



State of South Carolina
Office of The Lieutenant Governor

KEVIN L. BRYANT
LIEUTENANT GOVERNOR

POST OFFICE BOX 142
COLUMBIA, SOUTH CAROLINA 29202

November 17, 2017

Kim Harmon, Aging Director
Waccamaw Regional Council of Governments
1230 Highmarket Street
Georgetown, South Carolina 29440

Re: Legal Services Contract for FY 17-18

Dear Director Harmon,

Please be advised that the contract entered into by the Waccamaw Regional Council of Governments is deficient and noncompliant.

Standard for a minimally sufficient contract:

1. At least a broad clause requiring performance in compliance with state and federal law, preferably specific reference compliance with the Older Americans Act in addition to the broad clause.
2. Reference to the Older Americans Act as a funding source.
3. Reference to the Older Americans Act, the Lieutenant Governor's Office on Aging Policies and Procedures Manual, the South Carolina Legal Assistance Delivery Standards, and the Legal Service Corporations Act.
4. Specified Unit Rate.
5. No terms in direct conflict with the Older Americans Act, the Lieutenant Governor's Office on Aging Policies and Procedures Manual, or the South Carolina Legal Assistance Delivery Standards.
6. Severability clause.

Specific deficiency in the Waccamaw Regional Council of Governments Contract for 2017-2018:

In Section 7 of the contract, the following language creates a conflict with the Older Americans Act: "SCLS shall not contact the Lieutenant Governor's Office on Aging for any technical assistance unless approval is given by the AAA."

The above language impedes the ability of the Lieutenant Governor's Office on Aging to fulfill its duties under Section 305(a)(1)(D) of the Older Americans Act, which requires the State Agency to:

"(D) serve as an effective and visible advocate for older individuals by reviewing and commenting upon all State plans, budgets, and policies which affect older individuals and providing technical assistance to any agency, organization, association, or individual representing the needs of older individuals. . ."

The language of your contract may require that SCLS include/copy the Waccamaw Regional Council of Governments on any communications; however it cannot place the Waccamaw Regional Council of Governments as a gatekeeper for those communications.

We ask that you amend your contract to correct the deficiency outlined above by **January 15, 2018**.

No further action will be taken against your funding based on the appropriateness of the Waccamaw Regional Council of Governments Legal Services Contract for 2017-2018 unless you fail to correct the deficiency by January 15, 2018. Other than steps to correct this deficiency, please proceed as normal.

Additional Feedback:

Some areas of concern exist in your contract that do not rise to the level of deficiencies. These areas include the following:

1. The language regarding the procurement process in the preamble of the contract should reflect how the contract was actually procured. We believe that SCLS is likely a sole source procurement rather than a competitive procurement.
2. In the first paragraph of Section 7 of the contract, the audit information is outdated and there is an updated requirement in 2 C.F.R. 200 et seq., commonly referred to as the Super Circular.

The above items are not deficiencies, and they do not require immediate action. However, they are items you might consider addressing in the future.

Thank you for your assistance to improve our programs and please contact me if you have any questions, 803-734-5292.

Sincerely,



Catherine McNicoll
Director of Legal and Legislative Affairs