Kansas Department of Commerce
Workforce Services
Policy and Procedures Manual

Policy Number: 5-10-00

Originating Office: Regulatory Compliance

Subject: Auditing and Audit Resolution

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Program: Workforce Innovation and Opportunity Act (WIOA) funds and all federal employment and training pass-through grants.

Purpose:
To communicate audit requirements for state and local recipients of employment and training grants.

References:

Public Law 113-128, Workforce Innovation and Opportunity Act of 2014, Sections 184 and 185; 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Final Rule (Uniform Guidance).

Background: All audits must be conducted in accordance with applicable auditing standards set forth in the Standard for Audit of Government Organizations, Programs, Activities and Functions, developed by the Comptroller General of the United States and the requirements of ~~the Single Audit Act,~~ Part 200 Uniform Administrative Requirements, commonly referred to as "Uniform Guidance".
Action: Make this policy available to all appropriate staff, service providers, and vendors.

Contact: Questions should be directed to John Ybarra, Director of~~,~~ Regulatory Compliance (785) 296-2122, TTY: (785) 296-3487, e-mail **john.ybarra@ks.gov**

Attachment: Audit Resolution and Debt Collection Flow Chart (.pdf document)

Auditing and Audit Resolution

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Auditing and Audit Resolution

Introduction

The Office of Management and Budget (OMB) published new requirements for federal award programs entitled Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (also known as Uniform Guidance) codified at 2 CFR Part 200. Audit requirements are provided at 2 CFR Part 200, Subpart F.

This has raised the threshold for a single or program-specific audit to $750,000 or more. Local Workforce Development Boards (LWDBs), other recipients, and/or their subrecipients which expend $750,000 or more of federal awards during their fiscal year must have an audit conducted for that year.

Uniform Guidance Circular requires pass-through entities to:

a. Monitor each fund recipient to ensure appropriate use of federal funds.

b. Require each fund recipient to permit pass-through entities and auditors to have access to records and financial statements as necessary to ensure compliance with applicable law, regulations, and terms and conditions.

Definitions

Auditee - Any non-Federal entity that expends Federal awards which must be audited under 2 CFR Part 200 Subpart F—Audit Requirements.

Auditor - An auditor who is a public accountant or a Federal, state, local government, or Indian tribe audit organization, which meets the general standards specified for external auditors in generally accepted government auditing standards (GAGAS). The term auditor does not include internal auditors of nonprofit organizations.

Audit Finding - Deficiencies which the auditor is required by 2 CFR 200.516 - Audit Findings, paragraph (a), to report in the schedule of findings and questioned costs.

Management Decision – The evaluation by the pass-through entity of the audit findings and corrective action plan and the issuance of a written decision to the auditee as to what corrective action is necessary.

Pass-Through Entity - A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

Subrecipient - An entity that receives federal assistance passed through from a prime recipient or another subrecipient to carry out or administer a WIOA program. Distinguishing characteristics of a subrecipient include:

- Determining eligibility for assistance;

- Performance measured against meeting the objectives of the program;
- Responsibility for programmatic decision making;
- Responsibility for applicable program compliance requirements;
- Use of the funds passed through to carry out a program of the sub-entity as compared to providing goods or services for a program of the prime recipient.

Grantee's Auditing Responsibilities

The grantee must have an annual independent financial and compliance audit of all federal funds received if the threshold ($750,000) of expenditures of the award received is met or exceeded. *Local areas should note that they are responsible to ensure that any subgrantees that receive funding beyond the established threshold also have an audit conducted.*

All audits must be conducted in accordance with applicable auditing standards set forth in the Standard for Audit of Government Organizations, Programs, Activities and Functions, developed by the Comptroller General of the United States and the requirements ~~of the Single Audit Act, OMB Circular A-133~~, Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Final Rule (Uniform Guidance), federal regulations and state policy issuances.

Commerce reserves the right to adjust the number of major program or program specific audits to be performed based upon the nature, size, complexity of the grant, identified risks, monitoring findings and Federal audit requirements.

As it applies to audits commissioned by Commerce, all draft reports will be treated in a confidential manner and only disseminated to agency personnel who have direct responsibility related to program management or the auditing process. The final audit report will be considered a public document upon official transmittal to the grantee.

To ensure that the audit responsibility is accomplished, it is imperative that each grantee allocates a portion of its administrative budget to procure audit services. This allotment must be budgeted as part of the grantee's administrative funds and cannot be charged to training. The grantee shall have formal written policy to establish governing procedures for independent audits that includes, but is not limited to, the following:

1. Audit bidding procedures;
2. Qualifications of the auditor;
3. Sanctions for non-performance by audit firms;
4. Frequency of audits;
5. Notification to subrecipients scheduled for audit; and
6. Procedures for debt collection and resolution of audits.

When acquiring the services of an independent auditor, grantees must provide Regulatory Compliance the specifications for the audit that will be conducted no later than 30 days prior to the bidding process. The specifications should be sent to the following address:

Kansas Department of Commerce
Robert North, Chief Attorney
1000 S.W. Jackson Street, Suite 100
Topeka, Kansas 66612-1354
Fax: (785) 296-0186
E-mail Robert.North@Ks.gov

All documents and records (including, but not limited to work papers) associated with the audit shall be retained by the grantee for a minimum of three years after the issuance of the audit report. Documents shall be retained beyond the minimum period if any audit resolution, litigation, or claim is initiated involving the grant covered, or until the audit finding, litigation, or claim has been resolved and written notification is received from Commerce regarding destruction.

Upon request, all grantees shall make available to Commerce, its designated agents, federal and/or cognizant agency, access to all program documents and working papers. Access includes the right of designated agents to obtain copies of working papers, as is reasonable and necessary.

Audit Scope and Testing Requirements

Major program or program specific audits must include, at a minimum, the following:

Allowable Costs
A cost must be necessary and reasonable for proper and efficient administration of the program. Costs charged to the program must be consistent with those allowed in the cost principles and financial management standards sections of the appropriate Federal Act and Regulations, Uniform Administrative Requirements, Kansas Department of Commerce policies and procedures, and other appropriate state regulations.

Classification of Costs
Allowable costs must be charged against the appropriate cost categories to the extent that benefits are received under that category and are consistent with appropriate Federal Act and Regulations, Uniform Administrative Requirements, Kansas Department of Commerce policies and procedures, and other appropriate state regulations.

Cost Limitation by Category
Cost limitations by category are set forth in the relevant Federal Act and Regulations and state fiscal policies.

Eligibility Compliance Requirement
Each local administrative entity is responsible for the eligibility of those enrolled in its programs. At a minimum the following should be tested:

a. Review the eligibility determination system and evaluate for adequacy; and
b. Review selected participant files and determine the appropriateness of eligibility determinations.

Monitoring
Each local area must establish and adhere to a monitoring system as detailed in their local area plan. Grantees that have a contract for services must adhere to all appropriate ~~WCO~~ policies and procedures. Local monitoring procedures should be reviewed to ensure that an adequate monitoring system is in place, to determine if the procedures are being followed, and to ensure that the minimum requirements are being met. A sampling of local monitoring visit reports, work papers, documentation, and follow-up documentation should be reviewed to determine compliance. The review findings of Commerce's Regulatory Compliance monitoring unit ~~the WCO section~~ are to be ~~included by the auditors in their audit.~~ included and reviewed by the auditors when conducting their field work.

Reporting Requirements
Fiscal reports must be completed for each calendar month in accordance with state policy. At a minimum, the following should be tested:

a. Ascertain reporting requirements prescribed by Commerce;
b. Obtain copies of reports and determine timeliness of submission; and
c. Trace data in selected reports to supporting documentation.

Program Income
Income generated under any program must be reported to Commerce and may be used to further program objectives. At a minimum, the following should be tested:

a. Determine if the program has generated any income; and
b. Test for compliance in accordance with state policy and procedures.

Matching Funds
When required by program regulations, an appropriate amount of match must be generated. At a minimum, the following should be tested:

a. Determine if the appropriate amount of match has been generated and test supporting documentation to determine compliance; and
b. Determine the amount of recipient's funds expended during both the previous and current year to provide workforce services similar to those provided for in the WIOA Act/regulations.

Previous Audit Findings
The audit report for the previous year may include findings that require corrective action during the current audit period. Review the previous audit report and determine if appropriate corrective action has been taken during the current audit period.

Auditor's Report

The auditor's report must be provided to the grantee no later than nine months after the end of the audit period. The grantee must provide the audit report to Regulatory Compliance ~~the WCO~~ section within 30 days after receipt. All audit reports provided to the cognizant Federal agency must also be provided to Commerce within 30 days if the administrative entity is a governmental unit and has been assigned to a cognizant Federal agency. A copy of the correspondence indicating acceptance (or non-acceptance) of the audit report by the cognizant Federal agency must be provided to Commerce within 30 days after receipt.

Audit Resolution Process

Attached to the cover page of this document is an *Audit Resolution and Debt Collection Flow Chart* describing the Kansas audit resolution and debt collection system. Each grant recipient shall be responsible for addressing all findings identified in its respective subrecipient audit reports. The grantee shall provide a copy of the audit report and audit resolution plan to Regulatory Compliance ~~the WCO section~~ within 30 days after the report is received. At a minimum, the audit resolution plan shall contain the following:

1. Status of audits included in the report;
2. Description of the questioned or disallowed costs;
3. Basis for allowing questioned or disallowed costs;
4. Corrective actions that have or will be taken; and Waiver requests for disallowed costs.

Within 30 days after receipt the audit report and audit resolution plan, Commerce shall issue an initial determination stating whether the agency is in agreement with the grantee's actions or proposed actions related to the disposition of the audit. The grantee will be notified if Commerce is in agreement with the grantee's disposition of the audit.

The audit resolution plan will be remanded to the grantee for additional action or a final determination to establish debt will be issued if the Commerce is in disagreement with the grantee's disposition of the audit. The remand to the grantee for additional action must be responded to within 30 days after receipt. Within 30 days after receiving the grantee's response to the remand Commerce shall issue a final determination. The final determination will include, if applicable, the following:

1. Identification of disallowed costs, listing each disallowed cost and describing the reason(s) for each disallowance;
2. Identification of those costs questioned in the audit report that will be allowed and explanation of why those costs are allowed;
3. Notification that a debt has been established; and information on the grant recipient's right to appeal through the general complaint processing procedure.

The grantee must submit the request with its audit resolution plan if the grant recipient intends to request a waiver of liability as described in Section 184 (~~d)(2)~~ of WIOA. All requests for waivers must address the findings and include supporting documentation. The grant recipient must submit a request for a waiver of liability to the state with the concurrence and signatures of Local Board Chair and the CEO Chair.

In resolving audit findings, the grant recipient shall adhere to federal and state requirements with regard to the allowability of costs.

Commerce will take the following steps in regard to audits of its subrecipients to ensure that appropriate corrective action is taken within six months after receipt of the audit report:

1. A copy of the final determination will be provided to the section within Commerce that has responsibility for the activity related to the audit finding; and
2. If there is no section within Commerce that has direct responsibility related to the audit finding, the legal section will assign the follow-up to assure that corrective action is taken. The section assigned responsibility will complete the follow-up and provide a written report on the corrective action within 60 days.

Debt Collection Procedures

The procedure described in this section shall be used in all cases where a debt is established against a grant recipient or contractor as a result of negative monitoring or audit findings.

Establishment of Debt

Debt collection is to begin once the debt is established as follows:

a. Audits - debt is established by the release of a final determination disallowing a cost.
b. Final determination appealed - debt is established upon affirmation of the original determination.
c. Monitoring - debt is established upon disapproval of the corrective action taken by the grant recipient or contractor.

A copy of the final determination of a debt will be provided to the fiscal section. The Fiscal section will set up an accounts receivable system for the debt.

In the case of a monitoring finding, the section discovering the finding will notify the Corrective Action Board (CAB reviews findings requiring corrective action and makes for consideration when corrective action is necessary. See *Policy ~~1-02-02~~ Oversight and Monitoring*).

Notification of Debt

Within ten days of the establishment of the debt, a demand letter shall be sent by certified mail with *return receipt* requested to the grant recipient or contractor. Legal action shall be initiated if no response or payment is received within 30 days of the date of the demand letter. In accordance with Federal Claims Collection Standards. Interest on the debt shall accrue from the date of the demand letter. Interest shall be charged at the U.S. Treasury rate prevailing on that date.

Interest may be waived if the debt is paid or negotiated before it becomes delinquent, which is 30 days after the date of the demand letter. If the demand letter is not picked up and signed by the grant recipient or contractor, it shall be considered a "no response" and legal remedies will be pursued. In addition, debts that become delinquent may be disclosed to a credit reporting agency. Delinquent debts that remain outstanding will, in some cases, jeopardize eligibility to receive federal and state funds.

Payment Methods

Payment of debts shall be a one-time cash payment. In cases of documented financial hardship, or for other reasons as allowed by law, the following payment procedures may be used as determined by the secretary of Commerce.

Repayment Agreement

A repayment agreement may be negotiated for a time period not to exceed one year in length. The agreement shall be written and signed by both parties. The agreement shall include the following:

a. Effective date of agreement;
b. Amount of debt;
c. Schedule of payment dates;
d. Amount of each payment;
e. Statement of interest; and
f. Requirement for accelerated payment in full if the grant recipient or contractor breaches the terms of the agreement.

Services in Lieu of Cash

Other alternatives to cash repayment may be accepted under certain circumstances. One such repayment mechanism allows for repayment of a debt by providing extra services at the grant recipient's or contractor's expense outside of the grant agreement or contract. Services in lieu of cash repayment shall only be approved when both of the following conditions exist as determined by the secretary of Commerce:

a. Cash repayment is not feasible; and
b. The services in lieu of cash repayment method will benefit the program in which the costs were disallowed resulting in the debt.

A service in lieu of cash repayment agreement shall be in writing and signed by both parties. The agreement shall contain the following:

a. Effective date of agreement;
b. Amount of debt;
c. Type of services to be provided;
d. Estimated value of services to be provided;
e. Documentation requirements; and
f. Requirement for accelerated payment in full if the grant recipient or contractor breaches the terms of the agreement.

Allocation Reduction

An allocation reduction can occur, when permissible, if the U. S. Department of Labor offsets a debt against funds allotted to the governor, and the debt resulted from misexpenditure by the grant recipient or its subrecipients.

Legal Action

Legal action shall be taken when all other available options have been exhausted or rejected.