

Policy Memorandum

Grants Management - IV-J Advisory Council – III-M

DEFERRED PAYMENT AND FORMAL SANCTIONS OF GRANTEES INCLUDING GRANT TERMINATION

Date Effective: 06/01/1993
Date Revised: 06/01/2010
11/13/2013

Director's Signature: 
Advisory Council Chair
Signature: 

Policy: The Sanctions policy provides a method for encouraging prompt corrective action, or termination, when a grantee has materially failed to comply with the terms of their contract. This policy also, during this process, protects and preserves funds committed to the Grantee funded under the Older Americans Act.

Procedure - In the absence of grantee action which will return the grantee's project to contractual compliance, the Area Agency may apply the following sequence of sanctions which comply with regulations set down by the California Department of Aging.

- A. **Deferred Payment -** Deferred Payment is a temporary delay in honoring a service provider's Request for Funds. It may be imposed automatically, according to the internal process of the Area Agency on Aging. Imposition of the Deferred Payment is a remedial process which emphasizes the need for contractual compliance.
 1. Service providers shall be notified and will be followed up in writing when a Deferred Payment has been imposed. The grantee will be notified why payment is being deferred and the corrective action required to lift the Deferred Payment process.
 2. The Deferred Payment differs from a Withhold and need not be the first step of the formal sanction process.

- B. **Formal Sanctions –** if more serious action is required to correct grantees non-compliance with the terms of the contract, the Grants and Planning Manager and/or the Senior Nutrition Program manager, in consultation with the Agency Director and Fiscal Manager, may impose the following remedies:
 1. **Withholding of funds -** The withholding of funds is a temporary delay in honoring a service provider's Request for Funds. It should not exceed 10 working days.
 - a. The Withhold shall be imposed automatically according to the internal process of the Area Agency for failure to comply with any contractual agreements, including but not limited to: reporting requirements; assessment recommendations,

- licensing and certification requirements; and programmatic or budgetary processes.
- b. A Withhold may be imposed as a first step in the sanction process.
 - c. Service providers shall be notified and will follow-up in writing the corrective action required to lift the Deferred Payment process.
 - d. A Withhold will be lifted and the service provider so notified in writing, when the service provider has either, (1) adequately taken the required corrective action, or, (2) has been issued a notice of suspension. Outstanding Requests for Funds will be honored concurrent with either action.
2. Suspension - A suspension of a grant Agreement means the temporary withdrawal of the grantee's authority to obligate grant funds, pending the grantee's corrective action or a decision to terminate the Agreement.
- a. A Suspension will be imposed on the grantee by the Grants Manager as a first step in the sanction process, or if at the close of a ten (10) day Withhold period there continues to be an absence of adequate corrective action.
 - b. The Suspension Notice shall be sent to the grantee via Certified Mail and shall state the reason(s) for the action, the corrective action(s) required, the limits of the projects authority to expend or obligate grant funds, the appeal process, and the effective date. The Suspension shall take effect six (6) calendar days after the mailing.
 - c. Exception - If a delayed effective suspension date would be unreasonable considering the Area Agency on Aging's responsibility to protect the Federal and/or state government's interest, the Suspension may be imposed automatically, effective at once, for a flagrant violation of federal, state, or local rules or regulations.
 - d. During a Suspension, the limits to grantee obligations and expenditures shall be governed by the California Department of Aging regulations.
 - e. A Suspension shall be lifted when the grantee has adequately demonstrated the required corrective action.
 - f. Two (2) consecutive months of suspension during a grant period may be grounds for an automatic termination (see Termination).
3. Termination - A Termination formally withdraws the authority of the project to obligate any previously awarded funds or conduct any business under the terms and conditions of its grant with the Area Agency on Aging.
- a. In the absence of extenuating circumstances termination shall be automatic at the conclusion of two (2) consecutive months of Suspension. The notice of Termination shall be sent by

Certified Mail. It must state the date the termination became effective, must specify the reasons for the termination, direction for caring for project records and equipment, and any instructions regarding the transition of service.

- b. Exception: A Termination may be imposed earlier than the conclusion of a two (2) month Suspension period if any failure-to-comply is deemed by the Area Agency to be sufficiently critical, or there is evidence of fraud or other malfeasance, or the non-compliance is deemed flagrant and deliberate.
 - i. Under this Exception Termination, the grantee must be notified in writing by Certified Mail of the effective date (24 hours after receipt of the mailed notice), the reason for the termination, directions for caring for project records and equipment, and any instructions regarding the transition of service.
- c. Allowable obligations and expenditures for any grantee under a Termination procedure shall be governed by the regulations of the California Department of Aging.
- d. There shall be no reversal of a Termination, except as the result of a decision in response to an appeal.
- e. Prior to the termination notice being issued the Advisory Council will be advised of the decision.

C. Other

- 1. Grantee Visits - VCAAA staff will identify those grantees with performance issues and arrange for Advisory Council members to visit the grantee and report back. Advisory Council members will be selected by staff based on areas of expertise.
 - a. An appointment shall be made with the grantee for the visit, with the amount of time needed for the visit made clear to the grantee in advance. This would be anywhere from 1 to 2 hours depending on the size and structure of the project.
 - b. The visit should consist, primarily, of two parts:
 - i. During the first part of the visit, the Advisory Council member should be walked through the project as if he/she were a client. At the conclusion of this walk-through, the Advisory Council member should know exactly what services the client receives and how it is provided.
 - ii. During the second part of the visit, the project should be viewed from the standpoint of the grantee. If there are legislative, reporting, or licensing provisions associated with providing this service, the Advisory Council member should ask for an explanation. This will provide information about internal or administrative costs.
 - c. A written report of the visit is required. Questions or concerns related to a grantee or the service should be directed to the

Grants Manager.

2. Advisory Council Notification –

- a. VCAAA staff shall quarterly provide year to date performance versus contracted data for all grantees in the Advisory Council packet. This information shall include the cost per service unit based upon the year to date amount requested. VCAAA staff shall provide the same data for VCAAA programs that are funded using Older Americans Act dollars.
- b. The information will be provided as a standing agenda item and Advisory Council members will be given the opportunity to ask questions.
- c. Deferred payments, sanctions and suspensions will be noted on the report.
- d. Grantee terminations will be discussed as a separate item during an advisory council meeting.