he/she will be reviewing documentation to see that all cited findings and concerns, and especially those that were left unresolved pending additional review, have been corrected.
- O. The Compliance Officer will state that the rest of the review is general or, if it is not, what will be the reason for the review (e.g., the Compliance Officer will look at procurement procedures as a result of a nationwide initiative and the report stating that the resolution will be provided to DOL; the Compliance Officer's agency has noted that the monitored workforce development area is having problems with financial reports so is reviewing the financial system to see what the problems are so they can be corrected, etc.).
- P. The monitored workforce development area will describe current program operations, contracts, activities, and how it is organized; the objectives of its major programs and include:
  - 1. What kinds of contracts it has and the activities it conducts;
  - 2. Who the major contractors and service providers are;
  - 3. Any contracts or services or programs, which are particularly relevant to the focus of the monitoring.
- Q. Any other information that the monitored workforce development area believes would be helpful to the Compliance Officer.
- R. The Compliance Officer and the monitored workforce development area will discuss how problem areas will be communicated during the on-site review and to what organizational level.

1. The Compliance Officer will state that he/she will tell the person he/she is working with immediately (e.g., for files, as soon as the file has been reviewed) if he/she cannot find a document. The Compliance Officer and monitored workforce development area director or designated representative will discuss and agree upon whether problems will be communicated at the end of each day, at the end of the review of each section, or at some longer interval (e.g., not until exit conference).
  2. In general, this will be at the monitored workforce development area's discretion unless it would create undue hardship on the Compliance Officer, such as causing two conferences within a few hours when the Compliance Officer is not in the office. Such communication also may be made by telephone if the Compliance Officer is not in the office.
- S. The Compliance Officer will report concerns to the monitored workforce development area as soon as they are evident. (Meaning that some review or investigation has taken place first to determine whether it is a concern.):
1. Rather than waiting for the agreed upon communication schedule and depending on the nature of the concern, it may also require the Compliance Officer to discuss it with his/her supervisor before reporting it, or instead of reporting it to the monitored workforce development area.
  2. The Compliance Officer will explain how on-the-spot corrections will be handled in the report.
- T. If concerns are minor, isolated and do not indicate a trend, they can be corrected on the spot as long as the staff appears to understand why the condition is a problem and how it is to be avoided in the future. The concerns may not be noted in the monitoring report.
- U. Concerns that involve issues of non-compliance will be noted in the report, but the report also will state that the monitored workforce development area corrected the concern on the spot and no additional corrective action is necessary.
- V. Concerns that do not involve issues of non-compliance will be covered through informal discussion between the Compliance Officer and the appropriate monitored workforce development area contact person. However, the concerns may appear in the report.
- W. The Compliance Officer will inform the monitored workforce development area that the Director or designee will be notified promptly of any serious items.
1. The Compliance Officer will explain that if a serious concern is identified, the concern will be immediately discussed with the monitored workforce development area's Director.
  2. Depending on the nature of the concern, the Compliance Officer may first call the Compliance Officer's supervisor and together they will determine the next appropriate notification.
- X. The Compliance Officer will describe the process of the Exit Conference and what will happen with the written report. It will be explained that:
1. Potential findings will be discussed at the Exit Conference;



2. That the monitored workforce development area will be given an opportunity to discuss any potential findings or ask questions;
  3. It may be necessary for the Compliance Officer to review potential findings:
    - a. with his/her supervisor or
    - b. to gather more information at his/her office or
    - c. conduct follow-up field work prior to the exit conference.
- Y. While potential findings will be discussed at the exit conference, it may be that some items discussed at the exit conference do not end up being noted as findings in the monitoring report.
- Z. The report will require that the monitored workforce development area provide corrective action, if necessary, and will include a response due date.
- AA. The Compliance Officer will ask if there are any particular areas of concern that the monitored workforce development area wishes to discuss.
- BB. The monitored workforce development area will inform the Compliance Officer if there are any areas the monitored workforce development area would like the Compliance Officer to review specifically.
- CC. If the monitored workforce development area director or other officials wish the Compliance Officer to pay particular attention to some area or program, the director or official may wish to make his/her request outside the entrance conference, depending on the nature of the concern.
- DD. The Compliance Officer will discuss special requests with his/her supervisor to determine whether and how they will be handled.
- EE. The Compliance Officer invites questions:
  1. Questions are encouraged during the entrance conference or as they arise during the monitoring.
  2. The Compliance Officer will discuss procedural and technical questions relating to what they are doing and how at any time, but philosophical and policy questions should be raised with management within the monitoring agency's structure.
- FF. The Compliance Officer and monitored workforce development area will prepare for the monitoring to begin:
  1. The monitored workforce development area will introduce its staff to the Compliance Officer.
  2. The monitored workforce development area director or a person designated by the director will guide a tour of the central office and introduce the Compliance Officer to staff persons.
  3. The monitored workforce development area will show the Compliance Officer his/her workspace.

**X. CONDUCT ON-SITE MONITORING - IN THE MONITORED WORKFORCE DEVELOPMENT AREA'S OFFICES**

- A. The monitored workforce development area will provide the documents requested during the entrance conference.
- B. The Compliance Officer will provide a tentative schedule of work/training/OJT sites that will be visited to the staff of the monitored workforce development area
  - 1. The staff of the monitored workforce development area will determine which OJT or customized training operators, if any, need to be notified in advance due to security or management scheduling concerns. The staff of the monitored workforce development area will call each OJT and customized training site to advise them of the impending visit by the Compliance Officer and request that the appropriate staff be available for the visit.
  - 2. It is not required that work/training sites other than OJT and customized training sites be scheduled precisely or be notified of times when the Compliance Officer will visit.
  - 3. The monitored workforce development area may send one of its staff with the Compliance Officer as long as that individual was not involved in negotiating or managing the contract or agreement.
  - 4. If during the on-site visits the Compliance Officer determines that he/she will not be able to maintain the schedule, the staff of the monitored workforce development area should be notified.
- D. The monitored workforce development area will provide the Compliance Officer with all files and documents requested during the entrance conference. Files and documents for the area to be reviewed must be provided as soon as possible following the entrance conference.
- E. The Compliance Officer will use the monitoring instrument, previous audit, monitoring findings and concerns as the basis for monitoring review.
- F. The Compliance Officer will review documents:
  - 1. Using the MIS/AJL reports for participants and the internal file maintenance procedures, the monitored workforce development area either will pull the requested documents or will advise the Compliance Officer where the documents and/or files are located. This will not prevent the Compliance Officer's access to documents as provided at WIOA Section 185(a)(3)(4).
  - 2. If the monitored workforce development area pulls the documents, it will be done in a timely manner so that records are immediately available to the Compliance Officer.
  - 3. If the Compliance Officer is responsible for pulling the documents, only those documents that will be reviewed should be removed from the files as needed.
  - 4. The Compliance Officer should ensure to return records and/or files as soon as he/she is finished with them.

5. Under no circumstances will the Compliance Officer take original documents out of the offices of the monitored workforce development area. If it is necessary to have documents available for work outside of the office, the Compliance Officer will make photocopies or request that the monitored workforce development area provide photocopies of the documents.
6. When the Compliance Officer is finished with the review of the documents and/or files, they will be returned to the monitored workforce development area.
7. The Compliance Officer will review the monitoring instrument to ensure that it has been completed by the monitored workforce development area.
8. The Compliance Officer will ensure that the documents/files for every item covered by the monitoring instrument are reviewed.
9. The Compliance Officer will discuss and clarify potential findings and concerns with the monitored workforce development area.
10. The Compliance Officer will make copies of documents when necessary to support his/her observations.
11. The Compliance Officer will review documents provided by the monitored workforce development area to ensure the information is current and accurate.
12. The Compliance Officer will request clarification from the designated contact person if more information is needed.
13. If problems exist after clarification, the monitored workforce development area will have the opportunity to provide additional information or documentation to the Compliance Officer prior to the exit conference. The Compliance Officer will discuss potential findings with the monitored workforce development area Director prior to the exit conference.
14. The Compliance Officer may expand the sample size, where appropriate. For example, a problem may be identified requiring the need to determine whether the problem is an isolated issue or a systemic issue.
15. Unexpected external factors may affect the monitoring review and may require a change of the schedule and/or scope of the monitoring.

## **XI. CONDUCT ON-SITE MONITORING - MONITORING AT WORK/TRAINING SITES**

- A. Upon arrival, the Compliance Officer will introduce himself/herself to the contact person previously identified by the monitored workforce development area. If the contact person (or alternate) is/are unavailable, the Compliance Officer will contact the supervisor(s) of participants. If after reasonable effort is made, neither a contact person nor supervisor can be found, the Compliance Officer will interview participants and the monitored workforce development area will be informed of the situation.

- B. The Compliance Officer will review work/training site records and will request access to records relative to:
  - 1. WIOA activities at the work/training site and review them in the presence of training site personnel. The Compliance Officer will follow protocol established at Section IX. F. and Section X.F., of this document, for examining records in the monitored workforce development area's office.
  - 2. For participant interviews, the Compliance Officer will discuss any problems/questions with the monitored workforce development area staff immediately.
  - 3. The Compliance Officer will observe the work/training environment.
  - 4. In addition to verbal interviews at the work/training site, the Compliance Officer will attempt to observe broad aspects of the work/training environment that may not surface in interviews. Examples of such observations will include, but not be limited to condition and appropriateness of training, equipment, and environmental safety, etc.
  - 5. Except for the introduction protocol (first), the sequence of monitoring activities at work/training sites will vary due to convenience of work/training site staff, participant training schedule, and other local considerations.

**XII. CONDUCT PRE-EXIT PREPARATIONS:**

The Compliance Officer will prepare all materials for presentation during the Exit Conference as follows:

- A. Assemble all collected data
- B. Evaluate data for findings or concerns
- C. Determine the content and validity of data
- D. Establish the number of occurrences of each concern or finding detected
- E. Establish the type of findings or concerns by researching citations from the Federal and State law/regulations regarding each concern or finding
- F. Evaluate each concern or situation to determine if a finding or concern exists
- G. Compare findings or concerns to previous monitoring and audit reports to determine the frequency of occurrence in the past
- H. Note concerns that should be addressed with the monitored workforce development area Director or other appropriate person
- I. Prepare all notes and supporting documentation in such a manner so that the exit conference can be accomplished in a professional and efficient manner

- J. Provide the monitored workforce development area Director with a list of any requested information that has not been received
- K. An exit conference will be scheduled with the monitored workforce development area Director and designated staff.
- L. Remind the monitored workforce development area of the FOIA Requirements

**XIII. CONDUCT THE EXIT CONFERENCE:**

The Compliance Officer will conduct the Exit Conference as follows:

- A. Remind the monitored workforce development area of the FOIA requirements as described at Section IX. K. It is the responsibility of the monitored workforce development area to ensure that all requirements of the FOIA are met.
- B. Describe all items considered to be problems/potential findings and areas of concern without declaring which items will be declared as such in the final report.
- C. Request the monitored workforce development area to describe all corrective actions provided for problems identified by the Compliance Officer during the monitoring period (while on-site).
- D. Corrective action taken by the monitored workforce development area before the report is officially written does not ensure that the finding will not be included in the report. However, if the finding is included, the report will note that corrective action was taken and if such corrective action is acceptable to remedy the situation.
- E. The parties will discuss clarification of any problems.
- F. The monitored workforce development area will be given an opportunity to request clarification and information from the Compliance Officer.
- G. The Compliance Officer will accept any documents offered by the monitored workforce development area that are relevant to the reported problems.
- H. The Compliance Officer will describe the required dates for submission of the report and responses.

**XIV. ISSUE THE REPORT**

- A. A written monitoring report will be issued to the monitored workforce development area and will contain the following items: 1) Findings, 2) Concerns and 3) Observations.

Findings – A deficiency based upon material noncompliance with a statutory, regulatory, or program requirement for which sanctions or corrective actions can be posed.

- Findings for which clarification are requested and for which clarification was not provided or was not sufficient during the monitoring and/or exit conference; and
- Findings for which corrective actions are requested.

Concerns – a deficiency in a program that is not based upon statutory, regulatory, or program requirements.

Concerns may require clarification or corrective action; concerns may be offered as information. The concerns which are considered as indications perceived to be potential problems and/or may indicate the need for further investigation and attention by the monitored workforce development area will be noted in monitoring reports. However, these concerns may be included in separate communication.

Observations are provided as a courtesy and do not carry the force of Findings.

Observations are items of note found during the monitoring review that should be acted upon by the LWDA to ensure they do not further escalate or in any other regard become more serious as to result in a later finding. These items are not viewed as an error, but a means to improve performance going forward. A response is not required (*but encouraged*) by the LWDA for observations.

- B. All findings will be accompanied with a specific reference to that part of the Federal and State Law, Regulations, citations, or other requirements, which the Compliance Officer believes has been violated.
- C. Findings based on second-hand information, or other hearsay or what was heard will be included in the report only if verified by the Compliance Officer through first-hand acknowledgment or statements by staff, supervisors, employers, participants, etc.
- D. Concerns will be reported, regardless of the source of information, when they relate to conditions or activities, which seem to have the potential for significant negative impact on the program.
- E. The report will be mailed to the monitored workforce development area within approximately forty-five (45) calendar days following the date of the exit conference.
- F. The monitored workforce development area will have seven (7) calendar days from the date of the report to review the report for accuracy. This seven (7) day period will serve as a review stage to ensure that the State staff or the monitored workforce development area staff has not overlooked information that has a significant impact on any of the items noted in the report.
- G. If the State staff is not made aware of any information that has a significant impact on the items noted in the report within the seven (7) day period, the report will be considered a final report and a response will be due from the monitored workforce development area within thirty (30) days of the report.
- H. A copy of the initial monitoring report will be sent to the Local Workforce Development Board Chairperson and the Chairperson of the Chief Elected Officials. The State's Final Determination Monitoring Report and subsequent correspondence will be sent to the monitored entity, Chief Elected Officials, and the Workforce Development Board Chairperson.

Note- The local workforce development board staff, Chairperson of the Local Workforce Development Board and Chairperson of the Chief Elected Officials, will ensure that information related to monitoring reports is shared with all members of the board(s).

## **XV. PROCESS RESPONSES AND IMPLEMENT CORRECTIVE ACTION**

- A. The monitored entity will review the monitoring report and will respond to the report within thirty (30) calendar days of the date of the report, or as otherwise scheduled in the letter of transmittal. The response:
1. Will provide requested clarification;
  2. Will describe the corrective action taken or being taken for each finding; and
  3. Will provide documentation where appropriate, to support the corrective action.
  4. Responses to all monitoring reports should be submitted to the Director of ADWS in the following formats:

(A) PDF version on the respondent's letterhead, signed by the respondent's Executive Director or Director;

(B) Microsoft Word Version, to be used by ADWS to include in its' next response.

*At a minimum, the ADWS Assistant Director of Employment Assistance, the Chairperson of the Chief Elected Officials Board and the Local Workforce Development Board Chair should be copied on all correspondence.*

- B. The ADWS will respond to the monitored workforce development area either accepting the corrective action taken and closing the report or requesting additional information or documentation.
1. If ADWS is closing the report, process XVI. will be followed.
  2. If additional information or documentation is requested, the process in the previous section (A. 1-3) will be repeated. The monitored workforce development area will have only fifteen (15) calendar days to respond.

## **XVI. CLOSE THE REPORT**

- A. If no findings are detected during the monitoring review, a closeout letter and a report will be issued to the monitored workforce development area.
- B. If corrective action(s) is determined acceptable and all findings have been resolved, a close out letter and final determination report will be issued to the monitored workforce development area.
- C. If, after two (2) responses from the monitored workforce development area, the corrective action is determined to be inadequate and findings are unresolved, a final determination will be issued which will include the unresolved issues and identify what steps are to be taken.
- D. The monitored entity has the option of appealing the final determination report through the WIOA Grievance, Complaint and Appeals Procedure within ten (10) calendar days after the final determination report is issued. Please refer to WIOA Title I Policy, 6.1 Change 2.

- E. Local Boards who choose to seek a waiver of liability from the Secretary of the USDOL, must do so after concluding the Grievance, Complaint and Appeals Procedure process. ADWS will not facilitate any waiver of liability requests. Local Boards should contact the USDOL directly to make such requests. All requests should be made in accordance with [20 CFR 683.730](#).