

**Mendocino County Workforce Investment Board**  
631 S. Orchard Ave., Ukiah, CA 95482 (707) 463-6389/Fax (707) 463-6392

**Policy No. 16**

**DEBT COLLECTION**

**PURPOSE:**

To set forth the policy and procedures to be followed to collect any debt due and owed to the Mendocino County Workforce Investment Board (WIB).

**BACKGROUND:**

The Workforce Investment Act (WIA) requires that all subrecipients expending WIA funds shall comply with federal and State debt collection requirements. Among the required controls specified in Title 20 Code of Federal Regulations (CFR) Section 667.500(a)(2) is a process for collecting debts.

**DEFINITIONS:**

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

**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.

**REFERENCES:**

- WIA Section 184
- Title 20 Code of Federal Regulations (CFR) Section 667.410(a) and 667.500(a)(2)
- WIA Directive WIAD01-5, Subject: Debt Collection (September 10, 2001)

**NOTIFICATION PROCESS:**

Once it has been determined that a debt is owed the WIB by any subrecipient, the subrecipient shall be notified of the existence and the basis of the debt. If the subrecipient is entitled to file a grievance, he shall be notified of the availability of the WIB grievance procedures. The subrecipient shall be informed as to the possible sanctions (which may include but are not limited to debarment) if the debt is not paid

and the date the debt will be considered delinquent. The subrecipient will also be advised as to the Interest rate charged, if any, on the balance due.

#### **STATE WAIVER IN EVENT OF BANKRUPTCY:**

In the event a subrecipient has filed a petition for bankruptcy, WIB shall request from the State a waiver of any possible sanctions against WIB. The request for waiver shall demonstrate that it has met the four criteria as stated below:

1. Established and adhered to an appropriate system for the award and monitoring of contracts with program operators that contains acceptable standards for ensuring accountability.
2. Entered into a written contract with such program operators that established clear goals and obligations in unambiguous terms.
3. Acted with due diligence to monitor the implementation of the program-operator contract, including carrying out of the appropriate monitoring activities (including audits) at reasonable intervals.
4. Taken prompt and appropriate corrective action upon becoming aware of any evidence of a violation of the WIA or the Regulations under the WIA by such program operator.

#### **COMPROMISE OF DEBT:**

In the event a subrecipient desires to compromise a debt, WIB shall make a determination as to whether or not the compromise is in the best interest of WIB. In making the determination, WIB shall consider the following factors:

1. The amount of the debt.
2. Methods of repayment.
3. The cost of further debt collection.
4. The amount collected to date.
5. The probable success of any litigation.
6. The ability of a debtor to satisfy any judgment.

In the event it is determined to be in the best interest of the WIB to compromise a debt, the WIB shall request a waiver from the State of the amount to be compromised. In addition to the information forwarded to the State to request a waiver, the WIB shall include the factors considered in the compromise decision.

In the event determination is made that it is not in the best interest of WIB to compromise a debt, or if the subrecipient offers no compromise, a decision shall be made as to whether or not to litigate the claim. In making this determination, the WIB shall consider the following factors:

1. The amount of the debt.
2. The cost of further debt collection.
3. The amount collected to date.
4. The probable success of any litigation.
5. The ability of the debtor to satisfy any judgment.

## **LITIGATION OF DEBT:**

If the amount of the claim is within the jurisdiction of the small claims court, the litigation shall be instituted in small claims court. If the amount in controversy exceeds the jurisdiction of the small claims court, WIB shall seek legal counsel with respect to the collection of the debt.

If, after consultation with legal counsel, it is determined that litigation is not in the best interests of WIB, the procedures for a waiver set out above shall be followed. The opinion of counsel shall be in writing and shall be among the documents forwarded to the State in the request for waiver.

## **DEBT COLLECTION:**

The WIB must send three debt collection letters to the subrecipient at no less than 30 calendar day intervals. The debt collection letters must be sent Certified Mail-Return Receipt Requested.

## **DEBT REPAYMENT:**

Unless other arrangements have been documented and approved by Compliance Review Division (CRD), the WIB, 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 shall be of short duration, from 3 to 12 months, with a maximum of 36 months. The length of the repayment agreement will be negotiated on the size of the debt and the debtor's ability to pay. The CRD must approve all installment repayment agreements.

## **RECORD OF DEBT COLLECTION CASES:**

An outstanding debt category will be established in the WIB accounts receivable system that will detail the amount of the debt, the date the debt was to become due, any payments received against the debt, and any interest to be charged. The WIB must maintain records that document the actions taken with respect to debt collection, restoration, or other debt resolution activities. The WIB must also document why the actions were taken to support their decisions. A permanent record of all debt collection cases and their status will be maintained.

## **DISPOSITION OF DEBT SETTLEMENT:**

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. WIB will return funds collected in settlement of these debts to the Employment Development Department, Compliance Review Division (CDR) immediately upon their receipt.

When a debt was not a result of fraud, malfeasance, misapplication of funds or other serious violation or illegal act, 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, WIB may expend the funds within the cost limits. Cash payments received after the fund availability period must be remitted to CRD.

Adopted by Oversight Committee: April 26, 2002

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