



agency for persons with disabilities  
State of Florida

May 1, 2013

Rick Scott  
Governor

■ ■  
Barbara Palmer  
Director

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Ms. Christina Smith, Director  
Division of Accounting and Auditing  
Florida Department of Financial Services  
200 East Gaines Street  
Tallahassee, Florida 32399-0353

RE: Review of Selected Agency for Persons with Disabilities Contract/Grant Agreements and Related Management Activities

Dear Ms. Smith:

Thank you for the opportunity to respond to your March 12, 2013, letter setting forth the findings of the review of selected Agency for Persons with Disabilities (Agency) contract/grant agreements in effect on or after July 1, 2011, and related management activities. The Agency is providing the following corrective action plan which addresses the areas where noted improvements can be made.

**Scope of Work and Deliverables**

In the future, we will closely review our service contracts to ensure they contain clear scopes of work, deliverables directly related to the scopes of work, minimum required levels of services, criteria to successfully evaluate satisfactory performance, and compensation for each deliverable.

**Financial Consequences**

Effective December 2012 the Agency revised its Standard Contract, Page 6, Section 36 (Financial Consequences/Penalties for Provider's Failure to Perform or Failure to Comply with Requirements for Corrective Actions), which now reads:

- a. Corrective action plans and/or financial penalties must be required for noncompliance, nonperformance, unacceptable performance, and failure to meet the minimum level of service or performance under this Contract. Penalties must be imposed for failures to implement or to make acceptable progress on such corrective action plans.
- b. Financial consequences must include, but are not limited to the financial consequences set forth in subsections, c, d, and e below.
- c. The increments of penalty imposition that shall apply must be

based upon the severity of the noncompliance, nonperformance, or unacceptable performance that generated the need for a corrective action plan. The penalty shall not exceed ten percent (10%) of the total Contract payments during the period in which the corrective action plan has not been implemented or in which acceptable progress toward implementation has not been made. Noncompliance that is determined to have a direct effect on client health and safety shall result in the imposition of a ten percent (10%) penalty of the total Contract payments during the period in which the corrective action plan has not been implemented or in which acceptable progress toward implementation has not been made.

- d. Noncompliance involving the provision of service not having a direct effect on client health and safety must result in the imposition of a five percent (5%) penalty. Noncompliance as a result of unacceptable performance of administrative tasks must result in the imposition of a two percent (2%) penalty.
- e. The deadline for payment shall be as stated in the notification imposing the financial penalties. In the event of nonpayment, the Agency may deduct the amount of the penalty from invoices submitted by the Provider.
- f. Any payment made in reliance on the Provider's evidence of performance, which evidence is subsequently determined to be erroneous, will be immediately due as an overpayment in accordance with Section 13 above, entitled "Return of Funds" to the extent of such error.

This revised language is now included in all new contracts, and will be included in all future contract actions. We also revised Attachment I (Scope of Services), Method of Payment Section, to include a Financial Consequences paragraph, which refers back to Page 6, Section 36 of the Standard Contract. Wherever practicable, we are also amending existing contracts to conform them to the new format.

### **Contract/Grant Management**

The Agency is developing Contract Administration and Management Operating Procedures which will provide guidance to staff on developing, managing, and monitoring contracts.

### **Overpayment**

The Agency will continue to ensure designated staff are more thorough in reviewing and processing invoices and payment for services. As noted in your review report, the Agency has fully recouped all funds.

**Contract Agreement – Other**

The Agency, in the future, will closely review service agreements procured from state term contracts to ensure the rates are consistent with the state term contract rates, and documentation showing such consistency is maintained.

The Agency is committed to providing the most efficient, effective and innovative contracting processes to help accomplish our mission and ensure that providers provide high-quality, cost-effective goods and services. We greatly appreciate the Department of Financial Services' ongoing interest and support of our efforts.

If you have any questions, please contact Contract Administrator Cassandra D. Jenkins at 850-414-8606 or [Cassandra.Jenkins@apdcares.org](mailto:Cassandra.Jenkins@apdcares.org).

Sincerely,



Barbara J. Palmer  
Director

cc: Michael Ayers, Chief of Staff  
Marvin Doyal, CPA, Inspector General  
Michael Palecki, General Counsel  
Sharon Bradford, Deputy Director of Budget, Planning and Administration  
Denise Arnold, Deputy Director of Programs  
Tom Rankin, Deputy Director of Operations  
Mitch Fenton, Director of Support Services  
Cassandra D. Jenkins, Contract Administrator




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**TO:** Michael Ayers, Chief of Staff  
**FROM:** Barbara Palmer, Director  
Agency for Persons with Disabilities  
**DATE:** February 25, 2013  
**RE:** Delegation of Authority


This memorandum delegates the authority of Director, Agency for Persons with Disabilities, to Michael Ayers, current Chief of Staff, for the purpose of signing letters, orders, contracts, requests for payments, requisitions, personnel actions, travel authorizations and reimbursement requests and all other documents that are routinely signed by the Director of the Agency for Persons with Disabilities. This delegation shall remain in effect for the term of Barbara Palmer's appointment as Director of the Agency for Persons with Disabilities.

This delegation of authority is being implemented in accordance with the Agency's Policy and Procedure Manual and all applicable laws and rules.

  
Barbara Palmer, Director  
Agency for Persons with  
Disabilities

Date: 3/1/13

**APPROVED AS TO FORM AND LEGALITY:**

  
Michael Palecki, General Counsel  
Agency for Persons with  
Disabilities

Date: 3/4/13

cc:

Melanie Etters	Dale Sullivan
Michael Palecki	Joe Chapman
Marvin Doyal	Jared Torres
Mac McCoy	Tom Rankin
Denise Arnold	Sharon Bradford
	John Collins