

FDCM Letter



2023 Fraud Deterrence and Compliance Monitoring (FDCM) Letter

ID/NO: FDCM Letter 09-2023

TO: [Fraud Deterrence and Compliance Monitoring Directors](#)
[Local Workforce Development Board Executive Directors](#)
[Workforce Development Directors](#)
[Integrated Service Area Managers](#)
[Office of General Counsel](#)
[Financial Operations](#)

FROM: Chuck Ross, Division Director of Fraud Deterrence and Compliance Monitoring

DATE: November 8, 2023

SUBJECT: **State Fiscal Year (SFY) 2024 Subrecipient Monitoring Policies and Procedures Related to Local Workforce Development Boards**

FDCM letter 09-2023 rescinds and replaces FDCM letter 06-2022

PURPOSE

To inform Local Workforce Development Boards (Board) and Texas Workforce Commission (TWC) staff of policies and procedures related to the SFY 2024 monitoring of Boards by TWC's Subrecipient Monitoring Department (SRM).

BACKGROUND

SRM's mission is to provide an effective system of oversight and monitoring for members of the Texas workforce network and other contractors. The primary responsibility is to provide a hybrid method of on-site and remote monitoring reviews of Boards and other contractors. SRM also performs a variety of other functions related to and in support of the monitoring function.

In technical terms, the activities of SRM are "performance audits" within the meaning of Generally Accepted Government Auditing Standards (GAGAS), commonly called the Yellow Book. For more information on the technical details of performance audits, please refer to FDCM Letter 03-2022.

This system exists to ensure accountability and appropriate subrecipient and contractor use of approximately \$3 billion in Federal and State funds administered by TWC for workforce development activities and subsidized childcare services.

While annual goals and strategies to fulfill SRM's mission change and evolve over time, SRM endeavors to:

- optimize use of technological resources in all monitoring activities;

- promote and capitalize on more effective monitoring and oversight practices at the local Board level to reduce duplication of efforts; and
- select monitoring activities based upon a risk assessment model and analysis of current operational data.

Board monitoring activities are informed, in part, by the following laws, regulations, rules, and contractual obligations:

Workforce Innovation and Opportunity Act (WIOA) §184 – Fiscal Controls; Sanctions.; §184(a)(3), Uniform Administrative Requirements; §184(a)(4), Monitoring; and §188, Nondiscrimination.

WIOA §184 requires TWC to perform annual monitoring at each Board area. These reviews will address fiscal accountability and programmatic compliance applicable to all programs operated by the Boards, including those programs not under the direct purview of WIOA. The nature and extent of these reviews varies among Boards due to Board size and an assessment of risk.

To assist TWC with its annual monitoring obligations, and solely within TWC’s discretion, the agency may choose to rely on the results of the Board’s local monitoring staff and procedures rather than conducting direct testing on one or more local programs. The Agency will periodically “recertify” that arrangement with a Board by conducting a fresh assessment of the reliability of local systems.

WIOA §188 reviews are designed to provide assurance regarding equal opportunity (EO) and equal access for all members of the public. Compliance with §188 includes the development, administration, and enforcement of local and TWC policies and procedures that prohibit discrimination in programs and activities that receive Federal financial assistance. EO monitoring is conducted in coordination with the State EO Officer and staff.

20 CFR 683, Subpart D, Oversight and Resolution of Findings

WIOA implementing regulations provide for monitoring of all recipients and subrecipients of all Federal financial assistance awarded and funds expended under title I of WIOA and Wagner-Peyser to ensure that grant-supported activities are in accordance with [2 CFR Part 200](#). Section 683.410(b)(2)(i) and (b)(3) require that the State monitoring system must provide for annual on-site monitoring reviews of local areas' compliance with [2 CFR Part 200](#), as required by sections 184(a)(3) and (4) of WIOA, with the goal, in part, of:

- determining that expenditures have been made against the proper cost categories and within the cost limitations;
- ensuring that established policies to achieve program performance and outcomes meet the objectives of the WIOA and its regulations;
- determining if subrecipients and contractors have demonstrated substantial compliance with WIOA and Wagner-Peyser requirements; and
- ensuring compliance with the nondiscrimination, disability, and equal opportunity requirements.

Texas Workforce Commission Rules, Chapter 802, Integrity of the Texas Workforce System, Subchapter D, Agency Monitoring Activities

Commission rules reiterate TWC’s monitoring requirements and philosophy and stipulate the scope of programmatic and fiscal monitoring of Boards and other grantees. That philosophy is encapsulated in [Commission Rule 802.62\(a\), Program and Fiscal Monitoring](#):

- (a) Boards, workforce service providers, Adult Education and Literacy (AEL) grant recipients, AEL service providers, and Agency grantees shall cooperate with the Agency's program and fiscal monitoring activities, site visits, reviews of documentation, and requests for information. The Agency is committed to ensuring the accountability of Boards, workforce service providers, AEL grant recipients, AEL service providers, and Agency grantees. Therefore, monitoring activities have been developed to:
 - 1) ensure programs achieve intended results;
 - 2) ensure resources are efficiently and effectively used for authorized purposes and are protected from waste, fraud, and abuse; and
 - 3) ensure reliable and timely information is captured and reported to serve as the basis to improve decision-making

Agency-Board Agreement for Integrated Workforce System (ABA)

Section 7 notes that Boards are responsible for subrecipients’ and subcontractors’ performance related to the ABA and associated grants, to include monitoring, audits, and evaluations.

Section 19 describes Board and TWC expectations regarding monitoring, auditing, and evaluations, and stipulates that “The Board and the Agency shall cooperate in any audit or examination conducted pursuant to this section.”

Section 20 provides for Agency access to applicable records for purposes to include monitoring and auditing.

In part 9 of Attachment A of the ABA, the Board pledges that during monitoring it “will be transparent with respect to all of its operations.”

PROCEDURES

Representation Letter at Start of Monitoring

Representation letters are an established monitoring best practice as described by the [American Institute of Certified Public Accounts](#) and are used by the Texas State Auditor’s Office.

In the SFY 2024 review cycle, we are requesting that all monitored entities complete a representation letter. In the representation letter, Board/Grantee’s management acknowledges that it has primary responsibility for program and fiscal results for itself *and subrecipients*; efficient use and protection of resources; identification of, and compliance with, relevant laws, regulations, rules, local policies and procedures, contracts, grants, and other agreements. The representation letter is also an acknowledgment that, to the best of management’s knowledge, the information provided to the monitoring team is complete and correct.

The representation letter does not relieve SRM of any of its responsibility or alter the fundamental responsibilities of Board/Grantee management. It simply clarifies the traditional roles that management and the

monitor perform. It prevents misunderstandings, provides a checklist for important matters that affect the monitoring objectives, and complements other performed audit procedures.

Exit Conference and Report

SRM's goal is to be clear and detailed in the exit conference document regarding any potential issues identified during the on-site review. While SRM may request additional documentation, if needed, to clarify any issues notated on the exit report, no issue will be included as a topic in the monitoring report unless it was identified during the exit conference. Unless circumstances dictate otherwise, additional issues which may arise following the exit conference will be pended to the next review cycle.

As part of the Board review, monitors will review open procurements, even if they are outside the date-range of the period of review. This is to identify potential issues early and provide feedback to the Board so that any mitigating actions can be taken. Any observations on these procurements will not be included on the exit conference report. During the next monitoring cycle, monitors will pick up where they left off during the prior-year and conclude the review of the procurement(s).

To facilitate this goal, an acknowledgement section is included with the exit conference report. Signed by the SRM project manager, Board executive director, and FDCM's division director, the purpose of the section is to acknowledge that the monitoring team gave frequent verbal and at least daily written updates on the status of the monitoring visit and that the Board understands that the issues identified may be written as issues or areas of concern in the SRM monitoring report. *The executive director's signature does not acknowledge agreement or disagreement with any issues noted on the exit report. It merely affirms that any issues and potential questioned costs were communicated during the course of the review.*

48-Hour Internal TWC Review

SRM will provide a draft copy of the monitoring report to applicable TWC staff for a 48-hour review and comment period. If no response is received by the end of the 48-hour review period, SRM will assume that no suggested comments, edits, or revisions are being proposed and will proceed with the next step in the review process.

If the review results in a management letter in which no issues are noted, SRM will forego the 48- hour review process.

Embargoed Report Release to Board ED

SRM will provide an informational copy of the SRM monitoring report, via e-mail, to the Board executive director 24 hours in advance of issuance. This advance copy of the report is intended to be confidential until SRM publicly releases the document.

The e-mail is sent from SRM's Report Writing section and not from staff on the Board's assigned monitoring team. Board EDs should ensure that their e-mail receipt rules accept receipt of e-mails from the @twc.texas.gov domain.

Monitoring Reports

Pursuant to Commission Rule §802.65(a), the Agency's monitoring reports are issued, via e-mail, to the following individuals or entities:

- Board chair
- Board executive director
- Designated representatives of the US Department of Health and Human Services
- Designated representatives of the US Department of Labor
- Texas Workforce Commissioners
- Agency executive staff

The e-mail is sent from SRM’s Report Writing section and not from staff on the Board’s assigned monitoring team. Board EDs should ensure that their e-mail receipt rules accept receipt of e-mails from the @twc.texas.gov domain.

Audit Notification and Closure Letters

Once the SRM monitoring report is released, the Board will begin a process of resolving any issues identified in the report. FDCM’s audit resolution team will confirm the Board addresses each issue. A copy of the audit closure letter – describing successful resolution – will be provided to all recipients of the original monitoring report.

ACTION REQUIRED

All Board executive directors and their staffs, relevant Division of Fraud Deterrence and Compliance Monitoring, Workforce Develop Division, and Finance Department staff, supervisors, and managers should be aware of the information in this letter.

INQUIRIES

Staff should direct any questions to:

Mary Millan, Deputy Division Director, Subrecipient Monitoring,
 Division of Fraud Deterrence and Compliance Monitoring
Mary.millan@twc.texas.gov
 (512) 936-3612

Keywords: Subrecipient monitoring, LWDB, WIOA

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| Rescissions: FDCM Letter 06-2022 | Expiration: Until Rescinded |
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