TENNESSEE STATE GOVERNMENT

*Guidelines for departmental staff on how to report determinations of non-compliance as required by Tennessee Code Annotated, Section 4-4-113.*

GUIDELINES FOR NOTIFICATION OF NON-COMPLIANCE

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# Purpose/Scope

To provide guidance related to the notification of noncompliance to the Comptroller of the Treasury and Commissioner of Finance and Administration as required by Tennessee Code Annotated, Section 4-4-113.

# Introduction

### Outline of Requirements

State departments receiving federal financial assistance are required to report any official notice received from the Federal Awarding Agency or designated Cognizant agency communicating a determination of noncompliance or any deficiency related to compliance with federal statues, regulations, or the terms and conditions of the federal award that could result in:

* Repayment of federal financial assistance.
* Reduction in future federal financial assistance by administrative offset against other requests for reimbursement or subsequent awards.
* Withholding of advance payments otherwise due to the department.
* Temporary withholding of federal financial assistance pending corrective action by the department.
* Whole or partial suspension or termination of the federal award.
* Federal awarding agency taking any other remedies legally available to it, including not seeking recovery of a disallowance or improper payment.

To further clarify, an official notice of a determination of noncompliance includes:

* Verbal or e-mail communication.
* Written letters or memos.
* Official Reports.

Neither materiality nor the ability to quantify the determination of noncompliance is a factor when reporting the determination of noncompliance. Additionally, it is likely that multiple notifications will be submitted on the same determination of noncompliance.

### References

Notifications of Non-Compliance referenced in these guidelines are those required by [Tennessee](http://publications.tnsosfiles.com/acts/110/pub/pc0079.pdf) Code Annotated, Section 4-4-113.

### Scope

Tennessee Code Annotated, Section 4-4-113 requires State Departments receiving federal financial assistance to report any official notice related to noncompliance received from the Federal Awarding Agency or designated Cognizant Agency. The TCA DOES NOT require communication of noncompliance communicated by departmental internal audit staff or the Division of State Audit, Comptroller of the Treasury.

# Notification Requirements

### Notification Template

All determinations of noncompliance received from the Federal Awarding Agency or designated Cognizant Agency shall be reported using the Notification Template provided. This template is designed to capture relevant information necessary to determine if the fiscal impact is such that additional analysis or documentation is needed. If considered necessary, follow-up documentation will be requested. Do not submit any additional documentation on notice of noncompliance unless requested.

* **Section I**: collects general information regarding the agency and CFDA number impacted. If the notification being reported is follow-up communication to a previously reported issue, that should be noted in this section.
* **Section II**: collects information regarding the form of communication and the noncompliance cited by the reporting Federal Agency. A brief summary of the noncompliance or deficiency as well as the cause should be included. All possible effects of the instance of noncompliance should be marked.
	+ **Federal Awarding Entity Providing Notification**: Select from the dropdown list the relationship the notifying Federal Agency has with the State Agency. (i.e. Cognizant Agency, Federal Awarding Agency, or Other)
	+ **Name of Reporting Federal Agency**: Provide the name of the Federal Agency providing the notification of noncompliance.
* **Section III**: collects information on agency plans for determining immediate and long-term corrective action. The content of this section will vary depending on the stage of communication and noncompliance issue cited. In other words, upon receiving initial notification, details in this section will most likely be high level brief statements, but as subsequent communication is received, the content of this section will become more specific and detailed. A formal corrective action plan is not expected to be included with the submission of the notification of noncompliance.
* **Section IV**: provide the name, title, and contact information of the reporting individual as well as the name of the Chief Financial Officer.

### Timing of Notification

The Notification Template shall be submitted within five (5) business days from the receipt by the department’s Commissioner, Chief Financial Officer, or equivalent. In the event official notice is received by departmental staff, notice shall be transmitted to the department’s Commissioner, Chief Financial Officer, or equivalent within five (5) business days of receipt. Upon receipt from the departmental staff, the Commissioner, Chief Financial Officer, or equivalent has five (5) business days to submit the notification.

### Notification Submission

When submitted, the Notification Template is designed to automatically send the required communication to the Comptroller of the Treasury and the Department of Finance and Administration using the e-mail addresses listed below. In the event the Notification Template must be submitted manually, the completed from should be submitted electronically to the following:

* Comptroller of the Treasury - Comptroller.State.Audit@cot.tn.gov
* Department of Finance and Administration – Jeong.Robinson@tn.gov

# Follow-up Requirements

The Comptroller of the Treasury and Commissioner of Finance and Administration reserve the right to request additional documentation and follow-up communication for any notification of noncompliance received. The department’s Commissioner, Chief Financial Officer, or equivalent shall fully cooperate in providing the documentation within the timeframe established by the requesting party.