



STATE OF TENNESSEE
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF WORKFORCE DEVELOPMENT
220 French Landing Drive
Nashville, TN 37243-1002
(615) 741-1031

March 14, 2008

Workforce Investment Act Memorandum Number WD 08-39

- Topic:** Penalty Policy for Local Workforce Investment Areas (LWIAs) failing to meet deadlines within the allotted time.
- Subject:** Penalties the state (Workforce Development) will impose on LWIAs not meeting deadlines for required documents.
- Purpose:** To provide information to LWIAs about penalty that may be imposed.
- Background:** Each year, LWIAs are requested to provide information on various necessary documents. These documents may include, but are not limited to; local area plan modifications, resource sharing agreements, corrective action plans, signed contracts, Provision No. 2 of the Financial Guide Handbook (see attachment), incentive award proposals, and documents identified by the State Board as necessary. Following a recommendation of the Executive Committee, the Policy Committee considered implementation of a uniform policy on remedial action that may be required of a local board that fails to meet deadlines within the allotted time. The committee recommends that remedial action may include any or all of the following measures:
1. Notification of Local Board members of the deficiency.
 2. The local board may be required to complete a Corrective Action Plan.
 3. The officer responsible for the late filing may be required to appear before the full Workforce Development Board at a time specified by the Chairman to provide details of the Corrective Plan or the reason for the deficiency if no written plan is required.
 4. Incentive funds may be withheld from a local board that misses a filing deadline. Recognizing that each case rests on its own merits, it would be up to the full board in each case to determine which sanctions would be assessed.
 5. Delays due to Local, State, or Federal legislative process will be considered as a mitigating factor.

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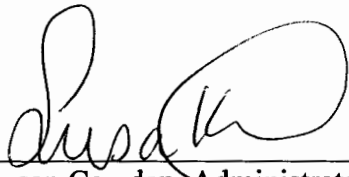
Authority: This policy was approved by the State Workforce Development Board on March 14, 2008.

Contact: For questions regarding this policy, please contact Susie Bourque, Assistant Administrator at (615) 741-4092 or 1-800-255-5872.

Effective Date: Immediate

Expiration Date: Indefinite

SC:TF:rk

A handwritten signature in black ink, appearing to read "Susan Cowden", written over a horizontal line.

Susan Cowden, Administrator
Division of Workforce Development

Attachment

PROVISION NO. 2

WITHHOLDING OF PAYMENT

The State may discontinue the current cash needs payment method and make payments under a reimbursement method when Subrecipients or Contractors:

- A. Do not follow payment and reporting requirements;
- B. Fail to meet project objectives or contract conditions;
- C. Are indebted to the State of Tennessee; or
- D. Do not comply with cash management requirement

If any of the conditions described above exist, the State may withhold payment until the condition is corrected. **(Please refer to CFR 29 Part 95.22 and CFR Part 97.21)**

29 CFR Part 95.22

- (h) Unless otherwise required by statute, DOL shall not withhold payments for proper charges made by recipients at any time during the project period unless paragraphs (h)(1) or (h)(2) of this section apply.
 - (1) A recipient has failed to comply with the project objectives, the terms and conditions of the award, or Federal reporting requirements.
 - (2) The recipient or subrecipient is delinquent in a debt to the United States as defined in OMB Circular A-129, "Managing Federal Credit Programs." Under such conditions, DOL may, upon reasonable notice, inform the recipient that payments shall not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated.

29 CFR Part 97.21

- (g) *Withholding payments.*
 - (1) Unless otherwise required by Federal statute, awarding agencies shall not withhold payments for proper charges incurred by grantees or subgrantees unless—
 - (i) The grantee or subgrantee has failed to comply with grant award conditions or
 - (ii) The grantee or subgrantee is indebted to the United States.
 - (2) Cash withheld for failure to comply with grant award condition, but without suspension of the grant, shall be released to the grantee upon subsequent compliance. When a grant is suspended, payment adjustments will be made in accordance with § 97.43(c).
 - (3) A Federal agency shall not make payment to grantees for amounts that are withheld by grantees or subgrantees from payment to contractors to assure satisfactory completion of work. Payments shall be made by the Federal agency when the grantees or subgrantees actually disburse the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.