SECTION 7: COMPLIANCE MANAGEMENT

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Contractor’s Program Management and Administration

This policy applies to organizations using EFAP funds for a food pantry.

1. **Contract amount based on the availability of funds and allocation formula.**
   - Contract awards are based on the amount of EFAP funds available and the allocation formula approved by the WSDA.
   - If there is a reduction or increase in the amount of program funds available, the WSDA may reduce or increase the amount of a contractor’s original award.
   - Unless it is specifically identified where the reductions or increases must be taken or given, the WSDA will ask the contractors to call a meeting or arrange for a conference call of all its subcontractors.
     - At that meeting or during that call, the group will decide with a two-thirds vote how to implement the reductions or increases. Note: contractors may vote in advance on these potential scenarios in their biennial spring meeting.
     - If applicable, the contractor must send an amendment to all affected subcontractors indicating their budget changes where applicable.

2. **Expenditures are limited by the contract.**
   Funds are allocated to each county by fiscal year. Expenditures are limited to the amounts on the contract face sheet for each fiscal year, even though contracts cover a two-year period.
   - Funds not spent in the first year may not be carried over to the second year of the contract.
   - Second year funds must not be spent in the first year.

3. **EFAP is a reimbursement program.**
   Costs are reportable for the month in which the expenditures are incurred.
   - Incurred is defined as when a contractor or subcontractor becomes liable for a cost, which is further defined as when the purchase is made or the services have been rendered.
     - Note: goods must be received before expenses are eligible for reimbursement.
   - Subcontractors must provide contractor with all backup documentation of costs incurred.
     - Contractor may not request reimbursement on behalf of the subcontract. Contractor must reimburse subcontractor before requesting reimbursement.
   - In the case of reimbursement for salary, the month in which an employee worked in the emergency food program, as indicated by the employee’s time sheet is sufficient documentation for reimbursement.

4. **Contractors must have required documentation for subcontractors on file.**
   Must have on file for each subcontractor:
   - Client confidentiality policies.
   - Client eligibility standards.
   - Current insurance certificate.
   - Current 501(c)(3) status.
   - Current Washington Secretary of State nonprofit/corporation registration.
• Accounting System Verification Form (AGR-2206) or audit.
• Current 211 registration

5. **Contractors must provide subcontractors with program information.**
Contractors must:
• Pass through program information that affects the management of EFAP to its subcontractors. This includes information on new, modified, and ongoing policies and procedures.
• Provide subcontractors with a copy of the EFAP Procedures Manual.
• Offer technical assistance to help subcontractors carry out their EFAP obligations.

6. **WSDA may require contractor to attend meetings or trainings.**
Notification of required attendance at meetings will be sent by FA staff. These may include meetings for:
• Updating contractor on policies or procedures.
• Providing information on changes in legislation affecting EFAP.
• Providing training that would result in better service to clients.

Contractors may also require subcontractors to attend meetings or trainings that would result in better service to clients.
WSDA Program Management and Administration

**This policy applies to the WSDA staff when carrying out the duties and responsibilities of the Emergency Food Assistance Program.**

1. **WSDA staff shall monitor contracts.**
   WSDA staff shall conduct monitoring of contractors by evaluating monthly submitted expenditure reports and responses to other requests that includes program reviews on-site or by a desk program review. At any time, the WSDA may request a contractor to send in any and all supporting documentation for expenditures.
   - WSDA staff will generally conduct program reviews every four years with contractors who are performing at an adequate level.
   - Contractors that have serious performance issues will have a program review more often if warranted.
   - Program reviews can be either on-site or by a desk review.
   - Contractors with EFAP budgets of less than $20,000 per year will receive desk reviews unless there are serious performance issues.
   - If a contractor violates any of the more critical conditions set forth in the contract, WSDA staff may conduct a site visit to investigate the violation.

2. **On-site program reviews.**
   - WSDA staff will try to schedule site visits at least two weeks prior to the visit by sending a written notice to the program and fiscal staff who will be involved in the visit. Written notice may also be sent to the director.
   - Documentation may be requested ahead of time for review in the office by WSDA staff or be reviewed on site.
   - WSDA Staff will perform an exit interview at the end of the visit where findings, exemplary performance and other concerns will be reviewed and recommendations for change and improvements made to the contractor, preferably with the director and program staff.
   - Within thirty days of the visit, WSDA staff will prepare a formal written report with the results and recommendations consistent with the exit interview discussion. A copy of the Contractor Review (AGR-2225) will be sent to the contractor’s executive director or tribal chairperson with a copy to program and fiscal staff. The WSDA will keep a copy of the report on file.
   - If necessary, WSDA staff will develop an action plan with the contractor, including due dates of responses, to ensure that identified findings are addressed in a timely and appropriate manner.

3. **Desk program reviews.**
   - The WSDA staff will request contractors to submit documentation for review. The review will be done at the desk of the staff responsible for the contract.
• Staff will review the submitted documentation for contract compliance, allowable activities and expenses. WSDA staff will communicate with contractor’s staff should questions or clarifications be necessary.

• Within thirty days of completing the desk review, staff will prepare a formal written report with the results and recommendations of the review. A copy of the Contractor Review (AGR-2225) will be sent to the contractor’s executive director or tribal chairperson with a copy to the program and fiscal staff. The WSDA keeps a copy of the report on file.

• If necessary, WSDA staff will develop an action plan, including due dates of responses, with the contractor to ensure that identified findings are addressed in a timely and appropriate manner.

4. **WSDA staff shall offer technical assistance to contractor,**

WSDA staff shall offer technical assistance to contractor when needed. This includes information on program-related policies and procedures, helping to identify other resources, offering information on best practices and assistance with fiscal issues. When necessary, staff will conduct an on-site visit to provide this service.
Contract Compliance

This policy applies to organizations using EFAP Funds.

1. **WSDA may recapture and reallocate contract funds.**
   The WSDA reviews the contractor's level of actual performance over the course of the contract and after nine months of each fiscal year.
   If contractors fail to achieve 65 percent of their yearly performance goals (expenditures and activities) stated on the contract face sheet by March 31, or the date designated by WSDA, then the WSDA may reduce funds available based on actual performance and negotiation between the WSDA and the contractor.
   - Contractors may also reallocate funds from one of its subcontracting food pantries to another, with the WSDA's permission, if a subcontractor does not claim, or only partially spends, its portion of the allocated funds.
   - The WSDA may recapture unclaimed funds if a contractor does not submit expenditure reports in a timely manner.
     - For monthly billers (tribes or food pantries), if the contractor fails to file an expenditure report within any two consecutive month period, the WSDA may elect to terminate the contract.
     - For quarterly billers (tribes only), if the contractor fails to file the three monthly expenditure reports for the quarter within 30 days of the end of the quarter, the WSDA may elect to terminate the contract.
   - Contractors may recapture unclaimed funds or terminate the subcontract with subcontractors based on the same criteria.

2. **Either party may terminate the contract.**
   Either party may terminate contract in whole or in part upon thirty 30 days written notice, regardless of whether termination is for cause or at will.

3. **WSDA may suspend or terminate contractor funds.**
   - If WSDA determines to terminate because of contractor's failure to comply with the contract (termination for cause), WSDA may provide notice and offer contractor the opportunity to correct the noncompliance. The notice will provide a time by which the contractor must return to compliance.
   - If contractor fails to correct the noncompliance within the time WSDA allows, WSDA may then immediately terminate the contract.
   - If WSDA terminates the contract for cause, contractor may request a dispute review as provided under, Disputes, of the General Terms and Conditions of the contract.
   - As an alternative to termination, WSDA may suspend the contract in whole or in part, effective upon contractor's receipt of notice of suspension.
• If WSDA suspends the contract because of contractor’s failure to comply with the contract, WSDA may provide opportunity for contractor to correct the noncompliance during the period of suspension.
• WSDA will not pay any costs associated with suspended work from the time contractor receives notice of suspension until the time contractor receives notice from WSDA to resume work.
• WSDA may terminate contract at any time during a period of suspension.
• Action to suspend or terminate funding will be taken if repeated communication with the agency’s governing board fails to produce corrective action.
• WSDA shall follow the process for suspension and termination as provided in the contract.
• Contractor shall refund WSDA for any misuse or loss of funds or food received by contractor under the contract, regardless of whether contractor has further distributed the funds or food.

4. **Contractors may suspend or terminate subcontractor’s funds.**
Contractors may suspend or terminate funding to subcontracting food banks and food pantries according to the above criteria and their corrective action policy. The contractor must notify the WSDA prior to taking any corrective action.

5. **Selecting a new contractor and food bank within the same county(ies) during a contract period.**
• If WSDA terminates a contractor during a contract period, a new contractor must be selected for the remainder of the contract period.
• Only current contractors or subcontractors will be considered to be eligible as the new contractor for the affected county or counties for the remainder of the current biennium’s contract. WSDA will determine prospective contractor’s eligibility. (See Eligibility Criteria for Contractors section for the criteria used to determine prospective contractors.)
• If the contractor is also the food bank for the same county(ies) WSDA will also make a determination about whether its food bank subcontract will be terminated.
• If the food bank subcontract is terminated, WSDA will make a determination as to which current food banks are eligible to be the food bank for the new county(ies).
• WSDA will contact the food pantries in the county(ies) to inform them that a new contractor (and food bank) must be selected.
• WSDA will bring together the food pantries, and potential contractors and food banks for a community meeting to select the new contractor (and food bank).
• Two-thirds of the food pantries in each county must select the new contractor and food bank(s).
• See Selection of Food Pantry, Contractor, and Food Bank section for information on selecting a contractor, as this process will also be used in this circumstance.
• WSDA will enter into a contract with the new contractor.
• The new contractor will enter into new subcontracts with the food pantries and with the continuing or new food bank, if any.

6. **Selecting a new food bank that is not also the contractor.**
• After the contractor has notified WSDA and then terminated a food bank during a contract period, a new food bank may be selected for the remainder of the contract period.
• Contractor will identify potential food banks and determine their eligibility to be a subcontracting food bank. See Eligibility Criteria for Food Bank Subcontractors section for additional details. WSDA can provide assistance in determining potential food banks.
• Contractor will notify the food pantries of the termination and schedule a community meeting to select a new food bank.
• The contractor must call the subcontracting food pantries to a community meeting to select a new food bank, and invite the potential food banks.
• The food pantries and contractor will select their new food bank with a two-thirds vote.
• See Selection of Food Pantry, Contractor, and Food Bank section for information on selecting a food bank, as this process will also be used in this circumstance.
• The contractor will enter into a subcontract with the new food bank and notify WSDA of the outcome of the meeting.
Dispute Policy for Contractors

This policy applies to contractors, contractor applicants and tribal contractors using EFAP funds.

When a dispute arises between WSDA Food Assistance and the contractor that cannot be resolved by direct negotiation, the contractor may request review by WSDA’s director, who may designate another person (designee) to hear the dispute, as follows:

1. **Disputing a WSDA Food Assistance’s (FA) decision.**
   - Contractors may appeal to WSDA any substantive decision of FA to deny, award, recapture, reallocate, suspend or terminate funds that is believed to be to be unfair, unreasonable, or have a major adverse impact on local delivery of services.
   - FA must provide contractors with a copy of the dispute policy prior to or with any substantive decision.
   - Any decision of FA to deny, award, recapture, reallocate, suspend or terminate funds will stand until the dispute review process is completed and will only be modified or reversed as a result of the dispute review process.

2. **The contractor dispute review process.**
   - The request must:
     - Be written;
     - Identify the contractor’s name, address and the contract number;
     - State the disputed issues;
     - State each party’s position;
     - Be mailed to the director, with a copy to the WSDA Food Assistance program manager within fifteen 15 working days after the parties agree that they cannot resolve the issue.
   - The WSDA Food Assistance program manager shall submit a written answer to the request to both the director or the director’s designee and the requestor within ten 10 working days.
   - The director or director’s designee shall review the written statements and provide a decision in writing to both Parties within fifteen 15 working days. At the discretion of the director or director’s designee, the time in which to make a decision may be extended upon notice to both parties.
   - The decision of the director or the director’s designee shall be the final agency decision.
   - The parties shall attempt to resolve the dispute under this policy and as in the Disputes section of the contract, before filing a claim in any tribunal.
Dispute Policy for Subcontractors

This policy applies to contractors and their subcontractors.

When a dispute arises between the contractor and a subcontractor that cannot be resolved by direct negotiation, the subcontractor must follow the contractor’s dispute process. The contractor dispute resolution process shall not include WSDA as the arbitrator. WSDA is available to review and provide feedback to contractors when they are dealing with a subcontractor dispute.

1. **The contractor shall establish a dispute process.**
   The contractor shall establish a process for when disputes arise between the contractor and a subcontractor. The contractor shall have its dispute process completed no later than 30 days after execution of the subcontract.

2. **The contractor must provide this dispute process in writing to all subcontractors.**
   The contractor shall provide a copy of the dispute process to all subcontractors within 45 days of the subcontract execution date.