

NoRTEC Debt Collection Policy

Adopted: December 7, 1995

Effective: January 1, 1996

Last Updated: April 9, 2008

I. PURPOSE

The purpose of this policy is to establish procedures relating to the collection of debts from Contractors with the Northern Rural Training and Employment Consortium (NoRTEC).

Debts established by the Grantor Agency or any other legal entity outside NoRTEC's purview will be resolved according to the debt collection procedures and terms of that entity.

II. DEFINITIONS

- A. Grantor Agency - California State Workforce Investment Division/ Employment Development Department; United States Department of Labor (DOL); or any other entity from which NoRTEC receives funds through grants or contracts.
- B. NoRTEC - The Workforce Investment Board (WIB) and Governing Board of the Northern Rural Training and Employment Consortium.
- C. NoRTEC Administrative Entity (AE) - The NoRTEC Administrative Staff hired by NoRTEC.
- D. Contractor - Entities receiving funds from NoRTEC through grants or contracts.

III. NoRTEC LIABILITY

As the recipient of the funds from the Grantor Agency, NoRTEC will be held liable for all funds received from NoRTEC by its Contractors found not to have been expended in accordance with applicable laws and regulations. In order to help assure that NoRTEC will be granted a waiver of liability for the disallowed costs incurred by a Contractor, NoRTEC will:

- A. Adhere to an appropriate system for the award and monitoring of contracts with Contractors which contains acceptable standards for ensuring accountability;
- B. Enter into written contracts which establish clear goals in unambiguous terms;
- C. Act with due diligence to monitor the implementation of the Contractor's

contract, including monitoring and auditing at reasonable intervals;

- D. Take prompt and appropriate corrective action, including debt collection, upon becoming aware of any evidence of a violation of the Act or regulations under the Act (to include contract stipulations, policies, directives, etc.) by the Contractor.

IV. CONTRACTOR LIABILITY

- A. The Contractor assumes liability for its actions and the actions of its agents under its contracts with NoRTEC. If the Federal Government, the State of California, NoRTEC or any other legally authorized entity, demands repayment of funds as a result of the Contractor or its delegate agency's violation of laws, regulations or contract provisions, the Contractor will repay to NoRTEC the amount of funds directly related to the violation, including the actual cost of recovery.
- B. NoRTEC will not hold the Contractor liable for violations incurred as a direct result of following written instructions received from NoRTEC.

V. PROCEDURES FOR ESTABLISHING A DEBT

The AE will normally follow a three stage process to establish that a debt exists.

- A. Questioned Costs - The AE will question a cost when, in the AE's opinion, the cost is in violation of applicable Federal or State statutes or regulations, or NoRTEC policies or contract stipulations, and/or the cost is not properly supported by documentation. The AE will inform the Contractor in writing of the questioned cost, and allow the Contractor a maximum of 30 days for corrective action or appeal to the AE.
- B. Disallowed Costs - If the Contractor has not corrected and/or successfully appealed the questioned cost within the time allotted, the AE will inform the Contractor, in writing, that the cost is disallowed, and request a repayment or appeal to NoRTEC or its appropriate committee within 30 days. The notice will also contain possible sanctions and options available, if any, for repayment.
- C. Debt - A disallowed cost that has not been corrected or successfully appealed within the time allotted will be considered a debt, and the AE will implement the debt collection procedures as specified in Section VI.

VI. PROCEDURES FOR COLLECTION A DEBT

- A. After the time allowed for appeals has lapsed or after a decision that established a debt is rendered following an appeal, a written notification will be issued to the Contractor by the AE establishing a final debt. The notice will include:
 1. An invoice issued by the NoRTEC AE;
 2. Notification of the date the debt will be considered delinquent;
 3. Whether or not interest will be charged on the debt and at what rate;

4. Sanctions that have or may be implemented;
 5. Options available, if any, for repayment.
- B. A 30- and 60-day notice will be sent to the Contractor if payment has not been received or a satisfactory alternative repayment plan has not been negotiated.
- C. If the debt is still outstanding after 90 days, a determination will be made by NoRTEC or its appropriate committee to use another method or collection. In making this determination, consideration will be given to the following factors:
1. The amount of the debt;
 2. Cost of further debt collection;
 3. The amount collected to date;
 4. The probable success of pursuing further action to collect the debt.
- The settlement of all debts resulting from fraud, malfeasance, misapplication of funds or other serious violations or illegal acts must be cash from nonfederal sources. Funds collected in settlement of these debts must be returned to the Grantor Agency immediately on their receipt.
- D.

VII. OPTIONAL METHODS of REPAYMENT

While cash is the required method of repayment where there is a misexpenditure of funds due to willful disregard of the requirements of the Act, gross negligence, or failure to observe accepted standards of administration, several options for resolutions of debts are available. Settlement of such debts on a noncash basis will be the exception.

- A. **Installment Payments**: Cash installment repayment agreements will usually be of short duration, from three to twelve months, with a maximum of 24 months. Duration will be negotiated based on size of the debt and the Contractor's ability to pay. Use of cash installment repayment is limited to instances when debt collection efforts are impeded by an inability to pay the full debt amount in a lump sum.
- B. **Adjustment in Payment** : Under this method an agreement may be entered into with the Contractor whereby the grant is reduced by the amount of the debt while the program is maintained at an undiminished cost level supported by nonfederal contributions.
- C. **Withholding** : This repayment method will involve the AE withholding amounts owed the Contractor for past services or other considerations already provided in satisfaction of the debt owed.
- D. **Stand-In Costs** : The Contractor must identify allowable costs associated with the contract during the contract period, but not charged to the contract and substitute those costs for the disallowed costs, thus erasing the debt. Such costs are subject to audit. Documentation must be maintained when such agreements are made.

- E. Services In Lieu of Cash: This method involves a repayment agreement with the Contractor whereby additional Contractor services, above those originally agreed to with the AE, paid through nonfederal funds are negotiated. When it becomes clear that a Contractor cannot repay through any other repayment method, an agreement of this nature may be negotiated. This method requires a written agreement signed by both parties with conditions regarding the type of funds to be used, documentation subject to audit, a description of the services rendered, and a time limitation.

VIII. WAIVER of LIABILITY

As soon as it becomes apparent to the AE that the Contractor cannot or will not repay a debt, within a reasonable amount of time, the AE will begin negotiations with the Grantor Agency for a waiver of NoRTEC's liability from the debt. The waiver of NoRTEC's liability to the Grantor Agency will not necessarily lead to a waiver of the Contractor's liability to NoRTEC.

IX. ACCOUNTS RECEIVABLE

The AE will maintain an appropriate accounts receivable system.

X. SANCTIONS

The sanctions under this section should not be construed to be exclusive sanctions, but rather as a non-inclusive range of options available to NoRTEC for minimizing the occurrence and/or repetition of questioned or disallowed costs or debts with a Contractor.

- A. Failure by the Contractor to appropriately respond to a notice or questioned or disallowed costs, or a notice of debt may result in contract termination and/or the withholding of funds, in whole or in part.
- B. In emergency situations, if the AE determines it necessary to protect the integrity of the funds or ensure the proper operation of the program, the AE may immediately terminate or suspend financial assistance, in whole or in part if the Contractor is given prompt notice and the opportunity for a subsequent hearing by NoRTEC or its appropriate committee, within 30 days after such termination of suspension.
- C. Sanctions may include specific reporting requirements, increased service levels, reduced cost per participant, or more stringent performance requirements, and/or the development and implementation of specific policies and procedures by the Contractor as a condition of contract continuation.
- D. If practicable, NoRTEC may pursue litigation to recapture disallowed costs or debts incurred by the Contractor.
- E. NoRTEC may require reorganization of the Contractor's Board of Directors and/or staff to the satisfaction of NoRTEC as a condition of contract continuation.

XI. APPEAL

- A. Questioned Costs - The Contractors must appeal the questioned cost to the AE in the time allotted in the notice of Questioned Costs. If the Contractor is dissatisfied with the outcome of a verbal appeal, he/she may put their appeal in writing, specifying the costs questioned by the AE, and the Contractor's reasons for disagreement, including relevant documentation to support the Contractor's contentions.
- B. Disallowed Costs - If the AE denies the Contractor's appeal, the AE will notify the Contractor, in writing, specifying the reasons why, including relevant documentation to support the AE's contentions. The notice will also specify sanctions that may be imposed and the Contractor's right to appeal, in writing, within 30 days of receipt of the notice to NoRTEC, or their appropriate committee.
- C. Debts - Once a debt has been established, the AE will notify the Contractor, in writing, of the amount due, the repayment method, time frames for repayment, and sanctions that have or may be imposed. The Contractor may appeal any or all of these criteria to NoRTEC or their appropriate committee, except for those criteria that have already been imposed by these bodies . The appeal must be submitted to the AE within 30 days of the Contractor's receipt of initial notice of debt, contain specific objections and alternatives proposed by the Contractor, and relevant supporting documentation.
- D. NoRTEC WIB and Governing Board - The AE will present the written notices sent to the Contractor, the Contractor's written appeal, and relevant supporting documentation to NoRTEC or their appropriate committee, with copies of same to the Contractor. NoRTEC, or their appropriate committee will review the material and listen to a verbal presentation by the Contractor and the AE. The decision of NoRTEC will be final.

XII. Record-Keeping

- A. A permanent record of each debt collection case and its status will be maintained, consistent with the record keeping requirements specified in the Workforce Investment Act and related Federal and State rules and regulations. The file will include all information pertinent to the case.