



DATE: July 8, 2016

DIRECTIVE NO: 39-16

RECISSION: La Cooperativa Directive No. 05-09

TO: All La Cooperativa Subrecipients

SUBJECT: Debt Collection

REFERENCES:

- 2 CFR 200.338 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule

PURPOSE:

The purpose of this directive is to establish procedures and policy by the La Cooperativa Campesina De California (LCCDC), for the recovery of disallowed costs expended under its federally funded programs by any person or entity.

Specifically, the Workforce Innovation and Opportunity Act (WIOA) at Section 184 requires repayment of disallowed costs resulting from misexpended funds. Therefore, LCCDC is liable to the State of California Employment Development Department (EDD) and the U. S. Department of Labor for repayment of all disallowed costs incurred in the operation of the WIOA program including disallowed costs related to subrecipient expenditures.

POLICY:

It is the policy of LCCDC to aggressively pursue collection of all disallowed costs resulting from monitoring or audit findings and incident reports or other means pursuant to applicable laws and regulations.

PROCEDURE:

1. When LCCDC disallows costs against a subrecipient as a result of an audit, monitoring finding or other means, it will notify the entity by certified mail of the following:
 - The amount of the disallowed costs;
 - LCCDC's reason for establishing the debt;



- The debt, if not resolved or a satisfactory alternative repayment plan has not been negotiated, will become delinquent within thirty days;
 - The debtor's administrative appeal rights.
2. An accounts receivable control sheet will be maintained on the amount in question.
 3. LCCDC will attempt to negotiate resolution of the debt or establish an agreed upon repayment schedule. Options for debt resolution, which may be offered at the discretion of LCCDC, include cash, installment payments, or a reduction in payments owed for work performed at the time of closeout of the subaward.
 4. If the debt is not repaid or resolved within the thirty (30)-day period, a second more strongly worded thirty (30)-day notice will be sent. If no satisfactory resolution occurs at the end of this sixty (60) day period, a third and final collection letter will be issued.

The final collection letter will indicate that LCCDC will impose one or more of the following sanctions:

- Withholding payments due the subrecipient;
 - Initiate litigation against the subrecipient;
 - Withholding future funding in accordance with the guidance at 2 CFR 200.338);
 - Termination of current agreements.
5. If the debt is not repaid as a result of the sanctions imposed above and it is still outstanding after the ninety (90)-day period, LCCDC will make a determination regarding other means of resolution. It may, at its own discretion, request that EDD submit a waiver of liability to the U .S. Department of Labor (USDOL) of any disallowed cost if it can be demonstrated that such a request would satisfy the requirements as outlined in Section 184 of the WIOA.

In making this determination, consideration will be given to the following factors:

- The disallowed costs were not due to willful disregard, gross negligence, or fraud;
- LCCDC has issued a final determination which disallows the costs, its appeal process has been exhausted, and a debt has been established; and
- Further debt collection action would be either inappropriate or futile.
- In cases where the disallowance is a result of fraud, waivers will only be requested when the following has occurred:
- LCCDC discovered, investigated, reported, and cooperated in any prosecution of the perpetrator of the fraud; and

- After aggressive debt collection action, it has been documented that further attempts at debt collection from the perpetrator of the fraud would be inappropriate or futile.

Cash Repayments

Any debt involving fraud or abuse shall be repaid in cash. No other means of settlement will be considered. Funds collected in repayment of these types of debts will be returned to LCCDC identifying the title, year and subaward number to which the misexpenditure was originally charged. LCCDC will forward this repayment to EDD.

When the debt was not a result of fraud or abuse, the cash repayment of the disallowance is a credit to the program (dislocated worker, housing, etc.) and year of appropriation to which it was originally charged. If the year of appropriation is still open LCCDC may reuse the funds in that program. Cash payments received after the appropriation period has expired must be remitted to the State.

ACTION:

LCCDC and its subrecipient s 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 Fernando Gonzalez at 916-388-2225.



Marco Lizarraga
Executive Director