

877—12.14(7B,PL97-300,PL102-367) Auditing. Each grantee must submit to the department an annual list of all subrecipient contracts including the name of the subrecipient, the dollar amount of the contract, the contract number, and a description of the contract.

12.14(1) Annual audit. Each grantee must perform an annual independent financial and compliance audit of funds received by the grantee and its subrecipients. All costs incurred with the audit are the responsibility of the grantee. The grantee must ensure that the following are audited:

- a. The grantee;
- b. For Title II grants, the administrative entity, if different from the grantee;
- c. All subrecipient contracts of \$25,000 or more;
- d. Five percent of all remaining subrecipient financial contracts;
- e. Five percent of all remaining participant files for eligibility and financial transactions.

12.14(2) Audit procedures.

a. Grantees must provide the information contained in the auditing section of the Iowa JTPA handbook to the auditor selected to do the JTPA audit.

b. The auditor must determine whether the financial statements of the audited entity accurately represent the financial position and the results of financial operations in accordance with generally accepted accounting principles applicable to governmental agencies.

c. Each audit must determine whether the audited entity has complied with the JTPA, applicable DOL regulations and state administrative rules.

d. All audits must be conducted in accordance with applicable auditing standards set forth in the financial and compliance element of the Standards for Audit of Governmental Organizations, Programs, Activities and Functions.

12.14(3) Audit tests. At a minimum, each audit must include a test for compliance with applicable federal and state laws and regulations in the following areas:

- a. Allowability of costs;
- b. Classification of costs;
- c. Cost limitations by category;
- d. Expenditure requirements for the state education and coordination and grants programs and the Title IIA adult and youth program funds;
- e. Participant record keeping and documentation;
- f. Grantee monitoring procedures;
- g. Reporting requirements;
- h. Program income;
- i. Matching requirements for Title III and state education coordination and grants programs.

12.14(4) Audit resolution procedures. The department shall hold grantees liable for JTPA funds received through the grant. Grantees are responsible for audit resolution involving their subgrantees. This procedure shall be used by the department to resolve audit findings contained in grantee audits.

a. *Grantee audit resolution.*

(1) Grantees are liable to the state for any misexpenditure of JTPA funds received through the grant.

(2) Grantees are responsible for audit resolution involving their subgrantees including affording the subgrantee an opportunity for a hearing under the local grantee complaint procedure.

(3) Prompt, appropriate, and aggressive debt collection action by the grantee to recover any funds misspent by subgrantees shall be considered a part of the corrective action.

(4) If a grantee requests a waiver under 12.14(4) "f," the grantee shall not be released from liability for misspent funds of their subgrantees until DOL accepts the state's audit resolution and corrective action report concerning the waiver by the state. If DOL rejects the state's waiver, the grantee remains liable to the state for the misspent funds.

b. *Initial determination.*

(1) For each final audit report received from each grantee, an initial determination allowing or disallowing costs questioned in the audit report and proposing corrective action(s) to be taken by the grantee will be sent to the grantee.

(2) Each initial determination will include:

1. Citations to relevant statutory, regulatory, or grant agreement provisions supporting the findings and determinations;

2. Necessary corrective action required by the department for the grantee to achieve compliance;

3. Request for additional documentation, if needed, to satisfactorily respond to findings; and

4. Notice of the opportunity for an audit resolution conference with the department.

c. Response period. Each grantee will be allowed a 30-day period from the date of notification in which to respond to the initial determination and, if requested, meet with the department to discuss informal resolution. If further clarification or information is requested by the department to assist in the preparation of the final determination, additional time will be allowed for the grantee to respond to the request.

d. Final determination.

- (1) After receipt of the grantee's response to the initial determination, a final determination will be issued and sent by certified mail, return receipt requested, to the grantee within 30 days. A final determination will be issued whether or not a response to the initial determination has been made.

- (2) A final determination will include:

1. Identification of those costs questioned in the audit report which will be allowed and an explanation of why those costs are allowed;

2. Identification of disallowed costs, listing each disallowed cost and describing reasons for each disallowance; and

3. Information on the grantee's right to appeal through the department's appeal process as provided in 12.14(4) "g."

- (3) A copy of each final determination will be used to establish a debt account in the amount of costs disallowed. An audit resolution report will be forwarded to the DOL in the manner prescribed by the Secretary of Labor.

e. Disallowance of costs. The following criteria will be applied to questioned costs in determining whether those costs will be disallowed:

- (1) Costs not expended in accordance with the Act, regulations, grant agreement, plan, or administrative rules shall be disallowed;

- (2) If the misexpenditure was due to willful disregard of the requirements of the Act, regulations, grant agreement, plan, or administrative rules, gross negligence, or failure to observe accepted standards of administration, the costs will be disallowed and repayment must be from non-JTPA funds;

- (3) Costs may be disallowed if the funds were not expended in accordance with generally accepted accounting practices;

- (4) Ignorance of the requirements of the Act, regulations, rules or grant provisions is not sufficient justification to allow a questioned cost;

- (5) The grantee's inability to pay the debt will not be a consideration in the determination of allowing a cost.

f. Waiver.

- (1) If an established debt has been determined to have resulted from a fraudulent action or from willful disregard of the Act or applicable rules and regulations, no waiver will be granted. The department will initiate immediate debt collection action against the grantee and may notify the DOL Office of the Inspector General. This action will be taken regardless of whether the fraud or willful disregard occurred at the grantee or any other subrecipient level.

- (2) A grantee may request a waiver of debt collection from the department. The request must be in writing and include supporting documentation. In determining whether to impose any sanction on a grantee, including the disallowance of questioned costs for violations by a subrecipient, the department will first determine whether the grantee has adequately demonstrated that it has:

1. Established and adhered to an appropriate system for the enrollment of participants and the award of contracts with subrecipients which contain acceptable standards for ensuring accountability, clear goals, and obligations in unambiguous terms;

2. Acted with due diligence to monitor the implementation of the subrecipient contracts and participant files, including the performance of the appropriate monitoring, auditing and verification activities at reasonable intervals; and

3. Taken prompt and appropriate corrective action upon becoming aware of any evidence of a violation of this Act or the regulations by the subrecipient.

(3) If the department determines that the grantee has demonstrated substantial compliance with the requirements of paragraph "a," the department may waive the imposition of sanctions against the grantee and include the waiver in the state's audit resolution and corrective action report to DOL. The grantee will not be released from liability for misspent funds until DOL accepts the state's audit resolution and corrective action report and approves the state's resolution activities. Any waiver by the department for the benefit of the grantee shall be considered a waiver proposal which is subject to final disposition by the DOL.

(4) Unless waived, each recipient shall repay to the state amounts found not expended in accordance with the Act, regulations, administrative rules, or grant agreement provisions.

(5) Each recipient shall repay from non-JTPA funds misexpenditures due to willful disregard of the requirements of the Act, regulations, administrative rules, or grant agreement provisions; gross negligence; or failure to observe accepted standards of administration.

g. Request for hearing.

(1) Requests for hearing on provisions of a final report or final determination shall be filed within 15 days of receipt of the final determination. The request for hearing shall specify those provisions of the report or determination upon which a hearing is requested. Those provisions of the report or determination not specified for hearing, or the entire determination when no hearing has been requested, shall be considered resolved and not subject to review.

(2) The party requesting the hearing shall have the burden of establishing, by a preponderance of the evidence, the facts and the entitlement to the relief requested.

(3) The grantee will receive written notice of the date, time and place of the hearing, an opportunity to present evidence, and a written decision.