



Texas Workforce Commission
Contractor Notice of Appeal Rights
Appeal Procedure

Under Texas Workforce Commission (Agency) Rule section 858.15, you, the contractor, may appeal an initial adverse action rendered under Agency Rule section 858.9. The Agency may issue adverse actions by hand delivery, mail, common carrier, facsimile (fax) transmission, or electronic mail (email).

Important Notice: The Agency's initial adverse action is final for all purposes unless you file an appeal not later than 28 calendar days after the date on which the initial adverse action was sent to you. The timeliness of an appeal is covered by Agency Rule section 858.15(b), see attached.

What steps can I take if I disagree with the adverse action?

You may file an appeal to the adverse action. If you chose to appeal, you must submit a written appeal letter by hand delivery, mail, common carrier, facsimile (fax) transmission, or electronic mail (email).

An appeal sent by unapproved methods, will not be considered by the Agency as a valid appeal. Unapproved methods include telephone or to an address not in accordance with the instructions below.

An appeal by email must be submitted to vr1309appeal@twc.texas.gov. An appeal sent to another email address will not be considered as a valid appeal.

By USPS Mail:

Texas Workforce Commission
Deputy Executive Director: Notice of Request for Appeal – VR Customer Service
Contracts
101 E 15th St., Suite 654
Austin, TX 78778-0001

By third party carrier, including overnight delivery:

Texas Workforce Commission
RE: Notice of Request for Appeal – VR Customer Service Contracts
4405 Springdale Rd
Austin, TX 78723
ATTN: Deputy Executive Director, Suite 654M

By hand delivery:

4405 Springdale Rd, Austin, TX 78723.

By fax:

1-512-463-5483.

By email:

vr1309appeal@twc.texas.gov

Your appeal will not be considered unless it includes each of the following requirements:

- a statement of facts describing how the Agency's decision, action, or inaction deviated from contract terms, published policy, or state or federal law or regulations;
- your claim, including pertinent contract sections;
- a statement of the issue(s) in dispute;
- a brief statement of why the Agency's initial adverse action is wrong;
- copies of evidence or documentation supporting the appeal; and
- the action you are requesting.

In your appeal letter, you may also request a meeting with the Agency. Whether a meeting is granted is solely at the Agency's discretion. A meeting request should describe any special accommodations needed for you, witnesses, or representatives. At the meeting, you

- may be represented by a person of your choice, and
- will be provided with an opportunity to present evidence and information to support your position.

If you have requested a meeting, and the request is granted, the Agency will notify you of the meeting date, time, and location.

What happens after I file my appeal?

An appeal is only perfected when the contractor follows the explicit instructions for filing an appeal as described in this form and provided for in Agency Rule section 858.15(c). The Agency will notify you in writing if your appeal has been perfected for consideration on the merits of the issues you raise. You may supplement your appeal after it has been perfected, but prior to the Agency's decision.

If the appeal does not meet the requirements laid out above, it will be denied. You will be notified in writing. If your appeal is denied, the initial adverse action will become the Agency's final decision.

What if I lose my appeal?

The Agency's appeal decision becomes final 14 days after the date the written decision is mailed, unless you file a written request for reconsideration, as described in Agency Rule section 858.16, before the 14-day deadline.

If you chose to file a request for reconsideration, you must submit a written request by hand delivery, mail, common carrier, facsimile (fax) transmission, or electronic mail (email). A request sent by unapproved methods, will not be considered by the Agency as a valid appeal. Unapproved methods include telephone or to an address not in accordance with the instructions above. The timeliness of an appeal is covered by Agency Rule section 858.16(a)(2), see *attached*.

The Agency will not grant a request for reconsideration unless there is an offering of new evidence that was not presented as part of the original appeal; there is a compelling reason why the evidence was not presented earlier; and there is a specific explanation of how consideration of the evidence would change the outcome of the decision.

If granted, the Agency's decision on a request for reconsideration is the final decision of the Agency.

For additional information, go to <https://twc.texas.gov/partners/vr-contracts-responding-notice-adverse-action>.

ATTACHMENT VR1309 Contractor Notice of Appeal Rights

40 Texas Administrative Code, Chapter 858. Procurement and Contract Management Requirements for Purchase of Goods and Services for Vocational Rehabilitation Services

§858.9. Adverse Actions.

- (a) The Agency may impose an adverse action when the contractor fails to follow the terms of the contract or fails to comply with Agency rules, policies, and procedures. The Agency may impose adverse actions for reasons including, but not limited to:
- (1) The Agency's determination that one or more customers' health and safety has been or is jeopardized;
 - (2) The contractor's failure to submit an acceptable written corrective action plan as requested by the Agency or failure to comply with an accepted corrective action plan;
 - (3) The contractor's failure to follow an agreed-upon audit resolution payment plan;
 - (4) The contractor's failure to submit an acceptable cost report, if applicable;
 - (5) The contractor's failure to comply with the contract requirements;
 - (6) The contractor's failure to maintain a current required license or the contractor allowing the expiration of any required license, if applicable;
 - (7) The contractor's relocation to a new facility address that does not have the appropriate license, if applicable;
 - (8) The contractor's exclusion from contracting with the Agency or any health and human services program;
 - (9) Debarment or exclusion from a federal program;
 - (10) A validated report or reports of abuse, neglect, or exploitation where an owner, employee, or volunteer who has direct access to customers is the perpetrator of, or enables, the abuse, neglect, or exploitation of a customer;
 - (11) Substantiated claims of fraud against a contractor; and
 - (12) Any other cause of so serious or compelling a nature that it affects the contractor's ability to perform under the contract or presents an imminent risk of harm to liability for the Agency.
- (b) The Agency may take the following adverse actions:
- (1) Recoup money that the contractor owes as a result of overpayments or other billing irregularities;
 - (2) Place a vendor hold on one or all the contractor's contracts, which must be released when the Agency determines that the contractor has resolved the issue or issues causing the hold;
 - (3) Deny all or part of a claim;
 - (4) Direct the contractor to suspend or terminate a subcontractor's participation in the provision of goods or services;
 - (5) Terminate a contract for cause before its expiration date;
 - (6) Suspend the contractor's right to conduct business with the Agency;
 - (7) Debar the contractor's right to contract or conduct business with the Agency, in any capacity, for a specified period of time; or

- (8) Take any other less severe action or actions that the Agency determines necessary to ensure the contractor's compliance with the underlying contract, after considering the circumstances of a particular case.

§858.15. Appeals.

- (a) A contractor may appeal an initial adverse action rendered by the Agency under §858.9 of this chapter by hand delivery, mail, common carrier, facsimile (fax) transmission, or other method approved by the Agency in writing. A contractor shall only submit an appeal by hand delivery, mail, or common carrier to the Agency as director on the Contractor Notice of Appeal rights (VR 1309). An appeal sent by unapproved methods or to a different address will not be considered by the Agency as a valid appeal.
- (b) The Agency's initial adverse action is final for all purposes unless the contractor files an appeal not later than 28 calendar days after the date on which the initial adverse action is mailed, sent by electronic mail, or sent by facsimile to the contractor. The timeliness of an appeal is subject to the rules and procedures set out in the Unemployment Insurance rules at Agency Rule Chapter 815, except to the extent that such sections are clearly inapplicable or contrary to provisions set out under these Chapter 858 rules or the contract between the parties.
(<https://twc.texas.gov/files/jobseekers/rules-chapter-815-unemployment-insurance-twc.pdf>)
- (c) To be considered, the appeal must include the following:
- (1) A statement of facts describing how an Agency decision, action, or inaction deviated from contract terms, published policy, or state or federal laws or regulations;
 - (2) The contractor's claim, including pertinent contract sections;
 - (3) A statement of the issue or issues in dispute;
 - (4) A brief statement about why the Agency's initial adverse action is wrong;
 - (5) Copies of evidence or documentation supporting the appeal; and
 - (6) The action requested.
- (d) The contractor may supplement its appeal after being perfected but before the Agency rendering a decision on the merits.
- (e) As part of the appeal, the contractor may also request a meeting with the Agency. Whether a meeting will be granted is at the Agency's discretion. The meeting request should include a description of any special accommodations needed for the contractor, witnesses, or representatives. At the meeting, the contractor may:
- (1) Be represented by an individual of the contractor's selection; and
 - (2) Present evidence and information to support the contractor's position.
- (f) The Agency will notify the contractor whether its appeal has been perfected and has met the requirements in subsection (c) of this section for consideration on its merits. If the appeal does not meet the requirements, the appeal will be denied, and the initial adverse action will be the Agency's final decision.
- (g) An Agency appeal decision becomes final 14 days after the date the appeal decision is mailed, unless the contractor files a written request for reconsideration before that date.

§858.16. Request for Reconsideration.

- (a) The contractor may submit a request for reconsideration following the Agency's issuance of the appeal decision by hand delivery, mail, common carrier, facsimile (fax) transmission, or other method approved by the Agency in writing:
 - (1) A request for reconsideration shall only be hand delivered, mailed, or sent by common carrier to the Agency as directed on the Contractor Notice of Rights (VR 1309). A request for reconsideration sent by unapproved methods or to a different address will not be considered a valid request for reconsideration by the Agency.
 - (2) The timeliness of a request for reconsideration is subject to the rules and procedures set out in the Unemployment Insurance rules at Chapter 815 of this title, except to the extent that such sections are clearly inapplicable or contrary to provisions set out under these Chapter 858 rules or the contract between the parties. (<https://twc.texas.gov/files/jobseekers/rules-chapter-815-unemployment-insurance-twc.pdf>)
- (b) A request for reconsideration shall not be granted unless each of the following three criteria are met:
 - (1) There is an offering of new evidence, which was not presented as part of the original appeal pursuant to §858.15 of this chapter;
 - (2) There is a compelling reason why the evidence was not presented earlier;
and
 - (3) There is a specific explanation of how consideration of the evidence would change the outcome of the decision.
- (c) The Agency's decision on the request for reconsideration is the final decision of the Agency.