Kansas Department of Commerce
Workforce Services
Policy and Procedures Manual

Policy Number: 5-12-00

Originating Office: Commerce Regulatory Compliance (CRC)

Subject: Oversight and Monitoring

Issued: October 26, 2016

Revised: July 12, 2016

Programs: Workforce Innovation and Opportunity Act (WIOA) and other federal programs as necessary or appropriate

Purpose: To transmit state policy and guidance regarding monitoring initiatives relative to Workforce Innovation and Opportunity Act (WIOA) and other federal programs as appropriate.

References: Workforce Innovation and Opportunity Act (WIOA) Sec. 183 and 184; 20 Code of Federal Regulations, subpart D-Oversight and Monitoring, Subpart E-Resolution of Findings from Monitoring and Oversight Reviews, 20 CFR, 683,400,. 683.420, 683.430, Subpart G, 652.8, Subpart B (7) (J), and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Background: As part of the ongoing responsibilities for the oversight of federal employment and training activities, the Kansas Department of Commerce (Commerce) conducts both desk and on-site monitoring reviews on a regularly scheduled basis. The Commerce Regulatory Compliance section is primarily responsible for implementing employment and training reviews associated with the Workforce Investment Act using federal and/or state developed monitoring guides. The primary mission of the Commerce Regulatory Compliance section will include, but is not limited to, working toward insuring administrative policies, practices, standards, and systems are functioning and operating within the parameters established by federal and state legislation, regulations, and policy directives. To ensure independence from program operations, it will be the policy of Commerce to utilize Regulatory Compliance for monitoring federal employment and training programs as mandated by law or deemed appropriate by the Secretary.

Actions: Make this policy available to appropriate staff, service providers, and vendors.

Contact: Questions regarding this policy should be directed to Director, Commerce Regulatory Compliance, (785) 296-2122, TTY (Hearing Impaired): 711, crc@kansascommerce.com.

Attachments: None.

Oversight and Monitoring

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Oversight and Monitoring

Overview

The results of each Commerce Regulatory Compliance (CRC) monitoring effort will be documented and compiled in a formal report and disseminated for response and, as warranted, corrective action to the appropriate administrative entities. Specific activities subject to state monitoring may include, but are not limited to the following:

1. Allowable activities;
2. Targeting, selection, assessment methodology, and eligibility;
3. EEO and ADA compliance;
4. Fiscal accountability and internal controls, inventory control, and property management;
5. Complaint and grievance policies and procedures;
6. Management Information Systems (MIS), data sharing, maintenance, and validation;
7. Conflict of interest and nepotism;
8. Contracting, certifications (e.g. Local Workforce Investment Boards (Local Boards), service providers, etc.);
9. Customer satisfaction and performance; and
10. Recordkeeping maintenance, security, and retention.

The State will institute a number of policies governing employment and training initiatives that will be formalized in a state policy. The state policy will be incorporated into the Kansas Department of Commerce, Workforce Services Policy and Procedures Manual. Such policies/procedures are designed to provide further guidance to program administrators and/or service providers in achieving program quality and outcomes that meet the objectives of WIOA and Regulations. Procedures related to audit, audit resolution and debt collection will be contained in the Policy and Procedures Manual and will reflect provisions of WIOA, as well as the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

All state financial management policies will be contained in a fiscal policy. The fiscal policy will contain definitions related to cost allocation, allowable direct/indirect charges, property management and procurement procedures, etc., for all WIOA fiscal activities. The requirements within the fiscal policy will the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

Monitoring Schedule

The state's monitoring efforts will encompass both desk and on-site reviews. Each year the CRC will develop a preliminary schedule of on-site reviews to be conducted. This schedule will be disseminated to appropriate entities. The schedule will remain flexible toward accommodating the operations of the entity being reviewed. A notice of confirmation will be sent indicating when the entrance visit will occur.

Findings

Upon completion of a monitoring activity conducted by the CRC, a report summarizing the resulting observations, comments, findings and recommendations will be forwarded to the Workforce Services Technical

Assistance (TA) Unit and appropriate local and state program administrators. In addition, the CRC report will be disseminated to Local Elected Officials when findings are of a nature which may expose them to potential liability as noted in the Workforce Innovation and Opportunity Act.

Within 30 days of receipt of Local Area response, the TA Unit will convene a Workforce Solutions Team representative of appropriate Commerce program and/or Division representatives (including CRC) and local administrators to review the report's contents and discuss options for utilizing the information gained in advancing the workforce system. In order to remain independent of program operations, participation by the CRC shall be limited to providing clarification, information related to the scope and nature of their reviews and resulting findings/observations.

The Workforce Solutions Team will jointly develop a Solution Plan to resolve any findings. A Solution Plan should be developed in manner that maximizes the leveraging of resources available through participating team members and realizes efficiencies in achieving resolution. The plan shall include the following:

a. Identification of the issue(s);
b. Desired outcome/goal;
c. Action steps towards a solution, including individual team members roles and responsibilities;
d. Measurable objectives for each action step; and
e. Time frame for measuring accomplishment of each action step as well as the final outcome/goal.

The Solution Plan and subsequent progress reports will be distributed to the participating team members and chair of the Corrective Action Board for review. The chair of the Corrective Action Board may take other such actions as deemed appropriate, including convening the Correction Action Board as outlined below.

Corrective Action Board

The Corrective Action Board (CAB) reviews findings requiring corrective action and makes recommendations to the Deputy Secretary of Commerce or the Secretary of Commerce/Governor for consideration when corrective action is necessary. Prior to making its recommendation, the CAB may request additional information from the local area, and/or conduct a meeting with appropriate officials to ascertain all pertinent facts regarding the finding.

Each quarter, or more often, as determined by the chair of the Corrective Action Board, the CRC will canvass members to determine if there are outstanding operational/compliance issues that warrant a CAB meeting. When the CAB determines an issue warrants corrective action, the chair will request a corrective action plan(s) from the Workforce Services Team and/or the local area, as necessary. When warranted, copies of the request will be sent to the local workforce investment board (local board) chair and the chief elected official (CEO) chair. Within 21 days of receipt of the request, the local board chair shall submit a corrective action plan to the chair of the CAB. Corrective action plans shall include, at a minimum, the following:

1. An assessment of the current situation, including a review of action that has already been taken to address the problem;
2. A plan which describes, in detail, the action which will be taken to correct the problem; and
3. A timetable for the action that identifies what steps will be taken through the coming months, benchmarking dates by which certain levels of progress will be accomplished.

Upon approval of the correction action plan, the CAB chair will determine if the local area will be required to submit written progress reports to the CAB. When required, each progress report shall describe actions taken, attainment or non-attainment of benchmarks, and any necessary revision to the plan. In the event of failure or non-implementation of corrective action plans, the CAB will make recommendations to the Deputy Secretary of Commerce or the Secretary of Commerce/Governor regarding possible sanctions. Notification of any sanction to be imposed beyond the corrective action plan will be communicated to the local board chair, the CEO chair, the grant recipient and the administrative entity. These local area officials will also be notified of their rights of appeal. The Procedures for State Level Appeals and Hearings are set in State Policy pertaining to *WIOA General Complaint Processing Procedures*.

When appropriate, a follow-up review may be conducted to ascertain if the corrective action was implemented, and/or to provide technical assistance. Where performance is not in line with the requirements of the program or violations of the Act, federal regulations, and state policies have occurred Commerce shall impose the corrective actions/sanctions described below.

Corrective Actions/Sanctions

In determining whether to impose a sanction, the frequency, quantity, flagrancy and severity of the finding and whether it was the result of willful disregard of the Act or other applicable laws and regulations will be considered. The frequency, quantity, flagrancy, severity, and willfulness of the finding will also determine the precise sanction imposed.

Specific findings, although not all-inclusive, which may result in the imposition of sanctions, are outlined below. The findings may fall into four major categories: Administrative, Fiscal, Participant, and Performance Standards.

Administrative Findings

Sanctions may be imposed for violations of law, regulations and state policies. Major examples of findings in the administrative area that may result in sanctions are failure to:

1. Maintain local board membership in accordance with the applicable section of WIOA;
2. Maintain a current CEO Agreement that reflects the current elected officials of the local area;
3. Obtain/maintain supporting documentation for grant activities;
4. Maintain an adequate management information system, in accordance with state standards;
5. Maintain an adequate local monitoring system;
6. Submit appropriate updates/modifications and budgets to maintain an up-to-date Local Area Strategic Plan;
7. Submit and implement required corrective action plans within required time frames;
8. Submit accurate required reports within required time frames;
9. Adhere to federal, state and local policies and procedures regarding EEO requirements; and
10. Implement corrective action based on findings contained in the state oversight reports.

Fiscal Findings

Sanctions may be imposed for violations of law, regulations and state standards. Major examples of findings in the fiscal area that may result in sanctions are failure to:

1. Operate within minimum cash balance requirements;
2. Comply with program cost limitations;
3. Make procurements according to required policies and procedures, including prior approval where necessary;
4. Maintain adequate systems of fiscal control;
5. Submit accurate required fiscal reports within required time frames (a corrective action plan is required at the end of any three-month interval in which an organization submits two or more late or inaccurate monthly fiscal reports.
6. Maintain property control system;
7. Resolve audit findings or questioned costs; and
8. Implement corrective action based on findings contained in state oversight reports.

Violations of WIOA law, Regulations and State Policies

Sanctions may be imposed for violations of WIOA law, regulations and state policies. Major examples of findings in the participant area that may result in sanctions are failure to:

1. Obtain proper information for eligibility determination resulting in ineligible participants receiving benefits from the program; and
2. Meet required enrollment levels for any group established as priority through state performance standards.

Given the magnitude of WIOA operations, the need for various partners to establish services, build relationships and toward encouraging innovation and team building, considerable latitude will be granted to the local board toward sufficient performance. The CRC section is supportive of technical assistance funds being made available to local areas that consistently demonstrate a lack of performance in meeting their performance goals. Ongoing program evaluation through monitoring efforts will strive to focus on program improvement. Should it become necessary for the state to entertain sanctions for disregard of the Act or other applicable laws and regulations, such sanctions will be handled within the confines of those laws.

Local Monitoring Requirements

Pursuant to WIOA section 107(d)(8), the local board, in partnership with the chief elected official for the local area must establish written minimum standards which shall include, but are not be limited to, the following:

1. An annual schedule of activities to be reviewed;
2. Operational procedures related to documentation of the reviews;
3. Operational procedures related to resolution of findings; and
4. Operational procedures related to corrective action.

Local areas will develop complete monitoring guides for all aspects of WIOA activities to be available for review by Regulatory Compliance.