


Workforce Connections Administrative Policies Sanctions and Resolutions for Noncompliance	<h1 style="text-align: center;">Admin-010-02</h1>
Supersedes policy 5.2 dated 7-11-03	Revision No.2 Effective 04-26-19
Policy Approved By: WC Executive Director Policy Adopted on: 07-01-2014	

Purpose:

To establish policy and guidance with respect to sub-recipients high-risk designation, and the framework for implementing sanctions.

Background:

The Workforce Innovation and Opportunity Act (WIOA) mandates the necessity to monitor recipients and sub-recipients of all grants awarded and funds expended under Title I WIOA to determine compliance with the Federal laws, regulations, State, and local policies. Consistent with this, the Act identifies core indicators of performance, allowable use of funds, allowable activities, and reporting requirements that must be met by State and Local Workforce Development Boards (LWDB) while administering funds awarded under Title I of WIOA.

In general, recipients and sub-recipients of a Federal award under Title I of WIOA are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements codified at Title 2 of the Code of Federal Regulations (CFR) Part 200, Appendices I through XI, as applicable, including any exceptions identified by the Department of Labor (DOL) codified at 2 CFR Part 2900.

Each sub-recipient must establish and maintain effective internal controls over the sub-award that provide reasonable assurance that the sub-recipient is managing the sub-award in compliance with Federal statutes and regulations, State, local policies and the terms and conditions of the sub-award agreement.

Policy:

Workforce Connections, as the administrative entity, may impose sanctions on a sub-recipient for different factors as addressed in this policy. The purpose of imposing sanctions is to ensure accountability of sub-recipients in meeting established performance measures, ensuring compliance with established Federal statutes and regulations, State, local policies and the terms and conditions of contracts or sub-award agreements.

Reference:

Public Law (P.L.) 113-128 WIOA Sec. 184; 20 CFR Part 683, Administrative provisions under Title I of WIOA; 2 CFR Parts 200 and 2900; State Compliance Policies (SCP) 5.6 and 5.7

Information involving criminal fraud, waste, abuse, or other criminal activity must be reported immediately to the U.S. Department of Labor (USDOL). Incident reports from Local Workforce Development Areas (LWDAs) shall be reported to the USDOL through the State of Nevada Department of Employment, Training, and Rehabilitation (DETR).

WC policy GEN-050-02 and SCP 4.7.

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I. General Provisions for Sanctions

- A.** Sanctions will be imposed any time a sub-recipient fails to comply or perform as required by Federal statutes, regulations, State and local policies, and the terms and conditions of contracts or sub-award agreements.
- B.** Sanctions may be imposed as the result of compliance assurance reviews by Federal, State, or Workforce Connections staff.
 - 1. Sanctions will be determined by the severity of the area of non-compliance or violation and the frequency of the violation.
 - 2. Workforce Connections will establish an additional system of controls and procedures as may become necessary to assure proper disbursement of, and accounting for, funds awarded to the sub-recipient under Title I of WIOA, and to ensure that financial transactions are conducted and records are maintained in accordance with established requirements.
- C.** Consistent with Sec.184 (c) of WIOA, each recipient must repay Workforce Connections amounts found not to have been expended in compliance with established requirements. This repayment must be with funds other than Federal funds.
- D.** Workforce Connections shall take into consideration the provisions codified at 2 CFR Parts §200.207 and 200.338 for the determination of sanctions to be imposed on a sub-recipient.
- E.** If, after proper assessment of performance or compliance requirements, it is determined that irregularities exist, Workforce Connections will provide technical assistance and support as necessary in an effort to prevent the imposition of sanctions.
- F.** Workforce Connections is committed to ensuring that program outcomes are achieved and a high level of quality and integrity is maintained. The sanctioning process has been implemented to ensure that awarded funds are administered within the boundaries of acceptable practices, established applicable laws, regulations, State and local policies, and the terms and conditions of sub-award agreements.
- G.** Workforce Connections, at its sole discretion, may impose sanctions on a sub-recipient based on the severity of an area of non-compliance and may institute higher levels of sanctions at any time including, but not limited to, high-risk status.
- H.** Workforce Connections may at its sole discretion impose sanction status level three, high-risk, upon a new sub-recipient until the sub-recipient can demonstrate that they have implemented a sound system of internal controls for the safeguarding of awarded funds and they are financially stable. Consideration shall be given to the complexity of the sub-recipient's administrative structure and such sub-recipient's prior experience in the management of Federal funds.

II. Sanctions

- A.** Workforce Connections may place a sub-recipient on a sanction status for failure to ensure, at any time during the program year, compliance with, but not limited to compliance with the following:
1. Federal laws and regulations,
 2. State and local policies,
 3. Contracted performance measures, or
 4. General or specific terms and conditions of the sub-award agreement.
- B.** In an effort to properly assess the risk imposed by a sub-recipient, Workforce Connections has established a risk-based approach based on the provisions codified at 2 CFR Part 200.

C. Sanction Status Levels

There are three levels of sanction status. A violation of established requirements is considered a lack of compliance with such requirements and is therefore subject to an appropriate sanction.

1. Sanction Status Level One – Notice of Deficiency

Assigned by Workforce Connections for the sub-recipient's inability to perform as required by the terms and conditions of the sub-award agreement or for failing to perform due to, but not limited to, the following factors:

- a) Failure to submit accurate and timely performance and financial reports,
- b) Failure to accurately and in a timely manner take corrective actions to resolve identified deficiencies or findings during desk reviews, and/or on-site monitoring,
- c) Failure to take corrective actions in a timely manner to resolve identified questioned costs,
- d) Failure to timely resolve independent audit deficiencies, findings, or questioned costs,
- e) Failure to meet negotiated or contracted performance measures,
- f) Failure to meet negotiated or contracted expenditures requirements, or
- g) Failure to comply with general or specific terms and conditions of the sub-award agreement.

2. Sanction Status Level Two – Low-Risk

Assigned by Workforce Connections for the sub-recipient's continued inability to perform as required by the terms and conditions of the sub-award agreement, inability to resolve deficiencies as required under sanction status level one, or failing to perform due to, but not limited to, the following factors:

- a) Failure to accurately and in a timely manner implement corrective action under a sanction status level one,
- b) Failure to resolve the identified deficiencies and questioned costs under a sanctions status level one,
- c) Performing repeated violations while under sanction status level one,
- d) Sub-recipients inability, after technical assistance is provided, to effectively implement the requirements imposed by Workforce Connections, or
- e) Sub-recipient has a history of failure to comply with general or specific terms and conditions of the sub-award agreement.



3. Sanction Status Level Three – High-Risk

Assigned by Workforce Connections for the sub-recipient's severe inability to perform as required by the terms and conditions of the sub-award agreement, the inability to resolve deficiencies as required under sanction status level one and two, and/or performing, or failing to perform due to, but not limited to, the following factors:

- a) Performing repeated violations while under sanction level two, low-risk status,
- b) The sub-recipient shows a history of unsatisfactory performance,
- c) The sub-recipient becomes financially unstable, or
- d) The sub-recipient has an internal system of control that does not adequately safeguard against fraud, waste, and/or abuse.

D. Communication

Workforce Connections will issue a sanction determination letter to the sub-recipient, which shall include, but will not be limited to, the following:

- 1. The sanction status level in which the sub-recipient was placed,
- 2. The availability of technical assistance and resources,
- 3. The identified deficiencies and sanctionable acts, upon which the sanction was imposed,
- 4. The required corrective action plan and the timeline for the sub-recipient to correct such deficiencies, and
- 5. The conditions placed upon the sub-recipient to be removed from the sanction status level imposed.

III. Appeal

A sub-recipient may appeal a sanction determination by filing a request within 10 working days following the receipt of notification by Workforce Connections. The appeal shall be in writing, as specific as possible, and directed to the Workforce Connections' Deputy Director. The appeal may include a request for an extension of time to resolve identified issues or repay a disallowed cost determination. Workforce Connections will issue a written response with regard to any decision made.

IV. Relationship to debarment and suspension.

The enforcement of provisions identified in this policy, may subject a sub-recipient to "Debarment and Suspension" under the provisions codified at 2 CFR Part 180.

V. Technical Assistance: Technical assistance is vital in addressing performance and encouraging continuous improvement.

- A. Technical assistance and training may be recommended by Workforce Connections or requested by sub-recipients and one-stop operators. Technical assistance may be the resource for improving program operations, facilitating the implementation of corrective actions, or simply providing general information.
- B. During technical assistance visits, Workforce Connections will provide additional guidance on how to improve quality and compliance issues.
- C. Requests for minor technical assistance may be made verbally or in writing (e-mail format). If major assistance is required in several areas, then the request should be in writing so Workforce Connections staff has sufficient information to decide on the most appropriate form and level of assistance to provide.



D. Technical assistance may include, but is not limited to, training or support on the following:

1. Improving assessment processes and methodology,
2. Monitoring and reporting program performance,
3. Fiscal and administrative provisions,
4. Performance management,
5. Record keeping,
6. Access to records,
7. Internal systems of control,
8. Procurement,
9. Cost allocation,
10. Case management,
11. Monitoring and oversight, or
12. Use of authorized management information system (MIS).

VI. Remedies for Noncompliance

If, it is determined that noncompliance issues cannot be remedied by imposing sanctions or additional conditions, Workforce Connections may at its sole discretion impose additional specific sub-award conditions as needed or necessary, in accordance with Sec. II above and the provisions codified at 2 CFR Part 200.338.

Workforce Connections may use any items pending the correction of deficiencies such as, but not limited to, the following:

- Temporarily withholding cash payments,
- Temporarily deny advance reimbursement requests,
- Disallowing (that is, denying both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance,
- Reducing the sub-award amount in increments of 5% at a time but not to exceed 25% during the same contract period,
- Wholly or partly suspending or terminating the sub-award,
- Withholding or denying further awards for the project or program,
- Taking other remedies that may be feasible, as appropriate,
- Initiating suspension or debarment proceedings as authorized under **2 CFR part 180** and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).

VII. Sanction Status Removal

Workforce Connections shall make reasonable efforts to ensure that once a sub-recipient has completed and implemented required corrective actions and resolve all issues of non-compliance, the sub-recipient will be removed from sanction status and will be notified in writing.