



MEMORANDUM

TO: HONORABLE MAYOR &
CITY COUNCIL

FROM: John R. Bailey

SUBJECT: State Review Panel decision on WIA
Funding RFP Complaint Appeal

DATE: July 23, 2013

City Administrator

Date

Approval /s/ Deanna J. Santana

7/23/13

INFORMATION

This memo is an update on the status of the RFP complaint appeal filed on March 21, 2013 with the State Employment Development Department's Compliance Review Office against the City's FY 2013-15 RFP process for Workforce Investment Act (WIA) funded services. The Complainants filed an appeal requesting a review of the local-level hearing decision by the City of Oakland, Office of the City Administrator. The State Review Panel reviewed the appeal and upheld the City's local-level hearing decision.

BACKGROUND

The Oakland Private Industry Council, on behalf of 16 organizations filed a complaint against the City's FY2013-15 RFP process for WIA funded services. The four RFPs were for a Comprehensive One Stop Center, Neighborhood One-Stop Career Centers, Employer Services and Youth Services.

On February 14, 2013, a formal local-level hearing was held in the City of Oakland Council Chambers by Hearing Officer Deborah Barnes, Director of the City's Contracts and Compliance Division. The Hearing Officer determined that the impact of issues raised in the complaint did not rise to a level to justify the remedies requested by the complainants. The Hearing Officer therefore ruled in favor of the City's RFP process.

On March 21, 2013, the EDD Compliance Review Office (CRO) received an appeal and request for a State review of the local-level hearing decision. Based on CRO's initial review of the appeal, the CRO advised the City to re-convene a local-hearing with a new hearing officer. The City provided additional information to support the designated Hearing Officer's determination, and requested that the CRO rescind its request to convene a new local-hearing. Subsequently, the

CRO withdrew its request to have the City re-convene a hearing based on its lack of authority to make that request.

On June 25, the State Review Panel reviewed the local-level hearing decision.

DECISION OF THE STATE REVIEW PANEL

In an EDD letter dated July 15, 2013, the State Review Panel advised the parties involved of its decisions regarding the appeal. The State Review Panel upheld the local-level hearing officer decision.

In summary, the State Review Panel made the following decisions:

1. Appeal: The Hearing Officer drew the wrong conclusions from the evidence presented.

Decision: The Panel did not find sufficient evidence to support the claim that the Hearing Officer drew the wrong conclusions from the evidence presented. Although there were some issues that surfaced during the RFP process, there was no evidence, facts, or documents presented to suggest a different outcome to the RFP process would have resulted justifying the four remedies sought in the appeal.

2. Appeal: Additional evidence presented at the hearing was not taken into consideration in the Hearing Officer's decision.

Decision: The Panel found no evidence in the record to support the claim that the Hearing Officer did not consider the additional evidence.

3. Appeal: The EDD wrongfully inserted itself into the hearing process without notice to the complainants.

Decision: The Panel determined that the EDD Regional Advisor was not inserting himself into the hearing process. Rather, the Panel determined that the Regional Advisor was providing technical advice to the local area, in line with the responsibilities outlined in Workforce Services Information Notice (WSIN) 11-32 (Revised Regional Advisor Assignment).

4. Appeal: The City, which represented the Local Workforce Investment Area in appointing the Hearing Officer for this matter, did not meet EDD required time frames for a) providing notice of the hearing; b) conducting the hearing; and, c) issuing a decision after the hearing.

Decision: Panel agrees that the City did not meet the required timeframes outlined in Workforce Services Directive (WSD) 08-4 (Grievance And Complaint Procedures).

However, the City explained that part of the delay was caused by its need to consult with its legal department regarding applicable requirements. Panel finds that the cause of delay was reasonable in this instance. In the future, the City must ensure that it abides by the timeframes outlined in federal requirements.

5. Appeal: The City did not provide the opportunity, as required by Workforce Services Directive (WSD) 08-4 (Grievance and Complaint Procedures), for informal resolution of the matter.

Decision: The record indicates that when issues were initially raised, the City worked with the appellants to attempt to resolve them. However, the Panel found no evidence that informal resolution was offered after the complaint was filed. The Panel determined that, although informal resolution may have benefited the parties, the failure to do so does not undermine the Hearing Officer's decision.

The complainants have the right to appeal this decision to the Secretary of Labor within 60 days.

Respectfully submitted,

/s/

John R. Bailey, Executive Director
Oakland Workforce Investment Board

For more information, please contact John R. Bailey at (510) 238-6440.