

Chapter 17

Audits and Audit Resolution

INTRODUCTION

This chapter provides guidance and procedural suggestions on WtW audit requirements; the resolution of audit findings, both questioned costs and administrative deficiencies; administrative appeals, and disposition of questioned costs. It contains the following sections:

- Audits
- Audit Resolution
- Stand-In Costs and Audit Resolution
- Appeals
- Disposition of Disallowed Costs
- Attachment 1 - Audit Review Checklist for Single Audits
- Attachment 2 - Audit Resolution Flow Chart
- Attachment 3 - Sample Audit Transmittal Letter
- Attachment 4 - Initial Determination Letter
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AUDITS

All recipient and subrecipient organizations (with the exception noted below) that expend \$300,000 or more in Federal financial assistance funds (received from *all* Federal sources combined) to operate one or more programs must undergo an audit. There are no Federal audit requirements for vendors. Commercial organizations are covered by the DOL regulations at 29 CFR 96.32 which specifies that the DOL has responsibility for audits of organizations not subject to the audit requirements of the Single Audit Act (SAA) Amendments of 1996.

A recipient, whether a State formula, local area, or competitive grantee, that passes down funds with the intent of providing financial assistance to a subrecipient must ensure that the entity receiving the funds has an audit conducted.

Audit Requirements

To establish uniform requirements for audits, Congress enacted the SAA Amendments of 1996 (PL 104-156). This legislation combined previous audit requirements into a single requirement applicable to all recipients of Federal financial assistance, regardless of the type of organization. The audit requirements contained in OMB Circular A-133 have been codified for DOL programs at 29 CFR Part 99 and require the following:

- # Each entity that expends \$300,000 or more of Federal financial assistance in any fiscal year must obtain an independent organization-wide financial and compliance audit (single) of such fiscal year.
- # The audits are to be submitted within one month after completion or no later than nine months after the end of the auditee's fiscal year. Audit reports are submitted to the Federal clearinghouse in accordance with 29 CFR 99.320. The submission requirements are discussed in detail later in this chapter.
- # Recipients of Federal financial assistance funds must also ensure that all subrecipients, including local area grantees, comply with subrecipient audit requirements, such as having a timely audit in accordance with the requirements of SAA.
- # DOL is responsible for the audit of commercial organizations that function as subrecipients under the WtW program. [29 CFR 96.32]

There are no Federal audit requirements for the following:

- Any entity covered by the SAA Amendments that expends less than \$300,000 in Federal financial assistance funds in a fiscal year.
- Vendors, regardless of the funding level.

Chapters 4 and 5 of the July 1988 *Government Auditing Standards*, commonly referred to as the GAO "yellow book" and issued by the Comptroller General of the United States, provide the standards for field work and reporting for financial and compliance audits. The same chapters may also be used as guidance for the financial and compliance coverage included in an organization-wide audit. Chapter 4 indicates that auditors are to choose and conduct auditing tests that, in their professional judgment, are appropriate to achieve the audit objectives, and are designed to obtain sufficient, competent, and relevant evidence of a reasonable basis for their opinions, judgments, and conclusions. In determining the nature, timing, and extent of the audit steps and procedures to test for compliance, the auditor should assess the risk of noncompliance with laws and regulations that have a direct and material effect on the financial statements or the results of the audit. Chapter 5 indicates that auditors are to prepare on their compliance tests a written report that contains a statement of positive assurance on items tested and a statement of negative assurance that no reportable information otherwise came to their attention regarding items they did not test for compliance.

Management and the Audit Environment

Auditing firms perform various types of audits. The auditee organization must ensure that the audit it obtains meets the standards required for the organization and must specify to the auditing firm the type of audit required. For WtW entities subject to audit requirements, the only type of audit report that is acceptable is the SAA audit.

SAA Audit. An audit that meets SAA standards will have eight component reports on (1) financial statements, (2) the entity's internal control structure, (3) the entity's compliance with laws and regulations, (4) the Federal Financial Assistance (FFA) statement, (5) internal controls over FFA, (6) FFA general compliance, (7) FFA major compliance, and (8) FFA non-major compliance.

Attachment 1 to this chapter is a desk review instrument that can be used to determine the adequacy of the audit. Auditees and the independent auditor should get a copy of the review guide to ensure that the report is consistent with basic requirements. In addition, grantees may wish to review the OMB compliance supplements applicable to the WtW program. These supplements are available through OMB.

Vendors

Because of the nature of SAA audits, it would be inaccurate to say that a vendor's WtW funds will not be audited simply because the entity provides WtW with goods or services under, for example, a procurement contract. An SAA audit is an audit of *all* the Federal funds received by an entity from all sources. Specifically, the SAA audit requirement for a particular entity is a function of the total of all Federal financial assistance funds received. If an entity is subject to an SAA audit, the WtW funds it receives are subject to audit, whether they are received through a grant or a contract and regardless of the grant/contract amount or vendor relationship. The scope of an SAA audit is not limited to simply the expenditure of funds. The WtW procurement contract may be selected as a transaction for testing in an audit of a government entity, an educational institution, or a nonprofit organization. In addition to testing to ensure that payment was made for deliverables provided, the transaction may also be selected for internal control and compliance testing. Thus, a finding relating to WtW could appear in an audit report even though the audit was not required based on the type of agreement or the amount of WtW dollars received.

If a vendor is subject to an audit under the SAA, it may be advantageous and prudent from a management perspective to receive a copy of any audit report for that entity that covers WtW funds and internal controls of the organization to ensure there are no findings related to WtW. It would allow the agency providing funds more time to take corrective action and could mitigate the seriousness of a finding and reduce the amount of funds involved.

Grantee/Subgrantee (Auditee) Responsibilities

Under the SAA Amendments, grantees and subgrantees subject to the audit requirements of 29 CFR 99.200 are responsible for a number of activities related to the audit process. They must:

- Identify, in their books of account, all Federal funds received and expended and the Federal program under which they were received
- Maintain internal control over the Federal funds and assure compliance with applicable laws and regulations (this is also a requirement of both 29 CFR 97.20 and 95.21)
- Comply with laws and regulations related to the Federal programs
- Prepare financial statements. The requirements for financial statements are found at 29 CFR 99.310.
- Ensure that the audits are properly performed and submitted on time and with all the documents required for submission
- Follow up and take appropriate corrective action for audit findings. This includes preparation of a schedule of prior year findings and a corrective action plan.

Grantees and subgrantees are responsible for obtaining the services of the independent auditors in accordance with applicable procurement procedures. Audit firms that prepared indirect cost proposals or CAPs that included the recovery of more than \$1,000,000 in indirect costs may not be selected to perform the organization-wide audit.

Each grantor agency is responsible for ensuring that the requirements of Part 99 are implemented by their subrecipients and that the audits of subrecipients are completed and findings resolved within 180 days of receipt of the audit.

Report Submission

As part of its audit responsibilities, each auditee is responsible for follow-up and corrective action on all audit findings. 29 CFR 99.315(b) requires that each auditee prepare a summary schedule of prior audit findings that includes:

- All audit findings with a statement that they were either fully corrected or the current status of any corrective action
- An explanation if the corrective action taken varies significantly from the prior audit planned resolution
- Reasons that the auditee believes prior audit findings are no longer valid.

In addition, the auditee must prepare a corrective action plan for each audit finding in the current audit. This corrective action plan must include the name of the person responsible for corrective action, the planned action, and an anticipated completion date. If the auditee disagrees with the audit finding, an explanation and specific reasons must be included in the plan. The summary schedule and corrective action plan must be included with the audit report as part of the total audit package submitted to the Federal clearinghouse.

Audits must be submitted within nine months of the end of the organization's audit period or 30 days from the completion of the audit. 29 CFR 99.320 provides the requirements for submission of audit reports. It requires that each auditee submit a reporting package consisting of the financial statements and schedule of Federal expenditures, the auditor's required reports, the summary of prior years findings and the corrective action plan, and the data collection form specified at 29 CFR 99.320(b). The entire reporting package is submitted to the Federal clearinghouse for acceptance and distribution to all affected Federal agencies. The auditee is responsible for providing an adequate number of copies of the reporting package. If the auditee is also a subrecipient of Federal funds, it must submit a copy of the reporting package to each awarding agency as well.

AUDIT RESOLUTION

Ensuring Integrity of Resolution Documents

Audit reports are recommendations to management and may not include all the information on which a resolution action will be based. Occasionally, the proper, best, and/or most appropriate citation related to the issue is not included in the report. At other times, no citations are provided. The resolution official must ensure that all appropriate bases for a determination on the audit findings are included in the resolution documents. In addition, at times information in an audit report will raise other issues (including other potential questioned cost issues) that should be pursued by the resolution official. The audit as a whole and the ramifications of each finding must be thoroughly understood so that each audit can be resolved appropriately on an individual basis.

The administrative decision of an awarding agency to sustain or to reject the findings contained in an audit report of its subrecipient is termed an audit resolution. The document issued to the subrecipient/auditee formally describing such findings and detailing such decision is often referred to as the findings and determinations (FD). Whether such decision involves disallowance of costs questioned in the audit report, or non-monetary administrative findings, the awarding agency must identify an appropriate course of action to remedy the deficiency or variance. The remedy it selects to include in the FD may be thought of as a sanction. Thus, issuance of an FD may be thought of as a decision with sanctions, and it must be accompanied by a notification of right to appeal.

It is imperative to recognize the distinction between the resolution decision and the remedy sanction. It is the merit of the decision that is subject to appeal, and it is the merit of the decision

to which an appeals jurisdiction must limit the appeal. Similarly, as explained later in this chapter, acceptance of stand-in costs is a resolution decision, not a remedy sanction.

ETA's Responsibility for Audit Resolution

ETA must resolve all WtW findings presented in recipient-level audit reports as well as DOL Office of the Inspector General (OIG) audit reports. OMB Circulars A-50 and A-133 require Federal agencies to establish systems to ensure proper resolution and corrective action on audit recommendations. The ETA audit resolution process is described in 29 CFR Part 96, subpart E.

Resolution Responsibility Rests with the Awarding Agency

29 CFR 99.405 requires recipients to issue a management decision detailing audit resolution activities within six months after receipt of the audits of subrecipients that have expended \$300,000 or more of Federal funds in a fiscal year. The responsibility for resolving all findings related to WtW programs and funds rests with the awarding agency (the recipient or subrecipient organization that directly provided the WtW funds). Thus, just as funds are awarded down through many tiers of subrecipients (such as ETA to State to local area grantee to community-based organization (CBO) to service provider), resolution responsibility also rests with the awarding agency at each tier. Audit findings, including administrative findings, must be resolved within six months after receipt of the audit report.

Federal-Level Audit Resolution

Both Federal and non-Federal audits of entities that receive WtW funding directly from DOL will be resolved by the ETA Grant Officer. These entities may be State or local government agencies, nonprofit institutions, or commercial organizations. The resolution process begins when the OIG issues the audit report to ETA.

29 CFR 99.320 requires auditees to submit copies of the audit report package (including the data collection form) to the Federal audit clearinghouse. The clearinghouse is responsible for providing the package to the DOL Inspector General for Audit, who will issue the report to ETA for resolution after it has been found acceptable.

The DOL ETA resolution process is described in 29 CFR 96 and includes:

- Report submission and pre-resolution activities
- Initial Determination
- Informal resolution period
- Final Determination
- Right to appeal within 21 days.

A schematic depicting the flow of Federal-level audit resolution is provided in Attachment 2. Each of the steps is also described in the following section on non-Federal audit resolution.

When the audit of a direct recipient includes coverage and findings on subrecipient organizations, such as a State Department of Education, ETA will ordinarily resolve such findings as part of its resolution activities with the direct recipient.

Non-Federal Audit Resolution

Non-Federal audit resolution responsibility rests with each entity that directly awards WtW funds to a subrecipient. The State must resolve all audits of local area grantees and any other direct subrecipients such as project operators under the Governor's reserve or set-aside funds. Local area grantees are responsible for resolving audits of their service providers/direct subrecipients, and lower-tier service providers that award funds to subrecipients are responsible for resolving audits of those entities. Competitive grantees are responsible for resolution of audits for their direct subrecipients and the lower-tier subrecipients, for resolving audits of service providers as the service delivery arrangements in each grant warrant.

Because no specific process is mandated, the audit resolution process used for individual grantees may vary. However, the resolution process must accomplish the following:

- Determine the need for and ensure the implementation of corrective action for all findings that impact the WtW program
- Allow or disallow all questioned costs and provide the basis for each such determination
- Determine whether allowable stand-in costs were reported and included within the audit scope, meet the fiscal year requirements, and are available to substitute for disallowed costs
- Establish a debt (where appropriate) and indicate the method of repayment planned or required
- Provide the auditee/subrecipient with its appeal rights.

The suggested audit resolution system described in the following paragraphs is patterned after the Initial and Final Determination process used at the Federal level. This process may be used at the State, local area grantee, competitive grantee, or all other subrecipient levels.

Pre-resolution. Before starting resolution, the awarding agency (resolution agency) should verify the acceptability of the audit report. Although the auditee must ensure that the audit it obtains meets the standards required for the organization, the awarding agency may wish to do its own check. Attachment 1 to this section provides a suggested desk review instrument which can be used to determine the adequacy of the audit.

Controls Related to Audit Resolution. Upon receipt of the final audit report, specific controls should be established to ensure that resolution takes place within required time frames. It is suggested that an audit control log be maintained to include the following:

- Date of audit
- Period covered by audit
- Date received
- Auditor
- Questioned costs (number of findings and amounts)
- Administrative findings (number of findings)
- Assigned audit number
- Date(s) Initial and Final Determination(s) scheduled, issued, and appealed.

Suggested Procedure for Resolving Audit Report Findings. This three-part process is the same process used by DOL to resolve audits of direct recipients of WtW funds. The specific guidelines are found at 29 CFR 96.53 and include the Initial Determination, an informal resolution period, and the Final Determination. These must all be accomplished within six months of receipt of the final audit report. It is recommended that the awarding agency give the auditee/subrecipient a copy of the audit report and allow a reasonable time for comment (see Attachment 4 for a sample letter). Because the auditee/subrecipient is responsible for procuring the audit, it should already have a copy of the report. However, it may still be helpful to send a letter requesting comments on the audit findings before issuing an Initial Determination.

Initial Determination

The Initial Determination is a preliminary decision on whether to allow or disallow questioned costs and resolve any non-monetary (administrative) findings. It offers the auditee/subrecipient an opportunity for informal resolution, not a formal hearing.

The Initial Determination, which addresses questioned costs and administrative findings, should be sent to the auditee/subrecipient within a reasonable time after the end of the subrecipient's comment period. The Initial Determination should be sent U.S. Certified Mail, return receipt requested.

Disallowed Costs Findings. The guidance below can be used for evaluating the allowability of questioned costs. The information can be used in the Initial and Final Determinations.

- # In most instances, a cost will be disallowed if the basis is a clear and unequivocal violation of law and regulations. Costs can also be disallowed based on a violation of Federal grant terms and conditions that include the regulations and OMB circulars governing administrative standards and cost principles.
- # Costs incurred must be supported by required source documentation such as time and attendance records, bills and invoices, and canceled checks. The auditee/subrecipient's inability to produce such documentation is in itself supportable grounds for disallowing questioned costs.
- # Some flexibility is available if the questioned cost is based on a violation of a subrecipient, subgrant, or contract requirement. Subgrants and contracts can be more restrictive in the

range of activities and types of cost permitted under that subgrant or contract than Federal or, if applicable, State rules or regulations. Therefore, it is possible that a cost could be unallowable under the subgrant/contract provisions but allowable under State provisions and/or the WtW Federal regulations. If the subrecipient subsequently allows and accepts such a cost, the awarding agency need not disallow the cost. However, an entity cannot require less than full compliance with the WtW and its regulations.

Administrative (Non-Monetary) Findings. Administrative non-monetary findings can be addressed in the same Initial Determination. The proper resolution of an administrative finding is corrective action of the deficiency or variance. Although not required, entities may wish to prioritize administrative findings to focus immediate attention on those considered serious, especially if the finding could result in cost disallowances, such as an inadequate eligibility determination process.

Internal audit resolution controls should document the findings selected for urgent corrective action. In addition, it is strongly recommended that the resolution of administrative findings be coordinated with the agency monitoring the program to ensure that on-site follow-up verifies and documents corrective action. The guidance provided below can be used for the Initial and Final Determinations. For each administrative finding, note:

- The deficiency and the corrective action required of the subrecipient. If the administrative finding was corrected during the comment period or as a result of informal resolution, the manner in which the matter was resolved should be indicated. If further corrective action is required, the specific action required should be specified in the Initial and Final Determinations, as appropriate.
- The dates for completion of the corrective action
- The availability of technical assistance, if requested. (Documentation in the subrecipient file should be maintained to indicate when technical assistance was requested and provided. Progress reports on the implementation of corrective action should be provided by the subrecipient and maintained in the file.)
- Sanctions and remedial actions that may be taken against the auditee/subrecipient if the deficiency is not corrected. The completeness and specificity of this part of the Initial Determination is important in serious cases when it is likely that the awarding agency will take strong measures, including termination, reorganization, reallocation, or partial funding if the deficiency is not corrected.

Informal Resolution Period

During this phase, the subrecipient has an opportunity to present new evidence, documentation, or explanation to change the decision by the awarding agency. The auditee/subrecipient has an opportunity to agree to corrective action before the awarding agency initiates sanctions or remedial actions. Occasionally, the auditee/subrecipient will admit to the non-allowability of a

questioned cost and make repayment. In such cases, the amount is disallowed but is not subject to debt collection in the Final Determination.

The terms of repayment may be negotiated; the terms for agreed-upon repayment may also be included in the Final Determination.

Final Determination

The Final Determination should be sent to the auditee/subrecipient within a reasonable time (not more than six months) after the awarding agency receives the final audit report. The Final Determination should be sent by U.S. Certified Mail, return receipt requested.

The Final Determination should:

- Reference the Initial Determination
- State the awarding agency's final decision to disallow any costs, listing each disallowed cost specifically and noting the reasons for each disallowance. (Lengthy explanations can be incorporated by reference to item and page number of the audit report; however, a Final Determination that can stand on its own is preferable.)
- Identify the questioned costs in the audit report that have been allowed by the awarding agency and the basis for the allowance of the costs
- Demand repayment of the disallowed costs
- Describe debt collection actions and other sanctions that the awarding agency may impose if repayment is not made
- Inform the auditee/subrecipient of its right to appeal
- Restate the status of each administrative finding.

When a cost is disallowed in the Final Determination, a debt is created. However, if the auditee/subrecipient appeals, no further collection action can be taken pending the outcome of the appeal.

The agency responsible for resolution is required to maintain an audit resolution file documenting the points listed above as well as all formal correspondence relating to the resolution.

Note: The auditee/subrecipient should be told that the Final Determination letter is based on information that was currently available. If new information becomes available, the Final Determination letter may be reopened at the awarding agency's option. However, this is not intended to extend the negotiation process indefinitely. Ensuring due process without incurring needless delays is a concern every administrative complaint system must recognize and address.

Sample audit transmittal and Initial Determination letters are provided as Attachments 3 and 4 to this chapter. Attachment 5 is a sample Initial FD format. Sample Final Determination transmittal letters are provided as Attachments 6 and 7.

Post Audit Follow-Up on Uncorrected Findings. In some cases, administrative findings may not be corrected within the six-month time frame allowed. To ensure that these findings are fully corrected, proper controls should be implemented that will track resolution during the post-Final Determination period. Follow-up tracking systems are recommended that require auditees to report, at least quarterly, the status of uncorrected audit findings and corrective action.

The awarding agency's efforts to correct a deficiency should be monitored on a continuing basis by appropriate staff. Depending on the severity of the deficiency and the time of year, it may only be necessary to review the status of the corrective action during routine fiscal monitoring. Uncorrected administrative findings will be reported again during the next single audit period.

If the auditee/subrecipient fails to correct the deficiency in the allotted time, the sanctions and remedies noted in the Final Determination may be exercised. This occurs only if the subrecipient has foregone its rights to a hearing or the hearing officer has upheld the awarding agency's Final Determination.

Other Recommended Uses of the Initial and Final Determination Process.

All WtW administrative entities are encouraged to develop a process or procedure similar to the Initial and Final Determination processes described above for resolving monetary and nonmonetary findings resulting from monitoring, incident reports, compliance reviews, and investigations, in addition to audits.

STAND-IN COSTS AND AUDIT RESOLUTION

The Comptroller General of the United States issued a decision (B-208871.2, dated February 9, 1989) that requires DOL to consider the use of stand-in costs as a substitute for disallowed costs in audit resolution. The application of stand-in costs occurs at the audit resolution stage. If an auditee agrees that an auditor's questioned cost is unallowable and wishes to propose the use of stand-in costs as substitutes for otherwise unallowable costs, the proposal shall be included with the audit resolution report or other document by which the auditee provides its comments to the resolution agency. If the auditee is uncertain about the allowability of the auditor's questioned cost before receipt of the Initial Determination, the proposal to use stand-in costs may be presented during the informal resolution period.

Criteria

Stand-in costs are non-Federal costs that may be substituted for disallowed WtW costs when certain conditions are met. Stand-in costs must meet the following criteria:

To be considered, proposed stand-in costs shall have been actually incurred allowable WtW costs that are considered to be uncharged WtW program costs, included within the scope of the audit and accounted for in the auditee's financial system, as required by 29 CFR Part 97 or 95 as appropriate. Cash match in excess of the required match may also be considered for use as stand-in costs.

To be accepted, stand-in costs must come from the same appropriation year as the costs that they are proposed to replace, and they must not cause a violation of the administrative or other cost limitations. Each of the separate criteria for consideration of proposed stand-in costs is discussed below:

- **Criterion—Must be allowable WtW costs that were actually incurred by the WtW program and paid by a non-WtW fund source.** Thus, for example, the dollar value of in-kind donations cannot be recognized as stand-in costs. Also, inasmuch as costs must be net-of-credits under the governing cost principles, the dollar value of discounts count not be considered as an allowable grant cost.
- **Criterion—Must have been included within the scope of the audit (not necessarily tested but potentially subject to testing).** This means that the costs must be recorded and included in the financial statements presented by the agency to the auditor for audit. Failure to include unbilled costs disqualifies the costs for stand-in consideration.
- **Criterion—Must have been accounted for in the auditee's financial system.** This means that the unbilled expense must be recorded and documented in the administrative entity's books of accounts. It cannot be presented as a separate consideration outside the entity's accounting system.
- **Criterion—Must be adequately documented in the same manner as all other WtW program costs.** This means that the unbilled expense must be treated in a manner consistent with cost principles affecting other expenses, including but not limited to the cost allocation methodology, cost classification methodology, and supporting documentation requirements.

Caution: Stand-in costs cannot be constructed using circumstances or conditions that appear to be legitimate liabilities if no actual costs are incurred by any entity.

Example. The local school department provides free space for the WtW program in a building that has been fully depreciated. The only facility-related costs the school department actually pays are for general maintenance. A liability created by WtW related to rental costs that were never paid is not a legitimate stand-in cost. The only legitimate stand-in cost available in this example, assuming that all recording and reporting requirements have been satisfied, is an allocable share of the general maintenance cost based on square footage occupied, or another allocation method that would be more equitable.

Certain costs, including in-kind contributions, are not considered unpaid WtW program liabilities, but rather as match; therefore, they cannot be used as stand-in costs. Examples of costs that are not stand-in costs include:

- Uncompensated overtime
- Unbilled premises costs associated with fully depreciated publicly-owned buildings
- Allocated costs derived from an improper allocation methodology
- Discounts, refunds, rebates
- Any State share of the cost of State or community college tuition.

Two other caveats should be mentioned. First, as suggested above, allowable stand-in costs may be used to trade or substitute for disallowed costs under certain conditions. The source of stand-in, however, is intended to be limited to the same entity that incurred the disallowed costs. Thus, aggregation or pooling of stand-in within a State formula grantee as a kind of insurance policy available to reduce or eliminate bad costs wherever they might be identified is not an arrangement that will be recognized by DOL. Second, if the cause of the disallowed costs was fraud, then DOL will not consider proposals of stand-in to substitute for such costs.

APPEALS

The appeals process is defined in 20 CFR 645.800 of the WtW Interim Final regulations. This section applies only to those recipients, subrecipients, and vendors against whom DOL has directly levied a sanction. It provides that such affected parties may appeal the decision (and the sanctions imposed) within 21 days of receipt of the Final Determination by requesting a hearing before the Administrative Law Judge (ALJ). The requirements for the appeal are found in 29 CFR 96.63 and include a statement of the issues including the specific portions of the Final Determination under appeal, and the basis for the appeal.

The ALJ is to issue a written decision no later than 90 days after the closing of the record. Should the appealing party be dissatisfied with the decision, they may appeal the decision to the Administrative Review Board (ARB). The appeal must be filed within 20 days of the ALJ decision and specify the “procedure, fact, law, or policy” being appealed. Any exception not specifically appealed is considered to be waived. The decision of the ALJ will become the final agency action unless the ARB notifies each party within 30 days that the appeal has been accepted. The ARB is to issue a decision within 120 days. If no decision is issued, the ruling of the ALJ is considered to be the final agency action.

Subrecipients and other contractors have only the rights of appeal as are contained in their subaward agreements. There is no appeal right to DOL.

DISPOSITION OF DISALLOWED COSTS

When a resolution process (such as the Initial and Final Determination process) results in a determination by an awarding agency that WtW funds have been misexpended, a debt is usually established. The awarding agency is expected to collect that debt.

Within the ETA, responsibility for debt collection resides in the Division of Accounting, Office of the Comptroller. ETA defers collection action when a recipient requests an ALJ hearing on the Grant Officer's Final Determination. Federal debts are most often repaid as a lump sum or as installments (generally over a period of three years or less) in accordance with the Federal Claims Collection Standards, 4 CFR 101-105.

Federal Options

Under Section 645.250(a) of the WtW regulations, ETA holds its direct recipient liable for all misexpenditures of WtW funds awarded to the recipient. This is true whether or not a Federal debt has been formally established using the Initial and Final Determination process. However, once a Federal debt is established, either by a Grant Officer's Final Determination or by an ALJ decision and order, the collection process becomes more formalized.

The preferred corrective action for disallowed costs from WtW funds is non-Federal cash repayment. The ETA Division of Accounting (DA) uses a process of three demand letters at about 30-day intervals to demand repayment. Debts are considered to be delinquent, and subject to the charging of accrued interest, 30 days after the date of the Final Determination. However, the DA is willing to negotiate short-term installment agreements instead of full lump-sum repayments when the circumstances warrant.

Once ETA has issued the three demand letters and has not received payment for the debt, the grantee is subject to the use of offset as a debt collection method. Offset is authorized by the Debt Collection Act (PL 98-216, 31 U.S.C. 3711) as a means of collecting delinquent final debts that have been established by Federal agencies. Under the offset process, Federal agencies may request from the Treasury Department that any current or future funds that become due for payment to a grantee be withheld in the amount of the debt as a means of satisfying the debt. Grantees should be aware that offset against the WtW grant may be used to satisfy debts owed to non-DOL Federal agencies as well as debts owed DOL.

Non-Federal Options

The DOL regulations at 29 CFR 96.54 indicate that the State and any other direct recipients are ultimately responsible for ensuring that all grant funds received under WtW program are appropriately expended. In addition, 29 CFR 97.53 and 95.73 provide the requirements for the collection of any amount due the awarding agency. Thus, States and other recipients must hold subrecipients responsible for WtW funds received through a grant and may ultimately hold units of local government and other subrecipients liable for disallowed costs.

Recipient debt collection standards and all policies and procedures flowing from these standards should describe the options for satisfying debts resulting from WtW misexpenditures. States may already have sufficient debt collection procedures for WtW disallowed costs, but they should

review their debt collection procedures to determine their adequacy. Generally, debt collection procedures involve payment demand letters. A sample payment demand letter is provided as Attachment 8 to this chapter.

Non-Federal cash repayment, either as a lump sum or as installments, is a debt collection option available at all levels within the WtW system. The repayment must be made to ETA when the three-year availability period for the misexpended funds has expired.

The Federal offset process is not available to grantees for the collection of delinquent debts. Grantees and subgrantees should ensure that adequate debt collection measures have been included in their subgrant documents, and they are cautioned to follow State and local law in collecting the debts.

**Audit Review Checklist
For Single Audits (Financial and Compliance)
Under OMB Circular A-133**

<u>Audit Report</u>	<u>Yes</u>	<u>No</u>
1. Does the audit report include the following:		
A. Report (opinion) on the financial statements?	___	___
B. Report on internal controls, including findings and agency comment?	___	___
C. Report on compliance, including findings and agency comments?	___	___
D. Statement of assets, liabilities, and fund balances (balance sheet)?	___	___
E. Statement of activity (revenues and expenses)?	___	___
F. Statement of changes in financial position or cash flow?	___	___
G. Schedule of questioned costs? (If none, schedule should say none.)	___	___
H. Schedule of Federal awards by CFDA number?	___	___
2. Do you understand and agree with the type of financial opinion given (qualified, unqualified, adverse, disclaimer)?	___	___
3. If there are any scope limitations in the opinion, are they correct?	___	___
4. Are the opinions dated as of the last day of fieldwork?	___	___
5. Do the opinions refer to the government audit standards (yellow book) and OMB Circular A-133?	___	___
6. If the audit refers to "another comprehensive basis of accounting," is this correct?	___	___