

§1.403 Single Audit Requirements

(a) For this section, the word Subrecipient also includes Multifamily Development Owners who have applied for or received Direct Loan Funds, grants or 811 PRA funds from the Department who are or have an Affiliate that is required to submit a Single Audit, i.e. units of government, nonprofit organizations.

(b) Procurement of a Single Auditor. A Subrecipient or Affiliate must procure their single auditor in the following manner unless subject to a different requirement in the Local Government Code:

(1) Competitive Proposal procedures whereby competitors' qualifications are evaluated and a contract awarded to the most qualified competitor. Proposals should be advertised broadly, which may include going outside the entity's service area, and solicited from an adequate number (usually two or more) of qualified sources. Procurements must be conducted in a manner that prohibits the use of in-state or local geographical preferences in the evaluation of bids or proposals;

(2) A Subrecipient may not use the sealed bid method for procurement of the Single Auditor. There is no requirement that the selected audit firm be geographically located near the Subrecipient. If a Subrecipient does not receive proposals from firms with appropriate experience or responses with a price that is not reasonable compared to the cost price analysis, the submissions must be rejected and procurement must be re-performed.

(c) A Subrecipient or Affiliate must confirm that it is contracting with an audit firm that is properly licensed to perform the Single Audit and is not on a limited scope status or under any other sanction, reprimand or violation with the Texas State Board of Public Accountancy. The Subrecipient must ensure that the Single Audit is performed in accordance with the limitations on the auditor's license.

(d) A Subrecipient is required to submit a Single Audit Certification form within two (2) months after the end of its fiscal year indicating the amount they expended in Federal and State funds during the fiscal year and the outstanding balance of any loans made with federal funds if there are continuing compliance requirements other than repayment of the loan.

(e) A Subrecipients that expend \$1,000,000 or more in an entity's fiscal year that starts on or after October 1, 2024 (or in the case of an entity's fiscal years starting before October 1, 2024, \$750,000 or more) in federal and/or state awards or have an outstanding loan balance associated with a federal or state resource of \$1,000,000 or \$750,000 (as applicable for the fiscal year) with continuing compliance requirements, or a combination thereof must have a Single Audit or program-specific audit conducted. If the Subrecipient's Single Audit is required by 2 CFR 200, subpart F, the report must be submitted to the Federal Audit Clearinghouse the earlier of 30 calendar days after receipt of the auditor's report or nine (9) months after the end of its respective fiscal year. If a Single Audit is required but not under 2 CFR Part 200, subpart F, the report must be submitted to the Department the earlier of 30 calendar days after receipt of the auditor's report or nine months after the end of its respective fiscal year. If the deadline is on a Saturday, Sunday, federal holiday (for a Single Audit required to be submitted to the Federal Audit Clearinghouse), or a state holiday (for a Single Audit required to be submitted to the Department), the deadline is the next business day.

(f) ~~A Subrecipients are~~ is required to submit a notification to the Department within five business days of submission to the Federal Audit Clearinghouse. Along with the notice, the Subrecipient must indicate if the auditor issued a management letter. If a management letter was issued by the auditor, a copy must be sent to the Department.

(g) The Department will review the Single Audit and issue a management decision letter for audit findings pertaining to the Federal or State award provided to the Subrecipient from the Department. If the Single Audit results in disallowed costs, those amounts must be repaid or an acceptable repayment plan must be entered into with the Department in accordance with 10 TAC §1.21, Action by Department if Outstanding Balances Exist.

(h) In evaluating a Single Audit, the Department will consider both audit findings and management responses in its review. The Department will notify Subrecipients and Affiliates (if applicable) of any Deficiencies or Findings from within the Single Audit for which the Department requires additional information or clarification and will provide a deadline by which that resolution must occur.

(i) ~~All findings identified in the most recent Single Audit will be reported to the Executive Director during the Previous Participation review process described in Subchapter C of this Chapter. The Subrecipient may submit written comments for consideration within five business days of the Department's management decision letter.~~

(j) If the Subrecipient disagrees with the auditors finding(s), and the issue is related to administration of one of the Department's programs, an appeal process is available to provide an opportunity for the auditee to explain its disagreement to the Department. This is not an appeal of audit findings themselves. The Subrecipient may submit a letter of appeal and documentation to support the appeal. The Department will take the documentation and written appeal into consideration prior to issuing a management decision letter. If the Subrecipient does not disagree with the auditor's finding, no appeal to the Department is available.

(k) In accordance with 2 CFR Part 200 and the State of Texas Single Audit Circular §225, with the exception of nondiscretionary CSBG funds except as otherwise required by federal laws or regulations, the Department may suspend and cease payments under all active Contracts, may elect not to recommend an award to the Board, may refrain from executing a reservation agreement or associated commitment of funds under a reservation agreement, or may refrain from executing a new Contract for any Board awarded contracts if any of the issues identified in paragraphs (1) through (3) of this section occur. The Department may also use its discretion to withhold a contract or funding associated with the Single Audit based on the type of Department program for which the Subrecipient is applying. Multifamily Development Owners that are applying for or have received an award for Multifamily Direct Loans will be evaluated against the criteria in this subsection for consideration or reconsideration only before loan closing.

~~(1) until the Single Audit is not received in accordance with the submission requirements detailed in subsection (e) and (f) of this section; In addition, the Department may elect not to renew an entity in accordance with §1.411 of this Chapter (relating to Administration of Block Grants under Chapter 2105 of the Tex. Gov't Code), or not amend or enter into a new Contract with a Subrecipient~~

(2) until receipt of the required Single Audit Certification form or the submission requirements detailed in subsection (de) of this section is not received; or-

(3) if any of the following issues have been identified:

(A) in the most recent Single Audit:

(i) the Single Audit identifies the Subrecipient as a 'going concern';

(ii) the Single Audit identifies that the Subrecipient has systemic inadequate fiscal controls or ineffective financial processes;

(iii) the Single Audit identifies one or more material weaknesses that relate to the responsibilities associated with the program to be funded;

(iv) the Single Audit identifies a combination of weaknesses and deficiencies that when taken together reflect a high risk for noncompliant use of state or federal funds; or

(v) the Single Audit has received a Modified, Adverse or Disclaimed determination by the auditor;

(B) in at least two of the last three Single Audits for which the findings have not been corrected:

(i) the Single Audits identify inaccurate reporting specific to Department funded programs;

(ii) the Single Audits identify questioned costs related to Department funded programs;

(iii) the Single Audits identify questioned costs relating to cross-cutting administrative or operational expenses such as cost allocation, procurement, or payroll;

(iv) the Single Audits identify that there is inadequate separation of duties; or

(v) the Single Audits identify a combination of weaknesses and deficiencies that when taken together reflect a high risk for noncompliant use of state or federal funds.

(l) In accordance with Subchapter C of this Chapter (relating to Previous Participation Reviews), if a Subrecipient applies for funding or an award from the Department, findings noted in the Single Audit and the failure to timely submit a Single Audit Certification Form or Single Audit will be reported to the Executive Director.