



David A. Paterson, Governor

M. Patricia Smith, Commissioner

## NEW YORK STATE WORKFORCE DEVELOPMENT SYSTEM TECHNICAL ADVISORY

### Workforce Development System Technical Advisory #09-18

**TO: Workforce Development Community**

**DATE: June 18, 2009**

**SUBJECT: Financial Oversight**

#### *Purpose*

To update the New York State Department of Labor's (NYSDOL) plan to have the Financial Oversight and Technical Assistance (FOTA) Unit conduct financial oversight of Workforce Investment Act (WIA) Title I-B activities, the activities of the Trade Adjustment Act (TAA) and the recently enacted American Recovery and Reinvestment Act (ARRA). This Technical Advisory also establishes NYSDOL's policy for the resolution of issues that may be disclosed during the conduct of financial oversight reviews.

**This Technical Advisory (TA) supersedes Technical Advisory #00-22, dated May 22, 2000.**

#### *Background*

Part 667 Subpart D of the Workforce Investment Act Final Rules details the Governor's responsibilities for oversight of WIA Title I-B. NYSDOL's Division of Employment and Workforce Solutions (DEWS) is responsible for the State's monitoring system. FOTA is the unit within the DEWS Bureau of Quality Assurance that has been assigned to conduct comprehensive financial oversight activities. The purpose of these oversight activities is to provide technical assistance to and assess the fiscal accountability of WIA Title I-B Grant Recipients. The Title I-B Grant Recipients are responsible for the administration of TAA and ARRA funds as well.

#### Financial Oversight Reviews

Financial oversight activities include desk reviews, site visits, and analyses of fiscal activities, records and reports. FOTA's goal in conducting these reviews is to assist WIA Title I-B Grant Recipients and the Fiscal Agent (those entities which have been designated by the Local Workforce Investment Board (LWIB) to be responsible for maintaining the financial records) in improving their financial operations while ensuring compliance with the WIA statute and Final Rules. As noted in Technical Advisory #04-19, dated, November 19, 2004, the oversight reviews do not extend to the sub-recipient counties/entities in multi-jurisdictional local workforce investment areas. The Grant Recipient is responsible for the oversight of the respective entities. FOTA is committed to provide technical assistance and to help identify potential fiscal system weaknesses

before such weaknesses result in substandard performance or questioned costs. FOTA will provide recommendations to improve operations and will be available to help implement corrective measures.

The purpose of the oversight reviews is to ensure that the entities under review are in compliance with applicable uniform administration requirements and that Office of Management and Budget (OMB) Circulars are being followed with respect to relevant cost principles. Fiscal reviews are conducted to ensure that resources are efficiently and effectively used for authorized purposes and that internal controls and accounting procedures are in place to protect from waste, fraud and abuse. The following is FOTA's review schedule:

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

Reviews may be combined to accommodate the schedules of the Grant Recipients or Fiscal Agent and to make the most efficient use of time. Also, the frequency of visits may be altered to reflect the needs and review history of the entities that are the subject of the reviews.

### Reports

FOTA issues a report summarizing the results of the financial oversight activities. The report may contain observations, findings (including disallowed costs) and recommendations. The report will also contain the Grant Recipient or Fiscal Agent's response to the observations, findings and recommendations. Depending on the nature and severity of the issues disclosed, it may be necessary for the Grant Recipient or Fiscal Agent to submit a formal corrective action plan.

In those instances when FOTA concludes that a Grant Recipient or Fiscal Agent's response to a report and/or its corrective action plan is not adequate or does not satisfactorily address and resolve the issue(s) in question, FOTA will provide written notification of this conclusion. It will then be necessary to commence the dispute resolution process.

### Dispute Resolution Activities

Within 30 days of the date of FOTA's written notification that an entity's response to a report and/or its corrective action plan was inadequate, the Grant Recipient or Fiscal Agent shall submit a written response, including related supporting documentation to the DEWS Director of Program and Fiscal Monitoring. After such review and evaluation, and within 30 days, the Director of Program and Fiscal Monitoring shall issue an initial determination identifying both allowed and disallowed costs (if applicable). This initial determination shall also address the acceptability of corrective actions taken or planned to resolve administrative findings.

The Grant Recipient or Fiscal Agent shall have 30 days from the date of the initial determination to submit an additional response and provide additional evidence or documentation to justify the costs and/or address administrative findings.

Within 30 days of receipt of the Grant Recipient or One-Stop Fiscal Agent's response to the initial determination, a final determination shall be issued by the Director of Program and Fiscal Monitoring identifying the allowed and disallowed costs and the remaining administrative findings.

If disallowed costs remain, the final determination will establish a debt against the Grant Recipient for the disallowed amount. If administrative findings that represent a substantial violation of WIA standards as identified in paragraphs (2) or (3) of §667.410 (b) remain unresolved after the timeline specified in the initial determination, the Governor must impose sanctions as described in WIA sections 184(b) and (c).

All final determinations issued by Director of Program and Fiscal Monitoring may be appealed to the Grant Officer and are subject to the processes established by the Grant Officer.

### *Action*

Local Workforce Investment Board Chairs should ensure that all appropriate individuals are familiar with this Technical Advisory.

Grant Recipients and Fiscal Agents shall cooperate with NYSDOL's FOTA Unit in the conduct of financial oversight activities which will include site visits, reviews of documentation and requests for information.

### *Inquiries*

Please direct all questions regarding this technical advisory to your FOTA representative.

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RESCINDED