

		DIVISION OF FINANCE AND ADMINISTRATION	Policy Number 121
TITLE:	Resolution of Recipient and Subrecipient Monitoring and Audit Findings (Federal & State)		
PROGRAM:	All Recipients and Subrecipients of DEO Funds		
EFFECTIVE:	3/25/2022		

I. PURPOSE

The purpose of this policy and incorporated procedure is to provide information and guidance for the resolution of findings and disallowed costs arising from monitoring reviews, investigations, other Federal and state monitoring reviews, and audits of (sub)recipients (sometimes referred to as “auditees”) awarded funds through a Federal or state award.

II. SCOPE

All monitoring findings, audit findings, and cost disallowances for (sub)recipients of Federal and state awards will be treated in accordance with this policy and incorporated procedure.

III. BACKGROUND

The Department of Economic Opportunity (DEO) is responsible for ensuring that its (sub)recipients take timely and appropriate action on all deficiencies pertaining to their Federal and state awards detected through audits, on-site reviews, and other means. DEO is also responsible for resolving findings that arise from these oversight activities. Resolution may include, but not be limited to the establishment and enforcement of corrective action plans and/or the collection and repayment of debt. Responsibility for debt collection resides in the Bureau of Financial Management within DEO.

IV. NON-EXHAUSTIVE LIST OF AUTHORITIES

- 2 Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 2 CFR §§ 200.331 - 200.333, Subrecipient Monitoring and Management
- 20 CFR § 683.420, What procedures apply to the resolution of findings arising from audits, investigations, monitoring, and oversight reviews?
- 45 CFR Part 75, Uniform Administrative Requirements, Costs Principles, and Audit Requirements for HHS Awards

- 215.97 F.S., Florida Single Audit Act
- 120.569 F. S., Decisions which affect interest

V. DEFINITIONS

- **Administrative (Nonmonetary) Finding** - A finding concerning deficiencies in a (sub)recipient's management of the Federal or state award or its financial controls, procedures, or systems.
- **Corrective Action** - Action taken by auditees that corrects identified deficiencies, produces recommended improvements, or demonstrates that the audit finding is either invalid or does not warrant auditee action.
- **Disallowed costs** - Those charges to a Federal or state award that the Federal or state awarding agency or pass-through entity determines to be unallowable, in accordance with the applicable Federal or state statutes, regulations, or the terms and conditions of the Federal or state award.
- **Final Determination** - The awarding agency's final decision to disallow a cost and/or final decision on the status of administrative (nonmonetary) findings.
- **Fiscal (Questioned Cost) Finding** - A cost that is questioned by auditors, monitors, investigators, etc. because it resulted from a violation or possible violation of a statute, regulation, or the terms and conditions of a Federal or state award, are not supported by adequate documentation, or the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.
- **Initial Determination** - The awarding agency's preliminary decision to allow or disallow a questioned cost and/or present its nonmonetary findings.

VI. POLICY

DEO and its award (sub)recipients must have written monitoring and auditing resolution procedures. Such procedures must be consistent with all applicable legal authorities, which may include, for example, 2 CFR Part 200. Monitoring and auditing resolution procedures shall include an Initial Determination, followed by an informal resolution period, a Final Determination, any required administrative/appeals processes, and debt repayment/collection processes.

DEO is responsible for coordinating and communicating with the (sub)recipient, and other responsible parties that issue findings, determinations, responses, and correspondence that arise as a result of monitoring, auditing, investigation, or other related activities.

DEO is responsible for monitoring the (sub)recipient's corrective actions and/or tracking the collection of the resulting debt repayments.

(Sub)recipients must maintain adequate documentation in their financial records to properly account for all funds received/expended under grant awards. Documentation must be sufficient enough to provide a proper audit trail and must be presented if/when refuting findings and questioned with DEO.

VII. DEO'S MONITORING AND AUDITING RESOLUTION PROCEDURE

DEO shall utilize the following Monitoring and Audit Resolution Procedure. In the event this procedure conflicts with an applicable legal authority, the legal authority shall control only to the extent necessary to bring this procedure into compliance.

A. Findings Arising from Monitoring, Auditing, and Related Activities:

Findings may arise from monitoring, auditing, and related activities including, but not limited to: (1) site visits; (2) review of documents related to the (sub)recipient's grant; (3) analysis of data collected or reported by the (sub)recipient related to activities carried out under the grant

agreement; (4) Single Audits; and (5) other audits or investigations conducted by agencies outside of DEO. Findings may be administrative (nonmonetary) and/or fiscal (questioned costs).

B. Notice and Response:

If findings arise, DEO will notify the (sub)recipient in writing of the findings and give the (sub)recipient a period not to exceed 60 days to submit a written response, including appropriate Corrective Action. DEO shall thereafter review the response, deem it adequate or inadequate, and notify the (sub)recipient in writing. Notice of an adequate response will memorialize any information necessary for resolution of the findings under controlling legal authorities and shall be sent by certified mail with return receipt requested. Notwithstanding the foregoing, if findings can be resolved through DEO oversight (auditing, on-site reviews, etc.) reports, DEO may elect to forgo sending a separate notice of adequate response and instead send only the applicable oversight reports. A (sub)recipient's failure to timely submit a response shall be automatically deemed an inadequate response. Notice of an inadequate response shall be given through an Initial Determination letter as set forth below.

C. Initial Determination:

If (sub)recipient does not respond or DEO deems a response inadequate, DEO will make and issue an Initial Determination letter to the (sub)recipient via certified mail with return receipt requested. The Initial Determination shall be based upon the requirements of the Federal or state award, the terms and conditions of the agreement(s) under the award, and any other applicable legal authorities.

The Initial Determination letter shall include:

1. A statement of the findings where there is agreement and those where there is disagreement with the (sub)recipient
2. A list of all questioned costs;
3. Whether the costs are allowed or disallowed, including the reasons with appropriate citations for such actions;
4. Acceptance or rejection of any Corrective Action taken to date;
5. Possible sanctions; and
6. The opportunity for informal resolution within no more than 60 days of the date of Initial Determination.

d. Informal Resolution:

During the (sub)recipient's opportunity for informal resolution set forth in the Initial Determination letter, the (sub)recipient may provide additional documentation, propose Corrective Action, and/or propose terms for repayment. Informal resolution discussions should be well documented.

e. Final Determination:

After the opportunity for informal resolution is over, and no more than 180 days from the date the (sub)recipient was first notified of the findings at issue, DEO shall make and issue a Final Determination letter to the (sub)recipient via certified mail with return receipt requested.

The Final Determination letter shall:

1. Indicate whether efforts to informally resolve matters contained in the Initial Determination have been successful;

2. List those matters upon which the parties continue to disagree;
3. List any modifications to the factual findings and conclusions set forth in the Initial Determination letter and the rationale for such modifications;
4. Require corrective action, when needed;
5. Determine liability and impose any programmatic sanctions;
6. Where (sub)recipient is liable for repayment of funds, advise the (sub)recipient that such repayment (including interest, as may be applicable) is immediately due and owing, and must be made within 30 calendar days of the Final Determination letter; and
7. Offer an opportunity for administrative/appeal proceedings if required by any applicable legal authorities. This shall include enclosing a separate Notice of Administrative Rights form, if applicable.

Unless appropriate administrative/appeal proceedings are timely initiated, the Final Determination constitutes DEO's final agency action on the matter, and DEO shall take actions consistent with the Final Determination.

f. Repayments:

Any (sub)recipient repayments must be from non-federal/unrestricted funds and shall be made with interest as specified in a Repayment Agreement or as may be required by any applicable legal authorities.

Should repayment not be received within the timeframe set forth in the Final Determination Letter, a second notice will be sent by certified mail with return receipt requested. This second notice will remind the (sub)recipient that repayment was due and owing as of the date of the Final Determination Letter and state the amount of accrued interest due on the debt. If repayment of the outstanding debt is not received within 30 days after issuance of the second notice, a final notice will be sent by certified mail with return receipt requested. The final notice will remind the (sub)recipient that repayment was due and owing as of the date of the Final Determination Letter and state the amount of accrued interest due on the debt. The final notice will also state that if (sub)recipient does not make repayment of the debt and interest in full within 10 calendar days of the final notice, DEO may take appropriate legal action, including, but not limited to the imposition of programmatic sanctions. Examples of programmatic sanctions include:

1. Withholding a percentage of payments until the debt is resolved satisfactorily;
2. Withholding or disallowing administrative costs; and
3. Withholding the federal funds until the debt is resolved.

g. Repayment Agreements:

At any point during the resolution of a matter that includes disallowed costs, DEO may enter into a Repayment Agreement with the (sub)recipient. Amongst any other terms, the Agreement will confirm the debt, payment timeframe, and establish a repayment option that DEO, in its sole discretion, deems appropriate in light of the evidence available and the circumstances surrounding the matter

DEO may make the following repayment options available to (sub)recipients.

1. **Lump Sum:** The (sub)recipient pays the full amount to DEO in a lump-sum within a certain timeframe.

2. **Installments:** The (sub)recipient pays the full amount to DEO through regular installments (generally over a period of three years or less).
3. **Stand-In Costs:** The (sub)recipient pays the full amount to DEO through substituted costs. If an organization agrees the cost is disallowed or decides not to contest the finding, it has the option of proposing stand-in costs as substitutes. Proposals for stand-in costs should be presented early in the resolution and negotiation processes. Proposals should be in writing and included any applicable audit resolution documentation.

For costs to be considered as stand-in, they must meet the following criteria:

- a. Incurred and allowable costs that have not been charged to the program;
- b. Included within the scope of the audit or monitoring cycle;
- c. Accounted for in the entity's financial system required by 2 CFR 200 or applicable state rules as appropriate;
- d. Come from the same year as the costs that they are proposed to replace; and
- e. Not cause a violation of the administrative or other cost limitations.

DEO's Bureau of Financial Management will maintain a copy of Repayment Agreements for inclusion in audit resolution records and for tracking purposes. In addition, copies of each Agreement will be forwarded to the applicable Bureau to which the audit finding(s) and disallowed cost(s) pertains. DEO will provide receipts for any repayments made. In the event a (sub)recipient does not adhere to the terms of its Repayment Agreement, DEO may terminate the Agreement and take any and all other actions allowed by law.

Resolution & Closure:

Upon (sub)recipient's full satisfaction of required corrective actions and repayment of all outstanding debt, DEO will issue a Satisfactory Resolution letter acknowledging final approval of the corrective actions taken and receipt of repayment and closing the audit/monitoring process. However, DEO reserves the right to reopen the process in the event the Federal or state agency disagrees with the final resolution.