



# IMPERIAL COUNTY WORKFORCE DEVELOPMENT BOARD

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| POLICY                                   | ORIGINAL DATE         | LAST REVISION     |
|--|-----------------------|-------------------|
| Audit Requirements and Resolution Policy | FISCAL YEAR 2021-2022 | December 14, 2022 |

## **Policy Overview:**

The purpose of this policy is to provide guidance and establishes procedures to be used by the Imperial County Workforce Development Board, the Imperial County Workforce an Economic Development office (ICWED), service providers and subrecipients regarding audit requirement for federal awards. This policy also provides guidance for the resolution of audit findings and disallowed cost.

## **References:**

- Workforce Innovation and Opportunity Act (WIOA) (Public Law 113-128), Section 184
- Title 2 Code of Federal Regulations (CFR) Part 200: Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)
- Title 2 CFR Part 2900: Uniform Administrative Requirement, Cost Principles, and Audit Requirements for Federal Aware (DOL Exceptions)
- Title 20 CFR Sections 667.200(b) and 667.500(a)
- Title 20 CFT Section 667.510, 683.10, and 683.420
- Title 29 CFR Section 95.26, 96.53 and 97.26
- State Administrative Manual Sections 20030 and 20070
- Federal Audit Clearinghouse
- Training and Employment Guidance Letter (TEGL)15-14, *Implementation of the New Uniform Guidance Regulation* (December 19, 2014)
- State Controller's Office, Single Audits - Local Agencies
- One Stop Comprehensive Final Management Technical Assistance Guide
- Workforce Services Directive WSD20-03, Subject: Audit Requirements (October 13, 2020)
- Workforce Services Directive WSD16-05, Subject: WIOA Closeout Requirements (July 29, 2016)
- Workforce Services Directive WSD22-07, Subject: Dept Collection (November 14, 2022)
- Workforce Services Directive WSD22-06, Subject: Audit Resolution (November 14, 2022)

## **Background:**

Entities receiving awards of Workforce Innovation and Opportunity Act (WIOA) and Wagner-Peyser Act (WP) funds must meet the audit requirements of Title 2 CFR Part 200, Subpart F – Audit requirement, 2 CFR 2900, Subpart F – Audit Requirements, and Title 29 CFR Section 97.26 – Non-federal audit.

Title 20 CFT Section 683.210 requires that all recipients of WIOA Title I and WP funds who expend more than \$750,000 of federal funds during the fiscal year must have a program specific or single audit conducted in accordance with 2 CFR part 200, Subpart F. These regulation require the establishment of procedures for audit resolution.

The procedures apply to sub-recipient resolution of their sub-recipients' audits. In addition, the EDDs Compliance Review Office (CRO) may use these procedures in resolving the findings from other

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reviews, such as indecent investigation report, and monitoring. The CRO is responsible for state-level audit resolution and coordination of state-level hearings. Please submit correspondence and requested information to the CRO through one of the following method (email is preferred):

Email: [PACBCROIncidentReport@edd.ca.gov](mailto:PACBCROIncidentReport@edd.ca.gov)

Mail: Employment Development Department  
Compliance Review Office  
Compliance Resolution Unit  
PO Box 826880, MIC22  
Sacramento, CA, 94280-0001

### **Definitions:**

For the purposes of this Directive, the following definitions apply:

**Administrative finding** – a finding that is non-monetary and related to procedural or administrative matters.

**Auditee** – a non-federal entity that expends federal awards which must be audited under Uniform Guidance Subpart F – Audit Requirements. (Uniform Guidance Section 200.6)

**Auditor** – an auditor who is a public accountant or a federal, state, local government, or Indian tribe audit organization that 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. (Uniform Guidance Section 200.7)

**Awarding agency** – (1) with respect to a grant, Department of Labor; and (2) with respect to a sub-grant or contract, the party that awarded the sub-grant or contract.

**Disallowed Cost** – those charges to a federal award that the federal awarding agency or pass through entity determines to be unallowable according to the applicable federal statutes, regulations, or terms and conditions of the federal award.

**Federal award** – federal financial assistance that a non-federal entity receives either directly from a federal awarding agency or indirectly from a pass-through entity. (Uniform Guidance Section 200.38)

**Final Determination** – the awarding agency's final decision to disallow the cost and the status of nonmonetary findings.

**Informal resolution** – a reasonable period of time (not more than 6 months) from the date of issuance of the initial determination to informally resolve matters in which the recipient/contractor disagrees with the decisions of the awarding agency on the allowability of questioned costs or activities.

**Initial Determination** – a preliminary decision on whether to allow or disallow questioned costs and resolve any non-monetary (administrative) findings. The initial determination is based on applicable statutes, regulations, administrative directives, or terms and conditions of the grant/contract award instrument. It offers the auditee/sub-recipient an opportunity for informal resolution, not a formal hearing

**Non-federal entity** – a state, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a federal award as a recipient or subrecipient. (Uniform Guidance Section 200.69)

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**Nonmonetary finding** – an administrative finding.

**Pass-through entity** – a non-federal entity that provides a sub-award to a sub-recipient to carry out part of a federal program. (Uniform Guidance Section 200.74) The EDD is the pass-through entity for WIOA Title I Adult, Dislocated Worker, and Youth programs, and other federal grant awards.

**Program-Specific Audit** – an audit of an individual federal program rather than a single audit of an entity's financial statements and federal programs. When an auditee expends federal awards under only one federal program (excluding research and development), and the federal program's statutes, regulations, or the terms and conditions of the federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with Uniform Guidance Section 200.507. A program-specific audit may not be elected for research and development unless all of the federal awards expended were received from one federal agency, or one federal agency and one pass-through entity, and that federal agency, or pass-through entity in the case of a sub-recipient, approves in advance a program-specific audit.

**Recipient** – a non-federal entity that receives a federal award directly from a federal awarding agency to carry out an activity under a federal program. The recipient does not include sub-recipients (Uniform Guidance 200.86).

**Single Audit** – a comprehensive review of an organization's financial activity for a fiscal year. All single audits must be conducted by an independent auditor in accordance with GAGAS. In order to determine whether the \$750,000 threshold is met, a non-federal entity must count the amount of federal awards received directly from federal agencies and pass-through entities.

**Stand-In Costs** – costs paid from non-federal sources to substitute federal costs that have been disallowed as a result of an audit. Stand-in costs must come from the same year as the costs that they are proposed to replace and they must not cause a violation of the administrative or other cost limitation. These costs must be included in the appropriate expenditure reports if they will be used at a later time.

**Sub-award** – an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A sub-award may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract. (Uniform Guidance Section 200.92)

**Sub-recipient** – a non-federal entity that receives a sub-award 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 the federal awarding agency (Uniform Guidance Section 200.93). Local Areas are the sub-recipients of WIOA funds and other federal grant awards.

## **Policy and Procedures:**

### **AUDIT TYPES**

In accordance with Uniform Guidance Section 200.501, all Local Areas and other non-federal entities that expend \$750,000 or more in federal awards in a fiscal year must have a single or program-specific audit conducted for that fiscal year.

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### Single Audit

A single audit is a comprehensive review of an organization's financial activity for a fiscal year. All single audits must be conducted by an independent auditor in accordance with GAGAS. In order to determine whether the \$750,000 threshold is met, a non-federal entity must count the amount of federal awards received directly from federal agencies and pass-through entities.

### Program-Specific Audit

A program-specific audit is an audit of an individual federal program rather than a single audit of an entity's financial statements and federal programs. When an auditee expends federal awards under only one federal program (excluding research and development), and the federal program's statutes, regulations, or the terms and conditions of the federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with Uniform Guidance Section 200.507. A program-specific audit may not be elected for research and development unless all of the federal awards expended were received from the same federal agency, or the same federal agency and the same pass-through entity, and that federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.

### Limited-Scope Audit

A limited-scope audit is focused on a specific area. An agreed-upon procedures audit may also be limited in scope; however, the specific steps needed to assess a subject matter are determined by the interested parties.

### Exemption

Non-federal entities spending less than \$750,000 under federal awards for a fiscal year are exempt from the single audit requirement, but must still have records available for review or audit by officials of the federal agency, pass-through entity, and Government Accountability Office. These entities may conduct or arrange additional program-specific, limited-scope, or an agreed-upon procedures audit or review to ensure proper accountability and compliance with program requirements (Uniform Guidance Sections 200.501[d] and 200.503).

## **REPORTING REQUIREMENTS**

For single audit reporting, a sub-recipient must submit the audit reporting package to the Federal Audit Clearinghouse (FAC) and the SCO. Reports must be submitted within 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period, whichever is earlier. Note that the FAC and the SCO have different reporting requirements. (Uniform Guidance Section 200.507[c][1])

1. The FAC operates on behalf of the OMB and is the repository of record where auditees must transmit audit reporting packages. In addition, the FAC does the following:
  - Distributes the single audit reporting package and data collection form to federal agencies, pass.
  - Supports OMB oversight and assessment of federal award audit requirements.
  - Maintains a public database of completed audits.
  - Assists auditors and auditees to minimize the reporting burden of complying with single audit requirements.

Reporting Package submitted to the FAC must include the following documents:

- Financial statements.
- Schedule of expenditures of federal awards.
- Auditor's report.
- Corrective action plan prepared by auditee.

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- Auditor's data collection form (Federal Audit Clearinghouse form SF-SAC).
- Senior official signature attesting to compliance.

(Uniform Guidance 200.508 and 200.512[c])

Local Areas, subrecipients, and other non-federal entities should refer to the FAC website for single audit guidelines and reporting package requirements.

2. The SCO is the single audit oversight agency for most California local government agencies. For financial management standards, the state will continue to use and expend the federal award in accordance with state laws and procedures. (Uniform Guidance Section 200.302)

As such, local government agencies receiving federal awards must submit the following reports to the SCO:

- Non-federal entities expending equal to or in excess of \$750,000 in federal awards (and that amount includes any state pass-through funds) must complete a single audit reporting package.
- Non-federal entities expending less than \$750,000 in federal awards must submit written notification of its exempt status.
- Non-federal entities expending equal to or in excess of \$750,000 in federal awards (and that amount does not include any state pass-through funds) must submit either an audit report or an explanation letter. If the entity is currently being monitored by the SCO, a "no Review Letter" will be issued to the entity in return.

Local government agencies of federal awards should refer to the SCO Single Audits - Local Agencies webpage for single audit guidelines and reporting package requirements.

Entities not designated as a Local Area, but are expending less than \$750,000 in federal grant funds in a fiscal year must also submit written certification of their exempt status to the EDD Single Audit Coordinator.

### **SUB-RECIPIENT AND CONTRACTOR DETERMINATIONS**

An auditee may simultaneously be a recipient, a subrecipient, and a contractor. Federal awards expended as a recipient or a subrecipient are subject to audit. Payments received for goods or services provided as a contractor are not federal awards.

A subrecipient is a non-federal entity that meets the following criteria:

- Determines who is eligible to receive what federal assistance.
- Has its performance measured in relation to whether objectives of a federal program were met.
- Has responsibility for programmatic decision making.
- Is responsible for adherence to applicable federal program requirements specified in the federal award.
- In accordance with its agreement, uses the federal funds to carry out a program for a public purpose specified in the authorizing law as opposed to providing goods or services for the benefit of the pass-through entity.

In contrast, a contract meets the following criteria:

- Provides the goods and services within normal business operations.
- Provides similar goods or services to many different purchasers.
- Normally operates in a competitive environment.

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- Provides goods or services that are ancillary to the operation of the federal program.
- Is not subject to compliance requirements of the federal program as a result of the agreement, though similar requirements may apply for other reasons.

All of the characteristics of a subrecipient and a contractor may not be present in all cases. The pass-through entity holds the discretion in classifying each agreement as a sub-award or a procurement contract. (Uniform Guidance Section 200.330)

## **RECORD RETENTION AND ACCESS**

Financial records, supporting documents, statistical records, and all other non-federal entity records related to a federal award must be retained for a period of three years from the date of submission of the final expenditure report, or for the federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the federal awarding agency or pass-through entity. Federal awarding agencies and pass-through entities cannot impose any other record retention requirement upon non-federal entities. The only exceptions are as follows:

- If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- When the non-federal entity is notified in writing by the federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
- Records for real property and equipment acquired with federal funds must be retained for three years after final disposition.
- When records are transferred to or maintained by the federal awarding agency or passthrough entity, the 3-year retention requirement is not applicable to the non-federal entity.
- Records for program income transactions after the period of performance.
- Indirect cost rate proposals and cost allocations plans.

(Uniform Guidance Sections 200.331 and 200.333)

## **PASS-THROUGH ENTITIELS RESPONSIBILITES**

- A. The Uniform Guidance specifies that pass-through entities have certain responsibilities to manage and administer federal awards and ensure that all subrecipients comply with all laws and regulations and the terms and conditions of the federal award. The pass-through entity verifies that every subrecipient is audited as required.

In cases where subrecipients fail to comply with federal laws and regulations or the terms of the federal award, the EDD may take action in accordance with Uniform Guidance Sections 200.207 and 200.338. Remedies for noncompliance include one or more of the following actions:

- Temporarily withhold cash payments pending correction of the deficiency by the nonfederal entity or more sever enforcement action by the federal awarding agency or pass-through entity.
- Disallow all or part of the cost of the activity or action not in compliance.
- Wholly or partly suspend or terminate the federal award.
- Initiate suspension or debarment proceeding as authorized under Uniform Guidance and federal awarding agency regulations. In the case of a pass-through entity, the passthrough entity may recommend such a proceeding be initiated by a federal awarding agency.
- Withhold further federal awards for the project or program.
- Take other legally available remedies.

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## **SUBRECIPIENT STANDARD FOR AUDIT RESOLUTION**

### Subrecipient Standards

For the purpose of this policy, sub-recipients are identified as the following:

- The “awarding agency sub-recipient” is the agency who is directly funded and in a sub-grant with the EDD
- “Their sub-recipient” are identified as the agency at the local level that receives funds from the awarding agency sub-recipient to carry out a portion of the program.

#### A. Sub-recipients must:

1. Review the audit report of their subrecipients to ensure compliance with the requirements of the Uniform Guidance 2 CFR Part 200 Subpart F. If there are no concerns, a copy of the single audit must be kept on file and added to the audit control log as being compliant. If there are concerns, follow the following steps.
2. Establish an audit resolution file to document the disposition of reported questioned costs and corrective actions taken for all findings. The audit file may be saved electronically, or in a physical file or binder.
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 (number of findings and amounts), the administrative findings (number of findings), assigned audit number, the date or dates of the Initial and Final Determinations, and documentation of decisions regarding administrative findings, disallowed costs and appeals. This log should include the review of all single audits including those that are compliant.
4. Issue a letter of Initial Determination based on the audit review. The Initial Determination letter includes:
  - A list of all questioned costs.
  - Whether the costs are allowed or disallowed, including the reasons with appropriate citations for such actions.
  - Acceptance or rejection of any corrective action taken to date, including corrective action on administrative findings.
  - Possible sanctions.
  - 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, video conference or in person, if practical. 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 to their sub-recipient and include the following:
  - Reference to the Initial Determination.
  - Summation of the informal resolution meeting, if held.
  - Decisions regarding the disallowed costs, listing each disallowed cost and noting the reasons for each disallowance.

- Questioned costs that have been allowed by the awarding agency and the basis for the allowance.
  - Demand for repayment of the disallowed costs.
  - Description of the debt collection process and other sanctions that may be imposed if payment is not received. See the debt collection process in Debt Collection (WSD22-07).
  - Rights to a hearing.
  - The status of each administrative finding.
  - Identified areas of disagreement between the parties.
  - Advise their sub-recipient that the determination is based on information that is currently available. If new information becomes available, the Final Determination may be reopened at the awarding agencies option.
- B. The audit resolution process must be completed within six months after receipt of the sub-recipient's audit report and must ensure that the subrecipient takes appropriate and timely corrective action.
- C. The audit file must be assembled for ease of reference in the event of future action. Electronic files must be saved in a chronological order and contain all supporting documentation. Physical files must be tabulated with the most current documentation first. All audit files should include the following:
- Final Determination and proof of receipt by the sub-recipient.
  - Additional documentation submitted as part of the informal resolution process:
    - Notes related to the informal resolution.
    - Sign-in sheets from any informal resolution meetings.
  - Initial Determination and proof of receipt by the sub-recipient.
  - Response to the final audit report.
  - Final audit report.
- D. ICWED will meet with all their sub-recipients regarding any audit findings. In the event, that an audit finding cannot easily be resolved with a local sub-recipient, a hearing can be requested.

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 awarding agency 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 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 request; the withdrawal request must be submitted in writing.

The hearing officer must issue a decision 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.

If their sub-recipient appeals the decision of the awarding agency sub-recipient's hearing officer to the state, the awarding agency sub-recipient will send the CRO the complete audit file and hearing transcripts for review by the State Review Panel. Within 30 days of receipt by the CRO of their sub-recipients 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.

- E. There is no administrative appeal beyond the State Review Panel.
- F. The awarding agency 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.

## **STATE AUDIT RESOLUTION**

- A. If there are no audit findings, 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 CRO will do the following:
  - Establish an audit resolution file to document the disposition of each finding and the corrective action taken to resolve each finding, and may request additional documents.
  - Issue a written notice of Initial Determination after the audit is reviewed.
  - 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.
  - Issue a written notice of Final Determination.

## **STATE HEARINGS**

All appeals of state audit determinations, including amendments and withdrawals, shall be in writing.

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 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.***

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## **STAND-IN COSTS**

During the audit resolution process, the auditee may propose the use of stand-in costs to substitute for the disallowed costs. Stand-in costs must be actual expenses paid with nonfederal funds. 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. Cash match in excess of the required match may also be considered for use as stand-in costs. To be accepted, the stand-in costs must come from the same year as the costs they propose to replace, and they must not cause a violation of the administrative or other cost limitations.

## **RECORDS RETENTION**

Awarding agency sub-recipients and their sub-recipients must retain all records of each WIOA allocation for a period of three years from the date of their last expenditure report submitted to the EDD Central Office Workforce Services Division. If any litigation, claim, or audit is started before the expiration of the three-year period, ALL records must be retained until all findings have been resolved and final action taken (Uniform Guidance Section 200.333).

### **Action**

Please bring this policy to the attention of the ICWDB, AJCC system staff and appropriate WIOA funded service providers and sub-recipients. This policy is effective immediately. All submitted forms are live documents and subject to change according to local, State, and Federal needs. Once the forms and exhibits pertaining to this policy are approved by the ICWDB, they will not require board approval if other changes occur, unless the change affects protocols. Should you have any questions, please feel free to contact ICWDB staff at (442) 265-4974, (442) 265-4959, (442) 265- 4955 or the Program and Compliance Manager at (442) 265-4963.