

# City of Jacksonville

## Transitional Grant Area (TGA)

### **Formal Procedures Governing the Management of Disputes and Grievances**

### **GRIEVANCES APPLICABLE TO THE RYAN WHITE PART A GRANTEE**

Revised 2008

Behavioral and Human Services Division  
1809 Art Museum Drive, Suite 100  
Jacksonville, Florida 32207  
904-858-2800, ext. 241  
Dr. Delphia S. Williams, Chief

## **Jacksonville TGA Grantee Grievance Policy and Procedures**

### **1.0 Scope**

The rules contained herein set forth the regulations and the process for the Grantee Grievance Policy and Procedures for the Ryan White Part A Program in the Jacksonville TGA. A person or entity who disagrees with an action taken by the City must file a written statement seeking to challenge that action. Together, the written statement and supplemental documentation, if any, must clearly identify and explain the factual and legal basis for any relief sought.

### **2.0 Types of Grievances**

The following types of grievances are covered under the Grantee Grievance Policy and Procedures:

- 2.1 Deviations from the established City of Jacksonville contracting and awards process;
- 2.2 Deviations from the established City of Jacksonville process for any subsequent changes to the selection and awards process;
- 2.3 Contracts and awards not consistent with priorities and resource allocations made by the Metropolitan Jacksonville Area HIV Health Services Planning Council (Planning Council).
- 2.4 Contracts and award changes not consistent with priorities and resource allocations made by the Planning Council.

### **3.0 Parties Who May File a Grievance**

Parties who may file a grievance must be directly affected by the outcome of a decision related to funding.

- 3.1 For grievance types referenced in Sections 2.1 and 2.2, the following individuals or parties are eligible to file a grievance:
  - 3.1.1 Not for Profit and For Profit corporations are considered directly affected and eligible to file a grievance in situations pertaining to request's for proposal (RFP), invitations to negotiate (ITN) when the entity has had a proposal accepted by the City of Jacksonville for consideration and/ or review and /or scoring.
  - 3.1.2 Not for Profit or For Profit corporations are considered directly affected and eligible to file a grievance in situations pertaining to contracts when the entity has a current contract or has a letter of intent to contract from the City of Jacksonville.
  - 3.1.3 Consumer groups/ PLWH caucuses are considered directly affected and eligible to file a grievance when a service approved by the Planning Council is unavailable (except due to insufficient Federal funding or Planning Council restraints) through any Ryan White Part A source.

- 3.2 For grievance types referenced in Sections 2.3 and 2.4, only active Planning Council members are eligible to file a grievance. Please note that a Planning Council member may be party to only one type of grievance for a single issue at a time.

#### **4.0 Prevention of Disputes**

An important step to any grievance procedure is to develop internal practices to prevent disputes/disagreements. The Grantee has instituted the following practices:

- 4.1 All agencies contracting with the City of Jacksonville to provide a Part A service will have internal grievance procedures for consumers.
- 4.2 The Grantee will provide information to the Planning Council about the grant/contracting process.
- 4.3 The Grantee will conduct provider meetings at least six times per year.
- 4.4 The Grantee Office has designated the Program Manager to work internally to answer provider and Planning Council questions.

#### **5.0 Process To File a Grievance**

- 5.1 A party intending to file a grievance may obtain a copy of the Grantee Grievance Form and Policy and Procedures from the Ryan White Part A Program Office.

Grantee Office Contact:  
Deidre Kelley, Program Manager  
City of Jacksonville  
Behavioral and Human Services Division  
1809 Art Museum Drive, Suite 100  
Jacksonville, Florida 32207  
Telephone: 904-858-2800, ext. 226

- 5.2 The grievant must complete the Notice of Protest Form or Statement of Grievance Form. Any party needing assistance with the completion of these forms must notify the grievance coordinator at the time of the registration of the complaint.
- 5.3 Any party needing an interpreter (foreign language, sign language etc.) must notify the grievance coordinator at the time of the registration of the complaint. All efforts will be made to secure competent interpreters for the hearing/proceedings.
- 5.4 If a grievance is outside the jurisdiction of the grievance process, the grievance coordinator will assist the individual or party in contacting the proper authorities. However, the responsibility for meeting timelines and

providing proper documentation remains solely with the affected party (e.g. ADA or Equal Opportunity).

## **6.0 Eligibility Determination**

Upon receipt of the Notice of Protest Form or Statement of Grievance Form, the grievance coordinator will log the grievance. If the grievance pertains to RFP issues, then the complaint will be immediately forwarded to the Director of the Procurement Department.

6.1 The grievance coordinator will have two working days from the date of receipt of the Notice of Protest Form or Statement of Grievance Form to determine the following:

- Whether the grievant is “directly affected;”
- Whether the grievance is within the stated timelines;
- Whether the grievance is covered under the Grantee Grievance Policy and Procedures.

6.2 If the issue is grievable according to the criteria listed above, the grievance coordinator will determine the type of grievance for hearing purposes, and make the necessary arrangements.

6.3 If the issue is not grievable according to the criteria above, a copy of the Notice of Protest Form or Statement of Grievance Form and a written explanation of the denial will be forwarded to the grievant via certified mail.

## **7.0 Dispute Resolution**

Once a grievance is accepted, it will be heard under one of three dispute resolution processes:

- RFP Dispute Resolution
- Contract Dispute Resolution
- Planning Council Dispute Resolution

## **8.0 Records**

Copies of records or recordings will be available within a reasonable time period upon written request specifying the recording, records or documents desired. The City of Jacksonville reserves the right to charge and collect fees for materials and/or time used in fulfilling these requests.

## **9.0 Request for Proposal (RFP) Dispute Resolution**

9.1 Step 1 – Notice of Protest

#### 9.1.1 Notice

- Upon timely receipt of the Notice of Protest Form (two business days from the date awards are posted by the Procurement Department), the Director of Procurement shall refer the Notice of Protest to either the Awards or Professional Services Evaluation (PSE) committee. The appropriate committee shall hear the grievance at its next scheduled meeting. The Committee Chairperson has the discretion to call a special meeting or grant a continuance when deemed necessary in his or her opinion.
- Affected bidders or proposers shall be given notice of the protest hearing and a copy of the Notice of Protest. A grievant's supplemental documents, if any, will be available upon request.
- It shall be the grievant's responsibility to contact the Procurement Department to verify that the protest hearing will take place as scheduled.

#### 9.1.2 Procedures

- The formal rules of evidence under the Florida Rules of Civil Procedure may be relaxed at the sole discretion of the presiding Committee Chairperson. Hearsay evidence is admissible and may be used to supplement or explain other evidence.
- Ordinarily the grievant should present his/her case first, followed by any appropriate response from other affected bidder or proposer and from governmental representatives. The grievant has the burden of proof and must establish by the preponderance of the evidence that the protest should be granted based upon the law and the facts presented. The Committee members are entitled to ask questions of any party at any time during the hearing.
- The Committee shall base its decision on such information adduced in the course of the proceeding upon which reasonable prudent persons rely in the conduct of their affairs.
- A majority vote of the appropriate Committee members present shall be required to grant the protest, otherwise, the protest is denied. Affected bidders or proposers shall be advised of the Committee's decision when a protest is granted.
- Proposers are prohibited from attempting to influence, persuade or promote through any channel or means. Such attempts shall be cause for suspension. The time limits in which protests must be filed as specified herein may be altered by specific provision in the RFP.

#### 9.1.3 Stay of Procurement During Protest

In event of a timely protest, the Director of Procurement shall not proceed further with the solicitation or with the pending award of the contract unless the Director of Procurement with the advice of

the City Attorney and after consultation with the using department, makes a determination that the immediate award is necessary to protect substantial interests of the City.

9.1.4 Reservation of Powers to Settle Actions Pending before the Courts

Nothing in this section is intended to affect the existing powers of the Jacksonville City Council to settle actions before the courts.

9.1.5 Damages

In the event of any court or other proceeding upholding the grievant's claim, any damages, including court awarded damages, accruing to the grievant or any other party shall be limited solely to proposal preparation costs.

*It is extremely important to note that any party, person or organization that elects to retain the services of an attorney shall assume financial responsibility for legal fees and/or costs which may be incurred.*

9.2 Step 2 - Binding Arbitration

If the dispute is not resolved at the previous step, then the grievant may request binding arbitration.

9.2.1 To initiate binding arbitration, the grievant must complete Section 3 of the Statement of Grievance in its entirety within three working days of the completion of the last step and submit the form to the grievance coordinator. The grievance coordinator, or designee, will log the binding arbitration request.

9.2.2 The grievance coordinator will supply the name of an arbitrator to the grievant(s) in writing through certified mail or personal delivery.

9.2.3 The grieving party will have two days to reject the named arbitrator or it will be assumed that the named arbitrator is acceptable.

9.2.4 Time for this process will not begin until arbitrator is selected.

9.2.5 A non refundable filing fee will be assessed by the American Arbitration Association.

9.2.6 Failure to submit payment of the filing fee will result in the automatic dismissal of the grievance/dispute. The filing fee should be submitted to the grievance coordinator. The grievance coordinator will issue the grievant a receipt and a copy of the receipt will be attached to the grievance file.

9.2.7 A meeting or hearing will be held with the approved arbitrator and the parties to the grievance within 20 working days of the acceptance of the arbitrator.

- 9.2.7 The hearing(s) will be held at an accessible site(s) established by the arbitrator. Facilities with handicap accessibility will be available if needed.
- 9.2.8 All individuals involved in the arbitration process will be required to sign a "Confidentiality of Proceedings Form" prior to the start of the arbitration process. Failure to sign the form or comply with its conditions will result in the dismissal of the grievance/dispute.
- 9.2.9 The arbitrator will direct the arbitration proceeding. The arbitrator will hear witnesses and review documents submitted by both parties at his or her sole discretion.
- 9.2.10 The decision of the arbitrator will be sent within 10 working days of the meeting or hearing between both parties.
- 9.2.11 The decision of the arbitrator is final.

*It is extremely important to note that any party, person, or organization that elects to retain the services of an attorney shall also assume financial responsibility for legal fees and/or costs which may be incurred.*

### 9.3 Continuances

- 9.3.1 Requests for continuances, including the reasons needed, may be submitted in writing no less than 48 hours prior to the date of the hearing. Oral requests may be made on the record the day of the hearing.
- 9.3.2 The requesting party shall state whether he or she is agreeable to waiving the time periods set forth in these rules for holding the hearing.
- 9.3.3 The arbitrator reserves the right to grant or deny continuances on the basis of an expeditious and fair decision.
- 9.3.4 If a continuance request is granted, a new hearing date shall be assigned as soon as practical.
- 9.3.5 The arbitrator reserves the right to declare an end to the proceedings due to excessive continuances and make a decision on the basis of the facts.

## 10.0 Contract Dispute Resolution

### 10.1 Grantee Representative Meeting - Step 1

- 10.1.1 Within 5 days of the eligibility determination by the grievance coordinator, the grantee representative will meet with the grievant to discuss resolution.
- 10.1.2 If the dispute remains unresolved the grievant must complete Section 2 of the Statement of Grievance Form within five days of

the Grantee's decision indicating the dispute is unresolved and request to move to step 2.

10.1.3 A non-refundable filing fee will be assessed for the mediation process. See Section 2 for the schedule of fees.

## 10.2 Non-binding Mediation - Step 2

A mediation hearing constitutes a procedure whereby adversary parties are brought together by the election of one of the parties to come between a resolution of a conflict. Mediation is defined as, "the act of a third person in intermediating between two contending parties with a view to persuading them to adjust or settle their dispute by action of the intermediary." (Source: Black's Law Dictionary) Procedures applicable to Non-binding Mediation are as follows:

10.2.1 The grievance coordinator will submit, in writing, the name of an independent mediator to the grieving party. The grieving party will have two days to reject the named mediator or it will be assumed the mediator is acceptable.

10.2.2 Time for this process will not begin until a mediator is selected.

10.2.3 The hearing(s) will be held at accessible site(s) established by the mediator. Facilities within handicap accessibility shall be made available if needed.

10.2.4 The grievance coordinator will notify all affected parties of: the date, time and location of the hearing; the name of the mediator; and the names of all affected parties by certified mail.

10.2.5 A meeting will be scheduled with the mediator and the parties within 20 working days after the agreement on a mediator.

10.2.6 All individuals involved in the mediation process will be required to complete a "Confidentiality of Proceeding Form" prior to the start of the mediation process. Failure to sign the form or comply with its conditions will result in dismissal of the grievance/dispute.

10.2.7 By the conclusion of the mediation meeting, a decision should be made by the parties involved.

10.2.8 If the issue is not resolved through mediation, the grievant must fill out Section 3 of the Statement of Grievance and the grievance coordinator will arrange for the next step.

## 10.3 Binding Arbitration- Step 3

10.3.1 To initiate binding arbitration, the grievant must complete Section 3 of the Statement of Grievance. Requests for binding arbitration should be submitted to the grievance coordinator within three working days of the end of mediation. The grievance coordinator, or designee, will log the request for binding arbitration.



- 10.3.2 The grievance coordinator will supply the name of an independent arbitrator in writing to the grieving party. The grieving party will have two days to reject the named arbitrator or it will be assumed that the named arbitrator is acceptable.
- 10.3.3 Time for this process will not begin until arbitrator is selected.
- 10.3.4 A non-refundable filing fee will be assessed by the American Arbitration Association.
- 10.3.5 Failure to submit payment of the filing fee will result in the automatic dismissal of the grievance/dispute. The filing fee should be submitted to the grievance coordinator. The grievance coordinator will issue the grievant a receipt and a copy of the receipt will be attached to the grievance file.
- 10.3.6 A meeting or hearing will be held with the approved arbitrator and the parties to the grievance within 20 working days of the acceptance of the arbitrator.
- 10.3.7 The hearing(s) will be held at an accessible site(s) established by the arbitrator. Facilities with handicap accessibility will be made available if needed.
- 10.3.8 All individuals involved in the arbitration process will be required to sign a "Confidentiality of Proceedings Form" prior to the start of the arbitration process. Failure to sign the form or comply with its conditions will result in the dismissal of the grievance/dispute.
- 10.3.9 The arbitrator will direct the arbitration proceeding. The arbitrator will hear witnesses and review documents submitted by both parties at his or her sole discretion.
- 10.3.10 The decision of the arbitrator will be sent within 10 working days of the meeting or hearing between both parties.
- 10.3.11 The decision of the arbitrator is final.

*It is extremely important to note that any party, person, or organization that elects to retain the services of an attorney shall also assume financial responsibility for legal fees and/or costs which may be incurred.*

#### 10.4 Continuances

- 10.4.1 Requests for continuances must be submitted in writing and include the reasons a continuance is needed no less than 48 hours prior to the date of the hearing. Oral requests may be made on the record the day of the hearing.
- 10.4.2 The requesting party shall state whether he or she is agreeable to waiving the time periods set forth in these rules for holding the hearing
- 10.4.3 The arbitrator reserves the right to grant or deny continuances on the basis of an expeditious and fair decision.
- 10.4.4 If a continuance request is granted, a new hearing date shall be assigned as soon as practical.

- 10.4.5 The arbitrator reserves the right to declare an end to the proceedings due to excessive continuances and make a decision on the basis of the facts.

## **11.0 Planning Council Dispute Resolution**

### **11.1 Grantee Representative Meeting - Step 1**

- 11.1.1 Within five days of the eligibility determination by the grievance coordinator, the grantee representative will meet with the grievant to discuss resolution.
- 11.1.2 If the dispute remains unresolved the grievant must complete Section 2 of the Statement of Grievance Form within five days of the Grantee's decision indicating the dispute is unresolved and requesting to move to step 2.
- 11.1.3 A non-refundable filing fee will be assessed for the medication process. See Section 2 for the schedule of fees.

### **11.2 Non-binding Mediation-Step 2**

A mediation hearing constitutes a procedure whereby adversary parties are brought together by the election of one of the parties to come between a resolution of a conflict. Mediation is defined as, " the act of a third person in intermediating between two contending parties with a view to persuading them to adjust or settle their dispute by action of the intermediary." (Source: Black's Law Dictionary). Procedures applicable to Non-binding Mediation are as follows:

- 11.2.1 The grievance coordinator will submit in writing the name of an independent mediator to the grieving party. The grieving party will have two days to reject the named mediator or it will be assumed the mediator is acceptable.
- 11.2.2 Time for this process will not begin until a mediator is selected.
- 11.2.3 The hearing(s) will be held at an accessible site(s) established by the mediator. Facilities with handicap accessibility will be made available if needed.
- 11.2.4 The grievance coordinator will notify all affected parties of: the date, time and location of the hearing; the name of the mediator; and the names of all affected parties by certified mail.
- 11.2.5 A meeting will be scheduled with the mediator and the parties within 20 working days after the agreement on a mediator.
- 11.2.6 All individuals involved in the mediation process will be required to complete a " Confidentiality of Proceeding Form" prior to the start of the mediation process. Failure to sign the form or comply with its conditions will result in dismissal of the grievance/dispute.

- 11.2.7 By the conclusion of the mediation meeting, a decision should be made by the parties involved.
- 11.2.8 If the issue is not resolved through mediation, the grievant must fill out Section 3 of the Statement of Grievance and the grievance coordinator will arrange for the next step.

### 11.3 Binding Arbitration-Step 3

- 11.3.1 To initiate binding arbitration, the grievant must complete Section 3 of the Statement of Grievance in its entirety. Requests for binding arbitration must be submitted to the grievance coordinator within three working days of the completion of the last step. The grievance coordinator, or designee, will log the binding arbitrator request.
- 11.3.2 The grievance coordinator will supply the name of an independent arbitrator in writing to the grievant(s). The grieving party will have two days to reject the named arbitrator or it will be assumed that the named arbitrator is acceptable.
- 11.3.3 Time for this process will not begin until arbitrator is selected.
- 11.3.4 A non-refundable filing fee will be assessed by the American Arbitration Association.
- 11.3.5 Failure to submit payment of the filing fee will result in the automatic dismissal of the grievance/dispute. The filing fee should be submitted to the grievance coordinator. The grievance coordinator will issue the grievant or receipt and a copy of the receipt will be attached to the grievance file.
- 11.3.6 A meeting or hearing will be held with the approved arbitrator and the parties to the grievant within 20 working days of the acceptance of the arbitrator.
- 11.3.7 The hearing(s) will be held at an accessible site(s) established by the arbitrator. Facilities with handicap accessibility will be made available if needed.
- 11.3.8 All individuals involved in the arbitration process will be required to sign a "Confidentiality of Proceedings Form" prior to the start of the arbitration process. Failure to sign the form or comply with its conditions will result in the dismissal of the grievance/dispute.
- 11.3.9 The arbitrator will direct the arbitration proceeding. The arbitrator will hear witnesses and review documents submitted by both parties at his or her sole discretion.
- 11.3.10 The decision of the arbitrator will be sent within 10 working days of the meeting or hearing between both parties.
- 11.3.11 The decision of the arbitrator is final.

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#### 11.4 Continuances

- 11.4.1 Requests for continuances, describing the reasons needed, may be made in writing no less than 48 hours prior to the date of the hearing. Requests may also be made orally on the record at the time of the hearing.
- 11.4.2 The requesting party shall state whether he or she is agreeable to waiving the time periods set forth in these rules for holding the hearing
- 11.4.3 The arbitrator reserves the right to grant or deny continuances on the basis of an expeditious and fair decision.
- 11.4.4 If a continuance request is granted, a new hearing date shall be assigned as soon as practical.
- 11.4.5 The arbitrator reserves the right to declare an end to the proceedings due to excessive continuances and make a decision on the basis of the facts.

#### **PART B – Procurement Protest Procedures**