



APPROVED: *Martha Afford*

SUBJECT: REMEDIES AND SANCTIONS POLICY

PURPOSE: The purpose of this policy is to inform all contractors of the East Tennessee Local Workforce Development Area, a subrecipient of the Tennessee Department of Labor and Workforce Development, utilizing WIOA Title I funds or other Workforce Services pass through funds, about the potential remedies and sanctions that the East Tennessee Local Workforce Board will impose for failing to meet the Federal and State fiscal standards and performance measures.

POLICY:

I. Background:

The East Tennessee Local Workforce Development Board shall have a zero-tolerance approach to addressing observed deficiencies by a contractor to meet the regulatory compliance standards for financial and program management. The effect of contractor noncompliance places the ETLWDB at risk for loss in credibility/confidence of data used to support management decisions, increased risk for compliance findings, and potential for a reduction/recapture of funding at the State level. In an effort to reduce deficiencies and increase program integrity, any contractor not meeting the regulatory standards shall be subject to the specific conditions or remedies and sanctions set forth in this policy. Regulatory standards are set by the United States Government (including Uniform Codes, WIOA law and US Department of Labor), the Tennessee Department of Labor and Workforce Development, and the East Tennessee Local Workforce Development Board. A non-exhaustive listing of such regulatory standards includes the following:

- Uniform Administrative Requirements;
- Cost Principles, and Audit Requirements for Federal Awards, WIOA law;
- One-Stop Comprehensive Financial Management Technical Assistance Guide;
- TN WIOA 17-1 Allowable and Unallowable Costs;
- TN WIOA 17-11 Minimum Participant Cost Rate; ETLWDB Minimum Participant Cost Rate Policy;
- TN-WIOA 18-3 One Stop Certification;
- 2 CFR Part 200, Appendix XI Compliance Supplement;
- ETLWDB grantee contract terms and conditions;
- ETLWDB Monitoring Policy and procedures;
- ETLWDB Supportive Services Policy;
- And all other applicable policy and guidance.

Should the ETLWDB determine that regulatory standards have not been met, infractions will be categorized by severity. Categories 1, 2, 3, or 4 will be determined by the level of risk associated with observed deficiencies relative to the 2 CFR Part 200, Appendix XI Compliance Supplement. The ETLWDB will maintain an internal tracker detailing the status of compliance with requirements outlined in the grantee contract as well as policies and/or guidance.

The risk categories will be designed as follows:

- **Category 1 (Low Risk)**
- **Category 2 (Moderate Risk)**
- **Category 3 (High Risk)**
- **Category 4 (Severe Risk)**

Categories are progressive and failure to satisfy one category will lead to a higher category infraction. *While not exhaustive, example infractions of each category are listed below:*

Category 1-

- Failure to submit timely and accurate reports as requested by the Board.
- Failure to comply with ETLWDB branding standards.

Category 2-

- Infractions leading to potential disallowed costs (i.e., eligibility issues, unallowable supportive service payments).
- Actions contrary to ETLWDB policy and/or Board directive(s).

Category 3-

- Inadequate use of state systems per ETLWDB contract agreement.
- Failure to provide specific identifiers of fiscal related documentation within Jobs4TN case notes for monitoring and review purposes.
- Delay in uploading financial documents resulting in a greater than one (1) month variance between Jobs4TN and Grants4TN state systems.
- Inefficient control of administrative costs resulting in failure to meet the state standard Minimum Participant Cost Rate (MPCR).

Category 4-

- Recurrent activity of Category 1, 2 or 3 infractions leading to lack of sustained integrity.
- Intentional acts that result in improper use of funds leading to waste, fraud, or abuse.

When contractor non-compliance is identified, the ETLWDB shall exercise remedies to cure the infraction(s). Category 1 and 2 infractions shall be addressed through the remedies of additional Specific Conditions. Category 3 and 4 infractions shall be addressed through the remedies of Sanctions.

II. Remedies through Specific Conditions:

The ETLWDB, as a subrecipient of Federal funds, may impose additional specific conditions as needed, especially in instances of noncompliance with Federal, State and sub-recipient grantee regulations. Any specific conditions imposed will be issued in writing by the ETLWDB Executive Director.

A. Category 1 Infractions will result in the following:

1. Requiring the contractor to attend a personal conference with Board Staff to review requirements and obtain training assistance.
2. Requiring additional contractor monitoring to ensure infraction has been resolved.

B. Category 2 Infractions will result in the following:

1. Requiring additional, more detailed financial reports. This may include providing invoices and additional support documentation for expenditures and will result in sustained desktop monitoring.
2. Establishing additional prior approvals. This may be achieved through various means at the discretion of the ETLWDB Executive Committee, but may include requiring prior written approval from the Executive Director, Board Chairman, or CLEO.

Once in place, specific conditions shall remain in effect until either expiration of the time period set forth by the ETLWDB Executive Director when issued, or until the specific condition(s) have been met and evidence of acceptable performance has been demonstrated, as determined by the ETLWDB Executive Director in consultation with the Executive Committee of the Board. Once the specific conditions have been removed from the contractor, the ETLWDB reserves the right to monitor the contractor as necessary.

III. Remedies through Sanctions:

If the severity of the contractor noncompliance cannot be remedied by imposing specific conditions, as determined by the ETLWDB, or where imposed specific conditions have failed to remedy the noncompliance, then remedies through sanctions shall apply. Any remedies through sanctions shall be issued in writing by the ETLWDB Executive Director, the ETLWDB Chair, and the Chief Local Elected Official. Sanctions may include, but are not limited to, the following:

A. Category 3 Infractions will result in the following:

1. Recommendation that the contractor reassess contractor staff and its capacity to ensure compliance with required regulations and/or manage ETLWDB functions effectively and efficiently.
2. Additional and extensive monitoring requirements, including a full fiscal review of contractor's WIOA related expenditures.
3. Deny reimbursement of disallowed costs, as determined by the ETLWDB.
4. Temporarily withhold reimbursements until contractor complies with contractual regulations.
5. Deny any performance-based extension of original contract award.

B. Category 4 Infractions will result in the following:

1. Revocation of contract based upon material breach.
2. Initiate debarment proceedings.
3. Any and all other legally available remedies.

IV. Written Notice of Corrective Remedies:

The contractor shall be notified of any remedies imposed through formal written notification. Remedies for Category 1 and 2 infractions shall require written notice from the ETLWDB Executive Director, while Remedies for Category 3 and 4 infractions shall require written notice from the ETLWDB Executive Director, the ETLWDB Chair, and the Chief Local Elected Official. This notice shall contain the following:

- A. The reason why the specific conditions or sanctions are being imposed,
- B. The nature of the specific conditions or sanctions,
- C. The nature of the action needed to remove the specific conditions or sanctions,
- D. The time allowed for completing the actions if applicable, m and
- E. The method for requesting reconsideration of the specific conditions or sanctions.

V. Process for Appealing Remedies Imposed:

A contractor seeking to appeal the decision to impose remedies may file a written appeal to the ETLWDB Board Chairman within fifteen (15) calendar days after receipt of notification. The appeal must contain a specific statement of the grounds on which the appeal is sought. ETLWDB Executive Committee will have thirty (30) calendar days to review the appeal and make a recommendation to the ETLWDB Chief Local Elected Official (CLEO). The final decision rests with the CLEO. If the contractor chooses to appeal the decision of the CLEO, a detailed statement of the grounds on which the appeal is sought must be submitted in writing to the Commissioner of the Tennessee Department of Labor and Workforce Development within fifteen (15) calendar days of the CLEO's decision. The appeal will be filed with the State Workforce Board who will make a final determination.