

MANAGEMENT DIRECTIVE

CONTRACTOR ALERT REPORTING DATABASE (CARD)

Management Directive # MD 12-02

Date Issued: **03/01/12**

New Policy Release

Revision of existing Management Directive dated

Cancels: None

POLICY/BACKGROUND STATEMENT

On April 27, 2010, the Board of Supervisors directed the Chief Executive Office, Auditor-Controller, County Counsel, and the Director of Internal Services to develop a mechanism to alert departments of poorly performing contractors. As a result, the County developed the Contractor Alert Reporting Database (CARD), which utilizes the County's existing enterprise-based eCAPS Systems to track poorly performing contractors.

The procedures set forth in this Management Directive (MD) provide impacted staff with guidelines for placing contractors in CARD.

APPLICABLE TO

This MD applies to DCFS employees involved with the management and monitoring of contracts (also known as Program Managers or contract monitors), and Contracts Administration Division staff.

OPERATIONAL IMPACT

DCFS must develop and follow internal approval procedures before placing a contractor in CARD, and must send written notification to a contractor before placing the contractor in CARD. At minimum, DCFS' Administrative Deputy or designee should approve a CARD placement.

Before placing a contractor in CARD, the Department must also ensure that contractors are provided with due process. Contractors must be provided with an opportunity and a reasonable amount of time to correct the issue(s).

The attached CARD Manual provides guidelines and instructions for using the database. The Department must:

- Provide contractors with due process prior to placing them in CARD;
- Notify contractors that they may be placed in CARD, and the reasons for the placement;
- Place poorly performing contractors in CARD and include adequate documentation to justify/support placement;
- Notify other County departments when a contractor has been placed in CARD;
- Work with the contractor to resolve the issue(s) that resulted in placing the contractor in CARD and provide training (any training provided should be considered reasonable and within the scope of the County program manager) to help prevent future non-compliance;
- Update contractor records in CARD; and,
- Use CARD during each applicable contract solicitation and ongoing monitoring of existing departmental contractors.

PROCEDURES

A. WHEN: A CONTRACTOR HAS BEEN IDENTIFIED AS, OR IS SUSPECTED OF, UNDERPERFORMING, BEING OUT OF COMPLIANCE WITH THE CONTRACT, OR OTHERWISE MEETING THE CRITERIA FOR CARD PLACEMENT

Program Manager's Responsibilities:

DCFS' internal process requires Program Managers to monitor their contracts to ensure that contractors are performing at or above a level that is consistent with the terms and conditions of the contract and County contracting standards. If a Program Manager suspects that a contractor is underperforming, out of compliance with the contract, or otherwise meeting the criteria for CARD placement, they must contact the Contracts Administration Division's Administrative Services Manager I, commonly referred to as the Contract Analyst, assigned to the program (or the Contract Manager) to discuss the next steps.

Contractors must meet one or more of the following criteria to be placed in CARD:

1. The Contractor owes the County for overpayments and/or questioned costs and has not entered into a repayment agreement or agreed to pay the County back, or has been referred to the Treasurer and Tax Collector for collection.
2. The contractor has not taken the appropriate steps to correct significant documented instances of contract noncompliance in a timely manner.
3. The contractor and/or their principal owners are currently debarred by other governmental entities.
 - Principal owner is any person or entity, who or which owns a 10 percent or more interest in the contractor.
 - Department must update CARD to indicate if/when the issue is resolved once the debarment period of the other government entity expires (if applicable).
4. The contractor has experienced financial, administrative, programmatic or legal issues that affect their ability to comply with the County contract requirements. Examples of these issues include, but are not limited to the following:
 - Bankruptcy
 - Loss of licenses
 - Failure to pay property or payroll taxes
 - Financial Viability concerns
 - Lack of qualified staff
 - Amount of disallowed or undocumented costs
 - Lack of required insurance
 - Poor program services
 - Assessment of any fines and/or penalties by public entities
5. The County has imposed contractual remedies against the contractor for noncompliance with the County contract requirements. Examples of contract remedies include, but are not limited to, the following:
 - Termination for default
 - Assessing liquidated damages
 - Adjusting the contractor's funding
 - Not renewing the contract

B. WHEN: SUPPORTING DOCUMENTATION CONFIRMS A CONTRACTOR IS UNDER-PERFORMING, OUT OF COMPLIANCE WITH THE CONTRACT, OR OTHERWISE MEETING THE CRITERIA FOR CARD PLACEMENT

Contracts Administration Division's Responsibilities:

If the supporting documentation confirms that the contractor meets the criteria for CARD placement, Contracts Administration Division will:

1. Ensure the contractor receives, or has received, the required notice that the County maintains a database to track contractor performance.
2. Inform the contractor that a CARD placement, whether resolved or unresolved, becomes part of their permanent record with the County and may be considered in cases where a proposer's performance history is scored as part of the evaluation process.
3. Ensure the contractor has had the opportunity to take corrective action to avoid placement in CARD.
4. Contact County Counsel if the Department is not sure that the supporting documentation is sufficient to proceed with a CARD placement.
5. Submit the recommendation for a CARD placement to the Administrative Deputy, or designee, and the DCFS Director or designee for review and comment.
6. Complete a standardized CARD Placement Notification Letter, including an approval signature line from the Director or designee; and submit for Director's signature via the Director's signature clearance process.
7. Send the signed notification letter to the contractor 10 business days before CARD placement via certified U.S. mail and e-mail.

C. WHEN: CONTRACTOR DOES NOT RESOLVE ISSUE(S) WITHIN 10 DAYS

Contracts Administration Division's Responsibilities:

If the issue(s) is unresolved (meaning, the response received from the contractor is not considered sufficient to correct or resolve the existing criteria for CARD placement) after 10 business days following the CARD placement notification, the contractor will be placed in CARD according to the following procedures:

1. Upload the supporting documentation justifying CARD placement (including the signed notification that was sent to the contractor) into the database. The Department may delay the CARD placement to allow the contractor additional

time to resolve any issues. Generally, any further delay in CARD placement will require clear and convincing documentation that previous opportunities given to the contractor for corrective action were insufficient due to no fault of the contractor.

2. Send an e-mail notification of the CARD placement to the DCFS Board Liaison and ask him/her to forward the notification to the Board of Supervisors' Budget Deputies, and the designated Board Deputies for the Children and Families Well-Being Cluster. Send an e-mail notification of the CARD placement to the Countywide Contracting Network. To notify the Countywide Contracting Network, e-mail a request to ctovar@isd.lacounty.gov and attach the signed notification letter to the e-mail request so it can also be forwarded to the network.

D. WHEN: FOLLOWING PLACEMENT IN CARD, CONTRACTOR EXPRESSES INTEREST IN RESOLVING ISSUE(S)

Contracts Administration Division's and Program Manager's Responsibilities:

Following a contractor's placement in CARD, if a contractor expresses interest in resolving any issues, Program Managers and Contracts Administration Division will indicate to the contractor the necessary steps to resolve the issue(s).

1. Once the contractor resolves one or more of their CARD issues, their CARD status will be updated to indicate a "resolved" status for each resolved issue.
2. The contractor will be notified that their CARD record is updated.

Note: The contractor will remain in CARD even after the contractor's status is updated to "resolved."

3. Documentation demonstrating that each issue was resolved will be uploaded into CARD.

E. WHEN: DEVELOPING NEW CONTRACTS AND NEW SOLICITATIONS

Contracts Administration Division’s Responsibilities:

Contracts Administration Division must check the CARD system during solicitations to review a prospective proposer’s performance history as part of the evaluation process. Contracts Administration Division must ensure CARD language is included in each solicitation informing the prospective proposers that the CARD system is part of the evaluation process under the proposer’s performance history. If the proposer is using non-County references, the Contract Analyst must use the “Non-County Services Evaluation Checklist” as part of the performance history.

Additional information and instructions can be found in the CARD Manual.

NOTE: After a contractor has been identified as, or is suspected of, under-performing, being out of compliance with the contract, or otherwise meeting the criteria for CARD placement, Program Managers must maintain documentation to support placing the contractor in CARD, and demonstrate sufficient due process was provided to the contractor.

Contracts Administration personnel must contact County Counsel and/or the Auditor-Controller’s Countywide Contract Monitoring Division at (213) 253-0300 for assistance if they are not sure they have sufficient documentation to proceed with a CARD placement.

APPROVAL LEVELS

Section	Level	Approval
A.	None	
B.	Administrative Deputy or Designee	CARD Notification Letter
C – E.	None	

LINKS

None

RELATED POLICIES

None

FORM(S) REQUIRED/LOCATION

HARD COPY: DCFS Number, Title

LA Kids: DCFS Number, Title
CARD Notification Letter (TBD/Pending for LA Kids)
Non-County Services Evaluation Checklist (TBD/Pending for LA Kids)

CWS/CMS: None

SDM: None