



State Council on Developmental Disabilities

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December 26, 2013

Mr. Aaron Bishop, Acting Commissioner
Administration on Intellectual and Developmental Disabilities
Administration on Community Living
Washington, DC 20201

**Subject: California State Council
Delay of "High Risk Designation" Status**

Dear Commissioner Bishop,

We were surprised to find this week that the AIDD had frozen our federal grant funds as of December 20, 2013.. This was not our understanding of the process that was initiated with the Notice of High Risk Designation contained in your letter of November 22, 2013.

This letter is to respectfully and with urgency request you to delay implementation of the California Council's high risk designation and payment on cost reimbursement basis at very least until after the Council has responded to that designation, as your letter allowed us to do within 45 days of the notice, and we've had the opportunity to discuss that information with your representatives. We strongly believe that the Council has robust administrative processes for accounting and the Council review controls in place, and that there is no reason to place the Council on a cost reimbursement basis. We believe that our reply, which you will receive by the 45 day deadline of January 6, 2014, should contain adequate documentation to demonstrate this.

We hinge this request specifically on the third page of your November 22 letter which states, "SCDD may request we reconsider our decision to classify its DDC grant award as high risk within 45 days of receipt of this letter. The request should be made to your AIDD project officer by letter and include a detailed explanation, along with any necessary supporting documentation, as to why it believes AIDD's grant award should not be classified as high risk." This paragraph led all of us in California to understand that the "High Risk Designation" status and corresponding requirements would be implemented only after the Council had an opportunity to respond. Indeed, we naturally concluded that the only reason to allow for an appeal response within the 45 days is if the "High Risk Designation" status was pending and an appeal truly could be considered dependent on the nature of our response and the ability of your staff to review and discuss the appeal with us.

We respectfully propose this appeal process be implemented as it would seem only fair that the Council be given that opportunity. As your review team is aware, when they visited in January of 2013, Council staff did not have adequate budget information available for the team at that *"The Council advocates, promotes & implements policies and practices that achieve self-determination, independence, productivity & inclusion in all aspects of community life for Californians with developmental disabilities and their families."*

time, since our previous Executive Director position had transitioned in the months just prior to the visit and our budget officer had been recently placed on administrative leave. The Council has resolved those issues with Ms. Roberta Newton installed as our Interim Executive Director, the hiring of a replacement Budget Officer resolving that position issue, audits being conducted and taken many other steps since that visit. It would seem only fair that AIDD not take the proposed restrictions or other stern measures until the Council has had a chance to respond. We hope you agree there is clearly no urgency to putting the Council on a cost reimbursement basis, as the Council has been proactively reinforcing administrative matters prior to and since the 10 months from the time of the AIDD site visit.

California is not only diverse and geographically wide ranging but is also the most populous state in the union. The California State Council on Developmental Disabilities takes its work to lead on issues regarding developmental disabilities very seriously and we have been very productive on implementing our State Plan as evidenced by our past Program Performance Reports and the recent passage of three (3) significant pieces of legislation to benefit our community. The restrictions proposed as a "High Risk Designation" would take valuable and sorely needed resources away from that focus to then focus on administrative reporting functions. With this concern in mind the Council believes it would be especially wise to wait on the implementation of the restrictions pending the Council's response, as there are substantial practical problems created by the Federal reimbursement process that has been put in place:

1) In particular, the payment of employees (salaries and benefits) and vendors would be delayed by as much as a month or more due to the production or gathering of voluminous support documentation and the lack of the Council's federal Basic State Grant (BSG) funding advance. To maintain our basic functions as a Council and to honor our commitments, we would need a BSG funding advance of 25% or more of the BSG amount awarded for the Federal Fiscal Year. This advance is necessary to allow us to compile (and AIDD to process) the support documents referenced in your letter of notification:

"To obtain payment for costs incurred under the DDC grant, SCDD must submit monthly written reimbursement requests using the Standard Form (SF) 270 Request for Advance or Reimbursement; summary schedules of costs claimed that includes the totals by each grant budget category; accounting system reports that list the individual cost items included in each budget grant category total; and source documentation (e.g., cancelled checks, paid bills, payrolls, time and attendance records, contract and sub grant award documents, etc.) for each individual cost item greater than \$500."

2) In addition, the letter indicated that: *"Further, expenditures claimed that are not included in the most recently approved grant budget must be accompanied by detailed justifications/explanations or the related costs will not be accepted as allowable costs."* This stipulation would materially delay the reimbursable payments made out of encumbered prior year grant funding. In particular, the encumbered grant funding to community-based organizations that have been awarded grants to fund new and innovative community program development projects to implement State Plan objectives and improve and enhance services for individuals with developmental disabilities and their families. The delays in receiving reimbursement for their out of pocket expenses

could very well force them to cease grant activities. As discussed in our Annual Program Performance report (PPR), these grants are critical to implementation of State Plan Objectives, and implementation of California's new Employment First Policy.

We believe that we were welcoming to the MTARS review team, we were forthright and constructive in our discussions with them, we reviewed steps taken prior to their visit, outlined steps we were to take and we believe we showed an active and respectful interest in working with the AIDD to resolve various concerns. Since the visit, we have done a lot to address our fiscal controls, establish improved controls over area office work, and further develop Council oversight of operations. The Council has also been successful in advocating for major state-level policy changes that promise to transform service delivery in California. Since we received your report on November 22, the Council has discussed the findings internally with the clear intent to finally resolve long standing issues. We have also been in discussions with the Governor's Office and the Legislature to propose very substantial changes to state law to ensure compliance with the federal DD Act.

We believe that there is no reason for the AIDD to implement the proposed stern measures to resolve the MTARS findings. As discussed, we can provide evidence that our fiscal controls are robust at this point and do not warrant unusual reimbursement procedures. The Council is approaching this MTARS with seriousness of purpose and in a spirit of collaboration. We have been looking forward to working with your staff and our NACDD technical support staff to resolve these issues. And we have already made a lot of progress. We are confident that responses due on January 6 and February 14, 2014, will reflect this and reassure your review team.

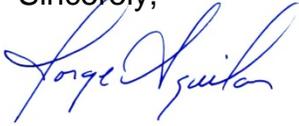
We have discussed above how the imposition of a cost reimbursement procedure is not only extremely burdensome but likely damaging to the accomplishment of our State Plan, and endangers basic Council functions. The Council's work is important to hundreds of thousands of Californian's with developmental disabilities and their families. This is a critical time in California, where the Council is in a leadership position on both implementation of the new Employment First Policy (sponsored by the Council) and the recently signed Self-Determination legislation. The Council is working at the state level and in its local communities to address issues of linguistic and cultural competency of services and the equitable distribution of services. The Council's determined work to support self-advocacy is bearing fruit. California's State Plan goals are about the people of California and their aspirations for a meaningful life in their home communities. We would hope that the AIDD would consider these accomplishments, pending needs for leadership in implementation and be constructive in working with the Council so that the people of California will continue to benefit from our support, as the DD Act envisioned.

I sincerely urge your prompt reply, so that we can restore the Council's access to the federal Basic State Grant and continue on a path towards resolving the outstanding issues.

I would be happy to make myself and our staff available to you and your staff for discussion of this urgent request for a stay on the restrictions pending your review of our upcoming appeal request. I can be reached directly by telephone on my cell at 805-458-1996 or by email at

jorgea@wallacegroup.us Please let me know if you have questions or if I can be of any assistance to you in the review of this request.

Sincerely,

A handwritten signature in blue ink that reads "Jorge Aguilar". The signature is fluid and cursive, with the first name "Jorge" being more prominent than the last name "Aguilar".

Jorge Aguilar, Chair
State Council on Developmental Disabilities

CC: CA SCDD Council Members
Sarah Greenesid, Governor's Office
Mike Wilkening, CHHS