

## X. Monitoring and Audits

### 10.1.050 Local Agency Administrative Appeals

Authority 7 CFR 246.18(a)(3)

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**POLICY:** The state agency (SA) shall provide full administrative reviews to the local agency (LA) to appeal an adverse action or disqualification.

#### **PROCEDURES:**

- A. The SA shall provide a LA hearing procedure for an appeal of any of the following:
  - 1. Denial of an application to participate.
  - 2. Any other adverse action that affects a LA's participation.
  - 3. Disqualification during the course of the contract.
- B. Actions not subject to appeal:
  - 1. Expiration of a LA contract is not subject to appeal.
  - 2. Denial of a LA's application if subject to the SA's procurement procedures.
- C. When an adverse action is to be taken against a LA, the SA shall provide written notification to the LA 30 days in advance of the date of the action. This notice shall:
  - 1. Detail the cause(s) for and effective date of the action.
  - 2. Include the opportunity to appeal within 30 days from the date of the notification.
- D. When disqualification during the course of the contract is done, the SA shall provide written notification to the LA within 60 days in advance of the date of disqualification. This notice shall:
  - 1. Detail the cause(s) for and effective date of the disqualification.
  - 2. Include the opportunity to appeal within 30 days from the date of the notification.
- E. Upon an appeal request from a LA, the SA shall provide the LA with the following:
  - 1. Adequate advance notice of the time and place of the hearing to allow all parties involved sufficient time to prepare.
  - 2. The opportunity to present its case at the hearing.
  - 3. The opportunity for the hearing to be rescheduled a maximum of two times if necessary.
  - 4. The opportunity to confront and cross-examine adverse witnesses.
  - 5. The opportunity to be represented by counsel of its own choosing at its own expense if desired.
  - 6. The opportunity to review the case record prior to the hearing.
  - 7. An impartial decision maker who shall decide the case based solely on the:

- a. Evidence presented at the hearing.
  - b. Statutory and regulatory provisions governing the program.
- F. When the LA requests a hearing, the SA shall postpone the proposed adverse action or disqualification until a hearing decision is reached.
- G. During the appeal process, the LA shall continue to comply with the terms of the contract.
- H. The SA shall provide the LA with written notification of the decision concerning the appeal:
  - 1. Within 60 days from the date of receipt of the request for a hearing.
  - 2. With the basis for the decision, although it need not amount to a full opinion or contain formal findings of fact and conclusions of law.
- I. If the SA's proposed adverse action or disqualification is upheld in the appeal process and the LA requests a higher review, the SA shall:
  - 1. Explain any further state level review or rehearing process available.
  - 2. Explain the right to pursue judicial review of the decision.
  - 3. Follow through with the proposed action.
- J. If the decision is in favor of the LA, the proposed adverse action or disqualification will not be taken.