

**TITLE 11      LABOR AND WORKERS' COMPENSATION**  
**CHAPTER 2    JOB TRAINING**  
**PART 10      WORKFORCE INVESTMENT ACT (WIA) OVERSIGHT AND MONITORING**

**11.2.10.1      ISSUING AGENCY:** New Mexico Department of Labor.  
[11.2.10 .NMAC – N 7/1/2000]

**11.2.10.2      SCOPE:** The State Administrative Entity (SAE), New Mexico Workforce Development Areas/Local Workforce Development Boards (NMWDAs/LWDBs) and WIA Subrecipients.  
[11.2.10 .NMAC – N 7/1/2000]

**11.2.10.3      STATUTORY AUTHORITY:** The Workforce Investment Act; Interim Final rule at Subtitle E--Administration, Sections 181 – 195 and Subtitle F—Repeals and Conforming Amendments, Sections 199 and 199A. Also, the Federal Register Volume 64, Number 72, dated April 15, 1999, Part 667, “Administrative Provisions Under Title I of the Workforce Investment Act,” Section 506(c), Pub. L. 105-220; 20 U.S.C. 9276(c), and any amendments thereto, and New Mexico House Bill 740, Chapter 260, Laws of 1999, Forty-fourth Legislature.  
[11.2.10 .NMAC – N 7/1/2000]

**11.2.10.4      DURATION:** Permanent.  
[11.2.10.4 NMAC – N 7/1/2000]

**11.2.10.5      EFFECTIVE DATE:** July 1, 2000 unless a later date is cited at the end of a section.  
[11.2.10.5 .NMAC – N, 7/1/2000]

**11.2.10.6      OBJECTIVE:** The regulations for the workforce investment system under Title I of the Workforce Investment Act set forth the requirements that are applicable to programs operated with these funds. The objective of this policy is to provide NMWDA/LWDBs and other WIA subrecipients with guidance and instruction on the administration, oversight and monitoring requirements.  
[11.2.10.6 .NMAC – N 7/1//2000]

**11.2.10.7      DEFINITIONS:** [RESERVED.]  
11.2.10.7 NMAC – N, 7/1/2000]

**11.2.10.8      ACTION:** This policy provides information, guidance and instruction related to oversight, monitoring and the resolution of findings under Title I of the WIA.

**A.** The United States Department of Labor (USDOL) Secretary is authorized to monitor all recipients and subrecipients of all grants awarded and funds expended under WIA Title I to determine compliance with the Act and the regulations at 20 CFR, Part 652, and may investigate any matter deemed necessary to determine such compliance. Federal oversight will be conducted primarily at the recipient level.

**B.** In each fiscal year, the USDOL Secretary will also conduct in-depth reviews in several States, including financial and performance audits, to assure that funds are spent in accordance with the Act. Priority for such in-depth reviews will be given to States not meeting annual adjusted levels of performance.

**C.** The State of New Mexico will continuously monitor grant-supported activities in accordance with the uniform administrative requirements at 29 CFR parts 95 and 97, as applicable, including the applicable cost principles indicated at 29 CFR 97.22(b) or 29 CFR 95.27, for all New Mexico entities receiving WIA Title I funds. This function will be performed by the New Mexico Department of Labor’s (NMDOLs) Job Training Division (JTD) acting as the SAE. For governmental units, the applicable requirements are at 29 CFR part 97. For non-profit organizations, the applicable requirements are at 29 CFR Part 95.

**D.** In the case of grants under WIA Sections 127 and 132, the Governor must develop a state monitoring system that meets the requirements of Section 667.410(b), detailed below. The SAE will develop this system and will monitor Local Board activities annually for compliance with applicable laws and regulations in accordance with the State monitoring system. Monitoring must include an annual review of each local area’s compliance with the uniform administrative requirements.

**E.** The SAE and NMWDA/LWDBs will conduct regular oversight and monitoring of its WIA activities and those of its subrecipients and contractors in order to:

**(1)** Determine that expenditures have been made against the cost categories and within the cost limitations specified in the Act and regulations;

(2) Determine whether or not there is compliance with other provisions of the Act and these regulations and other applicable laws and regulations, and;

(3) Provide technical assistance as necessary and appropriate.

F. SAE and NMWDAs/LWDAs responsibilities for grants under WIA Sections 127 and 132 include the following:

(1) Developing a Workforce Investment Act, Title I Monitoring Tool (revised January 2000) such as the one available for use through this policy. Local Workforce Development Areas and Workforce Development Boards may use this tool or modify it as needed if all requirements are met.

(2) The SAE and LWDB monitoring system must:

(a) Provide for annual on-site monitoring reviews of local areas' compliance with USDOL uniform administrative requirements, as required by the WIA;

(b) Ensure that established policies to achieve program quality and outcomes meet the objectives of the Act and these regulations, including the provision of services by One-Stop centers, eligible providers of training services, and eligible providers of youth activities;

(c) Enable the SAE and NMWDA/ LWDBs to determine if subrecipients and contractors have demonstrated substantial compliance with WIA requirements; and,

(d) Enable the SAE and NMWDA/LWDBs to determine whether a local plan will be disapproved for failure to make acceptable progress in addressing deficiencies, as required by the WIA.

(3) NMWDAs/LWDBs must conduct an annual on-site monitoring review of each local area's compliance with DOL uniform administrative requirements, including the appropriate administrative requirements for subrecipients and the applicable cost principles indicated at Section 667.200 for all entities receiving WIA Title I funds.

(4) The SAE must require that prompt corrective action be taken if any substantial violation of standards identified are found.

(5) The SAE must impose the sanctions provided in WIA Sections 184(b) and (c) in the event of a subrecipient's failure to take required corrective action.

(6) The SAE may issue additional requirements and instructions to NMWDAs/LWDAs on monitoring activities.

(7) The NMWDA must certify to the SAE every two years that:

(a) The NMWDAs/LWDBs have implemented uniform administrative requirements;

(b) The NMWDAs/LWDBs have monitored local areas to ensure compliance with uniform administrative requirements; and,

(c) The NMWDAs/LWDBs have taken appropriate corrective action to secure such compliance.

(8) Resolution of subrecipient-level findings are as follows:

(a) The NMWDAs/LWDBs are responsible for resolving findings that arise from the State's monitoring reviews, investigations and audits (including OMB Circular A-133 audits) of subrecipients.

(b) A NMWDA/LWDB must utilize the audit resolution, debt collection and appeal procedures that it uses for other Federal grant programs.

(c) If an NMWDA does not have such procedures, it must prescribe standards and procedures to be used for this grant program.

(9) Resolution of State and other direct recipient level findings are as follows:

(a) The USDOL Secretary is responsible for resolving findings that arise from Federal audits, monitoring reviews, investigations, incident reports, and recipient level OMB Circular A-133 audits.

(b) The USDOL Secretary uses the USDOL audit resolution process, consistent with the Single Audit Act of 1996 and OMB Circular A-133 and Grant Officer Resolution provisions, as appropriate.

(c) A final determination issued by a Grant Officer under this process may be appealed to the USDOL Office of Administrative Law Judges.

(10) Resolution of nondiscrimination findings are as follows: Findings arising from investigations or reviews conducted under nondiscrimination laws will be resolved in accordance with WIA Section 188 and the USDOL nondiscrimination regulations implementing WIA Section 188.

(11) As a result of an investigation, on-site visit or other monitoring, the USDOL will notify the recipient of the findings of the investigation and give the recipient a period of time (not more than 60 days) to comment and to take appropriate corrective actions.

(12) The Grant Officer will review the complete file of the investigation or monitoring report and the recipient's actions. The Grant Officer's review takes into account the sanction provisions of WIA. If the

Grant Officer agrees with the recipient's handling of the situation, the Grant Officer so notifies the recipient. This notification constitutes final agency action.

(13) If the Grant Officer disagrees with the recipient's handling of the matter, the Grant Officer proceeds under (14) below.

(14) When the Grant Officer is dissatisfied with the State's disposition of an audit or other resolution of violations (including those arising out of incident reports or compliance reviews), or with the recipient's response to findings resulting from investigations or monitoring report, the initial and final determination process, set forth herein, is used to resolve the matter.

(15) The Grant Officer makes an initial determination on the findings for both those matters where there is agreement and those where there is disagreement with the recipient's resolution, including the allowability of questioned costs or activities. This initial determination is based upon the requirements of the Act and regulations, and the terms and conditions of the grants, contracts, or other agreements under the Act.

(16) An informal resolution may occur. Except in an emergency situation, when the Secretary invokes the authority described in WIA Section 184(e), the Grant Officer may not revoke a recipient's grant in whole or in part, nor institute corrective actions or sanctions, without first providing the recipient with an opportunity to present documentation or arguments to resolve informally those matters in controversy contained in the initial determination. The initial determination must provide for an informal resolution period of at least 60 days from issuance of the initial determination. If the matters are resolved informally, the Grant Officer must issue a final determination which notifies the parties in writing of the nature of the resolution and may close the file.

(17) The Grant Officer's final determination occurs as follows: If the matter is not fully resolved informally, the Grant Officer provides each party with a written final determination by certified mail, return receipt requested. For audits of recipient-level entities and other recipients which receive WIA funds directly from the USDOL, ordinarily, the final determination is issued not later than 180 days from the date that the Office of Inspector General (OIG) issues the final approved audit report to the Employment and Training Administration. For audits of subrecipients conducted by the OIG, ordinarily the final determination is issued not later than 360 days from the date the OIG issues the final approved audit report to ETA.

(18) A final determination made must:

- (a) Indicate that efforts to informally resolve matters contained in the initial determination have been successful;
- (b) List those matters upon which the parties continue to disagree;
- (c) List any modifications to the factual findings and conclusions set forth in the initial determination and the rationale for such modifications;
- (d) Establish a debt, if appropriate;
- (e) Require corrective action, when needed;
- (f) Determine liability, method of restitution of funds and sanctions; and,
- (g) Offer an opportunity for a hearing in accordance with Sec. 667.800 of this part.

(19) Unless a hearing is requested, a final determination is final agency action and is not subject to further review.

(20) Nothing in this policy precludes the Grant Officer from issuing an initial determination and/or final determination directly to a subrecipient, in accordance with Section 184(d)(3) of the Act. In such a case, the Grant Officer will inform the recipient of this action.

[11.2.10.8 NMAC – N, 7/1/2000]

**11.2.10.9 CONTACT ENTITY:** Inquiries regarding this policy should be directed to the New Mexico Department of Labor at (505) 827-6827 in Santa Fe.

[11.2.10.9 NMAC – N, 7/1/2000]

**11.2.10.10 DISTRIBUTION:** NMWDA and LWDB Chairperson, SAE/NMWDA/LWDB Legal Counsel, NMWDA/LWDB Administrative Entities, SAE/NMWDA/LWDB EO Office, SAE Subrecipients, NMWDA/LWDB Subrecipients, USDOL Federal Representative and New Mexico State Records, Center and Archives.

[11.2.10.10 NMAC – N, 7/1/2000]

**11.2.10.11 ATTACHMENTS:** Workforce Investment Act Title I Monitoring Tool. [RESERVED.]

[11.2.10.11 NMAC – N, 7/1/2000]