

DIRECTIVE

WORKFORCE INVESTMENT ACT

Number: WIAD01-5

Date: September 10, 2001
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TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: DEBT COLLECTION

EXECUTIVE SUMMARY:

Purpose:

This directive transmits the policy and procedures for debt collection associated with the misexpenditure of Workforce Investment Act (WIA) funds.

Scope:

This directive requires that all subrecipients expending WIA funds shall comply with federal and State debt collection requirements.

Effective Date:

This directive is effective on release.

REFERENCES:

- WIA Section 184
- Title 20 Code of Federal Regulations (CFR) Sections 667.410(a) and 667.500(a)(2)

STATE-IMPOSED REQUIREMENTS:

This directive contains State-imposed requirements in ***bold, italic*** type.

FILING INSTRUCTIONS:

This directive finalizes Draft Directive WIADD-19, issued for comment on July 31, 2001. Retain this directive until further notice.

BACKGROUND:

The WIA requires that states establish fiscal controls. Among the required controls specified in Title 20 CFR Section 667.500(a)(2) is a process for collecting debts. The policies and procedures described below have been used for other federal programs and will be used for WIA.

POLICY AND PROCEDURES:

Definitions:

Final determination is the awarding agency's decision to allow or disallow questioned costs and resolve any nonmonetary findings.

EDD is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. Special requests for services, aids, and/or special formats need to be made by calling (916) 654-8055 (Voice). TTY users, please call the California Relay Service at 711.

Final debt is the amount owed based on the awarding agency's final determination if an appeal is not filed, or the decision issued in response to an appeal. Included in final debts are funds due from, but not limited to, incidents of fraud, malfeasance, misapplication of funds or other serious violations or illegal acts.

Policy:

Local Workforce Investment Areas (LWIA) are responsible for their subrecipient audit resolution and aggressive debt collection action. At the State level, audit resolution and debt collection are the responsibility of the Employment Development Department's (EDD) Compliance Review Division (CRD).

The settlement of all debts resulting from fraud, malfeasance, misapplication of funds or other serious violations or illegal acts must be cash from nonfederal sources. ***Funds collected by LWIAs in settlement of these debts must be returned to CRD immediately on their receipt.*** The mailing address for CRD is:

Employment Development Department
Compliance Review Division, MIC 22M
P. O. Box 826880
Sacramento, CA 94280-0001

The LWIA must maintain records that document the actions taken with respect to debt collection, restoration, or other debt resolution activities. The LWIA must also document why the actions were taken to support their decisions.

When the debt was not a result of fraud, malfeasance, misapplication of funds or other serious violations or illegal acts, the cash repayment of the disallowance is 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, LWIAs may expend the funds within the cost limits. Cash payments received after the fund availability period must be remitted to CRD.

Procedures:

Each LWIA must establish, describe and maintain written debt collection procedures that include:

- A process for notifying subrecipients of the establishment of the debt, their appeal rights, the date that the debt will be considered delinquent, the sanctions (which may include but are not limited to debarment) if the debt is not repaid and the interest rate charged, if any;
- The requirement that three debt collection letters be sent to the subrecipient at no less than 30 calendar day intervals;
- The establishment of an outstanding debt category in the local area's accounts receivable system;
- The local area's standards and specifications for terminating, compromising, and litigating debts; and
- A process for maintaining a permanent record of all debt collection cases and their status.

To be relieved of liability for a subrecipient's debt, the local area must submit a written request that EDD seek the Department of Labor (DOL) agreement to forego collection action (pursuant to the provisions of Title 20 CFR Section 667.730) to CRD. Requests must include documentation and other demonstrations of facts showing compliance with WIA Section 184(d) and Title 20 CFR Section 667.730. Mere statements of compliance and recitation of the criteria will not be acceptable. Examples of appropriate documentation include, but are not limited to, proof that debt collection letters were sent (e.g., returned certified mail receipts), litigation was conducted and withholding of funds was attempted. Without the prior approval of both CRD and DOL, the local area will remain responsible for repayment of the entire debt.

Unless other arrangements have been documented and approved by CRD, the LWIA, and (when appropriate) the subrecipient, all WIA debts must be paid within 30 calendar days of the date on which the debt was established as final. When the debtor is unable to make restitution in full, an installment repayment agreement may be negotiated. Installment repayment agreements will be of short duration, from 3 to 12 months, with a maximum of 36 months. The length of the repayment agreement will be negotiated based on the size of the debt and the debtor's ability to pay. The CRD must approve all installment repayment agreements.

The CRD will:

- Instruct the Fiscal Programs Division (FPD) to issue an invoice with payment due date and the interest charge, if any, to the local area once a final debt is established.
- Notify FPD to issue two additional invoices to the local area at 30 calendar day intervals, when payment has not been received or a satisfactory alternative repayment plan has not been negotiated.
- Determine whether to use another method of collection if the debt is still outstanding after 90 calendar days. In making the determination, consideration will be given to the amount of the debt, the cost of further debt collection, the amount collected to date, and the probable success of pursuing further collection action.
- Notify the Chief Elected Official of each relevant unit of general local government, if the agreed upon payment is not received within the 90 calendar days after the date of the third invoice. When multiple units of general local government are designated as the local area, the liability of the individual jurisdictions must be specified in a written agreement between the chief elected officials.

ACTION:

Bring this directive to the attention of all affected staff and subrecipients.

INQUIRIES:

Please direct questions about this directive to your regional advisor at (916) 653-6347.

/S/ BILL BURKE
Chief