

DENVER COUNTY DISTRICT COURT 1437 Bannock Street Denver, CO 80202	DATE FILED July 28, 2025 4:36 PM FILING ID: EB7D038D7AB58 CASE NUMBER: 2025CV32661
Plaintiff:  Pikes Peak Workforce Center,  v.  Defendants:  Colorado Department of Labor & Employment, and Colorado Department of Personnel and Administration.	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> Case No.  Division:
<i>Attorneys for Plaintiff</i> William Thomas, Reg. No. 60062 Tyler Garrett Respondek, Reg. No. 58357 O'HAGAN MEYER PLLC 1331 Seventeenth Street, Suite 350 Denver, CO 80202 303-652-5862 <a href="mailto:wthomas@ohaganmeyer.com">wthomas@ohaganmeyer.com</a> <a href="mailto:grespondek@ohaganmeyer.com">grespondek@ohaganmeyer.com</a>	
<b>COMPLAINT FOR JUDICIAL REVIEW OF A FINAL AGENCY ACTION  PURSUANT TO C.R.S. § 24-109-205 and § 24-109-206</b>	

Plaintiff Pikes Peak Workforce Center ("PPWFC" or "Plaintiff"), by and through undersigned counsel, hereby petitions this Court for judicial review of final agency action pursuant to C.R.S. § 24-109-205 and § 24-109-206, and states as follows:

**PARTIES**

1. Plaintiff PPWFC is a workforce development organization serving El Paso and Teller Counties in Colorado, with its principal place of business in El Paso County, Colorado.
2. Defendant Colorado Department of Labor and Employment ("CDLE") is a state agency organized under the laws of Colorado with its principal place of business at 633 17th Street, Denver, Colorado 80202.
3. Defendant Colorado Department of Personnel and Administration ("DPA") is a state agency organized under the laws of Colorado with its principal place of business at 1525 Sherman Street, Denver, Colorado 80203.

## **JURISDICTION AND VENUE**

4. This Court has jurisdiction over this matter pursuant to C.R.S. § 24-109-205 and § 24-109-206.
5. Venue is proper in this Court pursuant to C.R.S. § 24-109-205 and § 24-109-206, as this action must be filed in the District Court for the City and County of Denver.
6. This Complaint is timely filed within ten business days of July 14, 2025, the date the DPA Appeal Decision was issued, as required by C.R.S. § 24-109-206.

## **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

7. PPWFC has properly exhausted all required administrative remedies in that: a. PPWFC filed a protest with CDLE on April 18, 2025; b. CDLE's Procurement Director denied the protest on May 14, 2025; c. PPWFC timely appealed to DPA's Executive Director on May 28, 2025; and, d. DPA denied the appeal on July 14, 2025, constituting final agency action.

## **STATEMENT OF FACTS**

### **A. Relevant Factual Background.**

8. PPWFC administers workforce development programs pursuant to Agreement Number CMS 105075 - C-5652 with CDLE.
9. On January 10, 2022, CDLE awarded PPWFC a Workforce Innovation Grant ("WIG") in the amount of \$1,541,438.00, funded by federal Coronavirus State and Local Fiscal Recovery Funds ("SLFRF") under the American Rescue Plan Act ("ARPA").
10. The WIG and any subawards are subject to federal requirements, including the Uniform Guidance at 2 CFR Part 200.
11. Under the Uniform Guidance, PPWFC is a subrecipient required to monitor the performance and compliance of its lower-tier subrecipients.
12. On January 23, 2023, PPWFC entered into a subaward agreement with Colorado Springs Community Cultural Collective at the City Auditorium ("CSCCC" or "Opus"), which was subsequently amended on September 23, 2023, for a total of \$1,895,577.44 in WIG/SLFRF funds.
13. The subaward was intended to provide workforce training and support services to unemployed and underemployed workers impacted by COVID-19.

14. On March 27, 2024, CDLE notified PPWFC of the Annual Monitoring Schedule as required by federal and state law.
15. On July 23, 2024, CDLE sent PPWFC a list of required documentation due September 6, 2024, covering the period July 1, 2023, to June 30, 2024.
16. During the monitoring process, CDLE identified certain costs reimbursed to CSCCC that allegedly did not comply with grant terms and conditions.
17. On September 30, 2024, CDLE requested additional documentation to demonstrate that costs billed by CSCCC were allowable under the grant.
18. Between November 1, 2024, and December 20, 2024, PPWFC requested and received four extensions from CDLE to provide documentation. Throughout this time, CDLE did not provide any meaningful guidance on the documentation it sought from PPWFC.
19. Throughout this period, PPWFC worked diligently to obtain documentation from its subrecipient CSCCC/Opus, and in fact sent documentation to CDLE, but faced challenges due to the subrecipient's failure to maintain traditional timesheets.
20. On February 14, 2025, after nearly six months of extensions, CDLE issued a Notice to Cure demanding repayment of \$828,253.10.
21. The Notice to Cure unexpectedly included grants ET23-017 and ET21-020 that were not previously identified in the PY23 Monitoring Report or prior documentation requests.
22. On March 19, 2025, PPWFC, through counsel, submitted a comprehensive response explaining: a. Federal and state labor agencies routinely accept alternative documentation of time and effort; b. The guidance documents (Policy Guidance Letter GRT-2021-02) did not specify particular timekeeping requirements; c. PPWFC was actively working to obtain documentation from its subrecipient; and, d. PPWFC had received inadequate notice of specific documentation requirements.
23. On March 26, 2025, CDLE extended the deadline to March 31, 2025, and requested a settlement proposal.
24. On March 31, 2025, PPWFC provided additional documentation and proposed a good faith settlement of \$100,000, contingent on CDLE withholding further auditing activities.
25. CDLE did not respond to the settlement proposal or grant PPWFC's request for an extension through April 11, 2025, to provide documentation that was "readily available."
26. On April 4, 2025, CDLE issued a Notice of Breach terminating the WIG Agreement and demanding repayment of \$828,371.78 by April 18, 2025.

## **B. Administrative Appeals.**

27. PPWFC timely filed a protest on April 18, 2025, challenging the Notice of Breach.
28. On May 14, 2025, CDLE's Procurement Director denied the protest.
29. On May 28, 2025, PPWFC timely appealed to DPA's Executive Director, raising four material issues: a. CDLE provided unreasonably short deadlines; b. The audit findings contained factual errors; c. CDLE failed to engage in good faith settlement negotiations; d. CDLE improperly rejected alternative documentation.
30. On July 14, 2025, DPA denied PPWFC's appeal in its entirety through a decision issued by Venessa Huynh, authorized by the Executive Director.

### **STANDARD OF REVIEW**

31. Pursuant to C.R.S. § 24-109-204(1), the purpose of the appeal process is to determine whether a solicitation or award complies with the procedures in the Procurement Code, regulations promulgated thereunder, and the terms and conditions of the solicitation.
32. An appeal is limited to material issues raised in the original protest, except that the appeal may include new evidence or additional information related to those material issues or material issues related to the conduct of the protest. C.R.S. § 24-109-202(2).
33. A "material issue" is defined as "a nontrivial defect in the solicitation or award that would prejudice the outcome of the procurement." C.R.S. § 24-109-101.1(2).

### **FIRST CLAIM FOR RELIEF**

#### **(Violation of Procurement Code - Unreasonable Contract Administration)**

34. Plaintiff incorporates all preceding paragraphs as if fully set forth herein.
35. CDLE's administration of the WIG Agreement violated the Procurement Code and applicable regulations, including by: a. Imposing impossible compliance deadlines during critical periods (holidays, spring break); b. Providing only 3-5 days for responses to complex documentation requests; c. Adding new grants to the audit scope without prior notice or opportunity to respond; and, d. Failing to consider PPWFC's operational constraints and dependence on subrecipient cooperation.
36. These procedural violations constitute material issues that prejudiced the outcome of the contract administration and termination process.
37. Accordingly, the DPA's Appeal Decision should be reversed, the CDLE's Protest Decision should be reversed, the WIG Agreement should be reinstated, and Plaintiff should be

granted the additional relief requested herein, including its costs and reasonable attorney's fees.

**SECOND CLAIM FOR RELIEF  
(Arbitrary and Capricious Rejection of Documentation)**

38. Plaintiff incorporates all preceding paragraphs as if fully set forth herein.
39. CDLE acted arbitrarily and capriciously by categorically rejecting alternative documentation of time and effort, despite: a. Federal labor agencies' established practice of accepting such documentation; b. Federal case law recognizing affidavits and declarations as competent evidence; c. The Uniform Guidance (2 CFR 200.430(i)) not requiring specific types of timesheets; and, d. The lack of clear guidance specifying particular documentation requirements.
40. DPA's affirmation of this rejection was contrary to established federal precedent and constitutes a material error affecting the procurement outcome.
41. Accordingly, the DPA's Appeal Decision should be reversed, the CDLE's Protest Decision should be reversed, the WIG Agreement should be reinstated, and Plaintiff should be granted the additional relief requested herein, including its costs and reasonable attorney's fees.

**THIRD CLAIM FOR RELIEF  
(Bad Faith in Settlement Negotiations)**

42. Plaintiff incorporates all preceding paragraphs as if fully set forth herein.
43. CDLE violated principles of good faith and fair dealing, including by: a. Expressly inviting PPWFC to submit a settlement proposal; b. Completely ignoring PPWFC's good faith settlement offer; c. Terminating the contract without any response to the settlement proposal; and, d. Later claiming the settlement was "patently inadequate" without ever communicating this position.
44. This conduct violated procurement regulations requiring good faith administration of public contracts.
45. Accordingly, the DPA's Appeal Decision should be reversed, the CDLE's Protest Decision should be reversed, the WIG Agreement should be reinstated, and Plaintiff should be granted the additional relief requested herein, including its costs and reasonable attorney's fees.

**FOURTH CLAIM FOR RELIEF  
(Violation of Due Process)**

46. Plaintiff incorporates all preceding paragraphs as if fully set forth herein.
47. The agencies violated PPWFC's due process rights, including by: a. Failing to provide adequate notice of specific documentation requirements until after finding violations; b. Adding grants to the audit scope without prior notice; c. Denying meaningful opportunity to cure alleged deficiencies; and, d. Imposing financial penalties that threaten PPWFC's ability to serve vulnerable populations.
48. PPWFC had a protected property interest in the WIG Agreement and was entitled to fair procedures before termination.
49. Accordingly, the DPA's Appeal Decision should be reversed, the CDLE's Protest Decision should be reversed, the WIG Agreement should be reinstated, and Plaintiff should be granted the additional relief requested herein, including its costs and reasonable attorney's fees.

**FIFTH CLAIM FOR RELIEF  
(Factual Errors Constituting Material Issues)**

50. Plaintiff incorporates all preceding paragraphs as if fully set forth herein.
51. The audit findings contain numerous factual errors that PPWFC identified but which were ignored, including: a. Misidentifying the amount of funds provided to subrecipient Opus; b. Incorrectly characterizing meetings as related to Opus; c. Documenting "monthly check-ins" that never occurred; and, d. Mischaracterizing PPWFC's communications as "technical assistance requests."
52. These uncorrected errors infected the procurement decisions and constitute material issues affecting the outcome.
53. Accordingly, the DPA's Appeal Decision should be reversed, the CDLE's Protest Decision should be reversed, the WIG Agreement should be reinstated, and Plaintiff should be granted the additional relief requested herein, including its costs and reasonable attorney's fees.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Honorable Court:

- A. Reverse DPA's July 14, 2025 Appeal Decision.

- B. Reverse CDLE's May 14, 2025 Protest Decision.
- C. Find that CDLE's termination of the WIG Agreement violated the Procurement Code.
- D. Order Defendants to:
1. Reinstate the WIG Agreement.
  2. Accept alternative documentation of time and effort consistent with federal practice.
  3. Provide reasonable time for documentation submission.
  4. Engage in good faith settlement negotiations.
  5. Correct all factual errors in the audit findings.
- E. In the alternative, find that PPWFC is not required to repay the disputed funds.
- F. Award Plaintiff its costs and reasonable attorney's fees.
- G. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted this 28<sup>th</sup> day of July, 2025.

O'HAGAN MEYER, PLLC  
s/ William Thomas  
William Thomas, Esq.  
Tyler Garrett Respondek, Esq.  
***Attorneys for Plaintiff***