

Attachment 3 - Request for Reconsideration of High Risk Status - Response to Fiscal Compliance Issues Identified in 2013 MTARS

This correspondence is an attachment to the California State Council on Developmental Disabilities letter to the Administration on Intellectual and Developmental Disabilities, Administration for Community Living regarding "Request for Reconsideration of High Risk Designation for Basic State Grant Award and Stipulation of Payment on a Reimbursement Basis" The following is an itemization of various fiscal compliance issues cited from the 2013 MTARS report and responses offered by the Council. This correspondence also includes various attachments as listed throughout the text and at the end of this document.

IV PROGRAM ADMINISTRATION

IV.1 Five Year State Plan

Plan must include assurances related to (B) USE OF FUNDS (and) (C) STATE FINANCIAL PARTICIPATION

FINDING

The Council did not provide adequate evidence that the plan is supported by the assurances cited above; specifically there was a lack of clarity regarding the expenditures for the DSA and whether the state provides a match.

RESPONSE

The Council agrees that there has been a lack of clarity on these two issues. With the staff turnover experienced in recent years, there is a lack of institutional knowledge. While we are addressing staffing issues, this is admittedly an area in which the Council would appreciate technical assistance.

To clarify our current practice, the Council has an Interagency Agreement (IA) in the amount of \$390,000 with the California Department of Social Services (CDSS) to provide limited administrative support services in the areas of accounting; some IT support; some human resource services; and procurement. Please see **ATTACHMENT A** for a copy of the CDSS Interagency Agreement as well as supplemental information on this matter. We have assigned these costs to DSA functions, with \$50,000 expended by the federal grant and the remaining \$340,000 assigned to our two state contracts. However, the deliverables contained in the CDSS IA may be better attributed to general management costs as they are the usual administrative support services that would normally be handled by an administrative unit. We contract those services out because it has proved more economical than doing them in-house, due to a variety of reasons, including infrastructure costs (hardware, software).

Per CDSS, the cost of providing the support services as outlined in the IA, far exceeds the \$390,000 paid by SCDD. Their tabulation of the actual cost of support services show these services are more accurately valued at \$620,000. We would suggest that the \$230,000 difference between the \$620,000 worth of support services provided to the Council versus the \$390,000 paid for these services, represents California's State Financial Participation.

Additionally, it should be noted that, to a very large degree, the California Council implements its State Plan through staff activities. In Fiscal Year 2013, the Council awarded \$580,414 in grants, which represents 9% of our allotment. The grantees did provide matching/in-kind funds for a total match of \$284,276 or nearly 50% of the funds awarded. Please see **ATTACHMENT B** for a listing of Cycle 35 (FY 12/13) Grants and the current Cycle 36 (FY 13/14) Grants.

V EVALUATION AND REPORTS

The report must include an accounting of the manner in which funds paid to the State for a fiscal year were expended.

FINDING

Although the Council presented several documents that detailed how the federal allotment is being spent, overall the review team could not determine how the budget is developed and executed and how expenditure data is calculated.

VI FISCAL

VI.1 Fiscal Requirements

Council has authority to prepare, approve, and implement a budget to fund programs, projects, and activities.

FINDING

The Council did not provide adequate evidence on how it developed or implemented its budget to fund programs, projects, and activities. Council members expressed a strong need for more fiscal transparency and training.

RESPONSE

We have combined these two findings since both specifically address the Council's role in developing, implementing and tracking its budget.

As the MTARS report later states, at the time of the January 2013 site visit the Council lacked a Budget Officer (Administrative Service Manager). Further, the previous Executive Director had provided little budgetary information to the Council and had in fact, disbanded the Administrative Committee. The Administrative Committee was re-established in January 2013 and has met ten (10) times in 2013, nearly monthly. Additionally, the Council has received quarterly expenditure reports in 2013 and approved the Council's budget for FY 2014.

In May 2013, Council members received governance training from NACDD technical assistance staff, which included their obligations to approve and monitor the budget.

At its July 2013 Council meeting, members received training from our Department of Finance (DOF) Analyst on the state budgeting process. Because the California Council implements its State Plan largely through member and staff activities and because it also retains a network of 13 regional offices, a large proportion of the federal grant is assigned to personnel and facility costs. Since these are largely predictable costs, much though not all, of the budget is necessarily based on historical expenditures. The budget approved by the Council breaks out costs in two categories: Personal Services, and Operating Expenses and Equipment. However, the Administrative Committee reviews a much more detailed line item budget. It was the Administrative Committee that examined the Council's allocation of funds to determine how we would absorb the sequestration cut in FY 13 and into the future. The Administrative Committee recommended and the Council reviewed then approved that staff vacancies at the local area offices would not be filled.

Additionally, the re-established Administrative Committee receives programmatic and grant information from the Program Development Committee (PDC) that is used to guide fiscal recommendations that are then presented to the Council for action. The Chair of the Administrative Committee also sits on the PDC.

In 2000, California Department of Finance staff assisted the then independent Area Boards to devise a cost allocation methodology that would enable them to assign costs by state plan goal. That methodology has been reviewed and revised periodically, most recently by the Council as part of the development of the current State Plan. The formula is utilized by the state's primary accounting system, known as **CALSTARS**. As a result, CALSTARS provides monthly expenditure data, broken out several different ways, including by State Plan goal.

For further insight into the Council's on-going work to correct and strengthen identified fiscal weaknesses and inadequacies, please also refer to the attached Fiscal Integrity and State Manager's Accountability Act report (FISMA Report). The FISMA report is a required biannual report of California state departments to examine the adequacy of the agency's system of internal controls. The following are attachments are provided in support:

ATTACHMENT C: Administrative Committee Roster; **ATTACHMENT D:** Administrative Committee Packets of Jan 2013, Feb 2013, Mar 2013, April 2013 (2 meetings), June 2013, July 2013, Aug 2013, Oct 2013, Nov 2013. Quarterly budget reports and Council's approved 2014 budget (two versions, with and without sequestration cut) are included. **ATTACHMENT E:** CALSTARS Report; **ATTACHMENT F:** Financial Integrity and State Manager's Accountability (FISMA) Report

VI.2 Fiscal Policies

Council has policies to carry out appropriate subcontracting activities.

FINDING

The Council did not provide adequate evidence that it has accurate financial accounting and record keeping.

RESPONSE

The Council agrees that these findings accurately describe the Council in January 2013 but the Council has since taken a number of strong steps to rectify that situation. We affirm that the Council is now on a far stronger fiscal footing and that our policies and practices are transparent to the members and our business associates.

Immediately following her appointment as Acting (now Interim) Executive Director, Ms. Newton sought and received approval from the Council to enter into an Interagency Agreement for the California Department of Health Care Services Financial Audits Branch (FAB) to expand upon the Department of Finance Management Letter's findings, issued August 17, 2012. (Note: Department of Finance (DOF) staff were unavailable to conduct the follow-up.) The DSA was instrumental in securing the services of the FAB audit staff. Specifically, the request was for the audit team to examine all of the Council's practices around contracting and procurement and to provide recommendations. Those recommendations became the basis for an **Administrative Work Plan** which staff has been implementing and Council has been overseeing, through the Administrative Committee.

In December 2013, staff completed a draft **Contract Manual** that to a large degree is based upon the manual utilized by the CDSS. The draft Manual will be reviewed by the Administrative Committee and the Council in January 2014.

In July 2013 the Council was able to hire a new Budget Officer (the delay was due to legal procedures associated with the previous budget officer) The new Budget Officer has since been working closely with DOF staff and our accounting colleagues at the CDSS.

The Council does continue to be hampered by staff management vacancies, especially that of the Chief Deputy for Administration. We have been assured that the Governor's Appointment Office will cooperate with the Council's Interim Executive Director in filling these positions expeditiously.

Please see **Attachment G:** Nov 2012 Department of Health Care Services Audit Report, **Attachment H:** SCDD Work Plan to Address Nov 2012 Audit Recommendations, and **Attachment I:** SCDD 2013 Draft Contract Policies and Procedures Manual

VII. DESIGNATED STATE AGENCY

VII.2 Responsibilities of DSA

FINDING

The DSA needs to establish processes, policies, and procedures that promote accurate receipt, accounting, and disbursement of funds; provision of appropriate fiscal control; access to records as needed; and timely development and dissemination of financial reports.

The Council does not have a Memorandum of Understanding with the DSA.

There is no evidence that the Council has conducted a formal evaluation of the DSA at any time.

Several Council staff positions and DSA functions appear duplicative.

RESPONSE

The Council Interim Executive Director has met twice on a formal basis with the DSA in 2013, specifically to discuss DSA functions. There have been several email and phone exchanges as well.

Currently, the DSA is in the process of obtaining final approval from the California Department of General Services on their revised fiscal control and purchasing authority policies and procedures. Based on these policies and procedures, the Council has adapted and developed a policy handbook that establishes procedures to ensure accurate and appropriate fiscal controls. (Please refer to Attachment I)

Council staff members have already attended several trainings regarding their fiduciary obligations as well as proper and standard accounting procedures that will ensure accuracy and dependability in accounting and disbursement of funds.

All policies and procedures ensure that while staff is responsible for the daily work, the full Council retains control over authorizing expenditure of funds in accordance with federal laws, rules, and State Plan goals and objectives.

The Council agrees that it will develop and enter into a Memorandum of Understanding with the DSA during calendar year 2014.

The Council agrees that it will conduct a formal evaluation of the DSA during calendar year 2014. It should also be noted, however, that Council staff management has met periodically with DSA staff to address deliverables, timelines, best practices in IT support and communication, among other issues.

Neither the Council nor the DSA perceive duplication of Council staff duties with DSA functions. The Department of Social Services' Interagency Agreement (Attachment A) identifies DSA functions in considerable detail. In support of this position and to add clarity we have included Attachment J that contains the Duty Statements for our Contract Analyst, Contract/Procurement Analyst, Personnel Specialist, Budget Officer, and Information Systems Specialist. While it is certainly true that those positions correspond to DSA functions, Council staff coordinate duties with DSA staff. They are complementary, not duplicative. For example, the Council's Personnel Specialist is the first line contact with our 65 (federally funded) employees. She handles duties associated with changes in benefits, salary, work hours, promotion or adverse actions. CDSS staff have access to the state government mainframe and State Controller's Office and therefore are charged with inputting the transactional changes. Additionally, there are no Council staff who carry out accounting functions. Without direct access to CALSTARS, the state's multimillion dollar system, we depend on CDSS to handle these functions in a more cost effective manner than we could.

Additional Information Regarding the Impact of the High Risk Designation on Council Support Services with CDSS

The proposed AIDD High Risk Designation and restriction of a cost reimbursement basis for disbursement of funds create a significant workload in administering this grant, which increases the fiscal administration costs for this program's grant. Additionally, the restrictions and the recent action of AIDD to freeze access to the federal grant eliminates the Council's operating capital to fund operations which has serious consequences for the Council and the recipients of its services. Excluding the \$230,000 from state Interagency Agreements support, the Council's current budget is 100 percent federally funded. In the absence of federal fund advances, the State Council does not have a source of cash to operate its program. The State Council would not have funding to pay its vendors or meet its monthly payroll

obligations. An inability to pay staff salaries and make vendor payments timely would put the Council at risk of late payment penalties and potential litigation. It is uncertain what alternate state resources, if any, could be obtained to pay State Council expenditures prior to reimbursement from AIDD. As a result, the Council and the DSA would need to determine funding needs and authority through California's budget process and timelines. Due to this funding need, the Council respectfully requests at very least a delay in implementing the funding restrictions until California resolves this cash source to prevent a detrimental impact to the Council and its operations.

Another complexity would be the modification of the accounting systems for the state's control agencies and the Council. The addition of a new budgetary fund source would require system reprogramming to continue automated direct fund transfers and payments. This reprogramming would be contingent upon approval of the new fund source and the funding level provided. The new fund source also creates another level of cash management, accounting oversight and financial statements to ensure these funds are tracked, reported, reimbursed and reconciled between the state's control agencies, the federal government and the Council.

The new AIDD payment reimbursement requirements and restriction are labor intensive since much of the financial reporting is automated. The compilation, reconciliation and justification of each source document monthly to the automated accounting reports in order to request federal reimbursement would be arduous and time-consuming due to the multiple funding streams. Additional resources to support this increased administrative workload are not currently available and would require additional funding to support. It is estimated that two full-time positions would be required to administer the additional financial and accounting functions to implement the proposed grant reimbursement plan beginning in January 2014.

ATTACHMENT A: CDSS Interagency Agreement; ATTACHMENT J: FIVE (5) SCDD Staff DUTY STATEMENTS

The following is a listing of the attachments referenced throughout this document:

ATTACHMENTS:

- Attachment A CDSS Interagency Agreement
- Attachment B Cycle 35 Community Development Grants Awarded (FY 2012-2013) and Cycle 36 Community Development Grants Awarded (FY 2013-2014)
- Attachment C Administrative Committee Roster
- Attachment D Administrative Committee Packets of Jan 2013, Feb 2013, Mar 2013, April 2013 (2 mtngs), June 2013, July 2013, Aug 2013, Oct 2013, Nov 2013
- Attachment E Calstars Report
- Attachment F Financial Integrity and State Manager's Accountability (FISMA) Report
- Attachment G Nov 2012 Department of Health Care Services Audit Report
- Attachment H SCDD Work Plan to Address Nov 2012 Audit Recommendations
- Attachment I SCDD 2013 Contract Policies and Procedures Manual

Attachment J Five SCDD Staff Duty Statements