

SC WORKS

PEE DEE

PEE DEE LWDA INSTRUCTION NUMBER: 20-006

TO: Pee Dee Local Workforce Development Area Contractors

SUBJECT: Sanctions Policy

ISSUANCE DATE: 01/15/2021

EFFECTIVE DATE: 01/15/2021

Purpose: The purpose of this instruction is to transmit the Pee Dee Local Workforce Development Area's (LWDA's) revised sanctions policy. Effective January 15, 2021, this instruction supersedes Instruction Number WIA-10-001 regarding this matter.

Background: In July, 2010, the Pee Dee Local Workforce Investment Area (WIA) issued a policy detailing the Pee Dee LWIA's rewards and sanctions policy. This policy was largely based on the State of South Carolina's sanctions policy and, with a few adjustments, was adopted as the policy for rewards and sanctions in the local area.

Since that time, Workforce Investment Act (WIA) legislation has been replaced by the Workforce Innovation and Opportunity Act (WIOA). Also, the SC Department of Employment and Workforce has issued State Instruction Number 19-04, a revised WIOA Title I Sanctions Policy. The LWDA has reviewed its existing Sanctions Policy and State Instruction Number 19-04 and determined that it continues to have merit and with revisions will continue to be used to address the performance of contractors when there is continued noncompliance with the terms of the contract or other Workforce Innovation and Opportunity Act requirements. The Sanctions Instruction applies to all programs funded by the Pee Dee LWDA, unless, at the time of implementation, a particular program is specifically mentioned as being excluded from this policy.

This policy outlines procedures for implementing sanctions when there is continued noncompliance with the terms of the contract or other LWDA requirements.

Policy: The reasons for which sanctions may be imposed are included as Attachment A of this instruction letter.

The Pee Dee Local Workforce Development Area will ensure that the following conditions have been met before sanctions are imposed:

1. A written and signed contract agreement with clear goals and funding obligations is in force.
2. Appropriate monitoring has been conducted.
3. Appropriate corrective action has been recommended.
4. Technical assistance has been provided to correct violations, inadequacies, or deficiencies.
5. Follow-up has established lack of satisfaction and continuation of non-compliance.

When the above conditions have been met and the Workforce Development Board (or its designated committee) determines that the response and/or corrective action are inadequate or the deficiency or violation continues, **sanctions will be imposed**. The severity of the non-compliance will be considered when imposing a sanction. Willful non-compliance or possible criminal violation of the Act or Regulations, **will invoke immediate sanctions**.

The LWDA reserves the right to recommend the following actions be taken for any contractor who fails to meet performance goals or fulfill the administrative, programmatic, and/or fiscal requirements relative to programs for which the Pee Dee Workforce Development Board (WDB) has oversight:

1. Delay of payments/reimbursements until the violation or deficiency is corrected.
2. Disallow payments/reimbursements associated with a particular violation.
3. Require 100% review of source documentation prior to releasing funds requested on the contractor's request(s) for reimbursement.
4. Reduction in funding.
5. Require the enrollment of participants in under-enrolled target groups only, until the contract is in compliance with stipulated target group goals.
6. Halt further enrollments until performance of currently active participants improves.
7. Require the LWDA's prior approval of enrollment decisions.
8. Require periodic documentation of internal monitoring by the contractor until areas of deficiency improve.
9. Repayment of disallowed costs.
10. Revocation of part of the contract agreement.
11. Withhold incentive awards, if earned by the LWDA, for successful performance.
12. Cancellation of the contract in accordance with contract terms and conditions for cause or convenience.
13. Debarment of a service provider from receipt of future federal funding for a minimum of two (2) years.
14. Other actions deemed to appropriately address an area of deficiency.

The LWDA may elect to choose one of the above actions or a combination of several actions depending on the severity of the performance, program, administrative, or financial issue.

For the *first year* a contractor is cited as not meeting performance standards or not fulfilling programmatic, administrative, or financial requirements, a corrective action plan will be required. The corrective action plan must identify factors contributing to the deficiency, address the strategies the contractor will use to improve, and identify and request the technical assistance needed to effectively implement the corrective action plan.

After the first year a contractor is cited as not meeting performance standards, the contractor's performance will be re-evaluated at the end of six months. If the contractor continues not to meet the performance standards or is not fulfilling programmatic, administrative, or financial requirements, the contractor's failure to correct its deficiencies will be presented to the WDB or its designated committee with LWDA staff recommendation that the contractor be sanctioned in accordance with this sanction policy. The sanction will remain in effect until the contractor demonstrates adequate improvement in areas of concern or the WDB elects to discontinue its relationship with the contractor.

A contractor that has been sanctioned in accordance with the LWDA's policy will again be reviewed at the end of six months to determine if noted deficiencies leading to the sanction have been corrected. If the deficiency has not been corrected, the contractor's failure to correct its deficiency will be presented to the WDB or its designated committee to determine if the contractor's relationship with the WDB should be terminated.

A contractor may appeal the decision of the WDB or its designated committee only if the grant is canceled or funding is reduced. The appeal will be made in writing and received by the Executive Committee within ten (10) days of the notification from the WDB or its designated committee. The Executive Committee will hear the appeal and render a decision within thirty (30) days of the hearing. The Executive Committee's decision will be final.

Action Required: All contractors must comply with the requirements of this instruction. Contractors are encouraged to disseminate the sanctions policy to all staff involved with implementation of the goals of the Workforce Innovation and Opportunity Act.

Inquiries: Questions regarding this instruction should be directed to Joette Duker at (843) 702-3144 or j-dukes@peedeecog.org.



Joette R. Duker, Workforce Development Director

Attachment A

REASONS FOR SANCTIONS

A Pee Dee Local Workforce Development Area (LWDA) contractor may be sanctioned for reasons included, but not limited to, the reasons outlined in the following sections:

Performance

- ❖ Contractor's failure to achieve performance goals specified in their contract agreements.

Administrative

- ❖ Failure to comply with policies and procedures as stated in the Act, Regulations, state and local laws, local workforce development area policies and procedures, SCWOS procedures, and contract terms and conditions.
- ❖ Failure to meet programmatic and/or financial contract or agreement requirements.
- ❖ Failure to correct deficiencies cited in monitoring reviews by local workforce development area staff, the state administrative entity, federal monitors, and/or auditors. This includes failure to respond to monitoring reports by the established deadline.
- ❖ Failure to maintain adequate supporting documentation for contract programmatic and/or financial activities.
- ❖ Failure to submit required reports, forms, and documents, as scheduled or in the time limits established.
- ❖ Failure to maintain accurate records on participants.

Fiscal

- ❖ Failure to operate within contract budget limitations.
- ❖ Unreasonable delays in invoicing/and or meeting bonding, auditing, or closeout requirements.
- ❖ Noncompliance with the contract budget spending plan and not requesting a budget modification to correct the spending plan.
- ❖ Incurring costs outside the time period of the contract agreement.
- ❖ Charging costs which are prohibited by the Act and Regulations, or costs not included in the contract budget, to a contract. This includes costs for unallowable activities, such as political, sectarian, or union activities.
- ❖ Failure to obtain and document matching funds when matching funds are required by the terms of the contract agreement.
- ❖ Failure to provide required documentation with an invoice.
- ❖ Expenditure of WIOA funds for activities that are not chargeable to WIOA contract(s).

Programmatic

- ❖ Target group enrollments are below the levels required by the contract agreement.

- ❖ Failure to observe time limitations/requirements on training activities and individual participation.
- ❖ Failure to meet customer service expectations as evidenced by customer service surveys, secret shopper activities, and/or participant complaints received by the LWDA.