

New York State Department of Labor

W. Averell Harriman State Office Campus
Building 12, Room 440, Albany, NY 12240
www.labor.ny.gov

**Workforce Development System
Technical Advisory # 16-8
September 9, 2016**

To: Workforce Development Community

**SUBJECT: Monitoring - Local Workforce Development Board (LWDB)
Responsibilities Relating to New York State Department of Labor
Fiscal Monitoring and Oversight**

PURPOSE

Communicate the responsibilities of Local Workforce Development Boards, (LWDBs), Grant Recipients, Local Governmental Grant Sub-recipients and incorporated Fiscal Agents as they relate to the New York State Department of Labor (NYSDOL)'s fiscal monitoring and oversight activities and processes under the Workforce Innovation and Opportunity Act (WIOA) of 2014.

This Workforce Development System Technical Advisory (WDS TA) rescinds and replaces WDS TA #09-18; "Financial Oversight" (06/19/2009).

POLICY

NYSDOL's Financial Oversight and Technical Assistance (FOTA) oversight and monitoring activities shall be carried out collaboratively. NYSDOL and local staff shall fully participate in this process in order to insure fiscal responsibility and federal compliance.

ACTION

LWDBs, Grant Recipients, Local Governmental Grant Sub-recipients, and incorporated Fiscal Agents shall actively participate in financial oversight activities initiated by NYSDOL's FOTA Unit.

Financial Oversight Activities

The FOTA Unit is committed to providing technical assistance to help identify potential fiscal system vulnerabilities at the local level. The purpose of oversight activities is to ensure compliance with applicable Federal requirements and ensure that resources are efficiently used for authorized purposes. This process also oversees internal controls and accounting procedures to protect against waste, fraud, and abuse.

The following is the FOTA Unit's review schedule:

<u>Review</u>	<u>Frequency</u>
Desk Reviews – Financial Reports	Monthly
Financial Management/Cost Allocation	Annually
Program Year Closeout	Annually
Sub-recipient Monitoring	Annually
Procurement	Biennially
Property Management	Biennially

Monitoring Process and LWDB Responsibilities:

FOTA's fiscal monitoring process includes the following:

- Desk Audits, Site Visits (including Entrance Conferences), Fiscal Analyses;
- Exit Conferences and Conference Calls;
- Reports and Responses;
- Corrective Action Plan; and
- Dispute Resolution.

Desk audits, site visits and fiscal analyses:

LWDBs shall make accommodations for site visits (including Entrance Conferences) by FOTA staff. This shall include access to necessary records and appropriate work space and equipment.

Exit Conferences and Conference Calls

The LWDB's Executive Director and assigned fiscal staff shall participate in an exit conference at the conclusion of the desk review/site visit. All potential findings will be discussed. If additional significant findings are considered after the exit conference, a conference call will be held to notify the LWDB's Executive Director and fiscal staff of the additional potential findings and to provide an opportunity for discussion.

Reports

Upon completion of the audit and/or site visit, FOTA will issue a written summary report addressed to the LWDB's Executive Director summarizing the results of their review of financial oversight activities. The FOTA report may contain observations, findings (including questioned or potentially disallowed costs) and required actions. The report may also contain responses that the LWDB's Executive Director and/or local fiscal staff made to the observations, findings, and required actions that were provided during the

review or afterward. The report will note if the required actions, already taken, have resolved the findings, or if additional action is needed.

Responses / Corrective Action Plans (CAPs)

A written response to this report on each unresolved finding is required within thirty (30) calendar days from the date of issuance of the report. Depending on the nature and severity of the issues disclosed, it may be necessary for the LWDB to submit a formal Corrective Action Plan (CAP) to be submitted with a timeline for completion as part of this response.

The FOTA Unit will review the response received to the report, and will provide written notification to advise if the findings are resolved and/or if its CAP is adequate. If no response is received, or the response and/or its CAP does not satisfactorily address and resolve the issue(s) in question, it will then be necessary to commence the FOTA Unit's dispute resolution process, which is described in the next section of this WDS TA. Additionally, if it is later found that progress is not being made on the CAP timeline that was submitted and approved, the FOTA Unit's dispute resolution process will commence.

Dispute Resolution

- A. Initial Determination: The FOTA Unit will provide written notification, in the form of an Initial Determination letter addressed to the CEO Grant Recipient (with a copy to the LWDB Executive Director) indicating one or more of the following:
- 1) No response was received from the entity; or
 - 2) The entity's response and/or its CAP was inadequate; or
 - 3) The entity has not made progress on the CAP timeline that was submitted and approved.

Within thirty (30) calendar days of the date of the issuance of the Initial Determination letter, the CEO Grant Recipient, or his designee, shall submit a written response. The written response shall include all necessary supporting documentation.

- B. Final Determination:

Within sixty (60) calendar days after the date of issuance of the Initial Determination (plus any approved extension) a Final Determination letter shall be issued to the CEO Grant Recipient with a copy to the LWDB Executive Director. As applicable, this letter shall:

- 1) identify both allowed and disallowed costs (if applicable);
- 2) address the acceptability of corrective actions taken or planned to resolve administrative findings;

- 3) identify any remaining unresolved administrative findings, with corrective action required within thirty (30) calendar days from the date of issuance of the Final Determination;
- 4) note that if disallowed costs remain after the corrective action period, the Final Determination will establish a debt against the CEO Grant Recipient for the disallowed amount, and interest shall be charged from the date of delivery of the Final Determination letter; and
- 5) advise that should the CEO Grant Recipient dispute any finding(s), they have thirty (30) calendar days from the date of issuance of the Final Determination to request an administrative hearing. This hearing shall take place before an independent hearing officer from NYSDOL's Administrative Adjudication Unit.

If administrative findings remain unresolved after the timeline specified in the Final Determination, and no hearing is requested within this timeline (or a hearing is requested but the findings are upheld by the independent hearing officer), the Governor shall impose WIOA required sanctions.

INQUIRIES

Please direct all questions regarding this TA to your FOTA Unit representative.