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**SBWIB**

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**DATE:** December 8, 2022 (Updated 10/10/2024)

**TO:** South Bay Workforce Board (SBWIB), South Bay Workforce Investment Board, Inc. (SBWIB, Inc.), South Bay One-Stop Business & Career Centers, Youth Programs, Special Projects, Contractors & Partners

**SUBJECT:** Directive No. 22-03  
Debt Collection

**PURPOSE:**  
This directive establishes the South Bay Workforce Investment Board policy and procedures for debt collection to be utilized by the South Bay Workforce Investment Board, Inc. associated with audit findings and allegation of fraud, waste and abuse pertaining to federal Workforce Innovation Opportunity Act (WIOA) funds.

**SCOPE:**  
This directive requires that all subrecipients expending WIOA funds shall comply with Federal and State debt collection requirements.

**EFFECTIVE DATE:**  
This directive is effective on the date of approval by the Executive Committee.

**REFERENCES:**

- WIOA (Public Law 113-128) §184
- Title 20 Code of Federal Regulations (CFR) Sections 683.410(a), 683.420(a)(i), 683.740
- WSD22-07, *Debt Collection* (November 14, 2022)

**FILING INSTRUCTIONS:**  
This directive supersedes SBWIB Directive 16-07, dated April 13, 2017.

**BACKGROUND:**  
WIOA requires all subrecipients expending WIOA funds to comply with Federal and State debt collection requirements. Among the required controls specified in 20 CFR §683.420(a)(i) is a process for collecting debts.

JAN VOGEL  
**EXECUTIVE DIRECTOR**

## POLICY AND PROCEDURES:

### Definitions:

**Awarding Agency** – California Workforce Development Board (CWDB) / Employment Development Department (EDD); United States Department of Labor (DOL); any other entity from which SBWIB / SBIWB, Inc. receives funds via grants or contracts.

**Final Debt** – 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.

**Final Determination** – the awarding agency's decision to allow or disallow questioned costs and resolve any non-monetary findings.

**Subrecipient** – 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 the federal awarding agency (Title 2 CFR Section 200.93).

**Local Workforce Development Boards (Local Board)** – the subrecipients of WIOA funds and other federal grant awards. A Local Board may allocate funds to their subrecipients to carry out a part of the federal program.

This Directive references both the "awarding agency subrecipient" and "their subrecipients." For the purposes of this Directive, subrecipients will be labeled as the following:

- *The "awarding agency subrecipient" is the agency who is directly funded and in a subgrant with the EDD and or SBWIB / SBWIB, Inc.*
- *And "their subrecipient" is the agency at the local level that receives funds from the awarding agency subrecipient (SBWIB / SBWIB, Inc.) to carry out a portion of the program.*

### Debt Collection Requirements

The SBWIB / SBWIB, Inc. is responsible for local 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 Office (CRO).

### Debt Collection Process

When the SBWIB / SBWIB, Inc. determines that a debt has been established, a written notification of the determination will be issued to the subrecipient(s) via certified mail with return receipt. The written notification will include the following:

- An invoice issued by SBWIB, Inc. for the total amount of the debt owed.



- The date the debt will be considered delinquent. This date will be 90 days after the recipient has been notified.
- The appeal rights process of the subrecipient.
- Sanctions that will result from nonpayment, including but not limited to debarment and litigation.
- The interest rate to be charged.
- A notification that until the debt has been paid in full the recipient will be categorized as having an outstanding debt within SBWIB, Inc.'s accounts receivable.

This written notification will be sent two additional times, 30 days after the initial notice, and 60 days after the initial notice.

90 days after the initial notice the subrecipient will receive a written notice in the same manner above, indicating that the debt is now delinquent, and sanctions will now be imposed.

### **TERMINATING, COMPROMISING, AND LITIGATING DEBTS**

In accordance with federal, state, and local policy and requirements, a debt resulting from misapplication of funds due to willful disregard of the requirements of the Act, gross negligence, fraud, malfeasance, or other serious violations or illegal acts, or failure to observe accepted standards of administration shall be terminated or resolved only by cash repayment from nonfederal sources. All other debts will be resolved and terminated through the use of either cash or non-cash options.

These options include:

1. Cash payment for the full amount of the debt.
2. Installment Payments: Cash installment repayment agreements will be of a short duration from three to twelve months, with an exception to a maximum of thirty-six months. CRD shall approve all repayment agreements. Duration shall be negotiated based upon the size of the debt and the debtor's ability to repay. Use of cash installment repayment is recommended for instances where debt collection efforts are impeded by an inability to repay the full debt amount in a lump sum.
3. Adjustment in Payments: Under this method, an agreement is entered into with the debtor whereby the reimbursement due is reduced by the amount of the debt while the program is maintained at an undiminished cost level supported by non-federal contributions.
4. Withholding: This repayment method will consist of withholding amounts owed the debtor for past services or other considerations already provided in satisfaction of the debt owed.
5. Stand-in Costs: This method is not actually a debt repayment but is a way of "erasing" the debt. The debtor must identify allowable costs associated with the agreement during the contract period, but not charged to the grant or agreement, and substitute those costs for the disallowed costs, thereby "erasing" the debt. This method shall require negotiation and a written agreement between the debtor and SBWIB / SBWIB, Inc.

6. Services: This method involves a repayment agreement with the debtor whereby additional contract services, separate and apart from those originally agreed to with the debtor, are provided using non-federal funds. When it becomes evident that a debtor cannot repay through any other repayment method, an agreement of this nature may be negotiated. This method requires a written agreement signed by all parties with conditions regarding the type of funds to be used, documentation that must be established to demonstrate the performance of this agreement, and a time limitation.
7. Offset/deduction: Section 184(c) of the Act allows that misapplication at the recipient level may allow the Department of Labor to offset the debt, or a portion of the debt, against amounts that are allotted to the recipient. The federal Grant Officer must approve such response to a formal, written request submitted by the recipient. The normal limit for such an offset is the amount available at the recipient level for administrative costs. In such circumstances, in a like manner, CRO may extend such relief to a Subrecipient/Service Provider to assist in a repayment.

#### **PROCESS FOR MAINTAINING PERMANENT RECORD OF ALL DEBT COLLECTION CASES AND THEIR STATUS**

In accordance with federal, state, and local policy and requirements, SBWIB / SBWIB, Inc. will maintain debt collection related records permanently. Documentation relating to debt collection will be logged and maintained in the sub-recipient accounting system and file (fiscal).

SBWIB / SBWIB, Inc. has a process for notifying their subrecipients of the establishment of the debt, their appeal rights, the date that the debt will be considered delinquent, the sanctions if the debt is not repaid (which may include, but are not limited to, debarment), and the interest rate charged, if any. Documentation to support these action include, but not limited to:

- 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 awarding agency subrecipient's accounts receivable system.
- The awarding agency subrecipient's standards and specifications for terminating, compromising, and litigating debts.
- A process for maintaining a permanent record of all debt collection cases and their status.

For a subrecipient to be relieved of liability for their subrecipient's debt, the awarding agency subrecipient must submit a written request to the EDD's CRO. The request is for the EDD to seek the US DOL's agreement to forego collection action (pursuant to the provisions of Title 20 CFR Section 683.740).

Requests must include documentation and other demonstrations of facts showing compliance with WIOA Section 184(d) and Title 20 CFR Section 683.740. *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 the CRO and the DOL, the awarding agency subrecipient will remain responsible for repayment of the entire debt.

The request and supporting documentation must be submitted to the CRO through one of the following methods (email is preferred):

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

Mail: Employment Development  
Compliance Review Office  
Compliance Resolution Unit  
PO Box 826880, MIC 22  
Sacramento, CA 94280-0001

*Unless other arrangements have been documented and approved by the CRO, the SBWIB / SBWIB, Inc. and (when appropriate) their subrecipient, must pay all their WIOA debts within 30 calendar days of the date on which the debt was established as final.*

*If the awarding agency subrecipient is unable to make restitution in full, then an installment repayment agreement may be negotiated. Installment repayment agreements have a short duration ranging from 3 to 12 months, with a maximum of 36 months. The length of the installment repayment agreement will be negotiated based on the size of the debt and the awarding agency subrecipient's ability to pay. The CRO must approve all installment repayment agreements.*

Upon notification by SBWIB, Inc., the CRO will do the following:

- Instruct the EDD's Fiscal Program Division (FPD) to issue an invoice with payment due date and the interest charge, if any, to the awarding agency subrecipient once a final debt is established.
- Notify FPD to issue two additional invoices to the awarding agency subrecipient 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 (Local Boards), or the head of an organization (non-Local Boards), if the agreed upon payment is not received within the 90 calendar days after the date of the third invoice. For Local Boards, 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.

**Debt Collection Remittance**

All debt settlements resulting from fraud, malfeasance, misapplication of funds, or other serious violations or illegal acts must be made in cash from nonfederal sources. *Debt settlement funds collected by the SBWIB / SBWIB, Inc. debts must be returned to the EDD immediately upon their receipt.*

*A Payment Advice form (Attachment 1), which details the program year, subgrant number, project name, and grant code associated with the debt settlement funds, must be remitted with a check or warrant made payable to the Employment Development Department to the EDD's Fiscal Program Division (FPD):*

**Mail:** Employment Development Department  
Fiscal Programs Division  
ATTN: 70, Administration and Grants Unit  
PO Box 826217  
Sacramento, CA 94230-6217

*The FPD will inform and coordinate with the CRO when the payment is received and posted. Once the payment is posted, the CRO will notify the subrecipient and Local Board. The awarding agency subrecipient must maintain records that document the actions taken with respect to debt collection, restoration, or other debt resolution activities and why the actions were taken to support their decisions.*

When the debt is 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, awarding agency subrecipients may expend the funds within the cost limits. Cash payments received after the fund availability period must be remitted to the EDD.

**INQUIRES:**

If you have questions regarding information contained herein, please contact the Finance Manager at (310)-970-7700.

**ACTION:**

Bring this directive to the attention of all relevant staff, subrecipients and partners.

  
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Jan Vogel  
Executive Director

*The SBWIB is an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.*



### Payment Advice

The check or warrant submitted to the Employment Development Department's (EDD) Administration and Grants Unit is to settle debt collection related to the following grant(s):

Subgrantee Name:	
Total Amount of Repayment:	
Check/Warrant number:	
Check/Warrant date:	

<b>Project/Grant 1</b>	
Amount Repaid to Project:	
Year of Allocation:	
Sub Grant Number:	
Project Name:	
Grant Code:	
CATS Number/CRU case number (as applicable)	

<b>Project/Grant 2</b>	
Amount Repaid to Project:	
Year of Allocation:	
Sub Grant Number:	
Project Name:	
Grant Code:	
CATS Number/CRU case number (as applicable)	

<b>Contact Information (List Two Contacts)</b>			
Contact Name	Contact Title	Phone Number	Email Address

### Payment Advice Instructions

1. One check or warrant is required for debt collection settlement. A table must be completed for each project or grant being settled. Additional tables may be added, if necessary. See the example below:

Subgrantee Name:	County
Total Amount of Repayment:	\$15,000
Warrant number:	56789
Warrant date:	10/11/22

Project/Grant 1	
Amount Repaid to Project:	\$5,000
Year of Allocation:	2021-22
Sub Grant Number:	BB110222
Project Name:	WIOA Adult
Grant Code:	111
CATS Number/CRU case number (as applicable) 20XX-CA-000 = Incident Report 20XX-SA-000 = Single Audit Report Case 20XX-CR-000 = Referral Case	20XX-CA-000

Project/Grant 2	
Amount Repaid to Project:	\$10,000
Year of Allocation:	2019-20
Sub Grant Number:	CC220033
Project Name:	WIOA Youth
Grant Code:	222
CATS Number/CRU case number (as applicable)	20XX-CA-000

2. Mail the Payment Advice form and the check/warrant payable to the **Employment Development Department**:  
 Employment Development Department  
 Fiscal Programs Division  
 ATTN: MIC 70, Administration and Grants Unit  
 PO Box 826217  
 Sacramento, CA 94230-6217
3. Email a copy of the Payment Advice form and the check to the EDD's Workforce Services Branch's Financial Management Unit at [EDDFinancialManagementUnit@edd.ca.gov](mailto:EDDFinancialManagementUnit@edd.ca.gov)