



RIVERSIDE COUNTY
ECONOMIC DEVELOPMENT AGENCY

POLICIES & PROCEDURES

Date: June 5, 2002

Number: 10-02

SUBJECT: DEBT COLLECTION

PURPOSE: To provide guidance and direction to the Riverside County Economic Development Agency (EDA) Workforce Development staff and service providers regarding the collection of debts associated with the misexpenditure of Workforce Investment Act (WIA) or Welfare-to-Work (WtW) funds.

REFERENCES: Workforce Investment Act §184

20 Code of Federal Regulations (CFR) §§ 667.410 (a), 667.500 (a)(2), 667.740, 661.120(a)

20 CFR, Part 645. §645.250(a)(2)

Workforce Investment Division Directive WIAD01-5, dated September 10, 2001 (Attached)

Supersedes Manual of Policies and Procedures 18-11, dated January 4, 1993

LOCALLY IMPOSED REQUIREMENTS: Locally imposed requirements are indicated in ***bold italic*** type.

EFFECTIVE DATE: February 1, 2002

BACKGROUND:

California Directive WIA D01-5 requires LWIAs to establish fiscal procedures to comply with 20 CFR §667.500 (a)(2). Cited law and regulations also require LWIAs to collect established debts stemming from the misexpenditure of funds.

POLICY:

As required by the referenced federal and state laws, regulations, and policies, ***Riverside***

DISTRIBUTION: WDB; SP; ADMIN; PPD; FISCAL; PROG.COMP.; CUST.SERV.

County EDA shall assure subrecipient audit resolution and aggressive debt collection action.

State level actions to accomplish such requirements shall be overseen by the Employment Development Department (EDD) Compliance Review Division (CRD), in the event the matter cannot be resolved at the local level. The settlement of all debts resulting from fraud, malfeasance, misapplication of funds or other serious violations or illegal acts must be in cash from nonfederal sources. Funds collected by EDA in settlement of these debts must be returned to CRD immediately upon receipt.

EDA shall maintain records that document the actions taken with respect to debt collection, restoration, or other debt resolution activities. EDA shall also document why the actions were taken to support these decisions.

CRD allows in such circumstances if 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 as 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, EDA may expend the funds within the cost limits. Cash payments received after the fund availability period ends must be remitted to CRD.

PROCEDURES:

The permanent records of all debtors shall contain documentation sufficient to demonstrate that all necessary steps have occurred.

I. Subrecipient/Provider Notification

A. Step One

The Subrecipient/Service Provider shall be notified by certified mail, with a return receipt, that a debt and /or disallowed cost has been established, the sanctions that will be imposed if the debt is not repaid and their appeal rights. Also, the notification will state if interest will be charged and at what rate. The Subrecipient/Service Provider will be informed that they have 90 days from the notification date to resolve the issued before the debt becomes delinquent. There is discretion to withhold all further or pending payments due to the Subrecipient/Service Provider and the rationale for such action shall be documented.

B. Step Two

Thirty (30) days after the initial notice, a second notice letter shall be sent by certified mail, with a return receipt, restating the establishment of the debt and requesting repayment.

C. Step Three

After 60 days a third notice letter will be sent by certified mail, with a return receipt, restating the establishment of the debt. This notification shall also state that a second notice has been sent, the date the notice was sent, and the date on which the debt will become delinquent.

D. Step Four

Ninety (90) days after the initial notice, the Subrecipient/Provider will be notified that the debt is delinquent and that one or more of the following sanctions will be imposed:

1. Immediate rescission of the contract.
2. Withholding any and all payments from additional contracts held by the Subrecipient/Service Provider.
3. Removal of the Subrecipient/Service Provider from future consideration as a provider or contractor for a set period of time.
4. Issuance on an Incident Report to be filed with the California Workforce Investment Division.
5. Debarment in accordance with federal and state processes.
6. Filing a complaint with the Riverside County District Attorney.

II. Establishment of Liability Accounts

At the time the debt is established, the EDA fiscal section shall establish a short-term liability account for the affected entity to allow for a ninety (90) day period for repayment.

III. Terminating, Compromising, and Litigating Debts

In accordance with federal, state, and local policy and requirements, a debt resulting from misexpenditure of funds due to willful disregard of the requirements of the Act, gross negligence, fraud, malfeasance, misapplication of funds or other serious violations or illegal acts, or failure to observe accepted standards of administration shall be terminated or resolved only by cash repayment from nonfederal sources. All other debts will be resolved and terminated through the use of either cash or non-cash options.

These options include:

1. Cash payment for the full amount of the debt.
2. Installment Payments:
Cash installment repayment agreements will be of a short duration from three to twelve months, with an exception to a maximum of thirty-six months. CRD shall approve all repayment agreements. Duration shall be negotiated based upon the size of the debt and the debtor's ability to repay. Use of cash

installment repayment is recommended for instances where debt collection efforts are impeded by an inability to repay the full debt amount in a lump sum.

3. Adjustment in Payments:

Under this method, an agreement is entered into with the debtor whereby the reimbursement due is reduced by the amount of the debt while the program is maintained at an undiminished cost level supported by non-federal contributions.

4. Withholding:

This repayment method will consist of withholding amounts owed the debtor for past services or other considerations already provided in satisfaction of the debt owed.

5. Stand-in Costs:

This method is not actually a debt repayment, but is a way of “erasing” the debt. The debtor must identify allowable costs associated with the agreement during the contract period, but not charged to the grant or agreement, and substitute those costs for the disallowed costs, thereby “erasing” the debt. This method shall require negotiation and a written agreement between the debtor and EDA.

6. Services:

This method involves a repayment agreement with the debtor whereby additional contract services, separate and apart from those originally agreed to with the debtor, are provided using non-federal funds. When it becomes evident that a debtor cannot repay through any other repayment method, an agreement of this nature may be negotiated. This method requires a written agreement signed by all parties with conditions regarding the type of funds to be used, documentation that must be established to demonstrate the performance of this agreement, and a time limitation.

7. Offset/deduction:

Section 184(c) of the Act allows that misexpenditures at the recipient level may allow the Department of Labor to offset the debt, or a portion of the debt, against amounts that are allotted to the recipient. The federal Grant Officer must approve such response to a formal, written request submitted by the recipient. The normal limit for such an offset is the amount available at the recipient level for administrative costs. In such circumstances, in a like manner, EDA may extend such relief to a Subrecipient/Service Provider to assist in a repayment.

IV. CRD Notification

Employment Development Department Request

A formal request shall be submitted requesting EDD's assistance in securing an agreement from the U.S. Department of Labor (DOL) to forego collection actions, in accordance with the provisions of 20 CFR §667.730.

Documentation developed while administering the previous section shall be attached to the formal request, demonstrating compliance with WIA §184 (d) and 20 CFR §667.730. At minimum, these attachments shall include documentation of the debt collection letters, including certified mail receipts. Such documentation of litigation, withholding of funds, and any other related action must be attached to the request.

In accordance with the referenced CRD policy, unless prior approval to gain relief of liability for a subrecipient's debt is not received from both CRD and DOL, EDA shall remain responsible for the repayment of the entire debt.

Please refer any questions of concerns regarding this Policy and Procedures to the Workforce Development Division's Fiscal Management or Program Compliance Management staff.



Jerry Craig, Workforce Development Administrator

JC/KF/LS/LP/EP/LGL