

State of Alaska
Department of Labor and Workforce Development

Divisions: Alaska Workforce Investment Board (AWIB) Employment and Training Services (DETS)	Policy: 07-513.1
Subject: Sanctions for Non-Compliance	Pages: 4
Reference: 2 CFR 200.338 ; 20 CFR Chapter V, Employment and Training Administration, Department of Labor ; State Training and Employment Program, Alaska Administrative Code 8 AAC 87.160-220 ; Displaced Homemakers' Program 8 AAC 88 ; Alaska Technical and Vocational Education Program 8 AAC 86	Effective: 2/3/2016 Revised: 8/17/2020
Approved:  _____ Louise Dean, Executive Director, AWIB	8/25/2020 _____ Date
Approved:  _____ Patsy Westcott, Director, DETS	8/25/2020 _____ Date

1. Parties Affected

This policy applies to subrecipients of public funds from the Alaska Workforce Investment Board (AWIB), the Division of Employment and Training Services (DETS), and to AWIB and DETS staff.

2. Background

Technical assistance, oversight, and monitoring are tools used to ensure compliance with federal and state laws and regulations, and program and funding requirements. At times, sanctions and corrective action plans are necessary when subrecipients are found to be out of compliance with the terms and conditions of their award. This policy provides AWIB/DETS staff and subrecipients guidance for resolution of questioned costs or findings of non-compliance sanctions that may be imposed by for non-compliance of program requirements.

3. Policy

Subrecipients of AWIB/DETS funds will comply with the requirements set forth in this policy regarding the resolution of findings of non-compliance and questioned costs, and any sanctions that may be imposed by AWIB/DETS.

4. Requirements

AWIB/DETS may become aware of activities and associated costs that may be violations of program, subaward, state or federal policy, regulations, requirements, or laws as a result of annual monitoring, audits by independent auditors, monitoring by the federal grantor agency, complaints, investigations, reimbursement reviews, or other activities. These concerns, which may include questioned costs, disallowed costs, or findings of non-compliance will be brought to the subrecipient's attention in writing in the form of an initial determination. The procedure for responding to the initial determination will be provided, and based on the subrecipient's response, AWIB/DETS will make a final determination regarding the concerns. The subrecipient may appeal the determination.

Sanctions resulting from non-compliance

AWIB/DETS may impose one or more of the following sanctions as a result of issuing a final determination:

1. **Withholding of payments** pending correction of the deficiency by the subrecipient.
2. **Repayment of disallowed costs-** all or part of the costs of the activity or action may be out of compliance and disallowed. Repayment of disallowed costs is as follows:
 - a) Repayment must be made within 30 calendar days of the receipt of the final determination;
 - b) Repayment must be in cash and must be paid from sources other than state or federal funds;
 - c) Alternative repayment plans or debt collection methods may be negotiated if requested by the recipient within 30 calendar days of receipt of the determination.
3. **Suspension of subaward activities in whole or in part** if the terms of the subaward agreement are not met.
4. **Reduction in the subaward amount** if the non-compliance pertains to one specific activity or phase of a project and performance on the remainder of the subaward is determined to be acceptable.
5. **Termination of the subaward** if the findings of non-compliance are not resolved or if there has been blatant disregard for subaward requirements, or the subrecipient fails to repay disallowed costs within the required time.
6. **Withholding further awards from AWIB/DETS.** A subrecipient may be debarred from doing business with the State of Alaska in the most serious of situations, such as fraud or abuse. Debarment prohibits the recipient from receiving any funds from AWIB/DETS.

Legal action

Issues that cannot be resolved through the above sanctions, or where illegal activities are suspected, will be referred to the state attorney general for resolution.

Appeal of the Determination

The subrecipient may appeal the AWIB/DETS determination, in writing, within 15 calendar days of the subrecipient's receipt of the determination. The information provided must cite the specific reason for the appeal, include appropriate documentation to support the facts, and specify the form of relief requested.

Appeals may be filed at either the division level or department level. Division level appeals are reviewed and determinations made by the Executive Director of AWIB, Director of DETS, or their designees. Department level appeals are reviewed and determination made by the Commissioner, or designee. It is recommended that all appeals be initiated at the division level, which will preserve the right for further appeal to the department level if warranted. Appeals initially filed at the department level may not later be filed at the division level.

Division level AWIB appeals may be sent to:

Executive Director, Alaska Workforce Investment Board
3301 Eagle St, Ste 305
Anchorage AK 99508

Division level DETS appeals may be sent to:

Director, Division of Employment and Training Services
PO Box 115509
Juneau, AK 99811-5509

Department level complaints may be submitted to:

Commissioner, Department of Labor and Workforce Development
PO Box 111149
Juneau, Alaska 99811-1149
Or Emailed to commissioner.labor@alaska.gov

The decision of the Commissioner is final and no further appeal will be granted by the department.

5. Definitions

- a) **Disallowed costs** are questioned costs that have been formally determined by AWIB/DETS to be in violation of the statutes, regulations, policies, subaward agreement, or other requirements governing the use of public funds.
- b) **Final determination** is the formal decision from AWIB/DETS concerning the resolution of a finding of non-compliance or the allowableness of questioned costs.
- c) **Finding of non-compliance** is a matter identified by or brought to the attention of AWIB/DETS concerning an activity of a subrecipient of AWIB/DETS funds that may be in violation of the

statutes, regulations, policies, subaward agreement, or other requirements governing the use of public funds.

- d) Initial determination** is a preliminary decision by AWIB/DETS concerning the resolution of a finding of non-compliance or the allowableness of questioned costs.
- e) Questioned costs** have been identified as possibly being in violation of one or more federal or state laws, regulations, policies, a subaward agreement, or other requirements.
- f) Subaward** is all of the documents included in the contractual agreement between AWIB/DETS and a financial assistance subrecipient under an AWIB/DETS job training program and includes Reimbursable Services Agreements (RSAs) with other state agencies where funds are provided for services to the public.
- g) Subrecipient** is any individual or organization that directly receives public funds from AWIB/DETS.