



www.sbwb.org

SOUTH BAY WORKFORCE INVESTMENT BOARD
SBWIB

M E M B E R S

WAYNE SPENCER
CHAIRPERSON

DR. ANTHONY TARANTO
BILLY C. CAMPBELL
BOB HELEANT
BRENDA GARVIN
BRIAN RABER
CAROLYN ANDERSON
DAVID FLECK
DAVID NOFLIN
DEEPAK CHOPRA
DR. DENA MALONEY
DOUG MARIAN
EDWARD DE BRITO
ELLENMARY MICHEL
ELYSE BEARDSLEY
FRAN FULTON
G. YVONNE MALLORY
GARY COOK
GLENN GRINDSTAFF
GLENN MITCHELL
GREGG MCCLAIN
JANE TEMPLIN
JANINE HAMNER
JAY FOWLER
JEFFREY R. JENNISON
JESUS FERNANDEZ
JOE AHN
JOSH LAFARGA
KATHY WOJNO
KIRK ROSSBERG
DR. LANCE WILLIAMS
LILIAN HANEY
LINDA BRADLEY
MARC LITTLE
MICHAEL JACKSON
MIKE HARRIEL
MITCH PONCE
NICK SPAMPANATO
PATRICIA BENNETT
PATRICIA DONALDSON
RAJ DHILLON
ROLAND TALTON
RUDY RODRIGUEZ
RUTHI DAVIS
DR. SANDRA G. HORWITZ
SARAH GONZAGA
SUSIE YELLOWHORSE-JENSEN
TAMALA LEWIS
TOD SWORD
VAN NGUYEN
WANZA TOLLIVER
DR. WILLIE HAGAN

JAN VOGEL
EXECUTIVE DIRECTOR

BACKGROUND:

Entities receiving awards of WIOA funds must meet the audit requirement of OMB Part 200, Section 200.501 requires that non-federal entities that expend more than \$750,000 must have a program or program specific audit conducted for that year. These regulations also require the establishment of procedures for audit resolution.

The procedures apply to State resolution of subrecipient audits and to subrecipient resolution of lower-tier subrecipient audits. In addition, Employment Development Department (EDD) Compliance Review Division (CRD) may use these procedures in resolving the findings from other reviews, such as incident and investigation reports, and monitoring. The CRD is responsible for State level audit resolution and coordination of State level hearings. Address mail as follows:

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

POLICY AND PROCEDURES:

Definitions:

Audit finding means deficiencies which the auditor is required by §200.516 Audit Finding, paragraph (a) to report in the schedule of findings and questioned costs.

Auditee means any non-Federal entity that expends Federal awards which must be audited under Subpart F-Audit Requirements.

Federal award has the meaning, depending on the context, in either paragraph (a) or (b) of this section:

- (a) The Federal financial assistance that a non-federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity as described in §200.101 Applicability; or (2) The cost-reimbursement contract under the Federal Acquisition Regulations that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101 Applicability.
- (b) The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance covered in paragraph (b) of §200.40 Federal financial assistance, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.

Non-Federal entity means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

Subrecipient means a non-Federal entity that receives a subaward from a

pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

POLICY:

As a grant recipient/subrecipient agency that award WIOA funds to lower-tier subrecipients must have written audit resolution policies and procedures. The SBWIB, audit resolution consists of a three-part process that includes the Initial Determination, informal resolution period, and the Final Determination. Receipt of the Initial and Final Determinations by the auditee must be documented by the awarding agency.

PROCEDURES:

I. SBWIB Standards

A. SBWIB must:

1. Review the audit report of its subrecipients to ensure compliance with the requirements of OMB 2CFR 200.
2. Establish an audit resolution file to document the disposition of reported questioned costs and corrective actions taken for all findings.
3. Complete a control log. (The log must contain the date of the audit, the period covered by the audit, the date that the audit was received, the auditor, the questioned costs, the administrative findings, the date or dates of the Initial and Final Determinations, and documentation of decisions regarding the disallowed costs and administrative findings.)
4. Issue a letter of Initial Determination based on the audit review. The Initial Determination letter includes:
 - a. A list all questioned costs.
 - b. Whether the costs are allowed or disallowed, including the reasons with appropriate citations for such actions.
 - c. Acceptance or rejection of any corrective action taken to date, including corrective action on administrative findings.
 - d. Possible sanctions
 - e. The opportunity for informal resolution of no more than 60 days from the date of Initial Determination.
5. During informal resolution, the auditee may provide documentation to support allowability of costs and proposed corrective action of administrative findings. Informal resolution discussions may be held by telephone, if necessary, but in person is preferable. When a meeting is held, provide a sign-in sheet. The sign-in sheet must be retained as part of the audit file. The meeting must be documented either with a voice recording or written notes. Negotiations of repayments can be initiated at this time.

6. Issue a written Final Determination. The Final Determination includes:
 - a. Reference to the Initial Determination
 - b. Summation of the informal resolution meeting, if held.
 - c. Decision regarding the disallowed costs, listing each disallowed cost and noting the reasons for each disallowance.
 - d. Questioned costs that have been allowed by the awarding agency and the basis for the allowance.
 - e. Demand for repayment of the disallowed costs.
 - f. Description of the debt collection process and other sanctions that may be imposed if payment is not received.
 - g. Rights to a hearing.
 - h. The status of each administrative finding.
- B. The audit resolution process must be completed within six months after receipt of the subrecipient's audit report and must ensure that the subrecipient takes appropriate and timely corrective action.
- C. The audit file is to be assembled for ease of reference in the event of future action. The file should include the following:
 1. Final Determination and proof of receipt by the subrecipient.
 2. Additional documentation submitted as part of the informal resolution process:
 - Notes related to the informal resolution
 - Sign-in sheets from any informal resolution meetings.
 3. Initial Determination and proof of receipt by the subrecipient.
 4. Response to the final audit report.
 5. Final audit report.
- D. SBWIB has established local-level hearing procedures as noted in this directive. The SBWIB reserves the right to overturn a hearing officer's decision when it determines that noncompliance with the applicable act or its regulations still exists.

The hearing allows both parties the right to present either written or oral testimony, call and question witnesses in support of their position, present oral and written arguments, examine records and documents relevant to the issues, and be represented. The hearing shall be recorded mechanically or by court reporter.

The auditee has 30 calendar days after the Final Determination is issued to submit a written request for a hearing. At least 10 calendar days before the hearing, written notice of the date and site of the hearing must be provided to the auditee. The 10-day notice may be shortened with written consent of both parties. The auditee may withdraw the hearing; the withdrawal request must be submitted in writing.

A decision must be issued by the hearing officer within 60 days of the request filing date.

An auditee has 10 days from receipt of the adverse decision to file an appeal of the local hearing officer's adverse decision to the State Review Panel. If a local hearing is not held or the decision is not rendered timely, the auditee has 15 days from the date on which the hearing should have been held or the decision should have been issued to file an appeal with the State Review Panel.

- E. If the auditee appeals the decision of the awarding agency's hearing officer to the State, the awarding agency will send Compliance Review Division (CRD) the complete audit for review by the State Review Panel. Within 30 days of receipt by the CRD of the auditee's written appeal, the State Review Panel will be convened to review all evidence and issue a decision based on the evidence without consideration of any imposed sanctions.

There is no administrative appeal beyond this level.

- F. SBWIB, Inc. shall ensure correction of any unresolved administrative findings. The awarding agency should determine the status of the unresolved administrative findings through its monitoring process and determine that appropriate corrective action has been taken. A copy of the monitoring report substantiating the implementation of the appropriate corrective action must be filed with the audit report.

II. State Audit Resolution

- A. If there are no audit findings, the CRD will notify the auditee that no further action will be taken regarding the audit.
- B. If the audit identifies an administrative finding, questioned costs, or cost recommended for disallowance, the CRD will:
 - 1. Establish an audit resolution file to document the disposition of each finding and the corrective action taken to resolve each finding.
 - 2. Issue a written notice of Initial Determination after the audit is reviewed.
 - 3. Provide the auditee an opportunity for informal resolution and submission of additional documents within 60 days from the date of the notice of Initial Determination to resolve questioned costs and/or administrative findings.
 - 4. Issue a written notice of Final Determination.

III. State Hearings

All appeals of State audit determinations, including amendments and withdrawals, shall be in writing. Requests for hearing must be made within 30 days from the date of the Final Determination.

The State hearing officer will provide written notice to the concerned parties of the date, time, and place of the hearing at least 10 calendar days before the scheduled hearing. Both parties will have the opportunity to present oral and written testimony, call and question witnesses in support of their position, present oral and written arguments, examine records and documents relevant to the

issue(s), and be represented. The State hearing officer will prepare a proposed decision and submit it to the Employment Development Department (EDD) Director or designee. The EDD reserves the right to overturn the decision of the hearing officer.

There is no administrative appeal beyond this level.

IV. Stand-In Costs

During the audit resolution process, the auditee may propose the use of stand-in costs to substitute for disallowed costs. To be considered, stand-in costs must be incurred for allowable WIOA costs that were reported as uncharged WIOA program costs included within the scope of the audit, and accounted for in the auditee's financial system. The stand-in cost must have been expended in support of the same title and program year as the cost they propose to replace, and the costs must not cause a violation of the cost limitations and requirements. Stand-in costs must be actual expenses paid with nonfederal funds. Cash match in excess of the required match may also be considered for use as stand-in costs.

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

INQUIRES:

If you have any questions regarding this directive, please contact the Finance Manager at (310) 970-7700.

Jan Vogel
Executive Director

Approved by the Executive Committee: April 12, 2017