



**COUNTY OF LOS ANGELES
WORKFORCE DEVELOPMENT, AGING AND
COMMUNITY SERVICES**



CONTRACT COMPLIANCE DIRECTIVE

DATE: October 4, 2018

NUMBER: WDACS CCD-18-03

RESOLUTION PROCEDURES

EXECUTIVE SUMMARY

The purpose of this Directive is to provide all Workforce Development, Aging and Community Services (WDACS) subrecipients with current Compliance Resolution Procedures.

This Directive supersedes CCD-15-1, dated May 8, 2015, "Resolution Procedures" and is effective on the date of release.

APPLICATION

This Directive applies to all WDACS subrecipients.

REFERENCES

- Office of Management and Budget (OMB) Title 2 Code of Federal Regulations (CFR) Section 200 et seq. also known as Uniform Guidance.

BACKGROUND

Los Angeles County Workforce Development, Aging and Community Services Contract Compliance Division is charged with implementing and following federal and State resolution procedures whenever applicable and has therefore incorporated them into our resolution processes.

POLICY AND PROCEDURES

Resolution Requirement:

Los Angeles County Workforce Development, Aging and Community Services (WDACS)

Contract Compliance Division is charged with implementing and following federal and State monitoring and audit resolution requirements whenever applicable and has therefore incorporated them into our resolution processes.

WDACS Resolution Procedures incorporates federal audit resolution requirements included in 2 CFR Section 200 et seq., and applicable CFR sections pertaining to the Workforce Innovation and Opportunity Act (WIOA), and any successor legislation and regulations, Dispute Resolution Programs, and Area Agency on Aging (AAA) programs.

Summary of the Resolution Procedure:

The Contract Compliance Division (CCD) will use these procedures in resolving findings from any audits, reviews, reports, or information including, but not limited to, those by the Los Angeles County Department of the Auditor-Controller (A-C), and State and federal government entities with oversight authority over the funds received and administered by WDACS. WDACS will strive to complete the resolution process in a time-effective manner. It is WDACS' goal to manage the process as expeditiously as reasonably possible, and will endeavor to complete any resolution process in less than six months from the date pertinent information is received by WDACS.

The Resolution Procedure is comprised of the following steps, each of which shall be detailed further herein:

Upon CCD receiving an audit, review or report or other information concerning a County subrecipient, CCD shall:

1. Review the material and determine whether further action is needed;
2. Issue an Initial Determination Letter (IDL) if it is determined that sufficient findings exists for Resolution Procedures to be triggered;
3. Provide subrecipient with an opportunity to respond and request an Informal Resolution Meeting, dispute the findings, or submit a Corrective Action Plan (CAP);
4. Issue a Final Determination Letter (FDL) if findings remain if subrecipient is not able to provide resolution, or refuses to submit a CAP, or does not fulfil the requirements of an agreed-to CAP, or fails to respond to the IDL;
5. Issue a Closing Letter if subrecipient has satisfactorily resolved all findings in the FDL, or the IDL if a CAP was agreed to;
6. Alternatively, issue a Sanctions Letter if subrecipient has not satisfactorily resolved all of the findings in the FDL;
7. Provide subrecipient with a Local Level Appeal Hearing if subrecipient is dissatisfied with the results;
8. Provide subrecipient with information to request a State Level Appeal hearing if dissatisfied with the results of the Local Level Appeal Hearing.

Initial Review

Upon receipt of information suggesting a subrecipient is not in compliance with the terms, conditions, or work requirements of a WDACS contract, CCD staff shall review the information regarding the subrecipient within **10 calendar days** of receipt of the material to ensure compliance with all applicable federal, State and County, statutes, rules, and regulations pertaining to the findings and any questioned costs. CCD may require additional information before moving forward to the next steps of the process and additional time may be necessary for CCD to obtain and review the new information. CCD will assemble a resolution file for ease of reference in the event of future action

If CCD's review determines that there are no findings or questioned costs, CCD staff shall prepare a letter for signature by the Compliance Manager within **10 calendar days** of the completed review of the information indicating that a review was conducted and no findings or questioned costs were noted and therefore, no further action is required by the subrecipient. CCD may, at its sole discretion, discuss the preliminary determination with the subrecipient. If both parties reach agreement on corrective actions that would either remedy or dismiss the determination, and the subrecipient completes the required actions, then CCD will issue a letter stating that the determinations have been addressed, and the matter is closed.

Initial Determination Letter

If there are items which require further action and/or resolution, CCD staff shall, depending on the source/type of information, either maintain a Single Audit log or a Monitoring Summary Report Log. If based on the review of the information and/or if applicable a corrective action plan received from the subrecipient, there are findings or questioned costs that require resolution, Compliance Manager shall issue an Initial Determination Letter within **10 calendar days** of receipt of that determination. The Initial Determination Letter (IDL) will include:

- A request for a Corrective Action Plan (CAP) or revised CAP from the subrecipient if applicable;
- A list of all adverse administrative findings, if any;
- A list of all questioned costs if applicable, and whether any such costs are projected to be allowed or disallowed, including the reasons with appropriate citations of applicable law, regulation, policy directive, etc., for such determinations;
- Acceptance or rejection of any CAP taken to date by the subrecipient, including corrective action of any administrative findings;
- Possible sanctions (i.e., suspension of payments, etc.); and
- Any amounts to be repaid.

The subrecipient will have **15 calendar days** to respond to the IDL with the submittal of a CAP if CCD requests one, or rebuttal/disagreement with the IDL and/or repayment of questioned costs, where applicable. CCD may also request a meeting with the

subrecipient on an as-needed basis to discuss the report.

However, if the report contains any repeat findings from a prior year's report (including, but not limited to, a report issued by the Auditor-Controller, or a State or federal agency) the subrecipient will be asked to address that issue immediately and will be given ten (10) days to provide an acceptable Corrective Action Plan (CAP) addressing all the findings including those that are not repeated from the prior years' review.

If WDACS determines the subrecipient has not implemented an agreed upon CAP, the subrecipient will be sanctioned in accordance with the Sanctions Directive CCD-18-02. The sanction will be lifted when the subrecipient submits an acceptable CAP regarding the repeat finding and the CAP has been validated. If the subrecipient does not respond with a CAP within the agreed upon allotted time, then WDACS will find the subrecipient to be out of compliance and will apply Sanctions and Remedies Directive, CCD-18-02.

Informal Resolution Meeting

If informal resolution is requested by the subrecipient following issuance of the IDL, the subrecipient shall provide documentation to support the allowability of costs and proposed corrective action of administrative findings at that meeting. Informal resolution discussions will be in-person but may be held by telephone or other method, if there is a compelling necessity to do so. The meeting and/or telephone conversation will be recorded and/or documented for placement in the resolution file with copies made available on request. The informal resolution meeting must be held within the **15 calendar days** that the subrecipient has to respond to the Initial Determination Letter. The informal resolution meeting does not take the place of the subrecipient's formal response to WDACS' initial Determination Letter. If a meeting is held, a sign-in sheet will be circulated and retained as part of the resolution file. Repayment discussions of disallowed costs may be initiated at this time.

Final Determination Letter

Based on the review of the Initial Determination Letter CAP submitted by the subrecipient, subsequent documentation from the Subrecipient, and any informal resolution meeting documents provided, if applicable, a Final Determination Letter (FDL) will be issued by CCD **20 calendar days** from the date of receipt of subrecipient's response to the IDL including any CAP. CCD shall strive to issue the FDL following the 15 days within which contractor may respond to the IDL.

(Note: At its sole discretion, WDACS reserves the right to extend the above-mentioned deadlines on a case by case basis.)

The FDL will include the following:

- Reference to the Initial Determination Letter;

- Summation of the informal resolution (telephone call or meeting), if any, or the CAP, if one is agreed upon;
- Decisions regarding any disallowed costs, listing each remaining disallowed cost with the reason for the disallowance;
- Questioned costs, if any, that have been allowed by WDACS and the basis for the allowance;
- Demand for repayment of any disallowed costs;
- Description of the debt collection process and other sanctions that may be imposed if payment is not received;
- Status of each administrative finding, if any; and
- Rights to request a subsequent appeal hearing(s).

Contractors will have **10 calendar days** to repay questioned costs, if any, and/or provide a Final Determination Letter CAP to resolve administrative findings.

For those contractors with findings that cannot be closed pending follow-up review (such as assurances of implementing new policies and procedures), WDACS will conduct an on-site follow-up review within 180 days of the issuance of the monitoring report. If WDACS determines that an agreed-upon CAP addressing those specific issues has been satisfactorily implemented, WDACS will issue a closure letter. If WDACS determines that an agreed-upon CAP has not been fulfilled, WDACS at its sole discretion may apply any or all applicable sanctions permitted under Sanctions and Remedies Directive, CCD-18-02, to the contractor. Any sanctions will be lifted only after:

- 1) Contractor has submitted a CAP approved by WDACS regarding the finding,
- 2) Contractor has completed the requisite actions within the CAP, and
- 3) WDACS has validated that the finding(s) have been remedied.

Notwithstanding the application of any sanctions, or WDACS's decision to not apply sanctions, WDACS at all times reserves the right to all available remedies pursuant to the underlying contract with contractor, up to, and including, termination of contract(s).

Closure Letter (All Findings Closed)

If the contractor repays all questioned costs and/or provides an Initial Determination or Final Determination Letter CAP which satisfies all findings, then WDACS will issue a Closure Letter within **20 calendar days** of receipt of the Initial Determination Letter or Final Determination Letter CAP stating that all outstanding findings and /or questioned costs have been resolved. WDACS will document this on the Monitoring Summary Report Log.

Sanctions Letter

If the contractor does not respond to the Initial Determination Letter with a CAP, or if upon review of the Final Determination Letter CAP any of the responses to the findings are deemed unacceptable, or findings remain outstanding after WDACS conducts an on-site

follow-up visit, WDACS will apply appropriate sanctions as outlined in the Sanctions and Remedies Directive "Addressing Areas of Non-Compliance." CCD will issue a Sanction Letter to the contractor within **20 calendar days** of the receipt of the Initial Determination Letter CAP or receipt of the Final Determination Letter CAP, or within **20 calendar days** from the date of the on-site follow-up visit, or upon the expiration of the 15 calendar days following the issuance of the IDL if no response is received from the contractor. WDACS will document sanctions/reinstatement of payments on its Sanctions Log.

Appeals Procedure

Contractors have the right to request a formal hearing when they are in disagreement with the decisions included in the Final Determination Letter and/or Sanction Letter and/or applied sanctions.

Local Level Appeal Hearing

To request a formal hearing, please contact:

Paul Goldman, Assistant Director
Contracting Services Branch
Los Angeles Workforce Development, Aging and Community Services
3175 West Sixth Street
Los Angeles, CA 90020

Contractors have the option of repaying questioned costs while the appeals process is proceeding to avoid sanctions being applied. The hearing allows both parties the right to represent either written or oral testimony, call and question witnesses in support of their position, present oral and written arguments, examine records and documents relevant to the issues, and be represented. The hearing shall be recorded mechanically, digitally, or by court reporter at the discretion of WDACS. The hearing officer will be an independent hearing officer assigned by Executive Management of WDACS.

The important dates in the Appeal Hearing process are as follows:

- Contractors have **30 calendar days** after the Final Determination Letter or applied sanctions are issued to submit a written request for a hearing to CCD.
- Appeal hearings must be held within **30 calendar days** of the request unless the contractor and CCD each consent to a postponement.
- At least **10 calendar days** before the hearing, written notice of the date and site of the hearing must be provided to the contractor. The **10 calendar day** notice may be shortened with written consent of the hearing officer and the contractor. The contractor may withdraw the hearing request; the withdrawal request must be submitted in writing.

The appeals decision must be issued by the hearing officer within **30 calendar days** of the appeals hearing.

State Level Appeal (applicable for WIOA or AAA contractors only)

If the local level appeal hearing is not held or a decision is not rendered in a timely manner as described in this procedure, the contractor has **15 calendar days** from the date on which the hearing should have been held or the date when the decision should have been issued to file a written appeal with the State Review Panel. If the WIOA contractor appeals to the State Review Panel (SRP), then **WDACS** will provide the State Review Panel with a file for review. Within **30 calendar days** of the receipt by the CRD of the contractor's written appeal, the SRP will review all evidence and issue a decision based on the evidence without consideration of any imposed sanctions.

- **For WIOA Contractors:** WIOA contractors have **10 calendar days** from receipt of the appeals decision by the Executive Management hearing officer to file a written appeal of the decision to the State Review Panel. The address of the State Review Panel is:

Compliance Resolution Unit
Compliance Review Division, MIC 22M
Employment Development Department
P.O. Box 826880
Sacramento, CA 94280-0001

- **For AAA Contractors:** AAA contractors may appeal adverse determinations as defined in 22 CCR § 7702 using the appeal process established by the Department of Aging in 22 CCR § 7700-166. Such appeal shall be filed within 30 days of the Department's notice of adverse determination. The address of the Director is:

Director, California Department of Aging,
1600 K Street
Sacramento, California 95814

Debt Collection/Payment Plans

The County will require the repayment of any disallowed costs from any contractor in any program. Furthermore, WIOA and AAA require the repayment of disallowed costs incurred in the operation of the WIOA and AAA programs. If, after completion of the

resolution and/or appeal process, an agency has unresolved questioned costs, the County reserves the right to refer uncollected debts to the Treasurer and Tax Collector (TTC). In its October 2009 memo, the County established the debt collection policy. Prior to referral, the County will contact the agency for a minimum of three (3) times within a forty-five (45) day period. If no resolution is reached, the County will refer the debt to the TTC. WDACS will document all debt collection efforts on its Debt Collection Payment Log. The contract may also require that repayment of disallowed costs include any costs incurred by the County or WDACS to achieve the full payment of the debt.

Reporting to Los Angeles County Board of Supervisors

WDACS will report to the Los Angeles County Board of Supervisors on the resolution of the findings and Auditor-Controller's monitoring reports on a quarterly basis.

ACTION

All WDACS subrecipients must ensure that the requirements described herein are communicated throughout the operations, management and governance structure of their respective organization and that this Directive is adhered to until further notice.

INQUIRIES

Inquiries regarding this directive and the policies and procedures described herein should be directed to smaxberry@wdacs.lacounty.gov or suraizee@wdacs.lacounty.gov.



**Paul Goldman, Assistant Director
Contracting Services Branch**