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| DEPARTMENT OF HUMAN SERVICES POLICY AND PROCEDURES | | |
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| SUBJECT: CONTRACTOR FINANCIAL REPORTING REQUIREMENTS AND MONITORING AND AUDITING RESPONSIBILITIES | | |

DEFINITIONS

A. For Purposes of these requirements:

1. **"BCM"** means the Department of Human Services, Bureau of Contract Management.
2. **"BIRA"** means the Department of Human Services, Bureau of Internal Review and Audit.
3. **"BOF"** means the Department of Human Services, Bureau of Finance.
4. **"Contracting Agency"** means the Department of Human Services division, office, bureau, or institution that has a contract with the contractor.
5. **"Department" or "DHS"** means the Department of Human Services and all of its divisions, offices, bureaus, and institutions.
6. **"DHS Review"** means an examination of certain records of contractors by DHS through a division, office, bureau, institution, or other designated agency.
7. **"Financial Reports"** include an audit, a review, a compilation, a statement of functional expenses, a balance sheet, an income statement, a statement of cash flows, or the preparer's notes to the Financial Reports.
8. **"Foreign Organization"** means an organization whose domesticity is outside the State of Utah.
9. **"GAAP"** means Generally Accepted Accounting Principles, a combination of authoritative accounting principles, standards and procedures (set by policy boards).
10. **"Government Funds"** means financial assistance that a contractor receives from a combination of government sources, including federal awarding agencies, state appropriations and other local governments. All of the funds paid to contractors by DHS are considered "government funds" for purposes of determining the contractor's financial reporting requirements.
11. **"LLC"** means limited liability company.
12. **"Revenue"** means the funds an organization receives from any source for any reason.

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13. **"Statement of Functional Expenses"** means a breakdown of administrative expenses and expenses attributed to actual program services on a program-by-program basis.
14. **"Vendor"** means a contractor that supplies goods or services to DHS through a contract, but generally does not interact with or provide services directly to DHS clients. The term "vendor" as used in this policy is not the same definition of "vendor" used in Office of Management and Budget (OMB) Circular A-133.

RATIONALE

This policy has been adopted to: 1) comply with Federal and State financial reporting requirements; 2) establish reporting requirements for DHS contractors not subject to Federal and State requirements to maintain an acceptable level of accountability by contractors; 3) establish a procedure for enforcing compliance with contractual financial reporting requirements; and 4) identify primary responsibility for contractor monitoring and auditing performed by DHS.

CONTRACTOR FINANCIAL REPORTING REQUIREMENTS

Financial reporting requirements apply mainly to contractors who are government entities, charitable organizations, corporations, partnerships, limited liability companies (LLC), and other business entities whether non-profit or for-profit. Contractors may be subject to federal, state, and/or DHS reporting requirements.

Federal and State Reporting Requirements: Federal and state reporting requirements are included in the DHS Service Contract both to meet federal notification requirements and to help ensure DHS contractors are aware of their obligation to comply with these requirements. The federal requirements are as stated in OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations". The state requirements are as outlined in Title 51, Chapter 2a of the Utah Code, "Accounting Reports from Political Subdivisions, Interlocal Organizations and Other Local Entities Act".

DHS Reporting Requirements: The following DHS reporting requirements were determined by BCM, BIRA, and BOF and approved by the Deputy Director for Support Services.

- A. The DHS reporting requirements for government entities and non-profit contractors who must comply with federal or state reporting requirements shall be the same as the contractor's federal or state reporting requirements.
- B. The DHS reporting requirements for non-profit organizations that do not meet federal or state reporting thresholds and all for-profit organizations shall be based on the total amount of funding the contractor receives from DHS during the contractor's fiscal year. Funding levels and the reporting requirements for each level shall be identified in the DHS Service Contract template.

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- C. The financial reports of foreign organizations shall be accepted as prepared to meet the foreign organization's federal or domestic state's financial reporting requirements. However, if the foreign organization has a local subsidiary, division, or unit in the State of Utah, it shall be required to submit a Statement of Functional Expenses for the local subsidiary, division, or unit in addition to the parent organization's financial reports.
- D. There are no set DHS financial reporting requirements for the types of contractors listed below. However, financial reporting requirements may be included in contracts with these types of contractors as deemed necessary.
1. Individuals
 2. Sole proprietors,
 3. LLC sole proprietors,
 4. LLC husband and wife partnerships, and
 5. Vendors.
- E. For reconciliation purposes, all contractors with financial reporting requirements shall be required to separately identify the total amount of revenue received from government funds from all other sources of revenue identified in their financial reports. **All contractors whose financial reporting requirements are based upon the amount of funding received from DHS must also separately identify the amount of funding received from DHS.**
- F. Although contractors are responsible for correctly determining their own reporting requirements, BCM may help contractors understand the reporting requirements so they can submit the proper reports.

SUBMISSION AND REVIEW OF FINANCIAL REPORTS

- A. Responsibility for the submission and review of required financial reports shall be as stated below:
1. BCM shall:
 - a. Ensure that all required financial reporting requirements and deadlines are included in the appropriate DHS contract templates. (The filing deadline for financial reports depends on the contractor's fiscal reporting year and the type of financial report it is required to file.)

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- b. Track the submission of required financial reports to ensure required reports are received.
- c. Consider contractor requests for an extension of time to file financial reports when requested in writing and approve when the reasons are considered appropriate.
- d. Distribute the financial reports of all non-subrecipient contractors to the appropriate agency monitoring staff for desk reviews.
- e. Perform annual desk reviews of the financial reports submitted by DHS subrecipient contractors as required by OMB Circular A-133.
- f. Notify the monitoring unit in the contracting agency of all disallowances and major compliance violations noted in subrecipient contractor financial reports so that the agency may follow-up with the contractor to resolve the same.
- g. Cooperate with the State Auditor's office to avoid duplication of review time and to provide more complete monitoring.
- h. Notify contractors who fail to submit their financial reports in a timely manner or who fail to file the correct type of financial reports required by the contract of their delinquency or deficiency as noted below:
 - (1) Notice of Delinquency/Deficiency - When a contractor fails to submit the required financial reports to BCM by the applicable deadline, BCM shall send a Notice of Delinquency/Deficiency to the contractor advising it of its delinquency or deficiency and requesting that the contractor submit its financial reports within 30 calendar days. The contractor shall also be advised that if the requested financial reports are not received within the 30 days, all of its contracts with the Department will be sanctioned for noncompliance. This notice may be sent via e-mail.
 - (2) Notice of Sanction - If the contractor does not respond to the Notice of Delinquency or Deficiency, the Director of BCM shall send a Notice of Sanction to the contractor advising it that if it does not submit the required reports within 30 calendar days, DHS will initiate termination of all of the contractor's contracts. Until the required financial reports are submitted, all of the contractor's DHS contracts will be subject to the following sanctions:
 - (a) A hold on all referrals to, or placements with, the contractor (this sanction does not apply to contracts that provide for guaranteed payments); and

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- (b) No new contract or amendment to extend the end date of an existing contract will be processed.

This notice shall be sent to the contractor via U.S. mail.

- (3) Notice of Termination - If the contractor does not respond to the Notice of Sanction, BCM shall prepare a Notice of Termination for the Executive Director's signature. The Notice of Termination shall be issued in accordance with the termination provision(s) provided for in the contractor's contract(s). The contractor shall be advised that it may prevent the termination of its contract(s) by submitting its financial reports prior to expiration of the notice period. This notice shall be sent to the contractor via certified mail.

All notices issued pursuant to Paragraph h above shall identify all of the contractor's contracts with DHS. The appropriate agency representatives (Agency Director and Contract Analyst) shall be copied on all notices.

None of the above notices or sanctions apply to contracts that do not contain financial reporting requirements.

The DHS Executive Director or designee may waive any of the notices and timeframes required herein if it appears there is risk of harm to the clients being served by the contractor.

2. The contracting agency shall:

- a. Perform annual desk reviews of the financial reports of all non-subrecipient contractors to determine:
- (1) Whether the contractor has submitted the correct financial report required by the contract, and
 - (2) Whether there are any findings or problems noted in the financial report.
- b. Follow-up on findings and problems noted in the annual desk reviews of **both** subrecipient and non-subrecipient contractor financial reports to ensure they are resolved. Resolution may be reached through mutual agreement of all parties or through decisions rendered by BIRA, the contracting agency, the executive director or Federal and State government entities.

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- (1) Within six months of the desk review date, review any major internal control or compliance weaknesses noted in contractor financial reports (through correspondence or an on-site visit, as the need is determined) to assure that corrections and/or improvements have been made.
- (2) During the contracting agency's next scheduled monitoring visit, review minor control and compliance weaknesses discovered in the desk reviews to assure they have been corrected.

CONTRACT MONITORING RESPONSIBILITIES AND REQUIREMENTS

A. BCM and BIRA shall jointly:

1. Develop a Department level risk based monitoring strategy in conjunction with Department leadership.
2. Establish Department level standards for:
 - a. Conducting monitoring reviews;
 - b. Reviewing monitoring findings prior to the issuing of monitoring reports;
 - c. Initiating and following-through with contractor actions such as questioning costs, implementing corrective action; referring matters to BIRA for possible audit, and pursuing the debarment of a contractor.
3. Develop standards and qualifications for the hiring of contract monitors.
4. Develop, implement, and conduct required training for agency monitoring personnel in appropriate financial and program review procedures, documentation standards, and report writing.
5. Develop shared provider monitoring standards.

B. BCM shall:

1. Establish agency monitoring plan requirements based on the Department level standards developed in conjunction with BIRA.
2. Review and approve agency monitoring plans and any amendments or modifications to them.
3. Assist the agencies in the development of effective monitoring tools.

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4. Periodically accompany agency monitoring personnel on selected contractor reviews both for training purposes and to ensure compliance with Department monitoring standards.
 5. Review agency monitoring reports both for training purposes and to ensure compliance with Department standards.
 6. Develop a shared data system/database for the storage of contractor monitoring information to:
 - a. Facilitate the efficiency of reviews and the sharing of results across the Department;
 - b. Facilitate the identification of repetitive problems with individual contractors as well as provider-wide issues or problems; and
 - c. Promote the consistent treatment of Department contractors.
- C. The contracting agency shall:
1. Develop monitoring plans to meet Department monitoring plan requirements.
 2. Monitor contracted providers in accordance with the Department's monitoring standards and strategy.
 3. Coordinate the review of shared providers.
 4. Develop standardized contract requirements for common performance requirements such as treatment plans.
 5. Develop standardized monitoring tools for reviewing like programs.

AUDITING RESPONSIBILITIES

BIRA shall:

- A. Conduct fiscal reviews of contractors based on referrals from BCM, a contracting agency, or other individuals or organizations recommending investigation or review of a contractor's records. Reviews may be conducted on any contractor periodically based on the Department's risk determination of contractors and available time.
- B. Investigate cases of suspected fraud referred to it by contracting agencies and if needed consult with the Office of the Attorney General in determining further actions.

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QUESTIONED COSTS

A. The contracting agency shall:

1. Be responsible for determining overpayments, disallowances, and audit exceptions (these determinations may be made based upon recommendations from or audits conducted by BCM, BIRA, or the Office of the Attorney General).
2. Be consistent in asking contractors for repayments. Repayments should be requested whenever the contracting agency discovers billing errors or whenever it finds the contractor has billed for inappropriate costs that can be quantified.
 - a. After issuing an initial request for repayment, give the contractor at least 30 days to respond to the request in writing. During this 30-day period, the contractor shall be given an opportunity to produce information or documentation disputing the repayment or its amount. The contractor may also request an extension in writing, within the 30-day period. If granted, the extension shall not exceed an additional 30 days.
 - b. If the contractor and the contracting agency cannot agree on the repayment amount, the contractor may appeal the contracting agency's final decision to the DHS Deputy Director for Support Services pursuant to the terms of its contract.
 - c. Once the final repayment amount has been agreed upon, require repayment to be made within 30 days. If the contractor can show financial hardship, additional time or installment payments may be negotiated as provided for in the repayment provisions below.
3. Report any suspected fraud to BIRA.
4. If approved by EDO, seek debarment whenever a contractor is convicted of fraud, has a history of poor documentation and is regularly asked to make repayments, has a history of contract noncompliance or otherwise meets the requirements for debarment outlined in UCA § 63G-6-804.

B. Repayment Provisions

The following types of repayments may be negotiated:

1. If only State funds are involved, payments under a current contract with the contractor can be reduced to repay the disallowance. However, the contractor must maintain the previous level of service.

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2. If the repayment will result in a severe cash flow problem for the contractor as documented in financial statements, the Department, at its discretion, may allow repayment to be made over a maximum period of up to five years unless federal funding requires earlier repayment.
3. In cases of fraud referred to the Office of the Attorney General, the Office of the Attorney General will determine the repayment specifications.



DATE 06-15-10

Lisa-Michele Church, Executive Director
Department of Human Services