



DATE: August 28, 2020

DIRECTIVE NO: 51-20

RECISSION: La Cooperativa Directive No. 03-09

TO: All La Cooperativa Subrecipients

SUBJECT: Audit Resolution

REFERENCES:

- 2 Code of Federal Regulations (CFR) Part 200.331 - Subrecipient Monitoring and Management (Uniform Guidance)
- Title 20 CFR 683.420

PURPOSE:

This policy provides guidance regarding policy and procedures for the resolution of audit findings and disallowed costs.

BACKGROUND:

The Uniform Guidance at 2 CFR 200.331 requires La Cooperativa Campesina de California (LCCDC) to follow up and ensure that its subrecipients take timely and appropriate action on all deficiencies pertaining to their Federal subaward detected through audits, on-site reviews, and other means. LCCDC is required to issue a management decision for audit findings pertaining to Federal subawards provided to its subrecipient.

DEFINITIONS:

Federal financial assistance means assistance received directly by Federal awarding agencies or indirectly by recipients to carry out a program. It does not include procurement contracts used to buy goods or services from vendors.

Final Determination is the awarding agency's final decision to disallow the cost and the status of nonmonetary (administrative) findings.

Initial Determination is a preliminary decision on whether to allow or disallow
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questioned costs and resolve nonmonetary findings.

Nonmonetary finding is an audit conclusion concerning deficiencies in the subrecipient's management or financial controls, procedures or systems.

Questioned Costs are costs questioned by auditors that are not properly supported by accounting records, are related to a violation of law, regulation or contract, or appear unreasonable.

POLICY:

LCCDC and its subrecipients shall have written audit resolution policies and procedures. Audit resolution consists of a three-part process that includes the Initial Determination, informal resolution period, and the Final Determination. Receipt of the Initial and Final Determinations by the subrecipient must be documented by LCCDC.

LCCDC will ensure that audits of its subrecipients containing findings, administrative or questioned costs, are resolved in an appropriate and timely manner.

PROCEDURE:

A. LCCDC shall:

1. Review the audit reports of its subrecipients to ensure compliance with the requirements of the Uniform Guidance and government standards for audit.
2. Complete a control log, which 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, the administrative findings, the date or dates of the initial and final determinations, and documentation of decisions regarding the disallowed costs and administrative findings.
3. If findings are identified, 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.
4. During informal resolution, the subrecipient may provide documentation to support allowability of costs and proposed corrective action of administrative

findings. Informal resolution discussions may be held by telephone, if necessary, but in person is preferable. Negotiations of repayments can be initiated at this time.

5. Informal resolution meetings, either telephonic or in person, must be documented. Meetings in person must be documented with a sign-in sheet that is to be retained as part of the audit file and either with a voice recording or written notes.

Stand-In Costs

The Comptroller General of the United States issued a decision (68 Comp. Gen. 247, dated February 9, 1989) which indicates that the US Department of Labor should accept stand-in costs as a substitute for disallowed costs in audit resolution. Stand-in costs are to be considered by LCCDC during **the audit resolution stage**. If an auditee agrees that an auditor's questioned cost is unallowable or decides not to contest the finding and wishes to propose the use of stand-in costs as substitutes for otherwise unallowable costs, the proposal shall be included with the audit resolution report or other document by which the auditee provides its comments to the resolution agency. If the auditee is uncertain about the allowability of the auditor's questioned cost before receipt of the Initial Determination, the proposal to use stand-in costs may be presented during the informal resolution period.

Criteria

Stand-in costs are non-Federal costs that may be substituted for disallowed subgrant costs when certain conditions are met. Stand-in costs must meet the following criteria:

To be considered, proposed stand-in costs shall have been actually incurred allowable subaward costs that have not been charged to the program, included within the scope of the audit, and accounted for in the auditee's financial system required by the Uniform Guidance as appropriate. Cash match (i.e., expenditures of the organization used as match) in excess of the required match may also be considered for use as stand-in costs.

To be accepted, 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 limitations. Each of the separate criteria for consideration of proposed stand-in costs is discussed below:

Criterion: Must be allowable costs that were actually incurred for the benefit of the subaward and paid by a non-Federal fund source. Thus, for example, the dollar value of in-kind donations cannot be recognized as stand-in costs. Also, inasmuch as costs must be net-of-credits under the governing cost

principles, the dollar value of discounts cannot be considered as an allowable subgrant cost.

Criterion: Must have been included within the scope of the organization's single audit (not necessarily tested but potentially subject to testing). This means that the costs must be recorded and included in the financial statements presented by the agency to the auditor for audit. Failure to include unbilled costs disqualifies the costs for stand-in consideration.

Criterion: Must have been accounted for in the auditee's financial system. This means that the unbilled expense must be recorded and documented in the administrative entity's books of accounts. It cannot be presented as a separate consideration outside the entity's accounting system.

Criterion: Must be adequately documented in the same manner as all other subaward program costs. This means that the unbilled expense must be treated in a manner consistent with cost principles affecting other expenses, including but not limited to the cost allocation methodology, cost classification methodology, and supporting documentation requirements.

Caution: Stand-in costs cannot be created using circumstances or conditions that appear to be legitimate liabilities if no actual costs are incurred by any entity.

Example: The subrecipient provides free space for a WIOA-funded program in a building that has been fully depreciated. The only facility-related costs are for general maintenance. A liability created by rental costs that were never paid is not a legitimate stand-in cost. The only legitimate stand-in cost available in this example, assuming that all recording and reporting requirements have been satisfied, is an allocable share of the general maintenance cost based on square footage occupied, or another allocation method that would be more equitable.

Certain costs, including in-kind contributions, are not considered unpaid WIOA program liabilities, but rather as in-kind match; therefore, they cannot be used as stand-in costs because they cannot be charged to the Federal subaward. Examples of other costs that are not stand-in costs include:

- Uncompensated overtime
- Unbilled premises costs associated with fully depreciated publicly owned buildings
- Allocated costs derived from an improper allocation methodology
- Discounts, refunds, rebates
- Any State share of the cost of State or community college tuition.

Two other caveats should be mentioned. First, as suggested above, allowable stand-in costs may be used to trade or substitute for disallowed costs under certain conditions. The source of stand-in, however, is intended to be limited to the same entity that incurred the disallowed costs. Second, if the cause of the disallowed costs was fraud, then the costs will not be considered as stand-in to substitute for such costs.

6. Issue a written Final Determination. The Final Determination includes:

- 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.
 - Rights to a hearing.
 - The status of each administrative finding.
- B. The audit resolution process must be completed within six months after receipt of the subrecipient's audit report and must ensure that the entity takes appropriate and timely corrective action.
- C. The audit file must be assembled for ease of reference in the event of future action. The file must be tabulated with the most current documentation first. The file should include the following:
- Final Determination and proof of receipt by the subrecipient
 - Additional documentation submitted as part of the informal resolution process
 - Notes related to the informal resolution
 - Sign-in sheet from any informal resolution meetings
 - Initial Determination and proof of receipt by the subrecipient
 - Response to the final audit report
 - Final Audit report
- D. LCCDC will establish hearing procedures for resolution of appeals related to audit and monitoring findings. The Employment Development Department (EDD) reserves the right to overturn a hearing officer's decision when it determines that noncompliance with the applicable Act or its regulation still exists.
- E. A hearing must be provided within 30 days of the filing date and a decision must be issued by the hearing officer within 60 days of the filing date.

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.

At least 10 calendar days before the hearing, written notice of the date and site of the hearing must be provided to the subrecipient. The 10-day notice may be shortened with written consent of both parties. The subrecipient may withdraw the hearing request; the withdrawal request must be submitted in writing.

A subrecipient has 10 days from receipt of an unsatisfactory decision to appeal to the State Review Panel. If a local hearing is not held or the decision is not rendered timely, the subrecipient 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 the subrecipient appeals LCCDC's decision to the State, LCCDC will send the EDD Compliance Review Division (CRD) the complete audit for review by the State Review Panel. Within 30 days of receipt by the CRD of the subrecipient's 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.

There is no administrative appeal beyond this level.


- F. LCCDC shall ensure correction of any unresolved administrative findings. LCCDC will 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.

ACTION:

LCCDC and its subrecipients shall follow this policy. This policy will remain in effect from the date of issue until such time that a revision is required.

INQUIRIES:

Inquiries should be addressed to Marina Tapia at 916-388-2224.

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Marco Lizarraga
Executive Director

